Election Management Bodies in East Africa

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Preface

Electoral management bodies (EMBs) have become a keystone of the process of democratisation in the countries of East Africa. Their composition, mandate and activities have attracted increasing public attention. In some countries, EMBs and the rules of the electoral game are the focus of passionate interest and debate each time elections come around. In others, the debates around EMBs are semi-permanent and attract attention even outside the electoral cycle. The lack of a clear understanding of the issues at stake in the design of these bodies has often led to the generation of more heat than light, while leading to proposals that do not address actual challenges.

This report responds to the evident need for more knowledge about an institution that occupies an increasingly important place in the political process in East Africa. It is an in-depth study of EMBs in five countries of East Africa – Burundi, Kenya, Rwanda, Tanzania and Uganda – based on documentary research and detailed interviews in each country.

Each of the country studies explores in detail the following:

- The extent to which the EMBs fulfil their responsibilities;
- The degree to which they are independent of the executive;
- The effectiveness of their performance; and
- Their contribution to the improvement of the quality of elections and consequently the quality of democracy in each country, as well as the systems for adjudicating electoral disputes.

The study situates EMBs in their broader context, taking account of their status as a product of the struggle for democracy, their anchorage in the constitutional traditions of each society, their place in the history of political reform and their interaction with the other institutions of each country.

As institutions that apply the rules governing elections, EMBs are at the heart of discussion and practice on the critical question of effective citizen participation in the public affairs of their countries. EMBs independent of government under various guises have emerged in some countries of the region, or are the subject of serious reforms. Consequently, the way in which they are established and the effectiveness of their operations have continued to preoccupy those who advocate competitive elections,
while reforms to EMBs have taken centre stage in more general political reforms. The demand – achieved in some cases – by citizens, political actors and members of the governing class to have the right to oversee the functioning of these bodies is a measure of the critical role that they play in translating the principles of transparency in democratic government into reality. Yet, often this oversight goes no further than the adoption of the formal rules for the composition and mandate of the EMB. The issues that make the real difference to the independence and effectiveness of the EMB, beyond the level of formal guarantees, are left unexamined. As a result, the ordinary citizen, and all the other protagonists in the political contest, often have a limited knowledge of the impact that the formal structures of the EMB have or could have on the quality of democracy in the countries concerned.

This study comes at an opportune moment for discussions of electoral reform. Its aim is to compare theory and practice of electoral management in countries with different traditions and political cultures. From this point of view, the study offers an overview of the socio-historical, institutional, and political context, allowing a deeper understanding of EMBs in East Africa. Thus, the study provides a detailed account of the current situation, opening up the debate on the bodies charged with the management of elections in the countries concerned, and offering citizens, political actors, governments and international institutions an evaluation of the issues at stake. It also recommends necessary reforms. The study aims to be a tool to increase understanding of the institutions and procedures governing elections and to encourage reforms in the management, oversight and credibility of the electoral process, to strengthen election observation, and to improve the management of electoral disputes.

Methodology
The idea of carrying out a critical study of electoral management bodies (EMBs) and to evaluate their role in the organisation of credible elections in East Africa came from a series of consultations carried out from mid-2009 by AfriMAP, the Africa Governance Monitoring and Advocacy Project, now a part of the Africa Regional Office (AFRO) of the Open Society Foundations.

This East African study drew inspiration and benefited a great deal from the experience and input from a similar West African study. In August 2009, AfriMAP co-organised, with the Open Society Initiative for West Africa (OSIWA) and the Council for the Development of Social Science Research in Africa (CODESRIA), a consultative workshop on elections and the role of civil society in West Africa. The meeting concluded that a systematic study of the institutional framework for the organisation of elections in comparative perspective would allow an examination of the reasons for the weaknesses of EMBs and give decision-makers and activists a tool for reforming electoral practice based on reliable research. Drawing on the recommendations of this consultative meeting, AfriMAP commissioned a comparative study of EMBs in six countries in West Africa, published in 2011.
Individual country research for the East African study was carried out by the authors on the basis of documentary research, field trips to and validation meetings in the country concerned in 2012 and 2013. In each country, the researchers interviewed leading players in the management of elections, including representatives of the EMBs and other relevant government bodies, the United Nations Development Program governance programmes, development partners, political parties and civil society. The information presented in this report aims to be up to date as of August 2013.

Field research, a review of literature and interviews were used to generate analytical reports addressing a range of aspects related to the functioning of EMBs, among them:

- The history and politics shaping their founding;
- The legal and institutional frameworks established to guide their operations;
- Their mandate and functions;
- Their independence; and
- How they function and relate with other agencies to deliver free, fair and transparent elections.

Data and information for the research were drawn from in-depth interviews with institutions and opinion leaders involved with elections in each country, individual and focus group discussions with ordinary citizens, and from an extensive review of literature on electoral history, the conduct and management of elections, as well as the constitutional, legal and institutional bases guiding them.

Face-to-face qualitative interviews with officials and representatives of the EMBs, the various national political parties, and CSOs involved in elections, media owners and practitioners, as well as international election observer missions were also conducted.

Several validation workshops were convened between April 2013 and September 2013 to discuss the draft reports. Adjustments were thereafter incorporated to accommodate a range of updates to the legal framework, as well as the outcomes of elections that had just been concluded.

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