Review

SADC’S Electoral Legal Framework and its Effectiveness in Ensuring Legitimate Election Results: A Critical Appraisal

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Abstract

This article analysed the electoral legal framework under the Southern African Development Cooperation (SADC) so as to find out the extent to which it can be effective in ensuring credible elections in the region. The methodology employed in the analysis was desktop research or documentary review whereby various documents relevant to the issue under enquiry were analysed. The analysis was mainly centred on instruments and provisions having a bearing on elections. Having analysed the said instruments and provisions, the article noted that the SADC’s legal framework relating to elections was unlikely to be effective to address the prevalent problem of disputes over the legitimacy of election results in the region. It was found among other things that SADC lacked effective provisions relating to the conduct of elections that could be helpful in ensuring credibility of elections in the region. The author was of the view that to remedy the situation, various steps must be taken including adoption of binding instruments on elections and strengthening the elections observation missions.

Keywords: Elections and Election Results, Credible Elections, Legitimacy of Election Results, Electoral Legal Framework, Electoral Disputes and Instruments.

INTRODUCTION

Disputes over election results are not uncommon in the region of SADC as many results have been disputed mainly on the ground of malpractices such as rigging, corruption, and stealing. In most cases, it is the incumbent regimes which are being accused of perpetrating these malpractices so as to remain on power. It is due to these allegations that some candidates mainly from opposition parties have been refusing to concede defeat arguing that the elections have been fabricated. For instance, during 2010 Tanzania general elections, the presidential candidate for the main opposition party, Dr. Wilbroad Peter Slaa, called the National Electoral Commission to rescind presidential results on the ground that they were fabricated in favour of the ruling party and as a result he refused to concede defeat (Bitekeye et al., 2010).

Electoral disputes have in some cases culminated in post elections violence in some countries resulting not only in deaths of hundreds of people and displacement of thousands, but also the disturbance of peace and stability. For instance, it is alleged that more than 800 people died as a result of 2011 post election violence in Nigeria (Human Rights Watch, 2011).

SADC has attempted to take various efforts in an attempt to promote credible elections in its region. In this regard, it has among other things adopted various instruments aimed at ensuring integrity, transparency and credibility of elections in the region. However, this article notes that disputes relating to the legitimacy of election results are still prevalent in many countries within the region. Examples of the disputed elections in Madagascar in 2013, Zimbabwe in 2013 and 2008,
Democratic Republic of Congo in 2011, Tanzania in 2010 and Malawi in 2014 support this assertion. It is on this basis, the article has sought a need to interrogate the effectiveness of SADC’s legal framework in redressing such disputes. The methodology employed by the author was a documentary review. The author made an analysis of various documents containing information relevant to the subject under enquiry. The analysis was done for purposes of obtaining evidence to support and validate facts stated in this paper. The task has been accomplished though a critical review of various documents including the current instruments of SADC relating to elections, books, journal articles, reports and newspapers. (Ahmed, 2010).

The article commences by examining SADC’s response in disputed elections. In this regard, the 2008 Zimbabwe’s elections are taken as a case study. Thereafter, the article proceeds by making a critical analysis of the electoral legal framework of SADC taking into account the question raised above. The article is wrapped up by concluding remarks and suggestions on what can be put in place by the regional body so as to remedy the situation.

Response of SADC in the Disputed Elections of Zimbabwe

This part examines SADC’s response in the 2008 Zimbabwe disputed elections. It begins with a brief look into the disputed elections before embarking on a discussion of the regional body’s response.

A brief overview of the disputed elections of Zimbabwe

It is alleged that the Zimbabwean elections of 29 March 2008, “constituted an extraordinary electoral process which was disputed from its inception” (Electoral Institute for Sustainable Democracy in Africa, 2008:27). By the time the elections day was announced by President Robert Mugabe, SADC-sponsored negotiations led by the former South African President Thabo Mbeki were still in progress (Electoral Institute for Sustainable Democracy in Africa, 2008). The Movement for Democratic Change (MDC) was still pressing Mbeki to persuade the government of the ruling party Zimbabwe African National Union Patriotic Front (ZANU-PF), to first adopt constitutional amendments before announcing the date of elections. Therefore, by the time the elections’ date was announced, the MDC was still hoping for constitutional amendments prior to the holding of elections. No wonder, the MDC described the decision as “ an act of madness and arrogance ” (Mail and Guardian Online, 2008). However, notwithstanding the MDC’s disappointment at President Mugabe’s announcement of date for the elections amid negotiations for a new Constitution, they effectively participated in the elections.

A problem however, ensued when the results were delayed by Zimbabwe Electoral Commission (ZEC). The delay in announcing the results attracted a lot of pressure and criticism, both locally and internationally including from the United Nations (UN) and the African Union (AU), appealing for the release of the results. The MDC decided to file an application to the High Court in Harare to compel ZEC to announce the results, but lost the application on the ground that there were contested matters that must be resolved before the release of the results (Electoral Institute for Sustainable Democracy in Africa, 2008).

Finally, on 2 May 2008, ZEC declared the results but without declaring a winner stating that no one reached the threshold in accordance with the Zimbabwe Electoral Act. This was because, according to section 110 of the Zimbabwe Electoral Act, for a candidate to win a presidential seat he/she has to obtain the majority of the poll meaning at least 50% + 1 vote, otherwise a second election has to be held within 21 days. This being the case, a run-off between the candidates who obtained the most votes, the incumbent Robert Mugabe from ZANU-PF and Mr. Morgan Tsvangirai from MDC, was declared. The MDC vehemently objected to the results on the ground that they have been fabricated as their projections indicated that their candidate won the elections. However, MDC’s protests fell on deaf ears, as ZEC proceeded to fix the run-off for 27 June 2008. Initially the MDC did not boycott the runoff election until 23 June 2008, when Mr. Tsvangirai wrote a letter to ZEC’s Chairman withdrawing from the election on the ground that, the election to be held was a nullity as the situation that prevailed in the country made it impossible for a proper election to be held. In his letter of withdrawal, Mr. Tsvangirai enumerated many irregularities and flaws which he believed vitiated free and fair elections. These included non-access to media, intimidation, threat of war and violence (MDC vote pull-out letter to ZEC by Morgan Tsvangirai, available at http://www.zimonline.co.za/Article.aspx?Article=3350, accessed 2 March 2015).

However, ZEC disregarded Tsvangirai’s withdrawal on the ground that it has no legal force as it has been filed out of time and insisted that, the election would take place as scheduled and his name would remain on the ballot paper (Electoral Institute for Southern Africa, 2008). As a matter of fact, the run-off election took place on 27 June 2008 as scheduled, notwithstanding Tsvangirai’s withdrawal. On 29 June 2008, results were formally declared and
unsurprisingly the incumbent Mugabe won by 90.22% (Badza, 2008).

Contrary to the March elections which were generally accepted as reasonably free, the runoff election was described as 'inexcusably flawed.' (Badza, 2008: 152). It was discredited by the whole international community including SADC, AU, and the UN. For instance, the preliminary report issued by the SADC Election Observer Mission concluded that, the period prior to the election was characterised by politically motivated violence, intimidation and displacements, acts which infringed the credibility of the whole electoral process. The Observer Mission further observed that the election fell short of the SADC Principles and Guidelines Governing Democratic Elections and that it did not represent the will of the Zimbabwean people (SADC Election Observer Mission, 2008).

**The reaction of the SADC over the disputed elections in Zimbabwe**

It has been argued that before the year 2000, Zimbabwe’s elections did not attract ‘intensive international concern’ mainly due to the fact that, there was no serious opposition to ZANU-PF. Problems however, brewed from the year 2000 when for the first time ZANU-PF encountered a serious opposition from the MDC. Since then, the elections of the year 2000 and all subsequent elections in the country became a subject of scrutiny at both local and international levels. However, SADC has been silent and for many years it has been criticised for its unwillingness to openly condemn ZANU-PF’s government on human rights issues generally and the electoral process in particular (Gawthra, 2010).

It has been contended that SADC has been restraining from issuing public and direct criticism against Mugabe and the ZANU-PF government and instead, it has preferred ‘quiet diplomacy’. Perhaps, SADC opted for this approach believing that it may achieve ‘some limited changes that fell short of the regime change’. The regional body has been congratulating the government of Zimbabwe and all Zimbabweans after each election. This is despite the fact that the opposition has been lamenting about unfairness and fraudulence after each elections. It is alleged that SADC has been supporting President Mugabe’s proposition that the problem in the country, was basically a land redistribution issue and from time to time, it has issued statements to commend the government for redistributing the land successfully (Badza, 2008).

However, following the deteriorating political and humanitarian situation in Zimbabwe, on 28 and 29 March 2007, SADC convened an Extra Ordinary Summit of Heads of State and Government to discuss among other things, the situation in Zimbabwe. It has been suggested that the summit was prompted by an event of 11 March 2007, when the police brutally assaulted members of the opposition including MDC leader Morgan Tsvangirai. The police were preventing a coalition of civic groups and churches (save Zimbabwe campaign) from holding a prayer meeting in Harare residential area. It was during this extraordinary summit that SADC for the first time adopted a declaration to *inter alia* mandate Mr. Thabo Mbeki the former President of South Africa, to facilitate dialogue between the MDC and ZANU-PF. The appointment of Mbeki as a mediator was not well received by the MDC on the ground that he was both partial and pro Mugabe and ZANU-PF (Masunungure, 2009: Gawthra, 2010).

As for the year 2008 contested election, SADC remained silent until the matter was discussed by the AU at its ordinary session in Sharm El-Sheikh in Egypt from 30 June - 1 July 2008, in which the AU decided that mediation of the crisis, be vested into SADC. It is on this ground, it has been argued, that SADC’s role in the 2008 Zimbabwe disputed elections, emanated from the AU (Gawthra 2010).

Following the AU’s call on SADC to deal with the crisis in Zimbabwe, SADC convened an extra ordinary summit of the Organ on Politics, Defence and Security Cooperation to discuss the issue. The summit *inter alia* recalled the Dar es Salaam and Sharm El-Sheikh Resolutions which encouraged parties to form an all-inclusive government and encouraged the parties to finalise negotiation urgently so as to restore political stability in the country and reiterated its commitment to support implementation of the agreement that would be reached. The Summit also mandated Mr. Mbeki to facilitate agreement between the parties. Since Mbeki had already been appointed as a mediator in 2007, this appointment was regarded as a continuation of his role (Matyszak, 2010).

Apart from appointing Thabo Mbeki as a mediator of the crisis, SADC did not issue any public criticism against the 2008 election which as noted above was marred by a lot of irregularities. SADC abstained not only from stopping the recognition of Mugabe as the lawful head of Zimbabwe, but also from preventing him from attending the SADC summit held in Johannesburg, South Africa on 17 August 2008 and other subsequent summits. This is surprising especially bearing in mind that, vigorous criticism was leveled against the run-off election by the international community. The SADC Electoral Observer Mission for example, pointed out clearly that the election, did not comply with SADC Principles and Guidelines Governing Democratic Elections. SADC’s reaction has been interpreted as a support for the ZANU-PF government. It has been
argued that in the early stages of the crisis, SADC was acting as if the Zimbabwean liberation struggle was still under way, solidarity was the key and public statements against Zimbabwe were not made. Thus implicitly, SADC endorsed the Zimbabwe’s run-off election and its outcome as legitimate. It has been contended that the manner SADC has dealt with the political crisis in Zimbabwe, has led to a ‘growing pessimism’ on how the regional body may tackle similar crises in future (Badza, 2008; Gawthra, 2010).

However, it is worth noting that the position taken by SADC in Zimbabwe’s crisis did not represent the position of all its members in the region, as some of them openly criticized Mugabe’s regime. For example, Botswana openly criticized Mugabe and declined to recognize him as the legitimate leader of Zimbabwe following the 2008 disputed elections (http://www.mofaic.gov.bw/index.php?option=com_content&task=view&id=316&Itemid=97 accessed 2 March 2015).

An Overview of the Electoral Legal Framework of SADC

Formed in 1992, SADC replaced the then Southern African Development Co-ordinating Conference (SADCC). SADCC was formed in 1980, through the signing of a Declaration and subsequently formalised in 1981 by the signing of the Memorandum of Understanding on the Institutions of the Southern African Development Co-ordination Conference (MOUISADCC) on 20 July 1981. To give SADCC legal status, the heads of state and government at its meeting in Harare Zimbabwe decided that the MOUISADCC be replaced by a Treaty or a Charter. Thus, in August 1992, the Treaty was signed in Windhoek Namibia replacing SADCC with SADC (http://www.sadc.int/index/browse/page/52 accessed 7 March 2015).

SADC’s primary objective is centred in the achievement of economic integration of its member states development and regional integration. However, with time SADC has also been placing much emphasis on the consolidation of democracy in its region.

This part provides an analysis of the extent to which the SADC’s electoral framework can be effective to ensure credible electoral process. In doing so, the article explores the framework in question and critically analyses its effectiveness in ensuring legitimacy of election results in the region.

The Framework

SADC has adopted a number of instruments having a bearing on democracy generally and elections in particular. These instruments include SADC Treaty, Protocol on Politics, Defence and Security Co-operation, SADC Principles and Guidelines Governing Democratic Elections and SADC Parliamentary Forum Norms and Standards for Elections in the SADC Region. It is important to note from the outset that not all instruments listed above were specifically intended to deal with electoral issues. The instruments such as the SADC Treaty and the Protocol on Politics, Defence and Security Co-operation were not primarily meant to address issues relating to the conduct of elections. However, while it is true that these are not instruments that were specifically intended to deal with elections, the instruments contain provisions relating to the consolidation of democracy, rule of law and protection and promotion of human rights. It is on this basis this article has sought a need to analyse provisions of these instruments with a view to finding out the extent to which, they may be used for purposes of ensuring credibility of elections in the Region.

SADC Treaty

The main principles and objectives of SADC are set out under chapters four and five of the Treaty. According to the Treaty, the principles of SADC includes: solidarity, peace and security, human rights, democracy and the rule of law. SADC also aims at consolidation, protection and maintenance of democracy, peace, security and stability. However, the Treaty does not provide as to how these objectives and principles can be implemented by SADC. It leaves it to its member states to put in place adequate steps to ensure realisation of such objectives and abstain from acts likely to hinder the implementation of the provisions of the Treaty. The treaty also provides for a possibility to impose sanctions in cases where a member state fails to comply with its provisions without reasonable cause. It is also important to note that the Treaty establishes various organs, to oversee its implementation and one of the organs established is the Organ on Politics, Defence and Security Co-operation. The Treaty does not enumerate functions, powers and structure of such organ but rather states that, such features will be provided for, in the protocol.

As noted above the SADC Treaty was not meant to deal with electoral disputes however, since it lists consolidation of democracy as one of its objectives it ought to have included provisions on elections. This is because elections are one of the important ingredients of democracy and unless elections are credible democracy can hardly be attained. Thus, the article notes that absence of specific provisions relating to the conduct of elections may make the Treaty ineffective in ensuring
the legitimacy of election results. Also, the fact that the Treaty lacks provisions on how to implement the objectives of the Treaty is likely to create room for manipulation by member states. Therefore, this article contends that the provisions of the Treaty are unlikely to be effective in as far as ensuring credibility of elections is concerned.

**Protocol on Politics, Defence and Security Co-operation**

The protocol was adopted in Blantyre, Malawi in 2001 by the Heads of State and Government. It enumerates the functions of the Organ on Politics, Defence and Security Co-operation which is established by article nine of the SADC Treaty. Generally, the organ aims at advancing peace and security in the region. To ensure that this general objective is attained the Protocol sets out several specific objectives which include, advocating the ‘development of democratic institutions and practices’ and encourage the adherence to human rights.

However, in spite of providing promotion of democratic institutions and human rights as one of its specific objectives, the Protocol does not provide any indications on how this may be achieved. It is also surprising to note that, despite the fact that there are many disputes in the region resulting from disputed elections the Protocol makes no provision for ensuring free and fair elections. It mainly focuses on the structure of the Organ on Politics Defence and Security Co-operation and prevention and management of conflicts without addressing the root causes of such conflicts. The article therefore is of the view that this Protocol may not be effectively used to redress conflicts resulting from disputed elections as it does not have any mechanisms relating to the conduct of democratic elections.

**SADC Principles and Guidelines Governing Democratic Elections**

Adopted in 2004, by the Heads of State and Government, the Principles contain the comprehensive principles of democratic elections aimed at consolidating democracy in the region. This instrument explicitly states that the principles enshrined in it, aim at strengthening the ‘transparency and credibility of elections and democratic governance as well as ensuring the acceptance of election results by all contesting parties’ (see the introductory part).

Principles enshrined therein include, principles for conducting democratic elections, guidelines for election observation and the responsibilities of member states in which elections take place. It also calls on member states holding elections to *inter alia*, ensure equal access to media, provide voter education and calls losing candidates to accept defeat and respect results.

As indicated above, this is a comprehensive instrument which was adopted with a view to ensuring credibility of the electoral processes in the region. However, in spite of enshrining comprehensive provisions on the conduct of elections, this article is of the view that the instrument may not be effective to ensure credible elections that will lead to legitimate elections for a number of reasons as explained below:

First, the instrument as the name suggests is a mere guideline, hence a soft law which does not impose any legal obligation on member states to comply with its provisions. Due to its non binding nature, the provisions of this instrument can be easily diluted by the domestic legislation of member states that may not be willing to comply with its provisions. It is the contention of this paper that to ensure credible elections and avoid disputes over the legitimacy of results, among other things, adoption of a comprehensive binding instrument on elections is inevitable. Arguably, this is why some SADC member states have been reluctant to comply with the requirements for free and fair elections in spite of several calls from the regional body. No wonder, a conference organised by the SADC Parliamentary Forum in 2005, called for a legally binding SADC instrument in the area of elections (http://www.mmegi.bw/2005/November/Tuesday22/417053586840.html accessed 11 March 2015).

Second, the instrument provides for the settlement of election disputes in accordance with municipal laws. In such cases, where a body with the last say in such disputes is under the control of the ruling party, legitimate results may not be ensured. This is what happened in Ivory Coast in 2010. As a matter of fact, in the 2010 disputed Ivorian elections it is the Constitution Council which annulled the earlier results by the Independent Electoral Commission that gave victory to Allassane Quattara. The Constitution Council having annulled the results by the Electoral Commission declared the incumbent Laurent Gbagbo the winner. And in accordance with the Ivory Coast Constitution, it is the Constitution Council which has the mandate to determine disputes relating to the election of president. The Constitution also empowers the Constitutional Council to declare ‘definitive results of the presidential elections’ (See the Constitution of Ivory Coast). In this regard, Cowell (2011) argues that in accordance with the Ivory Coast Law, the decision of the Constitution Council remained lawful. In this way it may be argued that the incumbent Laurent Gbagbo was the lawful president having technically complied with the provisions of the Constitution (Cowell, 2011).

Third, the instrument does not oblige member states...
to invite SADC Election Observer Mission. The discretion to invite the Observer Mission is left to state party holding elections if it deems necessary to do so. This implies that a country is not breaching any obligation by deciding not to invite an Observer Mission as it is not under any legal obligation to do so. This article notes that this discretion does not only dilute the essence of election observations, but also it may create difficulties for SADC to assess the fairness of elections in cases where a member state will decline to invite the observer mission. Although in practice, member states have been complying with the instrument by inviting the SEOM to observe their elections, the truth of the matter remains that they are under no legal obligation to do so and it is no guarantee that there will always be a compliance with these provisions.

Fourth, the instrument is not detailed on who should form the Observer Mission. It provides that the observer mission is supposed to be led by an ‘appropriate official from the office of the Chairperson of the Organ’ and requires that in constituting the Mission, gender should be taken into account and that observers may come from different political parties. This may not be a serious omission as the experience indicates that Observer Missions have been constituted by members from various institutions including from civil society organisations. For instance, the Missions to Zimbabwe in 2008 and Tanzania in 2010 elections were constituted by parliamentarians, civil organisations and civil servants. However, to avoid uncertainty in future, it may be important that the composition of Election Observer Mission be clearly stipulated in the instrument (SADC Observer Mission Report 2010).

**SADC Parliamentary Forum Norms and Standards for Election in the SADC Region**

The norms were adopted by the SADC Parliamentary Forum Plenary Assembly on March 2001, in Windhoek, Namibia. The norms and standards provided in this instrument are more detailed, than those provided in other instruments. The instrument consists of 17 sections each section identifying problems and offering recommendations on how the problem can be dealt with. For instance, it clearly states that the counting of votes is one of the problematic areas where many allegations of election rigging have been mounted against the party declared a winner. It provides further that the transportation of ballot boxes from various polling stations to the central polling station ‘creates opportunities for missing ballot boxes and other ballot boxes being sneaked in’, and that this amounts to an infringement of free and fair elections. In this regard, it is recommended by the SADC Parliamentary Forum *inter alia*, that votes should be counted at the polling station in the presence of contestants and/or their agents, and that upon the completion of counting process results must be immediately released, signed and confirmed by all relevant parties. SADC Parliamentary Forum also recommends that before voting commences, there should be verification and reconciliation of all polling boxes in the presence of contestants and their agents.

Regarding the acceptance of results, it is noted in the instrument that reluctance in accepting results is not uncommon in SADC member states. It notes that in some cases all contestants dispute the legitimacy of each other. In this regard, it is recommended in the instrument that there is a need to inculcate and foster the culture of conceding defeat especially if the results have been approved by the observers and after ‘a fair contest’.

It is worth noting that all recommendations offered in this instrument, aim at ensuring transparent electoral process and if were to be implemented, they could perhaps help in avoiding disputes relating to the legitimacy of results.

However, in spite of its detailed provisions, just like the preceding guideless, these norms are mere recommendations and have no legal force. Thus, member states are not obliged to comply with their provisions. This article contends that these recommendations have not been effectively implemented by the member states. This contention is evidenced by the fact that to date, many years after their adoption, there are still many disputes relating to the legitimacy of results in the region. For example, many SADC member states still lack independent electoral management bodies in spite of the recommendations provided in the norms that members should create impartial bodies as part of the process towards ensuring credible elections in the region. In this respect, Smith (2007: 25, see also Fombad, 2003).

**CONCLUSION**

Despite the fact that SADC has a central role to play in promoting democracy generally and ensure fairness in elections among its member states, this article concludes that its existing electoral legal framework is unlikely to enable it effectively redress the problem. This is because as revealed in the discussion above there are many flaws in the present electoral framework. All the
instruments analysed in this article, indicate that there are no effective provisions that may be employed by the regional body to ensure legitimacy of election results. Thus, although SADC has been trying to call for credible elections in the region, yet elections are likely to remain contentious. SADC must revamp its current electoral legal framework so as to be actively involved in the electoral process with a view to ensuring that credible elections take place in the region.

Apart from lacking effective framework to address the problem in question, the article further concludes that SADC also lacks political will to deal with the problem. Besides adopting comprehensive and binding instruments to address the problem, there should also be political will from the regional as well as national levels. It is worth noting that even if SADC will adopt comprehensive framework in tackling the problem in question, very little will be achieved without the political will. To actively tackle the problem in question, SADC must not only have political will, but also adequately translate it into actions. There must be absolute political commitment to implement all instruments adopted for purposes of ensuring credible elections. Political will is also needed at the national level in the sense that, all member states have to be willing to implement all decisions reached at the regional level such as, ratification of instruments that will be adopted and implementation of all decisions that will be made at the regional level.

Finally, it should also be noted that this article does not suggest that presence of binding instruments on elections will eradicate all disputes relating to elections. In other words, as noted from the outset, having effective electoral legal framework is important but not the only solution towards eradication of electoral disputes. However, presence of effective legal framework on election coupled with political will to implement instruments that will be in place may play a substantial role in minimising disputes over the legitimacy of election results in the region.

Way Forward

In view of the shortcomings identified in this article, the article would like to suggest the following:

Adoption of a binding instrument on elections

Many regional economic communities (RECs) in Africa do not have binding instruments in the area of elections. This is one of the obstacles they face in their attempt to ensure credible elections in their regions. RECs may not effectively address the problem of disputes over the legitimacy of election results with loose and non binding instruments whose implementation mainly depends on the goodwill of its member states. In view of this shortcoming, it is suggested that there is a need for SADC to have in place binding instruments whose implementation will not depend on wishes of member states. This is inevitable if at all it needs to effectively address the problem of disputes over the legitimacy of election results in the region.

Strengthening the election observation missions

As part of the measures to prevent disputes over the legitimacy of election results in the region, elections observation should be strengthened. As noted previously, despite the presence of provisions for elections observation by the regional body; such observation is weak. The provisions establishing elections observation do not impose legal obligation. Although the experience shows that member states have been inviting SADC to observe their elections, this does not necessarily imply that they are bound to do so. Crafting the provisions dealing with elections observation in a non mandatory language leaves room for non compliance. This is what for instance what happened in Ethiopia during the 2000 elections when it refused to invite international observers. Thus, it is suggested that SADC should craft the provisions for elections monitoring and observation in a mandatory language and stipulate sanctions to be imposed in case a member state fails to comply with such provisions (Teshome, 2008).

Enshrinement of mandatory provisions on elections observation will enhance the credibility of international elections observation. It is generally accepted that the international elections observation increases the credibility of the electoral process, and their assessments are likely to have a positive impact on the public opinion hence it may reduce chances for disputes over the legitimacy of results. Therefore, towards eradication of disputes over the legitimacy of election results, it is crucial that SADC include a provision that will oblige all member states to invite observer missions in their elections.

Further, it is recommended that SADC should closely monitor the pre and post Election Day periods. The practice indicates that most observer missions are deployed only a few days before Election Day. This practice makes it difficult for the mission to effectively monitor the whole electoral process especially campaigns period where a lot of irregularities occur. It should be understood that elections is a process not an event, thus, fairness of elections extent beyond polling day. This being the case, international observation
cannot help in ensuring credible elections if observers arrive a few days before polling day. Thus, it is suggested that there should be a provision requiring observer mission to arrive within a reasonable time before Election Day (Granenburgh, 2000).

It is also important that the election observation missions be constituted by members from the academic field as well, such as lawyers and political scientists, instead of the present practice where members of these missions are mainly drawn from political parties, civil service and civil society organisations. This will strengthen these missions and enable them monitor elections more effectively and professionally.

REFERENCES


