<div align="center">

A Project Proposal
for

Mapping an Electoral Code for the African Union, NEPAD and Independent Electoral Commissions

</div>

Chris Landsberg,
Centre for Policy Studies,
South Africa

<div align="center">

Summary

</div>

This proposed initiative is a direct response to Africa's premier continental actors and key programmes, notably, the African Union (AU) and New Partnership for Africa's Development (NEPAD), to develop, as part of the continent's emerging democratic governance architecture, Guidelines for Electoral Observation in Africa, and a Charter for African Democracy, Governance and Elections. The AU and NEPAD both called for assistance to evolve and implement these tenets of the democratisation programme. During the 38th Ordinary Session of the Assembly of the Organisation of African Union (OAU) in Durban, South Africa, the organisation made a clear call for the strengthening of the role of the AU in election observation and monitoring, and the advancement of democratisation processes. This Assembly adopted the *OAU Declaration on the Principles Governing Democratic Elections in Africa.* The *Cairo Agenda for Action*, adopted in Cairo, Egypt, in 1995, also stressed the imperative of ensuring good governance through popular participation based on free and fair elections, respect for human rights and dignity, and freedom of the press, speech, association, and conscience.

The AU, especially its Conference for Stability, Security, Development and Co-operation in Africa (CSSDCA), and NEPAD, notably its Political Governance Initiative and recently finalised Accord on the African Peer Review Mechanism (APRM), and Independent Electoral Commissions (IECs) in Africa, made important calls for the establishment of clear governance benchmarks for "tenets of democratic society" in Africa. Such tenets include constitutionalism, bills of rights, free and fair elections, independent electoral commissions, independent judiciaries, freedom of expression, good civil-military relations, anti-corruption legislation and action, and inclusive systems of governance. The mandate of the APRM is to ensure that the policies and practices of participating states conform to the agreed political, economic, and corporate governance values, codes and standards contained in the declarations on democracy and political, economic, and corporate governance. Again, to state the obvious, electoral norms, standards, and obligations form a key part of these emerging democratic benchmarks.

While it is stated that the APRM is a mutually agreed instrument, voluntarily acceded to by states of the AU, and is an African self-monitoring mechanism, it is going to be difficult to operationalise such democratic benchmarks in general, and such electoral norms and standards in particular.

The APRM further makes the point that the new norms, standards, policies and practices, and in particular their adoption, will have direct spin-offs for economic growth, and by extension, stability, security and ongoing (and sustainable) development. The APRM (and the democratic norms and standards that it seeks to keep watch over) is also intended to be a socialising instrument; in other words, it is an instrument for sharing experiences and best practices, and to reinforce such best practices. Indeed, the sharing of best practices also suggests that there will be efforts made to rectify shortcomings, including reminding the international community of their responsibilities. Beyond this, policies and practices should be put in place for compliance with obligations and commitments, and compliance should be encouraged, including on electoral norms and standards.

This proposed initiative is a response to this call, and will tailor its response in the form of developing an "Electoral Code" for the continent. The initiative is action-oriented. It demonstrates that quick-wins could be attained in the context of the AU and NEPAD. It further demonstrates the utility of public-private partnerships and that civil society can work with formal structures and entities in an independent fashion.

Electoral norms, standards, and mechanisms are some of the most important dimensions of governance in Africa, and it is identified as key for moving forward with democratic governance in Africa.

The AU Secretariat, the NEPAD Secretariat, and African Electoral Commissions are in the process of developing such an Electoral Code, and this initiative seeks to assist in the process. Specifically, the scope of this initiative is to support the proposal by developing criteria to guide electoral practices, and foster a sound, enabling environment for "free and fair" elections in Africa. It will do so by focussing on developing African electoral norms, standards, and benchmarks for continental discussions and acting as a guide for "best practice in electoral management." It recommends that NEPAD, the AU, and African IEC's should combine their respective projects on developing an Electoral Code for Africa, and to reach agreement on a number of key policy documents: a set of guidelines for electoral monitoring and observation; a feasibility study for the establishment, within the AU commission, of an electoral assistance unit; and a charter of elections and governance.

However, the AU and NEPAD secretariats, and African IEC's are inundated with policy monitoring and management demands; they therefore need assistance. This initiative intends to assist in the policy research domain by aiding in the development of an "Electoral Code" that could lead to the establishment of a charter on elections and governance.

Electoral processes are crucially dependent on sound political, constitutional, and legal dispensations and, these in turn have a major impact on international confidence, and peace, security, and stability in Africa. The initiative is structured so as to reflect the chronology of events in the management of elections. It argues that robust political and constitutional dispensations that give birth to an election regime and supporting electoral institutions are vital for successful elections. For example, there are three stages of an electoral process: the pre-election (preparatory phase), the elections phase and the post-election phase. The procedures and processes in all three phases are vital for the delivery of free and fair, credible and legitimate elections in an atmosphere of peace and stability.

The main thrust of this initiative is that an electoral code and electoral norms, standards and mechanisms for the African Union and NEPAD should be based on:

- the need for comprehensive constitutional and legal frameworks to be established for African societies;
- transparent and accessible pre-election procedures (including, for example, delimitation, voter registration, voter education, party registration, and candidate nomination);
- the equitable use of the media and public resources, as well the crucial issue of finance for political parties contesting elections;
- efficient and effective organisation and management of the elections phase, including the proper management of polling stations, guaranteeing the secrecy of the ballot, and securing the credibility of the counting process; and
- proper evaluation of the vital post-election phase, especially ensuring acceptability of the results as well as the settlement of election disputes.

In terms of fleshing out the "Electoral Code," the initiative considers a comprehensive list of factors, which, in combination, make up a credible code. These include:

- constitutional and legitimate governance;
- clear electoral systems, electoral management structures and Independent Electoral Commissions;
- conflict management and confidence-building mechanisms;
- political parties and their funding;
- nomination and campaigning procedures;
- the media and its role;
- voter education;
- voting procedures, including polling stations and the ballot;
- management of election materials;
- the crucial process of counting the votes;
- electoral observation; and
- results management.