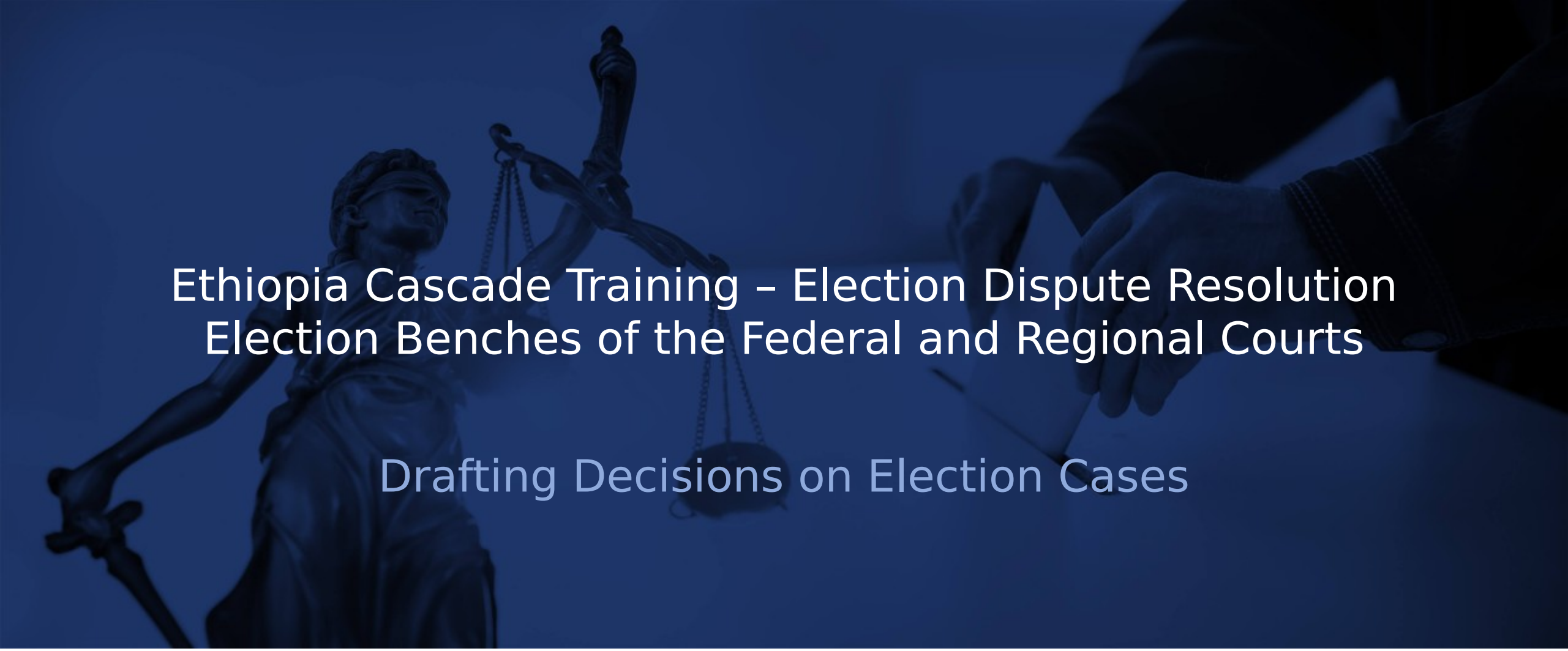


Ethiopia Cascade Training – Election Dispute Resolution
Election Benches of the Federal and Regional Courts

Drafting Decisions on Election Cases

USAID
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FEDERAL SUPREME COURT

International Foundation
for Electoral Systems

WHAT MAKES DRAFTING JUDGMENTS FOR ELECTION DISPUTES UNIQUE?

- Audience
- Timeframe
- Political Context

“[i]t is important for the court to reach its decisions transparently and explain them to the parties involved and to society at large. This openness helps prevent the manipulation of information that could delegitimize the electoral process or weaken the electoral authority.”

International IDEA, Electoral Justice Handbook

Key elements of election decisions

1. Introductory information
2. Summary statement of issues to be decided
3. Applicable legislation and rules
4. Evidence and Facts
5. Decisions and Remedies

1. Introductory Information

- Authority
- Case number
- Names of the persons involved: complainant(s) v. respondent(s), indispensable parties
- Date of Decision

2. Summary

- Brief statement of the nature of the case, including the specific dispute or allegation/s
- An issue statement clearly identifies the issues to be decided.

3. Applicable legislation and directives

- Reference the applicable legislation or directives.
- Try to accurately paraphrase or summarize applicable legislation instead of including lengthy quotes, unless the interpretation of the precise words of the legislation or policy are in issue.

4. Evidence and Facts

- Mention types of evidence submitted by the complainant, respondent and any indispensable party. (E.g., witness testimony, photographs, results form)
- Mention evidence collected/verified by NEBE such as interview of election officials or witnesses
- If a hearing was held, summarize the arguments presented and any additional evidence
- Organize the evidence in a way that makes sense. It is not necessary to include in detail all the evidence. Summarize the evidence that is relevant to the issues and questions of fact that must be decided.
- Evidence that is undisputed may be set out as fact. Where evidence on a relevant factual issue is disputed, state your finding of fact.

5. Decisions and Remedies

- Apply facts to law
- Provide reasons for decision
- State any order that must be carried out and by whom, and the timeline for compliance, if applicable

Other Considerations

- Dissenting opinions
- Clear accessible language for the general public



Will you need to adapt your traditional method and format for drafting judgments in order to meet the legal deadlines and to ensure your decision is understood by the general public?

WHY IS TRANSPARENCY IMPORTANT IN ELECTORAL JUSTICE?

- To inform the complainant and respondent of the court’s decision
- To provide the public the legal and factual reasons for its findings, which can increase acceptance of its decisions and prevent further violations
- To build trust of voters, candidates, and political parties in the EDR process

INTERNATIONAL STANDARDS AND GOOD PRACTICE

Apart from exceptional circumstances such as national security requirements, *“a hearing must be open to the general public….Even in cases in which the public is excluded from the trial, the judgment, including the essential findings, evidence and legal reasoning must be made public”*

- UN Human Rights Committee, General Comment 32, paragraph 29

Methods of Strengthening Transparency

- Public hearings
- Publication of judgments online
- Access to data on nature of complaints filed, hearing schedule and hearing summary

COUNTRY EXAMPLES: PUBLICATION

- **Kenya** Judiciary released a Bench Book, which is a compendium of election related cases organized by topics after the elections
- **Georgia**, Central Election Commission published all election related cases adjudicated and the decisions on its official website
- **India**, Election Commission posted a collection of landmark judgments
- **South Korea**, Constitutional Court: the website includes a case tracker and publishes summary decisions with a detailed background on the case
- **Brazil**, Superior tribunal Court: There is a tracker of all cases – decisions are online, and a collection of main decisions since its creation



What is the practice regarding transparency in your court, at woreda, regional or Federal level in Ethiopia?