

Zimbabwe Parliamentary Elections: Implications for the SADC Region

By Grace Kwinjeh

Rather than presenting the opportunity for a unified regional stance for democracy as recently seen in Togo, the SADC Principles appear instead to be SADC's attempt to look tough on demanding democratic polls, without really having to do the tough work of ensuring that these are truly democratic.

Once again South African President Thabo Mbeki appears prepared to endorse electoral fraud in Zimbabwe. Mbeki has already set the tone for things to come in Zimbabwe's Parliamentary Election scheduled for 31 March 2005. Recent statements by the President of South Africa are worrisome because they will have such far reaching implications for the conduct of elections in the rest of the SADC region, as well as for democratic dispensation in Zimbabwe.

The SADC Principles and Guidelines Governing Democratic Elections (ratified by all SADC leaders on August 17 last year at their summit in Mauritius) has become the standard of conduct for all elections in the region.

Already there is strong suspicion that the Principles were framed for Zimbabwe in order to deflect international attention and pressure regarding the conduct of elections in the region, effectively neutralising those institutions that have been agitating for free and fair elections in Zimbabwe and the SADC region.

It is no surprise that the SADC Parliamentary Forum and EISA, bodies that have made bold statements regarding the promotion of electoral standards that conform to international human rights conventions, have not received accreditation to observe the elections in Zimbabwe. Both bodies, together with other international observers, declared the deeply flawed Zimbabwe 2002 Presidential Elections, as having been not free and fair.

The official SADC delegation has been allowed in and will once again be the influential arbiter as to whether the election is declared free and fair. SADC credibility hangs on the balance, and South Africa has already pre-empted its verdict.

The contestation over election standards between the official SADC body and the rest of the region is bound to become even more tense because of the terrible way the Zimbabwe election is being managed.

The Zimbabwean election is widely seen as a test case for the implementation of the SADC Principles. Political commentators and observers alike, as well as pro-democracy actors within Zimbabwe, agree that the unfair pre-conditions for this election have pre-empted the possibility of any free and fair election being held. This poses some real challenges, should SADC deem this election free and fair and in accordance with the SADC principles. This will have an impact on the fairness or freeness of future elections in the rest of the SADC region.

Considering how deeply flawed the Parliamentary Elections in 2000 were, followed by an equally flawed Presidential Election in 2002, it seems election rigging has become a habit of the Government of Zimbabwe in order to hang on to power.

Interestingly, it is the pre election environment that is shaping public opinion more than the voting days themselves. Elections experts contend that without proper pre conditions for an election in place an election will not be free and fair. In Zimbabwe we are looking at a constitutional and legislative framework that gives enormous powers to the executive arm of government and as well as the ruling party; a situation whereby the ruling party contests an election whose rules and regulations it is the main determinant of. Worse still, even if the opposition Movement for Democratic Change won with an overwhelming majority of more than 75 seats it still cannot form a Government.

The political environment in the country has been tense since the 2000 Referendum. Efforts at finding a political settlement between the ruling Zanu-PF party and the opposition MDC have since collapsed. The opposition is still denied the basics – voters’ rolls, impartial media access and freedom to campaign and hold meetings.

And so, this election is being held under a very polarised political environment, which could be a source of much more conflict which ever of the contesting parties wins.

Soon after observing the Mozambique General Election in December last year, as part of the EISA Observer Mission, Ann Hammerstead warned, ‘SADC leaders will have to show that they are capable of criticising a fellow SADC government. Only by doing so can the organisation shake off its image as an exclusive club of ruling parties more interested in supporting each other than in ensuring free and fair elections.’

This was after SADC had already declared the election there free and fair, without taking into consideration electoral management issues that were being pointed out by the other observer missions, including the opposition and civil society in that country.

Earlier, the October 2004 General and Local Government Elections in Botswana were hailed as having been free and fair, but journalist Moyiga Nduru wrote, ‘In many respects, however, this will simply be a dress rehearsal for the tougher challenges that the code is certain to face in the months ahead.’

That tougher challenge is Zimbabwe.

During the launch of the SADC principles in Mauritius, Mbeki, who is also the chair of the SADC Organ on Politics, Security and Defence declared that there would be a penalty in the event of non conformity with the SADC principles. He even hinted at possible expulsion. He was bluffing.

We saw this election as presenting a possible opportunity for the region to rein in Zimbabwe, the main culprit in the region. But it seems it will not be the case. Mbeki would rather play to the ‘old boys’ gallery than be an honest broker in Zimbabwe’s political crisis. There is going to be much rhetoric but no action from the SADC body.

Regional leadership denies the political context within which citizens in the region wish to engage as far as electoral processes are concerned. The whole framework that Mbeki and the rest of the leadership are promoting falls far short of other regional and international election codes.

The SADC Principles were accepted by the region as a starting point aimed at enhancing the credibility of electoral processes in line with the democratisation process in the region. Not the reverse.

Many loopholes exist in the SADC principles governing the conduct of democratic elections. To start with there are no punitive measures for non-compliance. To avoid this issue the SADC leadership would rather deal with elections that are free and fair. If they declare the Zimbabwe election as not having been free and fair what option do they have. given the lack of rules, to sanction Zimbabwe in the event of non-compliance? The power dynamics within the region make it impossible (even for those countries that seem to be democratic themselves) to censure those that are blatantly not, for fear, perhaps, of revealing their own internal democratic weaknesses.

Furthermore, while the SADC Principles seem to be talking to certain issues to do with the advancement of democratic principles and promotion of human rights, they have been drafted in a one-size-fits-all approach which makes it possible for any country to claim to have fully adhered to them. For instance, the implementation of the Principles must be in compliance with national laws.

Even assuming that all SADC countries have good constitutions, democratic laws and institutions, we know the political tensions and deplorable human rights situations that exist in other countries like Swaziland, Lesotho and Zimbabwe. 'The Principles, even though inspired by international human rights law and international human rights instruments¹ in their creation and objectives subordinate themselves to domestic law in how to apply and interpret them.² This seems contrary to international human rights law which provides for international treaties to be observed in good faith and discourage state parties from invoking the provisions of domestic laws in order to avoid implementation of treaties,' observed Arnold Tsunga, Director of Zimbabwe Lawyers for Human Rights.

Only recently the African Commission on Human and Peoples Rights adopted the Fact Finding Mission report on Zimbabwe. This damning report outlines the political environment in Zimbabwe, which is characterised by continued violations of human rights and a lack of democracy. Unfortunately this report is not likely to be used as part of the basis upon which to judge the Zimbabwe elections.

More recently, Human Rights Watch issued another damning report based on a recent fact finding mission to explore whether conditions for free and fair elections exist in Zimbabwe. Its verdict: under the current political environment a free and fair election will not be possible, even with the late deployment of Government-aligned observer missions. 'The results of the Zimbabwe elections cannot be based merely on observation of the last week before the elections. If SADC members fail to take into account abuses in the long run-up to the polls, SADC's ability to foster democratic change in the region will be compromised,' noted Tiseke Kasambala, Researcher for the Africa Division of Human Rights Watch.

A more sophisticated electorate is less likely to be manipulated through means such as misinformation and propoaganda. This is not unique to Zimbabwe. Half of the governments

¹See paragraphs 3, 4 and 6 of the SADC Principles and Guidelines

²See 2.1.9; 2.1.10; 5.1.1 and 7.9 of the SADC Principles and Guidelines

in the region would be radically transformed within the next five years should there ever be truly democratic elections. But this is the crux of the problem. The peer group which has established itself to monitor compliance with democratic principles is itself threatened by these principles.

Even if, on 31 March, Zimbabweans come out in their millions to vote for the opposition MDC, and even if the MDC wins 70 seats, as prophesied by the party's Secretary General Professor Welshman Ncube, that election would still not have been free and fair. The MDC would have won under the most terrible conditions.

'The experiences of the Zimbabwe election is set to catalyse a fundamental debate within the region on electoral practice and its relationship to democracy development', noted elections expert Dren Nupen in an article entitled, *Defining free and fair elections – the jury is out*.

In view of the consensus in the region that pre conditions for elections will determine the outcome of that election, Zimbabwe is sitting on a time bomb. If the MDC actually does win the above-mentioned 70 seats, the country will be plunged into a huge constitutional predicament. Will Mugabe accept this outcome? Will his security forces?

Other countries like Lesotho and Swaziland are faced with the same kind of political tensions that exist in Zimbabwe today. The citizenry is demanding the opening of political spaces from authoritarian establishments. Again at this rate the SADC Principles will serve these countries well too, when they hold elections in the future.