Zimbabwe's 2023 Harmonized Election: A Troubled Process? Reflecting on the Pushback Against the SADC EOM Preliminary Statement



Head of Mission SADC EOM Dr N Mumba

Zimbabwe held its harmonized election on August 23, 2023, to elect the President, members of parliament, and local government representatives. The main opposition party, the Citizens Coalition for Change (CCC) is contesting the electoral outcome, citing several irregularities in the build-up to and during the voting. They cite issues related to the boundary delimitation, the voter registration process and access to the register, the nomination process, access to the media and delays occasioned on election day in supposed strongholds of the opposition among others for their non-acceptance of the electoral outcome. This is corroborated by preliminary election observation mission (EOM) reports from several international, regional, and local observers, who concluded the election did not meet international and regional acceptable standards governing the conduct of elections. The ruling party and some commentators have dismissed the preliminary reports, arguing that they are not a fair reflection of the electoral process and its outcome. However, their protestations are not grounded in the contents of the reports but rather are aimed at discrediting the different heads of election observer missions. The head of the SADC Election Observer Mission, Dr. Nevers Mumba, has been the target of particularly harsh attacks. There is a misconception, or perhaps a deliberate misconception, that the EOMs' preliminary reports are written by the chair or head of mission. This is why the likes of Dr Nevers Mumba are being targeted. Shockingly, these attacks are being led by people who know how election observer missions operate. These utterances are disturbing, as they have far-reaching regional implications for relationships between countries in the region.

There is no doubt election observer missions play an important oversight role in the electoral process. Their assessments of the election process are typically guided by international and regional standards that govern the conduct of elections. In the case of SADC, these standards are the SADC Principles and Guidelines Governing Democratic Elections, to which Zimbabwe has acceded. By acceding to these principles, Zimbabwe has agreed to be bound by them and to have its elections judged based on them. This equally applies to all countries in the SADC region which are obligated to uphold these principles by either enacting legislation or putting in place administrative procedures that operationalise the guidelines in their electoral frameworks. Critics of the SADC preliminary report have argued Zimbabwe's elections must be judged only on their adherence to the country's constitution and election laws. This argument is based on the notion of the supremacy of law, which means that the constitution is the ultimate legal authority in Zimbabwe and that any law or decree that contravenes the constitution is invalid. However, this argument is flawed. When a country agrees to be bound by regional standards, it forfeits the right to claim these standards constitute interference in its national affairs. If a country does not intend to observe regional standards, it should not accede to them in the first place.

The critics of the SADC preliminary report further argue the election must be deemed credible because it was peaceful on election day. However, observing the voting, counting, tabulation, and announcement of the results alone does not give a complete picture of the conduct of the entire electoral process. The conduct of an election is judged based on the electoral events

before, during, and after the election. Pre-election activities such as boundary delimitation, nomination, and voter registration have a bearing on the credibility of the election, as do post-election events such as the acceptance of results. To suggest that SADC must judge the electoral process based on the peace observed on election day is disingenuous. Observers make pronouncements on the outcome of an election based on information collected from the entire electoral process, especially after the conclusion of appeals processes. To this end, the country must not be too excited by the initial findings of the preliminary reports as they tend to be limited in their findings and are not as detailed as the final election observation reports.

Those who are not happy with the findings of the SADC preliminary report seem to be particularly incensed by the fact that the EOM "departed from the norm". They believe the report should not have been made public before it was shared with the government and the SADC Heads of State. However, this is not the case. SADC EOMs have issued preliminary statements in past elections in the region, including Zimbabwe. The 2018 harmonized preliminary election statement was just as critical of non-compliance with the SADC principles as the latest one. Specifically, the 2018 report observed delays in the release of the voters' roll to political stakeholders, alleged lack of transparency in the procurement and printing of the ballot papers, the layout of the ballot paper, which was alleged to have favoured one candidate over others, and the alleged lack of impartiality by the ZEC and bias towards one political party over others. The report also observed the lack of a proactive communication strategy concerning the concerns of political parties, concerns over postal voting and diaspora voting, the role of traditional leaders in elections, and access to the media.

The issues raised in the latest 2023 harmonized election SADC EOM preliminary report on not new, they are perennial. The EOM was forthright in its assessment of the election, which was likely unexpected by those who are criticizing the report. The EOM must be applauded for its boldness and willingness to move away from the “norm”. In the past, some commentators and opposition political parties in the country have accused SADC EOMs of lacking the courage to call out elections that do not meet SADC guidelines. Brotherhood and comradery, geo-political stability considerations, mandates, and relationships between SADC members and the incumbent government have all been seen as influencing the way past mission reports on elections in the country were couched.

Additionally, some of those enraged by the SADC preliminary report argue that the historical evolution and state of democracy in a country should guide how its elections are assessed. They contend the same tools of assessment of an election process cannot be used for countries like Zimbabwe and say, South Africa, given their different levels of development and democracy. This selective application of standards in elections, if enforced, may cast doubt on the ability of regional missions to be neutral players. It is pleasing to note the SADC principles were used to assess the Zimbabwean elections and the mission did not succumb to pressure to assess the Zimbabwe elections differently.

Dr. Mumba did not write the preliminary report alone. In fact, he was likely far from the drafting team. A report-writing committee of experts on each phase of the electoral process writes these reports, informed by analysis of preliminary data from the field. This practice conforms to acceptable standards for writing preliminary and final election observation reports. Before discrediting the SADC EOM preliminary report, there is a need to recognize the report for what it is: a preliminary report. Depending on the nature of post-election events, such a report may change the initial assessment of the elections. If any members of the EOM had disagreed with the report, they would have disassociated themselves from it. The fact that none of them has done so speaks to their agreement with the findings and conclusions of the final

preliminary report. Additionally, other reports, such as those from the AU, Carter Center, Commonwealth, and EU, reached similar findings and conclusions as the SADC EOM report.

It is sickening that those leading the charge against the SADC EOM preliminary report are endlessly furious about its contents and the Chair of the EOM, Dr Mumba. They seem to believe that the EOM must endorse every election, regardless of whether it meets SADC guidelines. Recent events and statements on the report have provided incontrovertible evidence that this is the case. Reactions and reasons provided by commentators for discrediting the report have been intuitive and emotional as opposed to evidential. They are picking a weak narrative on why the report must be discredited, often sticking to it without the heavy lifting required to make a strong case to prove so. This is an appalling fickleness.

The country is now waiting for the final reports, and in the meantime, it is important that those calling out the preliminary report stop stoking regional instability and casting aspersions on the report and its Chair. The hope is that the final EOM report will be circulated as widely as possible to inform post-election reviews. Recommendations from the statements of all election observer groups, including local groups, must be harnessed to inform post-election review efforts and prepare stakeholders for post-election engagements. These efforts should be accompanied by mission follow-ups to recommendations to aid the facilitation of the democratization process in the country. In sum, this report has far-reaching implications as it could affect the credibility of the Zimbabwean government and the country's regional and international standing and must not be taken lightly.

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