

INTERVIEW TRANSCRIPT

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PROGRAMME: **'IN THE BALANCE'**

GUGULETHU MOYO INTERVIEWS **JUDGE ISMAIL HUSSAIN**

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Gugulethu Moyo: Elections. That's what everybody's talking about in Zimbabwe, and the SADC protocol. Last year, SADC leaders agreed to principles and guidelines governing democratic elections. To talk to us about these standards we are joined by Judge Ismail Hussain, Commissioner of South Africa's Independent Electoral Commission. Judge, you have vast experience with the administration of elections in South Africa and throughout the SADC region: why was it necessary to agree on a regional standard?

Judge Ismail Hussain: The SADC countries have got involved in agreements at various levels, from trade, tourism, education – all of the facets of social life, and one of the aims of SADC is to facilitate development within the region. We then recognised that it was crucial for all of the SADC countries to be able to hold free and fair elections, so that democracy is established, and more importantly, stable political environments. In the absence of stable political environments, investment doesn't come in, and for the future development of the countries, we saw a crucial need to hold free and fair elections in order to establish democracy and stable political environments within which economies can develop. Elections themselves became a very crucial component towards this objective.

MOYO: But judge, many observers say that these standards do exist – the African Union *has* similar standards. They say that African governments adopt these nice-sounding democratic instruments, but they have no intention of enforcing them at all. Who will enforce these regional standards?

HUSSAIN: Quite right. That has been a comment, and I think the SADC elections protocol – as we call it – is in fact a response to that comment. Because what we did within SADC is to get the governments within the region – I think we have 13 members – to agree to a protocol and to abide by it. So we're not administering the whole of Africa; we're looking at a group of 13 countries with whom we have close ties, and we therefore believe we'll be in a position to properly police this, and to enforce the adherence to the protocols which we all agreed upon.

So yes, it's true that protocols have existed in the past, but what we've done within SADC, is to effectively put them into practical realities within the context of an election. And to a large extent we've succeeded. Recently we've had elections in Namibia – we've had two elections in Namibia – in 2000 and again last year. That is a good example of where the SADC protocol was used very effectively, and adhered to, and the results were accepted.

MOYO: And who actually ensured that the Namibian government abided by these principles?

HUSSAIN: Well, how it works is that, obviously, one government cannot dictate to another government, but what we do is that one of the protocols is to have an independent electoral commission, or to have an Independent Elections Administrator. We've now formed a network within SADC of the electoral commissions. It's called the SADC Electoral Commissions Forum. We work independently of our respective governments, and if there is interference from government, we will then report to our respective governments and say, 'Look, these are the problems now happening in that country; we don't think they're following the protocol. And deal with it at that level.'

MOYO: But still it's left for governments to then take the action. Is it realistic to expect that SADC governments *will* take action against each other?

HUSSAIN: Well, it's not merely the SADC governments that will take action. I think in the situation we find ourselves – with a global economy and with trade extending globally and investment – the SADC countries are alive to the fact that if they don't have stable political environments, they will lose out from the consequences of disinvestment or flight of capital. And that, in my opinion, is a crucial tool in enforcing these protocols.

Now all of the SADC countries, as individual countries, are sovereign, and that brings me to your point about how do you enforce this? Protocols, by their very nature, are not meant to be enforced by way of immediate sanction, but there are other ways of enforcing it indirectly. And the SADC countries themselves appreciate this. And so far – with the possible exception of Zimbabwe – we've had very good cooperation among the SADC countries, and the protocols have been observed.

MOYO: You mentioned Zimbabwe, and in fact Zimbabwe is *the* country in the SADC region which for many people has generated a lot of interest. The world is looking at the Zimbabwe election, and as things stand at the moment observers are already saying there won't be a free and fair election there. Is there a possibility within this framework for intervention to take place before the elections, or does the process only start to happen after or during the elections?

HUSSAIN: This is a process that starts happening long before elections take place. In order to hold free and fair elections, you have to create an environment, before the elections, so that people can exercise a choice freely. There must be freedom of expression, access to the media, and free access to information – now, within the SADC countries – and if you look at the SADC protocol, these things are addressed in the protocol. The freedom of association and speech etc – all of these things must happen *before* an election. You can't have oppressive legislation and then say 'Well, we can have free and fair elections.' That's nonsensical; it doesn't happen like that. You cannot oppress the media and then say 'We can have free and fair elections.' You cannot destroy the NGO community and then say 'We can have free and fair elections.'

Now I've just returned from Zimbabwe myself, and I had discussions with government ministers, I had a look at the draft legislation that they're putting through parliament, and a number of things I saw there I was not happy with. The access to information is, for me, a serious problem. People cannot be expected to exercise a choice if it's not an informed one. And within SADC, I would say the majority of our people are either illiterate or semi-literate. The only access they have to information is via the media – either print or electronic media. If access to that media is not given to all of the stakeholders, then those people are vulnerable to being manipulated by unscrupulous politicians.

MOYO: You have made these observations about the Zimbabwean situation, and many people are already saying that SADC has already failed to apply pressure to the Zimbabwean government to get it to create conducive conditions. The elections are less than 40 days away from now and nothing has changed in spite of the fact that this protocol was adopted some time ago. Now what is SADC doing to ensure that Zimbabwe does actually create the conditions – because what is the point in having elections in a month's time when everybody can see that in fact they won't be free, they won't be fair?

HUSSAIN: The one weakness in the system is that the Election Administrators' Forum – the SADC Electoral Commissions Forum – actually doesn't have any teeth. They're not in a position to intervene in a member country where there's oppression or where a climate is created where free and fair elections cannot be held. What they *can* do is draw attention to it. What we do as an Elections Forum is send observers. We send people in, not on the day of elections but before the elections, and a report is made on the conditions as they exist prior to the elections. Now the problem is, of course, as we've just seen yesterday, is that if delegations arrive in Zimbabwe, they are subject to being expelled immediately, as happened with the COSATU delegation.

MOYO: Isn't that the weakness of the SADC protocol, because when I read it, it says that it's up to the state to invite observers – or when the state *deems it necessary* to invite observers. Isn't that a serious flaw in these guidelines?

HUSSAIN: It certainly is, and the only way this can be enforced is if the member states adopt a tough stance against another member that steps out of line. And when I say 'tough stance' I mean engaging very aggressively at government level and, to look at the other extreme – from diplomacy on the one extreme, to sanctions on the other – these are the things we can look at.

At the moment there has been some controversy over the way the South African government has been handling the situation in Zimbabwe. Some feel that they're too soft. There's a criticism that the South African government is not doing enough or not doing enough *aggressively*. Others think the South African government is doing a lot to address the situation. Now the one problem for us as election administrators, is that we're not in a position to get involved at that level – we don't have any powers to do so, and to that extent, the system is flawed.

MOYO: Now I think many people on the ground within the SADC countries wonder what they can do to make sure that their governments abide by these principles, because quite obviously the aim is that these elections in the SADC region reflect the will of the people. What is it that these citizens can do to make sure their governments do abide by these principles?

HUSSAIN: Unfortunately, the experience within SADC, as I said to you, is that a very large sector of the electorate is semi-literate or illiterate. If one moves into the rural areas within any SADC country, there is virtually no access to information taking place. So you have an unacceptable situation where large portions of the citizenry are not really aware of what's going on. Now, I think that once people are given information, then you can't fool them, and they're not so vulnerable.

What the citizens should do is to organise themselves so that they receive as much information as possible, and if the ruling party or government is preventing the flow of information, then they can draw their conclusions from that. Now I don't see that happening on a large scale within SADC. People tend to accept their station in life, especially in the rural areas, and they are the most vulnerable part of our community. And in this regard it's the NGOs and the political parties that play a major role. They are the ones that should become very proactive and address the problem.

MOYO: You mention political parties – and this is the last question: when I look at what has happened in the SADC region recently with elections, invariably the ruling party has been returned in elections, and opposition parties are not winning elections. Is that somehow a reflection of the situation in the SADC region insofar as environments are concerned? Is that a reflection of what might be flawed within the SADC region?

HUSSAIN: I think, firstly, there are historical reasons for that. If you look at the member countries within SADC, they all had a colonial past, and they all come from regimes in the past that were not democratically elected regimes. So you have people voting in first elections for parties that were involved in the liberation of the country, and those parties have had a head start, and they've been able to consolidate their position within the countries. I think that as democracies mature within SADC, people will start looking at elections driven purely from an *issue* point of view, in other words, what is it that this political party stands for, and why should I vote for them?

In the recent past, what's been happening is that the leading party had been a major role-player in liberating the country, and so people would vote for them almost automatically, without asking whether they've performed well as a government over the last five years. Are they going to perform as a government over the next five years? Now in South Africa, which is a very young democracy, our people are already moving towards issue-driven politics. They are beginning to question whether the incumbents have delivered properly. Now that is how democracies work, and I'm optimistic that within the SADC region, as time goes by, that is the way that people will move – in that direction – so

historically, it is not surprising that some parties get returned after the first democratic election and they'll be returned again after the third democratic election. But by the time they get to the fourth or fifth election, things will have changed.

MOYO: Judge Ismail Hussain, thank you very much for joining us today.

HUSSAIN: It's been a pleasure. Thank you. Goodbye.

❖ Transcription by Tim Barnett

