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# EISA TECHNICAL ASSESSMENT TEAM REPORT

# SEYCHELLES



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THE 2011 SEYCHELLES PRESIDENTIAL  
ELECTIONS

19-21 MAY 2011



EISA OBSERVER MISSION REPORT No 40

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P O Box 740  
Auckland Park  
2006  
South Africa  
Tel: 27 11 381 6000  
Fax: 27 11 482 6163  
Email: [eisa@eisa.org.za](mailto:eisa@eisa.org.za)  
[www.eisa.org.za](http://www.eisa.org.za)

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EISA strives for excellence in the promotion of credible elections, participatory democracy, human rights culture, and the strengthening of governance institutions for the consolidation of democracy in Africa.

EISA Election Observer Mission Report, No. 40

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The Team is indebted to the people of Seychelles for their openness and willingness to share their experiences and their opinions on the elections, as well as on political developments in their country. We commend their peacefulness, which was evidenced by the calm environment within which the election took place.

Our gratitude is also extended to the Danish International Development Agency (Danida), whose generous funding made the mission possible. Thanks go to the Elections and Political Processes Department of EISA, to Ms Yvette Ondinga, who organised and co-ordinated the logistics, and to Mr Sydney Letsholo, Mr Robert Gerenge and Ms Eva Palmans for preparing this report.



## Acronyms and Abbreviations

ACCESS	Association for concerned citizens of Seychelles
BBC	British Broadcasting Corporation
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CSO	Civil Society Organisations
DP	Democratic Party
EAB	Election Advisory Board
EC	Electoral Commissioner
EISA	Electoral Institute for the Sustainability of Democracy in Africa
FAHA	Faith and hope Organisation
IMF	International Monetary Fund
LUNGOS	Liaison Unit for Non-Governmental Organisations
MSR	Mouveman Seselwa Rasin
NAP	National Alliance Party
NDP	New Democratic Party
PEMMO	Principles for Election Management, Monitoring and Observation in the SADC Region
PS	Parti Seselwa
RFI	Radio France International
SADC	Southern African Development Community
SADC-ECF	Southern African Development Community- Electoral Commissions Forum
SADC-PF	Southern African Development Community- Parliamentary Forum
SBC	Seychelles Broadcasting Corporation
SDP	Seychelles Democratic Party
SMC	Seychelles Media Commission
SNM	Seychelles National Movement
SNP	Seychelles National Party
SPPF	Seychelles People's Progressive Front
SPUP	Seychelles People's Unity Party
UO	United Opposition

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## EXECUTIVE SUMMARY

In line with its vision for an African continent where democratic governance, human rights and citizen participation are upheld in a peaceful environment, EISA deployed a three-member technical assessment team to the Seychelles presidential election, which was held from 19 to 21 May 2011. The present report outlines the way the EISA Technical Team organised its mission. The report of the mission addresses the Team's assessment, findings and analysis of the electoral process in all its phases, specifically the pre-election phase, the voting and counting phase and post-election phase, which includes the proclamation of the results.

The EISA Technical Team comprised Ms Eva Palmans, Programme Officer, Madagascar, Mr Sydney Letsholo, Senior Programme Assistant and Mr Robert Gerenge, Programme Officer, Elections and Political Processes, based at the EISA head office. The Team arrived in Seychelles on 15 May 2011. During nine days of observation, EISA's Technical Team held meetings with different stakeholders, being election management officials, political parties, civil society organisations and media and observed the different phases of election on the whole Island of Mahé. Through the meetings with different stakeholders and the reading of an array of documents including media reports and legal documents such as the Seychelles Constitution and the Elections Act, the Team gained a better understanding of the environment within which the election was taking place. On the main polling day the Team was able to visit a total of 13 polling stations out of 25 polling stations on Mahé. The Team also observed the special voting on 19 May 2011.

The Team used the Principles for Election Management, Monitoring and Observation in the Southern African Development Community (SADC) Region (PEMMO) as the basis for its assessment of the Seychelles presidential election. PEMMO is a document developed under the auspices of EISA and the Electoral Commissions Forum (ECF) of SADC countries. It outlines standards and best practices for the conduct and assessment of elections in the SADC region. Other relevant documents used for the assessment of the election were the African Union Declaration on Principles Governing Democratic Elections and the Declaration of International Principles for Elec-

tion Observation and the Code of Conduct for International Observers. On the basis of guidelines in PEMMO and the findings of its observations, the Technical Team is of the view that overall electoral process met with most of the PEMMO principles although with room for improvement in some of the areas of the electoral process. The Technical Team was impressed with the degree of professionalism of election management in dealing with the overall logistics and with the peaceful and orderly manner in which people of the Seychelles participated in the elections.

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## TERMS OF REFERENCE OF THE EISA OBSERVER MISSION

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The Terms of Reference of the EISA technical election observation team describe the role and responsibilities of these members during their mission to the 2011 Presidential Election in the Seychelles. They provide a summary of the technical team's objectives and outline the activities to be carried out by these members.

The Terms of Reference also highlight how members should conduct themselves, calling on them to remember at all times that observers were invited guests in the Seychelles and that the election and related processes were for the people of the Seychelles to conduct. As observers, EISA Technical Team members were expected to support and assess these processes, but not to interfere. EISA believes that international observers can play a critically important supportive role by helping enhance the credibility of the elections, reinforce the work of domestic observer groups where they exist, and eventually increase popular confidence in the entire electoral process.

The overall objective of this mission is in line with EISA's vision of promoting credible elections and democratic governance in Africa and beyond. Following an invitation extended by the Electoral Commissioner of Seychelles, EISA established a three-member technical team to observe the 2011 Presidential Election in the Seychelles.

Specific objectives for this particular Mission included the following:

- To assess whether the conditions exist for the conducting of elections that reflect the will of the people of Seychelles;
- To assess whether the elections are conducted in accordance with the electoral legislative framework of Seychelles;
- To assess whether the elections met the international and regional benchmarks as well as the Principles for Election Management, Monitoring and Observation in the SADC Region (PEMMO).

In order to achieve the above, the Technical Team sought to undertake the following activities to:

- Obtain information on the electoral process from the Electoral Commissioner;
- Meet with political parties, civil society organisations and other stakeholders to acquaint itself with the electoral environment;
- Report accurately on its observations and refer any irregularities to the relevant authorities;
- Observe all aspects of the election in the areas it will visit;
- Assess if all registered voters have easy access to voting stations and whether or not they are able to exercise their vote in freedom and secrecy;
- Assess the logistical arrangements to confirm if all necessary materials are available for the voting and counting to take place efficiently;
- Find out if all the competing parties and candidates are given equal opportunity to participate in the elections.

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## THE EISA APPROACH TO ELECTION OBSERVATION

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EISA strives for excellence in the promotion of credible elections, citizen participation, and the strengthening of political institutions for sustainable democracy in Africa. In this regard EISA undertakes applied research, capacity building, advocacy and other targeted interventions. It is within this broad context that EISA fields election observer missions to assess the context and the conduct of elections in the SADC region and the rest of the African continent.

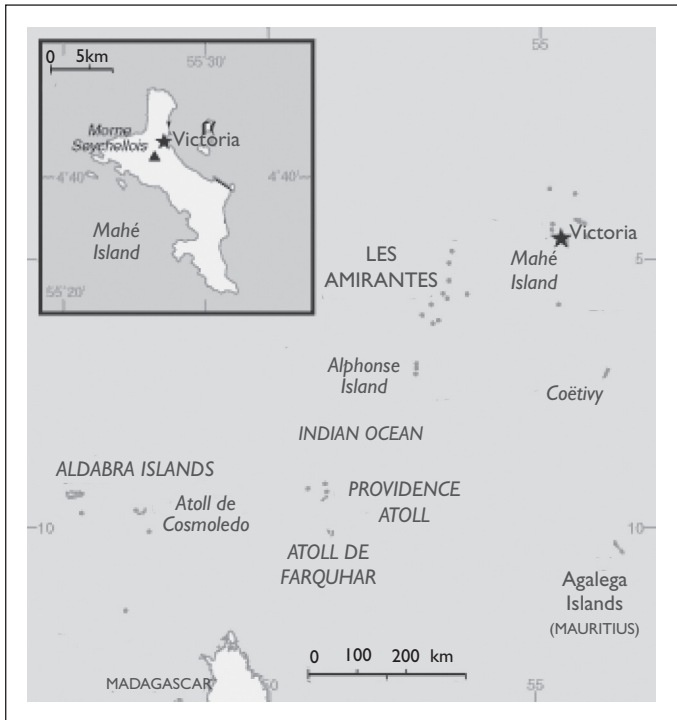
To this effect, and in order to assess the presidential election of 19 to 21 May, 2011 in the Republic of Seychelles, EISA deployed a three-member Technical Team consisting of three EISA staff members (see Appendix 1: Members of the EISA Team). Its activities can be divided into three main parts, namely stakeholder meetings including attendance of the closing political rally (pre-election phase), observation of the polling (election phase) and counting of votes and announcement of results (post-election phase).

### **Stakeholder meetings**

The EISA Technical Team arrived in Victoria on 15 May 2011, four days before polling days, with the main aim of assessing the pre-election phase and acquainting itself with the degree of preparedness of all the stakeholders. During this period, the Team held meetings in Victoria with various electoral stakeholders, including Election Officers, representatives of political parties, CSOs and the media. Appendix 2 gives an overview of the stakeholder meetings which provided first-hand information and valuable insight into the various stakeholders' views of the process, as well as their assessment of the preparedness for the elections.

### **Observation of voting and counting**

The EISA Technical Team observed the voting and counting in polling stations on Mahé Island from 19 to 21 May 2011. Resulting from these activities, this report depicts the findings of the EISA Technical Team deployed in the Seychelles for the 2011 presidential election. It also makes recommendations on areas of the electoral process that need improvement.



# 1

# Political and Electoral Background

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The Republic of Seychelles is located in the Indian Ocean and is an archipelago of 115 tropical islands. About 90% of the Seychellois live on Mahé Island. Most others live on Praslin and La Digue, with the remaining smaller islands either sparsely populated or uninhabited.

The islands, once notorious for a series of coups and attempted coups, are nowadays performing well in terms of political stability and overall governance, and this in comparison to other countries in Africa. The World Bank's Worldwide Governance Indicators show that in most dimensions of governance (political stability, government effectiveness, rule of law and control of corruption), the Republic of Seychelles is above the 50 percentile rank amongst the 212 countries surveyed in 2009.<sup>1</sup> Furthermore, the 2010 Mo Ibrahim Index of African Governance ranks Seychelles at second place (after Mauritius) out of the 48 Sub-Saharan African countries.<sup>2</sup>

The islands were uninhabited until the 17th century. They were proclaimed a French colony in 1756, with the first French settlers arriving in 1770. The French ruled the islands with delegated powers from Mauritius. Both the British and the French were keenly interested in the strategic value of the islands and during the late 1790s and early 1800s Seychelles changed hands several times. Following the Napoleonic wars, Seychelles was ceded to the British in 1814 and was administered from Mauritius until 1888, when an administrator was appointed to govern from Victoria. Seychelles became a separate Crown Colony in 1903.



In 1963 elections were organised for the first time on party lines. In 1964, the campaign for independence began with the creation of two new parties, namely, the Seychelles Democratic Party (SDP) led by James Mancham, and the Seychelles People's Unity Party (SPUP) led by France Albert René. As a result of the campaign for independence, a new Constitution was drawn up in 1967 and three years later a ministerial form of government was established. In 1974, further elections were held in which the two major political parties campaigned for independence and in 1975 the SDP and SPUP formed a coalition government which led Seychelles to independence on 29 June 1976. Initially a coalition government led by President Mancham ruled the country. He was overthrown in a coup on 5 June 1977 and was replaced by Albert René, his former Prime Minister, representing the Seychelles People's Progressive Front (SPPF), former SPUP.

In March 1979, a new Constitution was promulgated and Seychelles officially became a one-party state. Only members of the ruling SPPF could stand for elections to the newly-constituted People's Assembly and President René became the sole candidate for elections to the Presidency with a limit of three five-year terms prescribed under the Constitution. President René ran the country as a one-party state for fourteen years, surviving three unsuccessful coup plots by exiled opponents involving foreign mercenaries (April 1978, November 1979 and November 1981), and a suppressed mutiny (August 1982). However, stability improved during the 1980s.

The decision by Commonwealth Heads of Government at their Harare Meeting in October 1991 to place the Commonwealth firmly behind the democratisation process in member states was an important catalyst for change in Seychelles. In December 1991, President René announced a return to the multiparty system of government and the Constitution was amended to allow for the registration of political parties. Following this announcement many exiles returned to Seychelles; among them was James Mancham, who returned in April 1992 to revive his Democratic Party (DP).

The first stage of the transition process to a multiparty democracy commenced with elections to the Constitution Commission. Eight political parties registered to contest in these elections. They included the two parties which had existed before the coup d'état: the SPPF and the DP. Among the new

parties were the three which later became the Seychelles National Party (SNP). These were the Parti Seselwa (PS) with Wavel Ramkalawan as leader, the Seychelles National Movement (SNM) led by Gabriel Hoareau and the National Alliance Party (NAP) led by Philippe Boullé. A new democratic constitution was adopted on 7 May 1993, and the first multiparty presidential and legislative elections were held in July of 1993. They were won by President René and the SPPF. James Mancham and the DP came second in both. The Parti Seselwa joined forces with the SNM and the NAP to form the United Opposition (UO). The UO led by Wavel Ramkalawan obtained one seat in the National Assembly.

The 1998 elections were governed by the Seychelles Constitution of 1993, as amended in 1994, 1995 and 1996, as well as the Elections Act of 1995, as amended in 1996. For the first time vice-presidential candidates ran for election on a common ticket with the presidential candidate. This second set of elections again resulted in a clear win for President René and the SPPF, but the leader of the UO, Wavel Ramkalawan, replaced James Mancham as leader of the opposition. After these elections, the UO adopted the name of Seychelles National Party (SNP).

President René won the early 2001 presidential election with a reduced majority, attaining 54.19 per cent of the vote to Mr Ramkalawan's 44.95 per cent and Mr Philippe Boullé's 0.86 per cent. The SPPF won parliamentary elections in 2002 with 54 per cent of the vote to the SNP's 42 per cent and the DP won 3.1 per cent of the vote and failed to gain representation in the National Assembly.

President René stepped down on 14 April 2004 and handed power to the vice-president, James Michel. This marked a change in the Seychellois political landscape, as President René had ruled Seychelles for the previous twenty-seven years. James Michel won the 2006 presidential election with 54 per cent of the vote, while the opposition candidate of the SNP, Mr Ramkalawan, supported by the DP, got 46 per cent. Parliamentary elections in May 2007 saw no change in the structure of the National Assembly: the SPPF retained its 23 seats; the SNP (in alliance with the DP) retained 11 seats.

Hence, the 2011 presidential election was the fifth in the country's history

since its return to the multiparty system. At the time of this election three political parties were officially registered, being Parti Lepep (People's Party), former SPPF, the SNP and the New Democratic Party (NDP), former DP. President James Michel of Parti Lepep stood for his second term and the SNP candidate, Wavel Ramkalawan, presented himself for the third time as a presidential candidate. The independent candidate Philippe Boullé ran for a third time for the position of president and Ralph Volcere, the candidate of the NDP, stood for the first time as a presidential candidate.

The 2011 presidential election was seen to be of critical significance, as this was the first election since the global financial meltdown and the subsequent sweeping economic reforms of 2008-10. Before that date, Seychelles had years of a socialist-oriented economic policy, based on a centrally planned economic model. The economy was characterised by price, trade and foreign exchange controls, a prominent role for parastatal companies, and robust debt-funded development spending. This led to some serious economic imbalances and to the near-depletion of official foreign exchange reserves in October 2008. Seychelles defaulted on interest payments, which severely damaged its credibility as a borrower. The government subsequently turned to the International Monetary Fund (IMF) for support, and in an attempt to meet the conditions for a stand-by loan, began implementing a programme of radical reforms. This economic reform process has changed the political landscape, as it narrowed the differences between the two main parties. In essence, the ruling party has abandoned its earlier socialist stance and embraced economic liberalisation, which had been the opposition's policy in past elections.<sup>3</sup>

# 2

## Constitutional, Legal & Institutional Framework



- 2.1 Constitution
- 2.2 Office of the Electoral Commissioner
- 2.3 Political party funding

The Constitution of 1993 (amended in 1994, 1995, 1996 and 2000) and the Elections Act of 1995 as amended in 1996 provide the legal framework for the elections in the Republic of Seychelles.

### **2.1 CONSTITUTION**

The Constitution of 1993 (later revised) heralded the introduction of a multi-party democracy in the previous autocratic state of Seychelles. According to the Constitution, the president is elected by direct universal adult suffrage; the vice-president is elected on the same ticket as the president (Constitution 1993, Article 52 para.2). The president is also restricted to a maximum of three terms of office of five years each.

The Constitution therefore ensures that the government is accountable to the people through a periodic ballot. Also enshrined in the Constitution are the fundamental freedoms and rights of the citizens, collectively found in the Bill of Rights.

The electoral system used for presidential elections is a majoritarian system. The candidate and his/her running-mate must win 50 per cent plus one votes in order to become president and vice-president respectively. A run-off is required between the first and second candidate if the winner does not garner an absolute majority of votes in the first round. In the run-off, a simple majoritarian rule applies to the winning candidate.

## **2.2 OFFICE OF THE ELECTORAL COMMISSIONER**

Articles 115 and 116 of the Constitution of Seychelles provide for the establishment of the Office of the Electoral Commissioner. Seychelles has only one Commissioner, constitutionally referred to as the Electoral Commissioner, whose appointment, powers and functions are stipulated in the Constitution. He/she is appointed by the President of the Republic from the nominees submitted to him/her by the Constitutional Appointments Authority for a term in office not more than seven years (Article 115). At the end of the term, the Electoral Commissioner vacates the office and can be reappointed again. The Constitution provides for the complete independence of the Electoral Commissioner and a number of provisions are laid down to guarantee this. The Electoral Commissioner's allowances and salary are paid from the Consolidated Fund and cannot be altered to his or her disadvantage after appointment. The Constitution is however silent about the dismissal of the Electoral Commissioner.

In terms of powers and functions, the Constitution stipulates that the Electoral Commissioner:

- shall be responsible for the conduct and supervision of the registration of voters and of elections and referenda under this Constitution;
- shall keep under continuous review the number and boundaries of the electoral areas;
- shall keep under continuous review the practices and working, including such matters as finance, broadcast and advertising, of political campaigns in respect of elections and referenda under this Constitution.

The Office of the Electoral Commissioner is staffed by the Commissioner, who is a constitutional appointee, and a Chief Registration Officer, who is appointed by the Electoral Commissioner through an official gazette. In the event of the yearly Voters' Registration Exercise and Polling, all other staff are appointed by the Commissioner through an official gazette on a part-time basis, after consultation with all political parties. These appointees are from both the public and sectors, depending on their experience and impartiality in the conduct of their responsibilities.

There is also provision for an Election Advisory Board (EAB) that functions as a consultative body. The EAB was created in 2010 by the Electoral Commissioner (EC) out of the perceived need for consultation on electoral matters. It is composed of the Electoral Commissioner, the Chief Registration Officer, the person who last functioned as the Chief Electoral Officer, and three other persons with electoral knowledge, nominated by the EC. Its objective is to advise and assist the EC's functions generally and in relation to:

- Registration of voters;
- The delimitation of boundaries;
- Organisation of elections and the setting of the dates of elections;
- Consultation of members of the public in respect of election matters;
- Liaising with relevant public authorities and stakeholders in delimiting boundaries;
- Reviewing electoral laws as and when necessary;
- Other measures to ensure good governance and transparency in the management of elections.<sup>4</sup>

The current Electoral Commissioner is in his second seven-year term. The Technical team noted that because of the absence of an Electoral Commission extensive powers are concentrated in the person of the Electoral Commissioner (see Recommendations for further comment).

## **2.3 POLITICAL PARTY FUNDING**

### **2.3.1 Public funding**

The Republic of Seychelles makes provision for the state to provide finances to political parties through a 1996 amendment to the Political Parties (Registration and Regulation) Act 1991<sup>5</sup> in accordance with Article 118 of the Constitution, which states that 'an Act shall provide for [...] the provision of financial support from public funds to political parties'.<sup>6</sup> As amended, the Registration Act establishes a Political Parties Financial Support Fund ('Fund') which is supplied by appropriation acts of the National Assembly and administered by the Registrar of Political Parties (who is also the Electoral Commissioner). The amount of the Fund is determined annually before the end of January, and allocated to parties registered on 1 January of that year.

The Commissioner is required to keep an account of the Fund and to submit an annual statement of accounts to the National Assembly.

The Fund is allocated according to the representation of the party in the National Assembly and allocated to each party is the proportion of votes received in the previous National Assembly elections. Parties that did not participate in the election or that have registered since the previous election, but have registered candidates for the next general election of the National Assembly, are also entitled to funding; they are paid a proportion of the lowest sum allocated, determined by the length of time between close of nominations and the end of the year (thus if the lowest amount paid out is 4% of the total payout and nominations close on 31 March, they will receive  $\frac{3}{4}$  of that year's payout:  $\frac{3}{4}$  of 4% = 3% of total payouts for the year).

Several electoral stakeholders raised concerns about the fact that the total amount of the Fund was substantially reduced over the last years. Since 2001, the sum appropriated has dropped to RS0.5 million (41 318 USD) compared to RS2 million (165 275 USD) prior to that. Although this affects both parties in the National Assembly equally, the perception exists that the ruling party, through incumbency, still has access to other state resources and has a clear advantage over the opposition parties.

### **2.3.2 Campaign funds accounting**

Accountability for the expenditure of campaign funds is regulated by the Elections Act. In terms of this legislation either the political party or candidate concerned is liable for all expenses incurred during the campaign period and is obliged to keep full records of funds received and expenses incurred. Within 45 days of the election results being announced the responsible person must prepare a statement of funds received and expenses incurred and within 60 days submit the statement to the Electoral Commissioner; failure to comply with these provisions is an offence punishable by a RS20 000 million (1 652 USD) and three years' imprisonment.

According to the Act, the accounts submitted do not, however, have to disclose the identities of either the donors of the funds, nor of those with whom the expenses have been incurred. There is thus no legislation requiring disclosure of funding sources, nor any restrictions on the amount spent in

campaigning and thus no ceiling on party election expenditure. Nor are there any restrictions on who may make donations, nor is there a ban on foreign donations to political parties.<sup>7</sup> As the section on campaigning shows, the issue of a level playing field was one of the major concerns of electoral stakeholders, and we will come back on this in our conclusions and recommendations.



# 3

## The Pre-Election Phase



- 3.1 Delimitation of constituencies and polling districts
- 3.2 Voter registration and voters' roll
- 3.3 Nomination process and registration of candidates
- 3.4 Women and political representation
- 3.5 Civic and voter education
- 3.6 Election campaigning and the Code of Conduct
- 3.7 Media coverage of the electoral process

### **3.1 DELIMITATION OF CONSTITUENCIES AND POLLING DISTRICTS**

According to the Constitution there may not be less than 19 electoral areas on the island of Mahé, two on Praslin and one for the Inner Islands.<sup>8</sup> In the 2011 presidential election, a total of 25 polling stations were set up, one for each of the 25 districts. These are Anse aux Pins, Anse Boileau, Au Cap, Anse Etoile, Anse Royale, Bel Air, Baie Lazare, Bel Ombre, Baie Ste Anne, Beau Vallon, Cascade, English River, Glacis, Grand Anse Mahe, Grand Anse Praslin, Inner Islands, Les Mamelles, Mont Buxton, Mont Fleuri, Plaisance, Port Glaud, Pointe Larue, Roche Caiman, Saint Louis and Takamaka.

### **3.2 VOTER REGISTRATION AND VOTERS' ROLL**

Voter registration is one of the crucial requirements for any credible electoral process. Article 24 (b) of the Constitution of Seychelles asserts that every person from the age of 18 and upwards has a right to be registered as a voter for the purpose of voting by secret ballot at public elections which shall be by universal and equal suffrage. Furthermore, the Constitution mentions that it is the duty and mandate of the Electoral Commissioner to oversee and supervise this process. However, for the Electoral Commissioner to successfully register and include people in the register, the following documents are required:

- National Identity Card.
- Marriage Certificate; where a change of name should be effected.

- Divorce Certificate; where a change of name should be effected.
- Naturalisation Certificate; where a person who has become a Seychelles citizen applies to be registered as a voter.
- Birth Certificate; where there is a discrepancy in the spelling of the voter's name.<sup>9</sup>

With a population of just under 90 000 people, the final Voters' Register certified on 31 May 2011 that 69 480 voters registered to vote. Opposition parties were sceptical about the accuracy of the voters' roll, while, on the other hand, the Office of the Electoral Commissioner remained adamant that these were indeed the correct figures.

Per polling station, being at the same time the electoral districts, between 1 841 (Port Glaud) and 3 961 (Anse Etoile) voters were registered, which means on average 2 779 voters per polling station.

### **3.3 NOMINATION PROCESS AND REGISTRATION OF CANDIDATES**

Article 14 of the Elections Act mentions that:

- (1) the Electoral Commissioner shall at least 21 days before the earliest date fixed under section 13 for a Presidential Election or a National Assembly Election, hereafter referred to 'election day', by notice in the Gazette, appoint the date, place and time for the nomination of candidates for the Presidential Election or the National Assembly Election and shall in the notice specify:
  - a) The sum required to be deposited or secured with the Electoral Commissioner by each candidate for each such election;
  - b) The number of persons required to endorse the nomination paper of each such candidate.

Five hundred signatures and a deposit of RS15 000<sup>10</sup> (1 239 USD) was required for nomination for the presidential election.<sup>11</sup> Four candidates were successfully nominated for the 2011 presidential election, with one candidate's application being rejected, as reflected in Table 1 below and 3.3.1.

**Table 1: Presidential candidates and running-mates**

Candidate name	Running mate	Party representing
Wavel Ramkalawan	Nicholas Prea	Seychelles National Party
Philippe Boullé	Henry Naiken	Independent
Ralph Volcere	Georges Bibi	New Democratic Party
James Michel	Danny Faure	Parti Lepep

### 3.3.1 Case of Viral Dhanjee: Disqualified candidate

Viral Dhanjee intended contesting the 2011 presidential elections as an independent candidate. He believed he had met all the legal requirements as stated in the electoral law for his application to qualify. One of the requirements was that candidates intending to stand for presidential elections should have no less than 500 people nominating them. On 27 April, the Electoral Commissioner received Dhanjee's application and gave a notice of acknowledgment showing satisfaction. In total, Dhanjee's submitted his nomination forms accompanied by 630 nominees. However, after subsequent scrutiny from the office of the Electoral Commissioner, it was discovered that 176 of the 630 nominations were either not registered to vote, national identity numbers provided did not match with names of the supporters and/or there were no signatures by some supporters. This meant that only 454 nominations were valid, thus leaving Dhanjee with an insufficient number of nominations for him to stand as a presidential candidate. Dhanjee argued that since the office of the Electoral Commissioner has acknowledged receipt of the documents, he assumed that he had fulfilled all the legal requirements.

After his application was rejected, Dhanjee approached the Constitutional Court, arguing that the office of the Electoral Commissioner violated his constitutional rights by not giving him enough time to plead his case. The Constitutional Court recognised that Dhanjee's right to stand for president was violated because the Electoral Commissioner returned his documents too late for correction. However, the Constitutional Court did not offer a remedy to this violation, which is what Mr Dhanjee was seeking in his request before the Court of Appeal to postpone the presidential poll. The Court of Appeal rejected this request on 20 May, the Court's president Francis MacGregor stating that more harm and injustice would have been done if he stopped the election than if he allowed it. He weighed Dhanjee's right to stand for election against the electorate's right to have elections as they were scheduled. The detailed ruling took place only after the holding of election, on 27 May.

In reaction to the decision of the Court of Appeal, Mr Viral Dhanjee filed his petition before the Court of Appeal to have the result of the presidential election declared void under section 44(7) of the Elections Act, which states that "the Constitutional Court may declare that an election [...] is void if the Court is satisfied that there was non-compliance with this Act [...]".

### 3.4 WOMEN AND POLITICAL REPRESENTATION

The Constitution of the Seychelles makes no provision for quotas to advance the representation of women in publicly elected bodies, nor are there any other legal provisions to do so.<sup>12</sup> Although the Seychelles is a signatory of the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), no specific steps have been taken towards meeting the SADC's 'protocol on gender and development'. The protocol encourages governments to have at least 30 per cent representation of women in key decision-making positions and asserts that by 2015 there should be at least 50 per cent women in such positions.<sup>13</sup> Given the fact that there is no legal provision for gender quotas in the Seychelles, the onus is on political parties to prioritise and ensure equal participation of women in politics. The EISA Technical Team noted that there was not a single female presidential candidate. Furthermore, none of the presidential candidates had female members as running mates. This is unfortunate given the fact that women in the Seychelles have always taken an active part in politics at grassroots level and were fully involved in the struggle for independence prior to 1976. In the Seychelles, women are underrepresented at higher levels of politics, with the percentage of women in the National Assembly never having gone beyond 30% in the last 18 years.<sup>14</sup>

**Table 2: Women's representation in National Assembly**

Year	Percentage
1993	27.3
1998	24.0
2002	29.41
2007	23.53

Source: <http://www.eisa.org.za/WEP/gen2006parliament.htm>

Table 2 above depicts the general representation of women in Seychelles' National Assembly from 1993 up to 2007. The table illustrates that the figure either increases or decreases with each National Assembly elections.

### 3.5 CIVIC AND VOTER EDUCATION

Civic and voter education is one of the crucial requirements for a credible free and fair electoral process. In the Seychelles, voter education is usually

conducted three months before an election. Voter education is neither stipulated in the Constitution nor the Electoral Law as a function of the Electoral Commissioner.<sup>15</sup> However, be that as it may, the office of the Electoral Commissioner does have a voter education department. On the other hand, non-governmental organisations (NGOs) do not undertake civic and voter education initiatives because they do not have the legal mandate to do so. The onus is thus left to political parties to provide civic and voter education. Furthermore, state media through the Seychelles Broadcasting Corporation (SBC) and different newspapers played their part in providing civic and voter education. It is also imperative to note that the absence of domestic observer groups greatly undermined further effort to provide for such programmes.

### **3.6 ELECTION CAMPAIGNING AND THE CODE OF CONDUCT**

#### **3.6.1 Principles governing political parties' campaign**

As stated in articles 50 and 95 of the Elections Act, nominated candidates for an election have the right to campaign for the election during the period commencing on nomination day and ending at midnight on the third day before the election day, i.e. three days before polling commences on the outer islands and at additional stations. Thus, campaigning started on 27 April 2011 and ended on 15 May 2011, followed by three days of the so-called 'cooling-off period'.

The Seychelles legal framework does not specifically make provision for how the election campaigns are to be conducted. However, the Office of the Electoral Commissioner and registered political parties agreed on a Code of Conduct to be adhered to by all electoral stakeholders, including political parties, candidates, employees, agents and supporters. The Code sets out acceptable standards of behaviour relating to electioneering during the campaign period. However, as it is not enacted it has no regulatory force. Violations of the Code are not punishable, except through enforcement of ordinary legislation governing crimes such as theft, public violence or vandalism.

The Code is comprehensive and detailed. The full Code is contained in Appendix 3. The Code has as its main objectives to ensure the integrity of the

electoral process and to maintain a peaceful atmosphere during an election or referendum campaign and on polling day.

### **3.6.2 Campaigning**

In accordance with the Electoral Act, campaigning started on 27 April 2011 and ended on 15 May 2011, followed by three days of the so-called ‘cooling-off period’.

The EISA Technical Team observed the presence of posters and billboards of the four presidential candidates and their running mates on the Island of Mahé, although there were remarkably more posters of James Michel than of the main opposition candidate, Wavel Ramkalawan. The Team also noticed that the incumbent president was the only candidate with large billboards placed at strategic locations in the capital city Victoria, and used the national flag in his campaign by systematically positioning the flag next to his posters and billboards and distributing the national flag as to his supporters.

Parti Lepep and its candidate campaigned under the slogan of ‘A new Seychelles’ by promoting the need for further economic reforms and modernisation policies. The main campaign message of the SNP and its candidate was ‘Together for a better life’. According to their manifesto their aim was: ‘to solve the problems that we face today, so that we can work for solid progress in the interest of all the people of Seychelles’. The NDP and its candidate campaigned with the message to bring ‘An agenda for real change’ under the theme ‘Seychelles for Seychellois’. The independent candidate, Philippe Boullé, used the slogan ‘The time has come: A time for Change and Renaissance’.

In general, campaigning was peaceful. On 15 May, the EISA Technical Team observed the ruling party’s final rally at the Freedom Square in the centre of the capital city Victoria. According to different sources, this was the only big campaign event in the three weeks of campaigning. The three opposition candidates did not organise any public rally and opted for door-to-door campaigning.

The ruling party’s closing rally was attended by supporters dressed in the party t-shirts as well as party caps, flats, umbrellas and bags, and included

young, old, women, men and a lot of children. The atmosphere was festive and relaxed, with political songs and general music and dance entertainment. Speeches were given by the presidential and vice-presidential candidates and key political figures explaining the programme of the president and his successes to date. A striking fact was the large amount of alcohol consumption at the rally (according to different sources, beer was sold at a lower price than in supermarkets). Security forces were conspicuously present (army and police), and a helicopter was circling to secure the event.

The opposition candidates informed the Technical Observer Team that the reasons for their not organising any public rallies were twofold: a lack of resources to equal the type of rallies organised by the ruling party as well as fear for the safety of supporters attending their meetings. They further informed the Technical Team that, as had happened in past elections, people supporting the opposition were identified at public meetings by the state-owned television filming the event and were thereafter approached by the ruling party either through intimidation or bribery. Furthermore, people attending their rallies were arrested at these meetings and only released after the elections, therefore being deprived of their right to vote.

Several electoral stakeholders mentioned the existence of a climate of fear, especially among civil servants. These fears were associated with the perception that the position and opportunities for civil servants were dependent on demonstrated loyalty to a particular party, namely the ruling party. Allegations of intimidation were not limited to Parti Lepep, but the party in government had the greatest opportunity to play on the fear of the electorate. The Team also received a number of reports from various sources that both the ruling party and the main opposition party distributed money to voters as an inducement, though the majority of these allegations were made against the ruling party. The Technical Team was not able to substantiate these allegations.

A concern about the lack of a level playing field for political parties was also reported to the Technical Team. The Technical Team received several reports accusing Parti Lepep of organising its rallies using state resources including buses, boats, the use of the army and the national flag; some of these practices were observed by the Team. Although a legal requirement

for parties to report on election expenditure currently exists, there is no legal requirement for the sources of such funds to be disclosed. Furthermore, there is no legal limit set on the level of such expenditure.

### **3.7 MEDIA COVERAGE OF THE ELECTORAL PROCESS**

There are two state-controlled media outlets in Seychelles. These are the Seychelles Nation, which is the main newspaper, and the Seychelles Broadcasting Corporation (SBC), which is the only television and radio channel in the country. Political parties have their own private newspapers. The Parti Lepep has *The People*, the SNP has the *Regar*, while the NDP has the *Seychelles Weekly*. Other independent newspapers include *Today*, *Daily*, *Independent*, and *The Rising Sun*. The SBC relays two foreign radio stations: Radio France International (RFI) and the British Broadcasting Corporation (BBC).<sup>16</sup> The regulatory body for media in the country is the Seychelles Media Commission (SMC) (see section 3.7.1).

In an effort to provide the platform for all presidential candidates to present their manifestos to electorate, both radio and television stations broadcasted 'The Party Political Broadcast'. The televised broadcasts were broadcasted daily at 9pm, whereas the radio broadcasts aired from 7.30pm and repeated the following day at 8am.

#### **3.7.1 Seychelles Media Commission**

In an effort to improve the media fraternity, the Seychelles Media Commission (SMC) was established. The Seychelles Media Commission is a body corporate established by the Seychelles Media Commission Act 2010, approved by the National Assembly of Seychelles on 21 December 2010.<sup>17</sup> 'It consists of a Chairperson who is also the Chief Executive Officer and seven other members. Five of the members are appointed by the President of the Republic of Seychelles from candidates proposed by the Seychelles Media Association or such other body as may for the time represent journalists and media professionals, the National Assembly, the Judiciary, the Department of Information and the Liaison Unit for Non-Governmental Organisations (LUNGOS). The other two members and Chairperson, who are persons of good standing, are appointed by the President.'<sup>18</sup>

Among other things, the function of the SMC is to:



- provide an independent arbitration medium between different types of media organisations and between members of the public and media organisations;
- promote the independence of the print and electronic media;
- formulate in consultation with the Seychelles Media Association, a Code of Conduct for publishers of newspapers, radio and television broadcasters, news agencies, publishers of online publications, including blogs, particularly those emanating from servers hosted in the Seychelles, and journalists, and publish the Code of Conduct as prescribed;
- monitor adherence to the Code of Conduct and require compliance by all concerned;
- monitor compliance by all media of constitutional and legal obligations in force in the Seychelles in respect of media freedom and expression;
- monitor any development likely to restrict the dissemination of information, including expression of opinions on matters of public interest and importance, and assist in resolving them;
- defend the constitutional right of the citizens to accurate, truthful and timely information;
- assist journalists and broadcasters in developing and maintaining high standards of integrity in the collection and dissemination of news and information in and about Seychelles;
- assist and encourage the interaction between local media organisations and foreign media organisations, including training institutions, with the object of improving the standard of journalism in the Seychelles;
- receive complaints from members of the public relating to any infringement of the individual's right to privacy by journalists or agents of media organisations and sanctions journalists or media organisations according to law;
- promote a proper functional relationship among all classes of persons engaged in print and electronic media in the Seychelles;
- promote the development of privately owned print and broadcasting media;
- undertake such other activities within its mandate as may be assigned to the Commission by the government, including but not limited to:
  - reviewing of existing legislation governing broadcasting and the print media and make recommendations to the government with

the view to bringing it in line with the Constitution and current trends as may be appropriate.

- reviewing and making recommendations to the government on licence applications to open radio or television stations or to publish newspapers and similar print publications.
- maintaining of a national database of media practitioners and institutions.

Opposition parties complained about the partiality of state media, arguing that the incumbent was given more airtime than they were. In a joint statement released by all the opposition parties after the election results were announced, opposition parties noted that ‘the state-funded media, Seychelles Nation and SBC, were monopolised throughout the campaign by the government, giving a clear advantage to the incumbent candidate. Both media showed a clear reluctance to be fair and missed no opportunity to give coverage to the president and government initiatives in clear breach of their constitutional and legal obligations. Reporting calculated to influence the outcome of elections continued up to polling day’.<sup>19</sup> This brought into question the efficiency of the SMC, as it was deemed to be toothless in the face of state media’s partiality. However, some analysts argued that this could perhaps be attributed to the fact that the SMC was established a year before the 2011 elections and thus could not fully execute its mandate in that short space of time.

# 4

## The Election Phase



- 4.1 Voting process
- 4.2 Party agents
- 4.3 Security forces
- 4.4 Voter turnout
- 4.5 Closing of polling stations
- 4.6 Observers

### 4.1 VOTING PROCESS

Sections 21 to 28 of the Elections Act outline the procedures for polling day. Voting took place in a peaceful manner on the various islands from 19 to 21 May. Voting commenced on 19 May for essential services staff who would be on duty away from their electoral area on the day of the election, 21 May. Special stations were available for essential services staff at English River and Praslin as well as at the North East Point regional old age home and at North East Point hospital. On 20 May voting took place on the Outer Islands, namely Bird Island (9am to 10am), Ile Denis (11am to 12 noon), Fregate (2pm to 4pm), Farquhar (2.45pm to 3.30pm), Darros (9.30am to 11.30am), Assumption (11am to 11.30am) and Remire (2pm to 2.30pm). About 2 011 people were due to vote on these two days. On the main polling day, 21 May, voting was organised in all of the country's 25 electoral areas (which were also the 25 polling stations) from 7am to 7pm. There was also an additional polling station at the Exhibition Wing of the National Library from 7am to 12 noon for voters from the Inner Islands and the electoral areas of Praslin who were present on Mahé on that day. Voting is arranged in this way by the EC to ensure that all potential voters are given the opportunity to vote.

The Technical Team observed special voting on 19 May and visited 13 polling stations on Mahé Island on 21 May 2011. The Team noted that all 13 polling stations visited in Mahé Island were opened on time, as stipulated in the electoral regulations. The voting process overall went smoothly except for a few minor hitches, such as one or two voters in some districts whose

name was not on the list or was on that of another district, and the polling personnel manifested professionalism in the conduct of voting operations in all polling stations observed. The relative numerical superiority of women electoral officers was noticed in all 13 polling stations.

The polling stations were well laid-out to ensure secrecy of the ballot. The secrecy of the ballot in the voting process was guaranteed by the fact that there was a single ballot box for casting voting per voting station and the voting booth was placed in such a manner that the choice of the voter was protected. Cell phones had to be switched off when voters entered the polling stations. This was to counter rumours that some voters would take a photo of the marked ballot paper and then show it to their party and receive a sum of money as a token.

There were special measures provided for people with physical disabilities. Generally, a voter who is blind, mute or deaf is permitted to be accompanied by a person selected by him/her. This person can only assist one physically challenged person. As for an illiterate voter, he/she may be accompanied by a person of his/her choice who witnesses the marking of the ballot paper by the Electoral Officer or his/her deputy to ensure its correctness.

The Technical Team heard rumours that the ruling Party Lepep was bribing voters on polling day. However, none of these rumours were substantiated. The Technical Team observed that only the state media (SBC) was allowed inside the polling stations, and was filming the voting process. This could have an intimidating effect on voters, as they may feel that 'somebody' was watching what they were doing.

There is no provision in the electoral law for voting from abroad, thus denying Seychellois not living in the Seychelles the right to elect their representative.

## **4.2 PARTY AGENTS**

Article 20 of the Elections Act provides for each candidate to appoint one person to be known as a polling agent to attend the polling station during voting and one counting agent to attend the counting of votes. The law provides that: 'The polling agent shall, as far as is practicable, be so posted as

to be able to see each person being called, see the ballot paper being handed and see the entrance of the compartment'. The counting agent has the right to ask for a recount and a copy of the statement of the result prepared by the Electoral Officer to the Electoral Commissioner. Party agents are governed by a special code of conduct for polling and counting outlining their specific duties.

In all of the polling stations observed by the EISA Technical Team, both the ruling party's candidate, Parti Lepep, and the main opposition party, SNP, were represented by their polling agents. In half of the polling stations neither the independent candidate, Philippe Boullé, nor the candidate of the NDP was represented. There were an equal number of women party agents. Each of the political party agents was allocated one voters' register for ease of reference during the voting process and could cross-check that the voters who voted in that particular station were duly registered to vote there. The voting staff called out the name of each voter to the party agents and the number on the voter's voting card. The party agents would then verify that such a voter actually existed on the voters' register for that particular polling station. However, party agents could not leave the polling station with this copy. In the polling station where the Technical Team observed the closing and counting, party agents informed the Team of the efficient conduct of both voting and counting process. Only the SNP representative complained about vote bribery by members of Parti Lepep. No legal provisions provide for objecting to the statement of results by the party agents.

### **4.3 SECURITY FORCES**

Although the Elections Act remains silent on the exact arrangements pertaining to security forces, article 22 allows for the presence of police officers on duty at the polling station to assist in the prevention of disorder. The Technical Team observed a visible presence of police officers in and around all polling stations. Several members of the police service were posted at the entrance to oversee the order in the queue and to organise the entrance of voters into the polling station, making sure that disabled and elderly were first given the right to vote.

Every polling station had one permanent member of the police service in the polling station, generally standing next to the ballot box. Although the

presence of a police officer in the polling station is a legal provision, this presence could eventually be interpreted as a form of intimidation. However, none of the stakeholders met by the Technical Team objected to this regulation. Police and the army were also in charge of providing escorts for voting material and results to and from the polling stations.

#### 4.4 VOTER TURNOUT

Polling hours were between 7am to 7pm. The EISA technical team was at the first polling station by 6.30am to observe the opening of polling and found that there were already many voters in the queues. The EISA technical team commends the manner in which the voters conducted themselves. There was an atmosphere of enthusiasm, excitement and patience that was demonstrated by the people of Seychelles. Although voter turnout was still high, 85.3 per cent, in comparison with the 2006 presidential election there was a slight reduction (from 88.7 per cent in 2006). However, this figure is almost the same as during the National Assembly election of 2007, where 85.9 per cent voter turnout was recorded.

**Table 3: Voter turnout statistics: Presidential vote**

Registered Voters	69,480
Total Votes (Voter Turnout)	59,242 (85.3%)
Invalid/Blank Votes	1,609
Total Valid Votes	57,633

Source: African Elections Database<sup>20</sup>

#### 4.5 CLOSING OF POLLING STATIONS

According to the notes for the guidance of electoral officers, polling stations close at 7 pm in Mahé, Praslin and La Digue Islands; the Elections Act is silent on the exact provisions concerning the closing of the polling stations. The other islands had a special opening and voting time in the polling conducted on 19 and 20 May (see section 4.1).

Counting takes place immediately after closure of polling stations in the same location in respect of the stipulated electoral procedures. The EISA Technical Assessment Team observed closure and counting at Saint Louis.

The counting took place in a transparent manner with the presence of party agents and observers.

After the counting process, the Electoral Officer and the party agents signed the results form, which was then transmitted to the Electoral Commission on the same evening by fax. Thereafter, the election officials gathered all the materials and transported them to the Office of the Electoral Commissioner.

Throughout the voting and counting process there was a police presence, which provided security in the polling stations.

## **4.6 OBSERVERS**

### **4.6.1 International observers**

In an effort to regulate the mandate of international observers in Seychelles, the Office of the Electoral Commissioner issued the Code of Conduct for International Observers (see Appendix 4). Besides the EISA Technical Observer Team to the 2011 Presidential election in the Seychelles, there were also a number of international observers present in the country to observe the process. Some 45 foreign observers from Southern African Development Community (SADC), the Commonwealth Secretariat, a joint mission from the Indian Ocean Commission (COI) and the secretariat of the French-speaking body La Francophonie (OIF) monitored the process.<sup>21</sup> Given the actual size of the Seychelles, the EISA technical team was informed by some stakeholders that the number of international observers was rather high for such a small country. All observers are required to adhere to a Code of Conduct approved by the Electoral Commissioner of the Republic of Seychelles. See Appendix 4.

### **4.6.2 Domestic observers/monitors**

Domestic observers also play a critical role in ensuring a transparent electoral process. The Liaison Unit for Non-Governmental Organisations (LUNGOS), a network of all non-governmental organisations in Seychelles, applied for domestic observation accreditation with the Office of the Electoral Commissioner, which in turn tabled the request before the Election Advisory Board. While recognising the importance of having domestic observers, the Seychelles' Electoral Advisory Board rejected the application, arguing that LUNGOS was not adequately constituted to run an observer mission. The

Electoral Advisory Board believed that since some members of LUNGOS had initially run for political office, the independence and impartiality of the domestic observer mission would be severely compromised. The Board recommended that immediately after the presidential election, LUNGOS should incorporate into its network an NGO with the specific object of observing elections and conducting civic education programmes.<sup>22</sup> A similar request was rejected in 2006, when the Centre for Rights and Development (CEFRAD), also an NGO, applied for accreditation as domestic observers. In this case, the rejection was based on the basis that CEFRAD had political affiliations.



# 5

## The Post-Election Phase



5.1 Announcement of overall results

5.2 Post-election developments

### **5.1 ANNOUNCEMENT OF OVERALL RESULTS**

As provided for in article 36 (2) of the Elections Act, the statement of the results from the 25 electoral areas is transmitted by fax directly to the Electoral Commissioner. As soon as the statement has been verified by the Electoral Commissioner, the Electoral Officers of the 25 electoral areas join the Office of the Electoral Commissioner with the original statement of results. Once all the Electoral Officers are present at the Electoral Commissioner's office, the overall results are declared by the Electoral Commissioner, and he ensures that they are published in the Gazette.









According to the Elections Act (43), the results of a presidential election cannot be questioned or subject to review in any court except on an election petition presented to the Constitutional Court within 10 days following the publication of results. The Constitutional Court has jurisdiction to hear and determine whether a person has been validly elected to the office of president. As stated in the Constitution, a person elected as president holds office from the day after the election took place. However, the Constitution remains silent on the specific procedures of the transition of one administration to another. This would be of particular importance if a person other than the incumbent president was to win the election, or if the election result would be declared void by the Constitutional Court.

At 1.00am on 22 May, the Electoral Commissioner announced the results of the presidential election in the presence of the ruling party's candidate, James

Michel, and his running mate, Danny Faure, and of observer missions, media and members of the diplomatic corps. The three opposition candidates did not attend the event as a way of protest: they did not want to 'endorse the results'. This was seen as a clear statement, as it was the first time opposition candidates did not attend the ceremony of the announcement of results.

The Electoral Commissioner declared President James Michel as re-elected with 31,966 votes, giving him the victory with a 55.46 per cent majority. The main opposition candidate Wavel Ramkalawan of the SNP received 23,878 votes or 41.43 per cent. The two other contestants managed to poll a combined 3.11 per cent, or 1 789 votes: independent candidate Philippe Boullé obtained 1.66 per cent (956 votes), while Ralph Volcere representing the NDP received 1.45 per cent (833 votes) (see Appendix 5 for the detailed results).

**Table 4: Results of Presidential Election 2011**

Candidate (Party)		Number of votes	% of votes
Wavel Ramkalawan (SNP)	 	23,878	41.43%
Philippe Boullé (independent)	 	956	1.66%
Ralph Volcere (NDP)	 	833	1.45%
James Michel (PL)	 	31,966	55.46%

The newly re-elected President James Michel addressed the electorate and observers immediately after the announcement of results. The event was transmitted live by national television.

On Sunday 22 May the Team observed supporters of the victorious candidate celebrating in the streets of Victoria. No incidents of violence were observed. The swearing-in ceremony of the newly elected president took place on 24 May 2011. Vice-President Danny Faure also took his oath of office and of allegiance before President Michel.

Compared to the 2006 presidential election there was a slight increase in the number of votes for the re-elected president. James Michel won the 2006 presidential election with 54 per cent of the vote, while the opposition candidate of the SNP got 46 per cent, reflecting a drop of 5 per cent support for the opposition candidate. This could be explained by the fact that this time two other opposition candidates participated in the election, with the NDP presenting its own candidate, whereas in 2006 this party supported Ramkalawan's candidature.

## **5.2 POST-ELECTION DEVELOPMENTS**

### **5.2.1 Non-acceptance of results**

The SNP candidate Wavel Ramkalawan and the NDP candidate Ralph Volcere held a press conference on 23 May, also signed by the independent candidate, Philippe Boullé, rejecting the results of the 19 to 21 May presidential election. In their 'Joint Statement on Campaign Violations and Illegitimacy of Results'<sup>23</sup> the opposition candidates condemned Parti Lepep for vote-buying especially during the cooling-off period and polling day, and for using state resources in its campaign. According to the statement, the Electoral Commissioner and the police were unable or unwilling to prevent the alleged violations of the Elections Act and Code of Conduct, even when informed about such violations.

To demonstrate their dissatisfaction with the way in which the election was conducted, members of the National Assembly from the SNP stated that they would not attend the session of the National Assembly unless a new election law would be proposed.

# 6

## Conclusions and Recommendations

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The Technical Team is of the view that in general the electoral process met with most of the PEMMO principles, but that there was room for improvement. The Technical Team was especially impressed with the degree of professionalism of the Electoral Commissioner in dealing with the overall logistics and with the peaceful and orderly manner in which the people of the Seychelles participated in high numbers in the election.

Nevertheless, the Team would like to make some recommendations for improvement by referring to the principles enshrined in the PEMMO.

### **Election management**

As regards the Election Commissioner, following the *PEMMO principles* and *SADC Principles and Guidelines Governing Democratic Elections*, it would be preferable to have an Election Commission and not just one Commissioner in order to guarantee more impartiality and transparency. This has been a recommendation made by previous observer missions but not yet applied. There is also need for a clause in the Constitution that provides for the removal from office of the Commissioners should they be found guilty of gross misconduct in election management.

### **Voters' roll**

The accuracy, accessibility and credibility of the voters' roll are critical for the success of an electoral process. To make the electoral process more credible and transparent, there is an urgent need in future elections for the Office of

the Electoral Commissioner to make electronic copies of the final voters' roll available to all electoral stakeholders. This would allow for inspection by parties and voters prior to election day.

There is also need for electoral reforms to enfranchise voters from abroad in order to grant them their democratic right to elect the candidate of their choice.

### **Use of state resources**

Despite the fact that there are some provisions in the Electoral Act for a level playing field among political contests, such as the provision of a public fund for parties represented in Parliament, the political parties being required to account to the Electoral Commissioner for the use of campaign resources and the prohibition against using state resources in campaign activities, the lack of a level playing field for all political contestants remains a concern.

The existence of public funding for represented parties as a means of levelling the playing field has been adopted by the Seychelles and most SADC countries, but does not completely resolve inequality in access to state resources. In the situation where public funding of parties is proportional to the number of seats a party occupies in parliament, as is the case in Seychelles, the smaller parties are disadvantaged. There is also a lack of distinction between the government and the ruling party. The two are considered synonymous, and as a consequence what is considered a government resource is similarly taken as a resource at the disposal of the ruling party for party political purposes by design or by default. This has been one of the major complaints by the opposition parties in the Seychelles' 2011 presidential election and one of the reasons given by them in preventing them from organising public campaigns. The opposition parties also used this as reason not to accept the results of the election; they also referred to the incompetence of the Electoral Commissioner and police to act against these infractions.

### **Party funding**

The Seychelles does not have disclosure provisions for privately raised political party and campaign funds, and no ceiling on campaign expenditure. This leads to suspicion and tensions, particularly between the ruling party,

Parti Lepep, and the opposition parties. In order to promote a level playing field and to reduce tensions between the ruling party and the opposition in line with the PEMMO guidelines, the EISA Team recommends that consideration should be given to the establishment of regulations governing the disclosure of all sources of funding of political parties and a ceiling on campaign expenditure. There should also be strict enforcement of existing legal requirements in terms of the prohibition of the use of state resources for campaign purposes.

The EISA Team also recommends the establishment of permanent multiparty liaison committees to facilitate inter-party dialogue and dialogue between political parties and the Electoral Commissioner. This would promote open discussion on issues of common concern and contribute to a climate of greater trust.

### **Women's participation**

The team noted that few women candidates were nominated by parties to contest the 2011 elections. Parties are not required to have gender quotas in Seychelles. This negatively affects the opportunity to have women in key decision-making positions. The EISA team recommends that political parties make deliberate attempts to ensure gender parity and opportunities for women to be included in their list of candidates. This may include introducing quota systems or other mechanisms that open the space for greater participation by women.

### **Media**

PEMMO proposes that access to public media during an election period should be equitable and equal to the benefit of all contesting parties and candidates. Although equal airtime was provided to all candidates through the Public Political Broadcasts on both radio and television, the EISA Team found that political parties' access to the public media during the election period tended to be skewed in favour of the incumbent president. This inevitably raised concerns from other electoral stakeholders about the fairness of the electoral process. EISA recommends that the existing media regulations should be enforced effectively by the Electoral Commissioner and the Seychelles Media Association.

Although the existence of private broadcasting media is not forbidden by law, the current costs are prohibitive and consequently there is neither a private radio nor television station. The EISA Team recommends that these prohibitive costs be reviewed in order to allow for the creation of privately owned broadcasting media.

### **Civic/voter education and local observers**

Given the fact that it is only the Electoral Commissioner who is required by law to provide and conduct civic and voter education programmes, there is a need for CSOs to be mandated and empowered to provide such programmes. In the same vein, CSOs should be empowered in the area of election observation to enable them to obtain accreditation to observe forthcoming elections and co-ordinate and deploy domestic observers.

### **Management of the election**

As outlined in section 5.1, election contestants can appeal the outcome of a presidential election with the Constitutional Court within 10 days following the publication of results. At the same time, the Constitution states that a person elected as president holds office the day after the election took place. Final results are thus proclaimed and the president sworn in before the examination of the appeals lodged. Moreover, the Constitution remains silent on the specific procedures of the transition of one administration to another in the event that the election result is declared void by the Constitutional Court. The EISA Team recommends that the swearing-in ceremony should take place after the expiration of the appeal period and the declaration of final results. Moreover, final results should be declared by the Constitutional Court after examination of appeals within a reasonable period, and should be provided for in the legislation.

In the area of electoral disputes, the EISA Team recommends the speedy resolution of election-related cases to avoid the case that arose in the 2011 presidential election (see case study on Viral Dhanjee's case). The Technical Team urges the Seychelles to build institutional mechanisms for the prevention, management and resolution of election-related conflict.

## APPENDICES

### APPENDIX I

#### Composition of the EISA Technical Team

Name	Organisation	Country	Gender
Sydney Letsholo	EISA	South Africa	M
Robert Gerenge	EISA	Kenya	M
Eva Palmans	EISA	Belgium	F

### APPENDIX 2

#### List of stakeholders interviewed during the mission

Name	Organisation
Mr Hendrick Gappy	Electoral Commissioner
Mr Charles A. Morin	Chief Electoral Officer
Mr Georges R. Bibi	Vice-Presidential Candidate, New Democratic Party (NDP)
Mr Wavel Ramkalawan	Presidential Candidate, Seychelles National Party (SNP)
Mr Philippe Boullé	Independent Presidential Candidate
Mr Danny Faure	Vice-Presidential Candidate, Parti Lepep
Mr Viral Vadilal Dhanjee	Presidential candidate whose candidature was refused
Mr Paul B. Chow	lawyer
Ms Sharon Thelemaque	GEM Plus
Ms Nichole Tirant-Gherardi	journalist, newspaper <i>Today</i>
Mr Brian Julie	Commissioner for Human Rights and Governance (Lungos), Association for concerned citizens of Seychelles (ACCESS) and district representative (SNP)
Mr Jean-Paul Isaac	Political Affairs Officer, Mouvement Seselwa Rasin (MSR)
Mr Steve Lalande	Chief Executive Officer, Liaison Unit for Non-Governmental Organisations (Lungos)
Mr Elizabeth	Chairperson Lungos
Mr Reginald Hoareau	Faith and hope Organisation (FAHA), Lungos



## **APPENDIX 3**

### **Code of Conduct for political parties**

#### **Code of Conduct for participants, political parties, candidates, employees, agents and supporters, Presidential Election 19-21 May 2011**

The basis of the running of smooth elections involves the full participation of all stakeholders. A Code of Conduct for political parties was adopted for future elections. This Code applies to ALL participants, including political parties, candidates, agents, employers and supporters.

#### **OBJECTIVES**

1. This Code of Conduct is aimed at maintaining a peaceful atmosphere during an election or referendum campaign and on polling day.
2. The Code is conceived as a set of principles to be adhered to by ALL stakeholders and to be upheld in both spirit and letter.
3. The Code seeks to consolidate and reinforce the democratic culture in Seychelles and enhance the good reputation Seychelles has in holding of fair, free and representative elections.

#### **I. Stakeholders**

- 1.1 Existing election laws and rules must be adhered to.
- 1.2 All political parties and candidates will have to extend all necessary help and co-operation to the law-enforcing authorities.
- 1.3 Everyone should be aware not only of his/her own rights, but should also respect the rights of others.
- 1.4 All political parties and candidates participating in the polls will endeavour to extend full co-operation to election officials so as to ensure their safety until the polls are over.
- 1.5 Election campaigns should be so organised that a congenial and peaceful atmosphere prevails during polling.
- 1.6 Nothing should be done that will create tension and disrupt the congenial atmosphere of the election. All parties shall exercise restraint in speech, manner and conduct, and show respect for the opinion of others so that electioneering does not turn into a war of words and confrontation.
- 1.7 It is expected that criticism of opponents will occur during electioneering. However, indecorous and provocative speeches, statements,

posters, taunting, ridiculing and innuendos shall be avoided. Parties shall be careful so that behaviour, statements or comments do not cause unnecessary tension.

- 1.8 All political parties and institutions shall be vocal against violence. No party shall give indulgence to any kind of violent activity to demonstrate party strength or to prove supremacy. All political parties will extend co-operation to the law-enforcing agencies for recovery of illegal arms. No party will take any initiative for the release of any person arrested by the police, forcibly or with arms, during an election or referendum campaign or in the polling station during voting or in the vicinity of the polling station during polls.
- 1.9 All political parties and candidates shall maintain a line of communication with their opponents so that the source of tension may be speedily addressed and diffused.
- 1.10 All parties and candidates shall at all times maintain control over their supporters, members and agents.
- 1.11 All parties and candidates must dissuade their agents and supporters from playing loud music around the polling station.
- 1.12 All parties and candidates will have equal opportunity for publicity. Meetings, processions and other campaign activities of opponents cannot be interfered with. Posters and banners shall be displayed only in accordance with the Code of Conduct set out in the Schedule hereto.
- 1.13 Assistance of the nearest law-enforcing agencies will have to be sought to resist and check any sort of election offence.
- 1.14 Any attempts to influence voting through money or allurements are election offences. Everyone should be aware of these offences.
- 1.15 No government transport shall be used to carry voters to polling stations other than persons working for government departments who are on duty or persons living in government institutions. This rule does not apply to a person who has the use of a government vehicle and the vehicle is used for self and family.
- 1.16 No Defence Force vehicles shall be used to carry voters, including Defence Force personnel, to polling stations.
- 1.17 Defence Force personnel shall not go to vote in their uniform.
- 1.18 Political parties will not procure voters by forcible occupation of polling stations or through illegal activities in the polling stations.

- 1.19 No candidate or party can commit or give covertly or overtly any contribution, grant or favour to any individual, institution, body or organisation until election or referendum day for the purpose of election campaigning and obtaining votes.
- 1.20 The congenial and peaceful atmosphere for an election or a referendum cannot be disturbed by spreading untrue and motivated rumour or by having recourse to conspiracy.
- 1.21 No election camps, check points and refreshment stall shall be set up by political parties, their members and supporters. There shall be no campaigning of any sorts either individually or collectively on polling day. District Council offices shall be closed on the day of the election or referendum. Voters must be left alone when queuing up so that they are not influenced in any way.
- 1.22 Where a voter is incapacitated by blindness or other physical cause or otherwise, he may ask the Electoral Officer to record this vote in the presence of a person selected by him. In those circumstances the Electoral Officer shall satisfy himself that:
- (a) the voter is truly incapacitated as he claims to be;
  - (b) that the person who is to witness the vote has been freely and genuinely chosen by the voter; and
  - (c) that the vote expressed by the voter is free. In this respect the political parties shall not abuse this procedure to pressure incapacitated persons to vote in their favour.
- 1.23 In addition to election officials, only the voters are entitled to enter the polling stations. The political parties shall make sure that their workers do not enter the polling stations and loiter therein. Polling and counting agents will remain seated at their designated seats in the polling station and discharge their responsibility from there. No disruption shall be caused by the moving or changing of agents or any accredited persons.
- 1.24 No person shall, in a polling station or within a radius of 200 metres from a polling station, be allowed to wear or display any cloth, banner, insignia, logo, bill or board indication affiliation to or support for a registered political party. This does not extend to the wearing of any dress or clothes of a particular colour. A candidate may wear the party colour or badge.

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## **2. Use of bulletin boards**

- 2.1 Any election or referendum notice, political advertisement or announcement shall be displayed only on billboards.
- 2.2 These billboards or hoardings will be erected only at certain specific places agreed upon by the Seychelles Land Transport Agency, Police (Traffic Section) and Planning Authority.
- 2.3 The Planning Authority, Police (Traffic Section), the Seychelles Land Transport Agency, have agreed that the size of a billboard shall be 8ft. by 4ft. And a poster shall be of an A2 size glued on plywood or board of the same size to be affixed on a pole. Only one poster per candidate shall be affixed per pole.
- 2.4 The Seychelles Land Transport Agency has already erected some permanent billboards in Victoria. Only advertisements announcing local events such as educational, cultural, social or recreational and tourism promoting activities should be displayed on these boards.
- 2.5 Extra billboards may be erected and allocated to the different political parties.
- 2.6 Billboards or posters shall be erected after 6pm on Nomination Day.
- 2.7 All boards and political displays must be removed by the political parties as soon as possible, and in any case within fourteen days of the close of the poll in the election or referendum in accordance with regulation 13 (2) (b) of the Town and Country Planning (Control of Advertisements) Regulations, Cap 160.

## **3. Use of cloth banners**

- 3.1 Easily removable cloth banners should be utilized as much as possible instead of pasted posters.
- 3.2 Cloth banners shall not be utilized but where necessary shall be displayed upon approval by the authority concerned. This does not apply to temporary banners at rally sites.
- 3.3 All banners shall be removed as soon as possible and in any case within fourteen days after the election or referendum.

## **4. Use of paint**

- 4.1 There shall be a total ban on the use of paint (liquid and sprays) to write upon, mark or paint any slogan on any road, pavement,

telephone or electric post, wall, fence, etc. whether on public or private property.

This is an offence punishable under Section 183 (j) of the Penal Code, Cap 73.

## **5. Electoral or referendum posters**

5.1 Electoral or Referendum posters shall be affixed only on special boards erected for this purposed as set out in paragraph 1.

5.2 No poster or any other paper shall be pasted on any wall, building, road, pavement, telephone or electric poles, fence whether public or private property.

This is an offence punishable under Section 183 (j) of the Penal Code, Cap 73.

## **6. Respect of others and their property**

Political party members and supporters shall respect others and their property and shall refrain from causing damage to any property whether public or private.

## **7. Conduct and Proclamation**

The succesful candidate in any victory must set the tone for peace and tranquility. All others must be given the chance to air their views and not be shouted down.

ALL CANDIDATES shall:

- conduct themselves in such a way as to be magnanimous in victory and gracious in defeat
- conduct themselves in such a manner as to preserve the integrity and safeguard the sincerity of the voting process.

## **8. Compliance and observance of the code**

- i) ALL participants proclaim their adherence to the principles and prescriptions contained in the Code and publicly commit themselves to adopt, promote and abide by the Code.
- ii) ALL participants undertake to give wide publicity to the principles and prescription set out in the Code and the necessity to adhere thereto.

**9. Master Register**

- 9.1 For the Presidential Election all Presidential Candidates will be issued with a Master Register on Nomination Day.
- 9.2 For National Assembly Election all National Assembly Candidates will be issued with a register for which district they represent.
- 9.3 All registers will be provided FREE.

## **APPENDIX 4**

### **Code of Conduct for election observers in Seychelles**

All observers are generally required to adhere to a code of conduct approved by the Electoral Commissioner of the Republic of Seychelles

Observers:

- Must familiarize themselves with the rules and regulations governing elections;
- Must carry the prescribed identification issued by the host government and will identify themselves immediately, whenever necessary and on request from the authorities;
- Must introduce themselves to the election officials;
- Should generally maintain a close liaison with the election management body;
- Should display a high level of impartiality, independence, neutrality and objectivity in the conduct of their duties;
- Must not display or wear any partisan symbols, colours or banners;
- Must not impede or interfere in the electoral process, the polling day procedures or counting procedures;
- Can bring problems and irregularities to the attention of the election officials, but must never give instructions or interfere with the discussions of the election officials or address problems themselves. Observers must refrain from giving advice unless requested to do so by the election officials;
- Should bring any serious irregularities to the attention of Electoral Officer in charge of the Polling Station;
- Must document their visits to the Polling and Counting Stations and report in an objective way. Observers must reach their judgments on the basis of the accuracy of information and objective analysis. Information should be first hand verifiable if to be relied on.
- Must refrain from issuing public statements about their observations and the electoral process;
- Are obliged to report back on their observations and to participate in debriefings if requested;
- Must comply with all national laws and regulations;
- Must show respect for the people and culture of the country;

- Must return all identification material issued by the Electoral Commissioner at the end of their mission;
- Must refrain from announcing election results without the authority of the Electoral Commissioner.



## APPENDIX 5

### Presidential results 2011 per district

19-21 MAY 2011 PRESIDENTIAL ELECTION													
District	Candidate (Party)								Total Valid Votes	Invalid/Blank Votes	Total Votes	Registered Voters	Voter Turnout
	James Michel (PL)		Wavel Ramkalanwan (SNP)		Philippe Boullé		Ralph Volcère (NDP)						
	# of Votes	% of Votes	# of Votes	% of Votes	# of Votes	% of Votes	# of Votes	% of Votes					
Anse Aux Pins	1,489	55.46%	1,096	40.82%	35	1.30%	65	2.42%	2,685	59	2,744	3,195	85.9%
Anse Boileau	1,552	57.00%	1,077	39.55%	46	1.69%	48	1.76%	2,723	81	2,804	3,242	86.5%
Anse Etoile	1,695	51.19%	1,506	45.48%	57	1.72%	53	1.60%	3,311	103	3,414	3,961	86.2%
Anse Royale	1,549	58.34%	1,030	38.79%	47	1.77%	29	1.09%	2,655	72	2,727	3,175	85.9%
Au Cap	1,386	50.00%	1,302	46.97%	54	1.95%	30	1.08%	2,772	80	2,852	3,322	85.9%
Baie Lazare	1,229	55.84%	893	40.57%	47	2.14%	32	1.45%	2,201	58	2,259	2,602	86.8%
Baie St.Anne	1,864	67.44%	859	31.08%	27	0.98%	14	0.51%	2,764	47	2,811	3,194	88.0%
Beau Vallon	1,236	47.01%	1,267	48.19%	71	2.70%	55	2.09%	2,629	51	2,680	3,274	81.9%
Bel Air	1,105	54.43%	864	42.56%	36	1.77%	25	1.23%	2,030	55	2,085	2,454	85.0%
Bel Ombre	1,313	51.27%	1,149	44.87%	59	2.30%	40	1.56%	2,561	65	2,626	3,087	85.1%
Cascade	1,461	62.84%	785	33.76%	34	1.46%	45	1.94%	2,325	70	2,395	2,775	86.3%
English River	1,262	56.01%	912	40.48%	49	2.17%	30	1.33%	2,253	70	2,323	2,746	84.6%
Glacis	1,315	51.07%	1,169	45.40%	50	1.94%	41	1.59%	2,575	72	2,647	3,258	81.2%
Grande Anse Mahe	1,115	58.29%	721	37.69%	43	2.25%	34	1.78%	1,913	80	1,993	2,305	86.5%
Grande Anse Praslin	1,216	56.80%	883	41.24%	17	0.79%	25	1.17%	2,141	50	2,191	2,573	85.2%
Inner Islands	1,116	67.76%	509	30.90%	12	0.73%	10	0.61%	1,647	24	1,671	1,939	86.2%
Les Mamelles	1,018	51.44%	897	45.33%	34	1.72%	30	1.52%	1,979	49	2,028	2,341	86.6%
Mont Buxton	1,287	52.15%	1,124	45.54%	27	1.09%	30	1.22%	2,468	79	2,547	2,989	85.2%

Mont Fleuri	1,142	51.37%	995	44.76%	40	1.80%	46	2.07%	2,223	69	2,292	2,718	84.3%
Plaisance	1,416	53.58%	1,133	42.87%	50	1.89%	44	1.66%	2,643	97	2,740	3,285	83.4%
Pointe Larue	1,233	63.46%	672	34.59%	22	1.13%	16	0.82%	1,943	61	2,004	2,320	86.4%
Port Glaud	882	56.79%	614	39.54%	30	1.93%	27	1.74%	1,553	53	1,606	1,841	87.2%
Roche Caiman	1,019	64.21%	527	33.21%	20	1.26%	21	1.32%	1,587	48	1,635	1,920	85.2%
Saint Louis	965	44.72%	1,146	53.10%	28	1.30%	19	0.88%	2,158	55	2,213	2,719	81.4%
Taka-maka	1,101	58.13%	748	39.49%	21	1.11%	24	1.27%	1,894	61	1,955	2,245	87.1%
<b>National Total</b>	<b>31,966</b>	<b>55.46%</b>	<b>23,878</b>	<b>41.43%</b>	<b>956</b>	<b>1.66%</b>	<b>833</b>	<b>1.45%</b>	<b>57,633</b>	<b>1,609</b>	<b>59,242</b>	<b>69,480</b>	<b>85.3%</b>

Source: African Elections Database ([http://africanelections.tripod.com/sc\\_detail.html#2011\\_Presidential\\_Election](http://africanelections.tripod.com/sc_detail.html#2011_Presidential_Election))

## NOTES

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## ABOUT EISA



Formerly known as the Electoral Institute of Southern Africa, the Electoral Institute for Sustainable Democracy in Africa (EISA) has since its inception in July 1996 established itself as a leading institution and influential player dealing with elections and democracy-related issues on the African continent.

EISA has evolved from an election NGO servicing Southern Africa into a more diversified organisation working throughout the continent with national, regional, pan-African and global partners. The Institute's work now covers not only elections but also other Democracy & Governance fields including political party development, conflict management, legislative strengthening, the African Peer Review Mechanism and local governance and decentralisation. With its headquarters in Johannesburg (South Africa), EISA has current and past field offices in Burundi, Chad, Côte d'Ivoire, Kenya, Madagascar, Mozambique, Sudan and Zimbabwe, a reflection of its broader geographical mandate.

The organisation's Strategic Objectives are:

- To strengthen the capacity of stakeholders to participate in electoral processes
- To improve the capacity of EMB's for transparent, peaceful and efficient election management
- To deliver well-managed organisational elections
- To strengthen citizens' ability to influence key policy and decision-making processes
- To strengthen the internal capacity of CSOs for increased organisational efficiency
- To enable citizens to hold institutions accountable and responsive
- To promote principles, values, procedures and practices that lead to a democratic culture in political parties and parliaments

- To strengthen the institutional capacity of political parties and Parliaments

The vision of EISA is 'An African continent where democratic governance, human rights and citizen participation are upheld in a peaceful environment'. This vision is executed through the organisational mission of 'striving for excellence in the promotion of credible elections, citizen participation, and the strengthening of political institutions for sustainable democracy in Africa'.

Having supported or observed over 40 electoral processes in Africa, EISA has extensive experience in formulating, structuring and implementing democratic and electoral initiatives. It has built an internationally recognised centre for policy, research and information, and provides this service to electoral management bodies, political parties and civil society in a variety of areas, such as voter and civic education and electoral assistance and observation. Besides its expanded geographical scope, the Institute has, for the past several years, been increasingly been working in-between election areas along the electoral and parliamentary cycle, including constitution and law-making processes, legislative strengthening, conflict management and transformation, political party development, the African Peer Review Mechanism (APRM) and local governance and decentralisation.

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30 October 2005
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- EOR 32 EISA Election Observer Mission Report, The Mozambique Presidential, Parliamentary and Provincial Elections of 28 October 2009
- EOR 33 EISA Technical Assessment Team Report, Mauritius National Assembly Elections 5 May 2010
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