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CONTEMPLATIONS ON THE IMPLEMENTATION OF THE AFRICAN CHARTER ON DEMOCRACY, ELECTIONS AND GOVERNANCE: FOSTERING ELECTIONS AND DEMOCRATIC INSTITUTIONS IN ETHIOPIA AND LESOTHO



A Theses submitted to the Faculty of Humanities, University of the Witwatersrand, in partial fulfilment of the requirements for the Master of Arts Degree in International Relations

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October 2017

DECLARATION

I declare that this Theses, is my own original work. I have not allowed and will not allow anyone to copy my work with the intention of passing it off as his or her own work. I know that plagiarism is wrong, it is to use another's work and pretend it is one's own. Each significant contribution to, and quotation in this research report that I have taken from the work(s) of other people were attributed, cited and referenced.

Gillian Runyararo Jena

20th day of October 2017

DEDICATION

This work is dedicated to my family and dearest mom; Mrs S.T. Jena and my beloved deceased elder brother Pride Kudzayi Jena (Sep 1984 – Mar 2017), for their love.

ACKNOWLEDGEMENTS

I would like to acknowledge God, the Almighty for the wisdom and aptitude bestowed upon that has empowered me to complete this study.

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I would also like to thank the University of the Witwatersrand, and the International Relations Department for being the core of knowledge and for providing a platform for me to enhance my abilities.

Acronyms

ACDEG	African Charter of Democracy, Elections and Governance
APRM	African Peer Review Mechanism
AU	African Union
AUEOM	African Union Election Observation Mission
COG	Commonwealth Observer Group
CSOs	Civil Society Organizations
CUD	Coalition for Unity and Democracy
EHRC	Ethiopian Human Rights Council
EISA-EOM	Electoral Institute for Sustainable Democracy in Africa- Election Observer Mission
EMBs	Electoral Management Bodies
EPRDF	Ethiopian Peoples' Revolutionary Democratic Front
EUEOM	European Union Election Observation Mission
HIPC	Highly-Indebted Poor Countries
IEC	Independent Electoral Commission
IEO	Ethiopian Institution of the Ombudsman
IMF	International Monetary Fund
IR	International Relations
MMP	Mixed Member Proportional
NEBE	National Electoral Board of Ethiopia
NEBE	National Electoral Bodies
NEPAD	New Partnership for Africa's Development
OAU	Organization of African Unity
PRSP	Poverty Reduction Strategy Paper
SEOM	SADC Electoral Observation Mission
UEDF	United Ethiopian Democratic Forces
UNDP-NAM	United Nations Development Programme- Lesotho Country Office Needs Assessment Mission

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Fig 1: African Charter on Democracy, Elections and Governance: Ratification Map



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Source: (African Commission on Human and Peoples' Rights 2017)

CHAPTER ONE

INTRODUCTION

1.0 Introduction

This chapter is an overall outline of the study on implementation of the African Charter on Democracy, Elections and Governance (ACDEG) in Ethiopia and Lesotho from 2007 to 2015. It discusses the aim of the research which examines efficacy of the ACDEG in promoting free and fair elections, by focusing on electoral institutions in Ethiopia and Lesotho. The chapter commences with a background of the study, problem statement, significance of research and methodology. Finally, it concludes with a summary of the study through a synopsis of chapters.

1.1 Background

Elections are deemed as an essential means by which multiparty arrangements and operational democracies are established. The international realm comprises of electoral frameworks safeguarding democratic elections which states acceded to willingly. "States have obliged themselves through the signature and ratification of treaties and membership in the community of states to standards of behaviour and respect for human rights" (The Carter Center 2014). Successful elections depend on election supervision by national and external Electoral Management Bodies (EMBs). Ethiopia and Lesotho established their national EMBs in 1992 and 1993 respectively, before signing and ratifying the ACDEG. The National Electoral Board of Ethiopia (NEBE) and Independent Election Commission (IEC) are national EMBs of Ethiopia and Lesotho respectively. Ethiopia in 2010 and Lesotho in 2012 underwent sessions of electoral violence, intimidation, and intense party interference, even though they had legislative frameworks and electoral institutions in place to shield such irregularities.

Controversial elections have unceasingly dominated the political arena in Africa since the reintroduction of African multiparty elections in the 1990's. Electoral processes in Africa are associated with violence since the initiation of democratic transitions following the Cold War upshot (Lindberg 2009). As remedy to these challenges, the

African Union (AU) adopted the ACDEG in January 2007, to which Ethiopia and Lesotho are signatories. The ACDEG sets out to check African states' political commitment to holding free and fair elections through supervision by EMBs.[1]

Democratic standards which include free and fair elections are considered as absolute human rights that ensure peace, security and sustainable development by the New Partnership for Africa's Development (NEPAD) Declaration on Democracy, Political, Economic and Corporate Governance of 2002. NEPAD member states are to "strengthen and, where necessary, establish appropriate electoral administration and oversight institutions in respective countries and provide necessary resources and capacity to conduct elections which are free, fair and credible" (United Nations Economic Commission for Africa 2003). The 2002 Organization of African Unity (OAU) Declaration on Principles Governing Democratic Elections in Africa/AU recognizes the importance of election management, democratic elections, conflict prevention and stability within states. It advises member states to ensure that invitations to EMBs for participation in election monitoring are sent at least two months prior to the election date (Office of the High Commissioner for Human Rights 2002). Though these previous commitments do not provide specific enforcement and monitoring mechanisms for realization of free and fair elections; they represent decades of immense effort by the AU and member states to address electoral mischiefs in Africa.

The ACDEG stands out as a decisive shift and key instrument in electoral governance on the continent because it stipulates specific guidelines, an implementation framework and dispute resolution mechanisms. Thus, taking into consideration the three stages of electoral governance. The ACDEG encompasses three interlinked components, namely democracy, elections and governance. Democracy promotion upholds a system with underlying moral obligations, where authority of the state is based on consent of the people through free and fair elections (Diamond 2000).

[1] The national EMBs established by the ACDEG state parties and external EMBs invited by state parties are terms that were used in this study to refer to "impartial national electoral bodies" and "Electoral Observer Missions (EOMs) respectively, as indicated in the actual wording of the ACDEG.

Elections depict the will of people by offering effective choices of political authorities and permitting citizens to formulate their preferences to be governed by their own choice (Mozaffar and Schedler 2008). Governance supports states' role in maintaining strong political and socioeconomic institutions that preserve coordination of government and civil society. Efficient electoral management is very critical in nations' expedition to consolidate democracy.

Despite a range of issues that undermine elections in Africa, this paper assesses effectiveness of the ACDEG in addressing electoral governance in Ethiopia and Lesotho. It examines the ACDEG as a diagnostic tool that can be operated to address key electoral complications evident within these countries such as unequal party financing, unfair media coverage and Civil Society Organizations (CSOs) restrictions. It is the effectiveness of the ACDEG through electoral institutions in dealing with election complications that constitutes the core of this study. Following the end of the Cold War in the late 1980s and early 1990s, post-colonial Africa experienced a gradual transition from centralized governments and single-party leaderships to competitive elections (Cornwell 1999). Ethiopia was governed by a highly centralized monarch which collapsed in 1991 when the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF) assumed a transitional government. Lesotho experienced a period of de facto one-party rule between 1970 and 1986 when it established the Village Development Councils which served interests of the ruling party until promulgation of the VDCs in 1994.

Competitive elections constitute an integral part of the post-Cold War "third wave" of democratization that swept across Africa in the late 1980s and early 1990s. This impelled the AU to enforce democratic governance, with an emphasis on adopting regular elections and multiparty representation (Diamond 2000). The ACDEG which strives to defend democratic governance, however may be out of step with many African states' governance agenda given that currently, only 24 AU member states have signed and ratified it (The African Union Commission 2016). Ethiopia signed the ACDEG in 2007 and ratified in 2008 whilst Lesotho signed and ratified in 2010.

This paper assesses provisions central to democratic elections provided under Chapter 7 of the ACDEG, which call for states' commitment to holding free and fair elections with assistance of EMBs. As envisioned by the ACDEG, functions of these electoral institutions are to provide advisory services, monitor electoral processes and rectify election related disputes timely (The African Union Commission 2007). Electoral institutions are necessary for organizing credible election processes, connecting voters and governments to secure practical legitimacy for the functional uncertainty characteristics in competitive elections (Mozaffar 2002).

1.2 Statement of the Problem

Ethiopia and Lesotho had already established national EMBs required to supervise elections and requested assistance from external EMBs during elections as intended by the ACDEG. External EMBs involved in Ethiopia's elections include the African Union Election Observation Mission (AUEOM) and European Union Election Observation Mission (EUEOM). Lesotho invited the AUEOM, Commonwealth Observer Group (COG), Electoral Institute for Sustainable Democracy in Africa-Election Observer Mission (EISA-EOM), Southern African Development Community Election Observation Mission (SEOM) and the United Nations Development Programme-Lesotho Country Office Needs Assessment Mission (UNDP-NAM). Despite adoption of the ACDEG by Ethiopia and Lesotho, their elections were infected by numerous anomalies including multiple registrations, unfair media coverage, repression and intimidation of the opposition. This necessitates interrogating whether the ACDEG provisions on electoral institutions were sufficiently effective in managing these electoral deficiencies.

The three stages of electoral governance specifically; rule making, rule application and rule adjudication are critical in understanding effectiveness of the ACDEG. More specifically, whether electoral institutions provided supervision, monitoring, and rectified election related disputes timeously; and how EMBs contributed to the holding of free and fair elections in Ethiopia and Lesotho remains unsettled.

1.3 Research Questions

Considering the range of concerns that confront elections in Africa, this paper assesses effectiveness of the ACDEG in promoting free and fair elections, through examining electoral institutions established and operational within Ethiopia and Lesotho. The fundamental question that reinforced this study is: has the ACDEG been effective in promoting free and fair elections through EMBs in Ethiopia and Lesotho from 2007-2015? To explore this research problem, subsequent questions were adopted by the study:

- What are functions of the EMBs as stipulated in states' legal instruments that established them?
- What practical tasks were performed by the EMBs during elections in Ethiopia in 2010 and 2015; and Lesotho in 2012 and 2015 to reaffirm the states' commitment to the ACDEG electoral principles?
- How did the EMBs resolve electoral obstacles that occurred in each state during the two elections mentioned above?
- How did the EMBs performance impact credibility of the election processes?

1.4 Rationale

Since ratification of the ACDEG by member states, its implementation and effect on promoting free and fair elections through EMBs has been insufficiently researched. It is necessary to assess effectiveness of the ACDEG because electoral institutions play an important role ensuring transparency and credibility of elections, democratic governance in states and lessening conflicts during election periods.

1.5 Research Methodology

This section discusses and justifies the suitable research design employed in this study. It focuses on data sources, study population, sampling techniques, data collection instruments, data analysis and ethical considerations.

1.5.1 Study Design

A research design, according (Bryman 2012), is a plot for arrangement and production of evidence and verification suitable to a set of standards and to the study question in which a researcher is interested in. This research was conducted through a comparative design. That strategy involves investigating two complementary cases using similar approaches to better understand social occurrences when they are contrasted relating to two or more meaningful distinct circumstances (Bryman 2012). The study settled for qualitative research methodology of inquiry within the Social Science field for data collection and analysis. Qualitative methods refer largely to data gathering and investigation approaches that depend on collection and analysis of non-numeric data (Lamont 2015). It is best suited to evaluate discoveries, understanding of experiences and perspectives of human elements to capture individuals' interpretations in the world. Qualitative approach was employed as opposed to other approaches such as quantitative method because its strength is in the attempt to inform understanding of issues through thick descriptions. Thus, it aids the current study to assess effectiveness of the ACDEG in promoting free and fair elections through electoral institutions in Ethiopia and Lesotho from 2007 to 2015.

Case selection is a significant step in the study design since it allows the researcher to study the 'how' and 'why' in an empirical context, relevant to occurrences being observed, uncovered, and understood (Lamont 2015). This study applied the most similar case comparison approach by John Stuart Mill in which cases are comparable in all aspects of the independent variable whose variance may justify for cases having different outcomes on the dependent variable (George and Bennet 2005). The most similar approach was used because it is relevant to the research objective which concerns examining effectiveness of the ACDEG through electoral institutions operational within the states. The most similar approach delivers the type of control and variation required by the research through looking at cases which are in a similar location, Africa and experiencing domestication of similar regional policies, that is the ACDEG execution. Ethiopia and Lesotho had two elections after signing and ratifying

the ACDEG. This provides an adequate set of events to uncover effectiveness of the ACDEG in these states within a specific timeline, between 2007 and 2015.

In this study, free and fair elections constitute and signify effectiveness of the ACDEG implementation nations to address key electoral challenges due to the presence of EMBs intended to bring about full state parties' commitment. Free and fair elections would be measured by the absence of electoral fraud, absence of minimal irregularities and acceptance of officially declared results. The EMBs are necessary to clarify how the ACDEG execution impact free and fair elections. Effectiveness of the ACDEG implementation would be operationalized by complete consideration of electoral rules, efficient administrative performance and effective dispute settlement. These instruments were recognized as the most visible features of electoral governance and its three stages, thus their presence or absence before, during and after elections determines effectiveness of the ACDEG in promoting free and fair elections.

The study population encompasses electoral institutions particularly the NEBE of Ethiopia and IEC of Lesotho. It comprises of operational external EMBs during elections specifically the AUEOM, EUEOM in Ethiopia and the AUEOM, COG, EISA-EOM, SEOM and UNDP-NAM in Lesotho. It also includes stakeholders who contributed in election observation such as relevant political parties, CSOs and the Human Rights Watch.

1.5.2 Data Collection Instruments

The collection of data in this study was appropriated through document research and internet based exploration. (Lamont 2015) strongly argues that "any attempt to study international conflict, international organizations, environmental politics or human rights requires at some level to engage with documents." The operation of several methods of data collection is justified based on suitability and importance to the type and intention of study. Primary sources include state documents such as Acts of parliament, policy documents, official reports from governments and electoral institutions. Secondary data collection involves major global networks such as the BBC News. Research papers, academic and expert publications on the subject matter,

books and journal articles were used. This permitted the researcher to acquire valuable insight into research enquiries for both cases.

1.5.3 Data Analysis

This study employed thematic content analysis approach because it enables information to be produced about social collections in a flexible manner to identify any recurrent patterns within data. Thematic content analysis is identifying, analysing and reporting of fundamental themes in materials being evaluated (Bryman 2012). Categorization of themes was done through the deductive approach. (Lamont 2015) argues that a deductive approach assists in forming categories in advance on the base of pre-existing information and expectations. Categorization of themes was employed using three stages of electoral governance specifically; rule making, rule application and rule adjudication which are critical in understanding effectiveness of the ACDEG.

1.5.4 Reliability and Validity of Data Instruments

This research is heedful of reliability and validity deliberations. Reliability is the extent to which if an investigation is repeated, consistently comparable outcomes would result (Bryman 2012). To maintain consistency in measurement, the study used a set of sub questions related to the research matter and these were examined to confirm that they measure effectiveness of the ACDEG in promoting free and fair elections from 2007 to 2015. Validity refers to whether discoveries are what they seem to be (Bryman 2012). It guards the degree to which conclusions are drawn from data gathered, accuracy and integrity of the study's findings. Here, the study's findings correlate with aims and objectives of the ACDEG in relation to EMBs.

1.6 Limitations of the Study

The main limitation of this research is that the researcher seldom did not have complete access to member states' or electoral institutions' records. Documents that

are publicly available are reflective of access to partial records. Media and internet sources are treated with scrutiny as each source lends itself to a certain perspective on given issues. However, Scott (1990) in (Bryman 2012) contends that "data analysis can only be as good as documents on which the practitioner works with." Conducting an in-depth investigation of ACDEG implementation in two of the three countries that have had at least two elections does not sufficiently afford a comprehensive view of effectiveness, effects, accomplishments, and flaws which the ACDEG attributed to within a decade of its existence. However, it is still noteworthy to assess responsiveness of developing nations in commitment to the ACDEG electoral provisions since member states are faced with unique challenges which each nation navigates by prioritizing certain implementation of policies according to resources at hand.

1.7 Outline of Chapters

Chapter one provided a brief background of the study, research problem, rationale, study objectives and methodology by which the study was conducted. It illustrated three sub-questions which guided and clarified limitations of this study. Chapter two elaborates significant case illustrations from elections in Ethiopia and Lesotho and literature review on the research matter. It consists of a conceptual framework which provides an overview of elections, election management and a significant role the ACDEG plays in promoting free and fair elections. Chapter three and four affords a discussion of the research findings. Chapter five draws conclusions on findings and generates recommendations to conceivably improve the ACDEG execution in promoting free and fair elections and solving chief electoral hitches acknowledged.

CHAPTER TWO

LITERATURE REVIEW

2.0 Introduction

This chapter reviews literature on democracy, elections, governance, and election management in Africa with specific reference to Ethiopia and Lesotho. It then presents a theoretical framework within which electoral governance is discussed. Various theoretical positions are offered to demonstrate how electoral management continuously transformed over the years.

2.1 The Nexus between Democracy, Elections and Governance

Elections can be considered as a chief component of democracy whereby citizens cast their votes and renew obligations to norms and institutions which signify a democratic state (Kane 2010). A free election is the capability of persons to relate and participate in political parties and to circulate their preferable policies in the absence of any state or individual meddling (Steytler et al. 1994). A fair election is referred to by Lindberg (2007) as a contestation that permits recognition of democratically satisfactory and unsatisfactory procedures. An EMB is a structure mandated to manage and certify the validity of electoral processes (OSCE Office for Democratic Institutions and Human Rights 2010).

Governance denotes the exercise of political and administrative authority to administer a nation's affairs through mechanisms, procedures and institutions by which persons express their interests; practice lawful rights; encounter obligations and intercede dissimilarities (UNDESA 2012). Good governance refers to traditions and institutions where authority in a nation is implemented within a process where governments are nominated, monitored and replaced (Kaufmann et al. 2010, 4). It stresses the capacity of governments to efficiently device sound policies that respect citizens and institutions that govern economic and social connections within the state (Kaufmann et al. 2010, 4). "Electoral governance is the wider set of activities that create and maintain the broad institutional framework in which voting and electoral

competition takes place" (Mozaffar and Schedler 2008). Democracy is a form of government grounded on liberal values conveyed in the will of individuals aligned to rule of law, exercise of human rights and fundamental freedoms (United Nations 2008). It is vital to note that democracy is a contested complex concept in its definition which is the focus of endless disputes that embrace several distinct attributes.

2.2 Variance Surrounding the Concept of Democracy

Varied discernments exist about what democracy is ought to be and the context in which it is supposed to be experienced. Canache (2012) declares that the contemporary comprehension of democracy is complex since the connotation of democracy progressed in reaction to philosophical and theoretical arguments pursuing to answer essential questions concerning who governs; how government should be organized; and how individuals can best regulate their government. Similarly, Buhlmann et al. (2007) accept that democracy can be perceived of in three ranges that is, minimalist based on government of the people; participatory based on government of and by the people and maximalist based on government of, by and for the people. This discrepancy aids to understand ways the term democracy is inconsistently perceived and employed universally; the way it is altered to suit certain contexts and the way it evolves within places. It is of utmost importance to comprehend what kind of democracies are Ethiopia and Lesotho to recognise their capability of achieving free and fair elections.

Diamond (2000) admits that complex debates revolved around the meaning of democracy and credibility of different representations of democracy, but there is emphasis on importance of electoral democracy during transition to and consolidation of democracy. Corona (2006) asserts that though there is an understanding of the important role elections and the CSOs play, in practice democracy occurs depending on the context in which it settles despite it being a universal concept; its practice rest on interests of states. Regardless of the acknowledgement of ways democracy is widely defined, redefined, disputed, and remains questioned; these contests are significant because they probe relevant matters to the research cases. That is, the undeniable importance of elections in the consolidation of democracy.

The often-accepted definition of democracy is that coined by Abraham Lincoln as "government of the people, for the people and by the people" (Antwi-Danso 2014). However, Przeworski (1991) says that democracy is a system in which political parties lose elections. Dahl (1971) provides the minimalist conception of democracy like the one proposed by Schumpeter (1942), who describes political regimes by method of filling political offices through electoral means. Hollyer et al. (2011) point out that in Dahl's conception of democracy, for contestation at the ballot box to occur; transparency and free flow of information including freedom of speech, assembly, and press freedom are pre-requisites for voters to make informed decisions. In the same manner Dalton et al. (2007) echo that "Dahl's discussion of electoral democracy presumes the existence of freedom of speech, assembly and other rights essential to make electoral competition meaningful." Views expressed by these scholars are very critical in analysing effectiveness of the ACDEG in promoting free and fair elections in Ethiopia and Lesotho, particularly the plausibility of democracy in Africa through unprejudiced elections.

Schedler (2006) argues that democratic transition through electoral contests is exposed to state manipulation and violation of "the liberal-democratic principles of freedom and fairness so profoundly and systematically as to render elections instruments of authoritarian rule rather than instruments of democracy" such as in Algeria, Ethiopia and Cambodia. Bogaards (2000) admits that it is surprisingly an irony that the rebirth of multiparty elections and downfall of one party dominance instigated single party rule in vast nations. These arguments are fundamental because they disclose the superficiality in repression of freedom and stealing of elections that reduces the ballot box to a mere pathway for incumbent authoritarian leaders to retain power. Democracy and elections have thus been perceived as having multiple scopes and some of these dimensions intersect and clash overtly. It is the task of this paper to assess effectiveness of the ACDEG in addressing electoral defies that threaten Africa's ability to accommodate and consolidate democracy.

2.3 Africanising Democracy: Democracy External to the Western Context

During the "third wave of democratization" between the 1980s and 1990s Africa witnessed numerous positive post-transition elections. In Africa, elections as barometers of democratization have become a phenomenon associated with the third wave of democratization that struck the region at the beginning of the 1990s (Adjeumobi 2000). The connection between democracy and Western state development enticed much scholarly attention over the past years. Kurki (2010) articulates that despite criticisms that level against democracy as a Western-dominated ideology and as a political conditionality for admittance to aid funds; there is evidence of an inherent relation between democracy and operational implementation of the development agenda. Khalil-Babatunde (2014) utters that democratic governance has the possibility of accelerating sustainable development through instilling an accountable government capable of eradicating corruption which impedes economic development. However, that does not suggest that democracy is the ultimate prerequisite for development, especially outside non-Western contexts such as Africa.

Rakner et al. (2007) criticism considers an Asian example where speedy and sustained development occurred within authoritarian and semi-authoritarian regimes. This challenges assumptions that development is much more possible within a democratic government, especially in the form promoted by Western entities. The NEPAD Heads of States established the African Peer Review Mechanism (APRM) in 2003 to ensure a comprehensive self-monitoring exercise that promotes good governance and economic development within the continent. The APRM makes provision for external donor aid and debt relief as motivation for AU member states to voluntarily accede to its mechanisms. It attempts to build enhanced governance quality thus boosting investor confidence and consequently leading to economic growth (Masterson 2004).

An overview of the term democracy by Western institutions including the World Bank and International Monetary Fund arose as a condition to attain liberalisation in Africa and government for and by the people during the late 1980s (Alemazung 2012). The IMF and the World Bank came up with the Poverty Reduction Strategy Paper in 1999

specifying ways developing aid recipient nations would solve poverty reduction and attain sustainable development (World Bank 1989). The strategy developed into a prerequisite for nations requiring debt relief under the Highly-Indebted Poor Countries initiative. Petlane and Gruzdhave (2011) argue that democracy and development are connected since democracy impacts human and economic development through institutional guarantees and policies created by a government that reflects fundamental interests of the people.

Since African political regimes embarked on democratic institutions in the early 1990s, very few nations have so far settled into consolidated democracies. Variance exist in African nations' democratisation experiences which include consolidating democracies, hybrid regimes and regimes facing democratic institutions decay such as Malawi, Zimbabwe and Kenya respectively (Rakner 2007). Osaghae (1995) argues that the existing democratization notion and process is a Western venture. Thus, complications for analysing democracy in Africa involve the aspect that the concept is perceived as an external ideology which is unsuitable to African contexts.

This literature is relevant to the research matter because it divulges that Africa's challenges are chiefly due to its governance and leadership tendencies, thus an efficient form of improved governance is necessary. This justifies why it is crucial to examine contribution of the ACDEG in effectively addressing governance challenges in the continent. This information is significant in the research because it provides useful insights on the suitability of Africa to handle and situate construction of democracy or whether it should form its own ideology appropriate to its historical, cultural contexts and adaptable to its own realities; since democracy is perceived to be an external idea. The literature is informative in comprehending the unwillingness of many African nations to welcome the ACDEG and apply its principles.

2.3.1 Sufficient Conditions Necessary for Functioning Democracy

Elections in Africa currently display traits that undermine freeness and fairness, threatening civil and political rights of individuals as well as the democratization mission. Schedler (2006) offers examples, that is military intervention during elections which occurred in Cote d'Ivoire in 1999 and discriminatory electoral rules such as the exclusion of opposition members through restrictions to access mass media and campaign finance. This also happened in the 2005 elections of Tanzania and Ethiopia and the Zambian 2006 elections. Kuhne (2010) maintains that elections can play an important role in democratising nations if three basic conditions are met before elections. That is, if the justice system and police are enabled to tackle fraud and abuse cases, if a sufficiently secure environment, administrative and communication infrastructures are in place. However, Lindberg (2006) argues that despite irregularities or the absence of complete freeness and fairness, elections seem to have a positive effect on human freedom and democratic values. This is relevant to the study because it exposes that recurrent competitive elections have an accumulative effect on the functioning of democracies, such as establishment of electoral institutions.

2.4 The Role of EMBs and Election Management in Africa

Adejumobi (2005) argues that elections simultaneously serve as means to change leadership and as a tool for political authority and legitimation. Alemazung (2012) identifies that since the 1990s, elections in Africa have mixed results. In most cases, electoral processes are troubled with difficulties such as, vote rigging, manipulation of election results, and intimidation of opposition members before, during and after polls such as in Cote D'ivore, Nigeria and Gabon; whereby incumbent elites retain power. Many schools of thought argue that EMBs encourage electoral integrity and legitimacy (Daxecker 2012 and Kelley 2012). The impact of electoral institutions is that the outcome or acceptance of elections depends to a larger degree on how elections are managed by relevant bodies. Hence transparent election management is vital to the core of democracy (Daxecker 2012). EMBs are considered as useful pointers to

democratic governance. They have the ability to foster democracy and guide domestic political reforms, thus making management of electons more transparent.

A dichotomy by Geisler (1993) and Simpser and Donno (2012) present that EMBs may convey negative consequences to electoral events. EMBs were criticised as sources of strategic manipulation of elections. This implies that electoral institutions and their undertakings are not valuable with regards to democratic consolidation and election integrity. Instead, EMBs are associated with expanding foreign policy using election observation in developing nations. Another contradiction by Randall and Svasand (2002) is that African political factions are afflicted by feeble establishments, minimal degrees of institutionalisation and frail associations to the wider society they represent. This results in suspicion of the very institutions charged with promoting and upholding democratic governance. There are gaps in the literature regarding the decision to invite observers as an international norm and risk a negative account (Beaulieu et al. 2009). Hence, the research evaluates Ethiopia and Lesotho implementation of the ACDEG through inviting EMBs and effectiveness of these institutions on free and fair elections. Though elections do not simply translate into democracy; this study assesses the free and fair election process as an indispensable condition to upholding democracy.

Free and fair elections can only be attained if sufficient effort is capitalized in managing the pre-election, polling period and post-election settings of election contests. EMBs aid in progression of free, fair and credible elections. Bjourlund et al. (1992) note that elections in Africa are coupled with rigging accusations, violent tendencies and widespread irregularities emanating from election fraud Bjourlund et al. (1992) claim that EMBs are "designed to boost confidence in the fairness of the electoral process, to help deter fraud in the balloting and counting procedures, and to report to the country's citizens and the international community on the overall integrity of elections. In addition, if requested, observers can mediate disputes between competing political groups to reduce tensions before, during and after elections. In short, their role is to vouchsafe democratization. Hence, EMBs play a vital role to safeguard free and fair elections.

EMBs deliver a conducive atmosphere to the advancement of electoral corporate uniqueness and professionalism. Whilst IECs confine violence by pledging political parties to an electoral code of conduct. Anglin (1998) confirms that EMBs consists of professional election officers and statesmen with relevant expertise. He declares that EMBs comprise of "individuals of high standing and proven integrity whose considered opinions would be likely to carry weight." EMBs are crucial to the consolidation of democracy since their impartial nature produce credible elections. Lindberg (2009) maintains that despite the role of elections in promoting peace and security, elections in post-independence Africa have brought instability and are a source of conflict through opposition members' intimidation. Similarly, Freedman (1995) argues that, since the introduction of competitive elections in Africa, electoral processes are marred by crisis which necessitates the presence of EMBs. Garber and Bjourlund (1993) articulate that EMBs occupy a primary position of guaranteeing that elections function as an operative mechanism of conflict resolution, and fabricates acceptable, and legitimate governmental systems. Kadiagala (2015) argues that consolidating "democratic and participatory governance through credible and transparent elections" is one of the ways in which Africa can build capacities of its institutions and mitigate conflict.

Pastor (1999) argues that EMBs ensure that elections mirror people's choices through monitoring which reinforces the idea of responsibility and good governance in the conduct of elections. They provide reliability to government administrations and have the aptitude to expose rigging and enlighten the public about the freeness of election contests (Mair 1997). The role played by EMBs progressed over time. They perform essential functions during elections. Anglin (1998) lays out eight specific roles EMBs perform namely, confidence-building, conflict prevention, dispute resolution, observation, reporting, verification, tender advice and issue an insurance certificate. Thus, EMBs can contribute positively to meeting challenges within the African continent and progress consolidation of democracy. The Carter Center argues that "an effective EMB is responsible for implementing much of the electoral process and can

enable participation of voters and protect democratic process" (The Carter Center 2014).

2.5 Election Management in Ethiopia and Lesotho

Challenges in Africa centre upon the extent to which nations can successfully transition towards democracy through elections. Election management in Ethiopia and Lesotho was blemished by irregularities since the introduction of competitive elections. Electoral competition encompasses regulations and institutions that control how election competition occurs. In Ethiopia, the Federal Supreme Court and the Federal High Court are vested with federal judicial authority, whilst the State Supreme Court and State High Court are entrusted with state judicial administration (Ethiopian Government Portal 2016). Ethiopia implements a civil law system. Lesotho's judiciary system ranges from the Appeal Court, to the High Court and the Magistrate Court which deals with the Kingdom's judicial issues (Lesotho Government Portal 2016). Lesotho has a mixture of English common law and Roman-Dutch law. Judicial models are indispensable since electoral disputes are no longer resolved solely by political establishments, but also by judicial institutions.

Lindberg (2006) argues that competitive elections are a vital aspect of democracy because the component of competition is integral to elections. It provides citizens with a channel to pressure officials and demand concessions from politicians. The EUEOM in Ethiopia invited by the NEBE criticized Ethiopia's electoral process following the 2010 national elections since the EPRDF used strict laws to suppress any opposition to the incumbent party ahead of elections through restricting freedom of expression (Morin 2010). The 2010 elections results affirmed victory of the EPRDF yet the EUEOM revealed that elections were characterised by incidences of vote riggings, human rights violations, unfair use of media coverage, and the NEBE weak complaints mechanism. As a result, they fell short of the standards of free and fair elections. The 2015 Ethiopian elections were marked by irregularities since the Ethiopian government systematically repressed independent media and free expression through a shutdown dozens of publications and intense control most television and radio outlets (Winsor 2015). The Ethiopian government speaks generously of democracy

and freedom whilst repeatedly making empty signals towards democratic practices and strengthening its incumbency.

The 2007 and 2012 elections in Lesotho were supervised by the IEC which was criticised for failing to deal with the ruling party's advantage over its competitors with regards to its access to state resources and electoral malpractices such as maintaining an unreliable voter register and floor-crossing Kapa (2013). Impartiality of EMBs too nonetheless remained a controversial issue in Lesotho, despite success of the 2012 elections and subsequent change of political power. Also, the ruling party accessed state resources and used these to its advantage during elections. However, it is not the EMBs place to deal with incumbent advantages but rather elevate equitable access to opposition parties. If an EMB directly intervenes in ensuring a level playing field, it faces a significant risk of being accused of meddling. EMBs prefer not to meddle in politics of states they are monitoring. Owing to this, the attainment of democratic governance through election monitoring can be so problematic since EMBs could perhaps hold hidden motives (Glidden 2001). Most electoral institutions are required by their mandates to be objective, outline rules of competition and deal with complains arising from election stakeholders such as political parties. EMBs can intervene in specific issue grievances raised through mediation mechanisms rather than penetrating the political landscape uninvited.

Ethiopia and Lesotho provide remarkable trends in electoral management in Africa. Applying cases of Ethiopia and Lesotho demonstrates how political space can be narrowed, a dominant regime strengthened, and electoral observer missions constricted in their capacity to influence outcomes.

2.6 Knowledge Gap

Research in the field of IR has mainly focused on the connection between EMBs and effects on democracy in nations they monitor. There are a very few existing studies that focused on efficiency of the ACDEG through EMBs efforts to promote free and fair elections. It is important to document promotion of free and fair elections through electoral institutions and assess effectiveness of the ACDEG provisions in practical

processes during elections. While election management is positioned as a regular procedure in African countries, election manipulation is an increasing trend. Yet little is known about how exactly the ACDEG upholds free and fair elections. Additionally, it is the intention of this research to bridge the gap concerning whether the ACDEG is tailored enough to promote free and fair elections across varied kinds of democracies that exist and keep evolving in Africa. Furthermore, this study clarifies whether it is ineffectiveness of the ACDEG or weakness of electoral institutions to mould free and fair elections since electoral irregularities are still witnessed and lively experienced in African nations such as Ethiopia and Lesotho.

Based on this understanding, this research paper intents to provide a deeper insight regarding innovations and possible insufficiencies of the ACDEG provisions relating to free and fair elections in Ethiopia and Lesotho. It can contribute to further exploration of matters denting or abetting electoral governance in Africa. If loopholes are recognized in the ACDEG promotion of free and fair elections through electoral institutions, this research will assist in refinement of possible measures that could guarantee its realization towards democratic consolidation in Africa. Due to investigation of only one aspect of the ACDEG, even if flaws are encountered it does not necessarily mean that the entire ACDEG is unsound. Elections are a recurring and crucial component in democracies. A study of this nature will assist to elaborate relevance of the ACDEG as a regional instrument in election management and how it can be refined to adequately promote free and fair elections. Findings from this study will hopefully be used by state parties and EMBs in their attempts to meet varying circumstances conducive for democracy progression and free and fair elections in the region. This research can contribute to the growing literature on electoral governance and democratic consolidation which is relevant to IR studies.

2.7 Theoretical Framework

There is no specific theory which clarifies why Africa experiences the challenges it has, considering debates that rests among scholars on management of credible elections. The research topic connects closely with electoral governance by Shaheen Mozaffar and Andreas Schedler. Electoral governance aids to explain whether the ACDEG has

efficiently promoted free and fair elections through electoral institutions in Ethiopia and Lesotho. Electoral governance was selected because it carries great significance in conveying clarity to the research matter, credibility of elections and legitimizing authority of governments in emerging democracies (Mozaffar and Schedler 2008). The dominant principle of this concept is the postulation that it is the broad set of undertakings that generate and uphold wide institutional structures where voting and electoral competition occurs. Undertakings of electoral governance include:

- securing credibility of elections in emerging democracies;
- providing procedural certainty to secure substantive uncertainty of democratic elections;
- providing a checklist approach to election assessment on freeness and fairness (Mozaffar 2002).

The concept of Electoral governance has the following key components:

- rule making;
- rule application;
- rule adjudication.

Electoral governance emphasizes strategies of institutions that express elementary frameworks of democratic elections and formal guidelines that govern processes, regulations, forming structures, functioning framework of EMBs and dispute resolution establishments (Mozaffar and Schedler 2008). The main hypothesis of electoral governance is that it provides procedural certainty to ensure elections as a principal task of democracy and achieves democratic forms of governance. This line of thinking is reflected in the ACDEG which reaffirms state parties to abide by electoral procedures within their national legal frameworks. Thereby ensuring transparent elections through impartial EMBs, and encouraging democracy reinforcement (The African Union Commission 2007).

Rule making stresses the design of institutions that define rules of electoral competition and electoral organization. Rule implementation involves coordinating

tasks of diverse personnel and organizing execution of electoral processes (Mozaffar and Schedler 2008). Rule adjudication is resolving disputes arising from election processes. The meaning of electoral governance is associated with electoral administration. However, the process consists of three different stages; formation of regulatory bodies and norms, implementation of these norms and dispute resolution (Torres and Diaz 2014). Electoral governance encapsulates significance of EMBs and free and fair elections. Thus, offering a paradigm to analyse democratic strengthening. It has deep explanatory powers in establishing association between the ACDEG and efficiency of electoral institutions.

2.8 The ACDEG: Brief Outline

Adopted by the AU on 30 January 2007, the ACDEG entered into force on the 15th of February 2012 with the main goal of encouraging democratic governance and upholding human rights across the continent. Legal decrees that inform practical guidelines on conduct of elections are borne out of necessity. Provisions vital to democratic elections are stipulated in Chapter 7 of the ACDEG. It provides four tasks, concurrent with three levels of electoral governance which specifically obliges states to:

i. design legal channels and institutions responsible for enforcing electoral rules;
ii. perform administrative tasks during elections;
iii. facilitate dispute resolution arising from electoral processes;
iv. invite external EMBs to provide electoral assistance, observation and compile a report thereafter (The African Union Commission 2007).

Hence EMBs have duties to provide services, assistance and monitor electoral processes. To evaluate the value of the ACDEG in promoting free and fair elections, it is crucial to establish that there are other instruments that preceded it. Article 13 of the 1981 African Charter on Human and Peoples' Rights provides that "every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with provisions of the law" (African Commission on Human and Peoples' Rights 2005). The Lome

Declaration of 2000 on the Framework for an OAU Response to Unconstitutional Changes of Government emphasizes the rule of law and participatory democracy (Office of the High Commissioner for Human Rights 2000). Nevertheless, these instruments failed to elucidate aspects of democratic elections and entrench good governance. The AU Constitutive Act of 2001 sets forth foundation for the rule of law, democratic principles and free and fair elections (The African Union Commission 2000).

2.9 Summary

This chapter clarified key definitions stemming from chief aspects, democracy, elections and governance. It looked at democracy as defined and contested by various schools of thought and discovered that democracy is a complex phenomenon. Authors have various views about what democracy ought to be and in which context it ought to be performed, hence there are theoretical and practical challenges regarding realization of this concept in its true form. There are also encounters in the origin of the concept, since it is deemed to be a Western imported ideology resulting in critiques about the suitability of Africa to adopt transplanted political forms of government. The fundamental message across scholars is conversely that both successful and failed elections are critical to democratic consolidation. Elections are a path on which governments are held accountable by citizenry. The chapter highlighted the scope and criticisms of elections in the African political space, electoral institutions that manage elections and electoral management process. It demonstrated challenges faced by Ethiopia and Lesotho in competitive elections as signatories of the ACDEG. It identified crucial gaps which this research intents to fill. The chapter finally provided an analytical framework of electoral governance through which election management occurs. Lastly, it gave a brief overview of the ACDEG and its four principal missions it assigns to state parties.

CHAPTER THREE

ETHIOPIA: A DISCUSSION OF FINDINGS

3.0 Introduction

This chapter presents a discussion of findings concerning implementation of the ACDEG and its impact on free and fair elections in Ethiopia. Ethiopia signed the ACDEG in 2007 and ratified it in 2008. The section discusses execution of the ACDEG in Ethiopia by utilizing sub-questions structured in terms of previously mentioned specific set of activities assigned to signatory states by the ACDEG; which are simultaneously applicable to three stages identified in electoral governance theoretical framework. It explores responsibilities and tasks of EMBs during elections in Ethiopia in 2010 and 2015. Lastly, it examines electoral obstacles which occurred, how these were resolved.

The research sub-questions addressed by the study were:

- What are functions of the EMBs as stipulated in states' legal instruments that established them?
- What practical tasks were performed by the EMBs during elections in Ethiopia in 2010 and 2015; and Lesotho in 2012 and 2015 to reaffirm the states' commitment to the ACDEG electoral principles?
- How did the EMBs resolve electoral obstacles that occurred in each state during the two elections mentioned above?
- How did the EMBs performance impact credibility of the election processes?

3.1 Legal Frameworks

International accords support fundamental rights, mainly those associated with political participation, voting, human rights and democratic values. Ethiopia is a signatory to such treaties including the 1976 International Covenant on Civil and Political Rights; the 1969 International Convention on the Elimination of All Forms of Racial Discrimination; and the 1948 Universal Declaration of Human rights (United Nations Human Rights Office of the High Commissioner 2014). Regarding regional

accords, besides the ACDEG, Ethiopia acceded to the African Peer Review Mechanism (APRM) and subjected itself to voluntary assessment. Ethiopia is committed to the 1981 African Charter of Human and People's Rights and the 2002 African Union Declaration on Principles Governing Democratic Elections in Africa (African Commission on Human and Peoples' Rights 2017).

The Ethiopian Constitution and other legal framework offer sufficient foundation for the conduct of genuine elections in accordance with the ACDEG and other international commitments subscribed to by Ethiopia (Ethiopian Government Portal 2016). The Electoral Law; Political Parties Registration Proclamation; and Electoral Code of Conduct for Political Parties are regulations that protect political and civil rights, as well as freedoms of association (National Electoral Board of Ethiopia 2010). Provisions for the Freedom of Mass Media; and Access to Information Proclamation prohibits censorship and upholds free mass media and equal access to competing parties. The Grievance Hearing Committee; Political Parties' Joint Forum; the Ethiopian Institution of the Ombudsman and the Ethiopian Human Rights Council serve to enhance an orderly conduct of elections during electoral campaign, process and outcome (National Electoral Board of Ethiopia 2010). Through these legal frameworks, Ethiopia sufficiently strengthened the NEBE responsible for election supervision.

3.2 Background of Ethiopia

Situated in the Horn of Africa, Ethiopia is a federal parliamentary republic with the president as head of state whilst the prime minister is the head of government. It has a bicameral parliament consisting of an upper house, House of Federation responsible for federal regional matters and a lower house, House of People's Representatives in charge of passing legislation (Abbink 2010). Ethiopia once existed as a centralized monarchy in the 1800s and a military government from 1974 till the transitional government in 1991 which ended with the 1995 elections (Lyons 2011). It introduced multiparty elections since the defeat of the Derg regime in 19991 by the EPRDF. Since 1995, periodic parliamentary elections took place (Costantinos 2015). The EPRDF was established in 1989 as an alliance of four parties. It is the dominant party in Ethiopia's

political field. The EPRDF had two main opposition coalitions which challenged the ruling party during the 2005 elections; the Coalition for Unity and Democracy (CUD) and United Ethiopian Democratic Forces (UEDF). The CUD and UEDF did not last long, they were incorporated in the current opposition coalition of eight political parties, that is the Ethiopian Federal Democratic Unity Forum (Medrek) launched in June 2008. The May 2005 parliamentary elections were generally peaceful but the post-election period was marked with 26 deaths in the country's capital and arrests of opposition members (Pettersen and Salvesen 2006). This highlights deep political repression and human rights violations that endangered advancement of electoral process in the country. Ethiopia's historical and current record on human rights is atrocious. Ratification of the ACDEG in 2008 by Ethiopia signified its readiness to address such electoral challenges in future.

However, the ruling party and its affiliated parties won of 545 of 547 seats to remain in power for a fourth consecutive five-year term during parliamentary elections in 2010 (Tronvoll 2011). In 2015, again the EPRDF and coalition parties won all 547 seats and retained power for a fifth consecutive five-year term. The parliamentary elections were encompassed by electoral modifications including political party funding, redistribution of media airtime during campaigning and various languages voter education because of the NEBE 2010 post-election evaluation which took place in 2011. The 2015 elections confirmed that authoritarian rule still thrives in Africa. This confirms that democratic transition processes through electoral contests can be exposed to manipulation so profoundly to render elections apparatuses of authoritarian rule (Schedler 2006).

3.3 Research Findings

The main question of this study is "has the ACDEG been effective in promoting free and fair elections through EMBs in Ethiopia and Lesotho from 2007-2015? This study revealed that the ACDEG was ineffective in promoting free and fair elections through EMBs in Ethiopia's 2010 and 2015 elections. This is due to Ethiopia's partial adoption and inconsideration of the ACDEG electoral rules; inefficient administrative performance and ineffective dispute settlement which curbed EMBs ability to enforce

practically inexistent electoral rules. This manifested in electoral fraud, electoral irregularities amid coerced acceptance of electoral results in 2010 and general acceptance of results in 2015 after a silent objection concerning discrepancies of votes cast which exceeding the figure of registered voters at stations. "The hegemonic aspirations of the EPRDF are confirmed and reinforced by the legacy of an inherited authoritarian political culture. In such conditions, elections have not led to development of democratic practices" (Gudina 2012). Both Ethiopian elections regenerated the same level of one-party dominance which was reinforced by the partial adoption of more sophisticated and appeasing requirements within the ACDEG, without in fact leading to greater democratization in the nation. Data gathered was considered into four themes: rule enforcement, administration, mediation, and integrity and validity. Themes are discussed below using data collected from case studies.

3.4 Rule Enforcement

The ACDEG obliges states to design legal channels and institutions responsible for enforcing electoral rules which is a key component of electoral governance rulemaking. That is, formation of regulatory bodies that define rules of electoral competition and configuration of a basic framework of democratic elections. Though Ethiopia has necessary institutions and frameworks to offer sufficient foundation for the conduct of fair elections, its implementation of those rules deviated from significant electoral rules projected by the ACDEG. It has the necessary legislation to accommodate electoral assistance from EMBs, but it denied its NEBE from receiving adequate essential electoral assistance it deserved by inviting very few EMBs.

3.4.1 Elections: 2010

During the 2010 elections it rejected a request by the Embassy of the United States of America to deploy observers on Election Day because observer from diplomatic missions' lack sufficient expertise to conduct election observation (European Union Election Observation Mission 2010). Ethiopia imposed a ban against the US diplomats which it lifted a day after the elections. It invited the EUEOM, the AUEOM and the Carter Center to provide electoral assistance for the 2010 electoral contest. The

EUEOM and AUEOM welcomed the invitation whilst the Carter Centre declined the invitation on the basis that it was a late invitation which compromised its election observation readiness (BBC News 2010).

3.4.2 Elections: 2015

The NEBE only invited the AUEOM to offer electoral assistance for the 2015 elections and the invitation was welcomed. The AUEOM was the only international EMB present due to Ethiopia's distrust of foreign observers. However, this can be because the AUEOM already has a guest status in the country and it did not indicate most of the 2010 electoral irregularities in its report that were observed by the EUEOM which did not receive an invite this time around. Therefore, Ethiopia suffered inefficient administrative performance because of its suspicion of foreign EMBs. Ethiopia openly exercised its right to assess necessity of inviting foreign EMBs disregarding any international conventions to which Ethiopia is a signatory to. It evaluates their ability to be independent. It denied them licences at its own discretion yet the ACDEG clearly specifies that state parties must invite and allow EMBs to observe their elections.

Hence, Ethiopia encompasses deep negligent inconsideration of electoral rules and unruly reluctance to minimally adopt the ACDEG provisions and enforce them. It sets a stage for the NEBE to inappropriately implement formal electoral guidelines envisioned by the ACDEG. Ethiopia's week rule making capability provides room for election fraud from the onset. This is largely due to its effort to restrain external EMBs and to limit electoral institutions monitoring elections. EMBs have a role to enforce electoral laws but they depend on the go ahead by the host state. The NEBE functions to deter electoral law enforcement through ridiculously applying its election legislation in a manner that bests suit the state. The ACDEG has no power over political will of its member states, and it does not exercise authority over incumbent incompetent EMBs.

3.5 Administration

3.5.1 Elections: 2010

The NEBE failed to guarantee balanced coverage of state-owned media by providing the ruling party more than 50% of print and broadcast media (European Union Election Observation Mission 2010). The Ethiopian government justified jamming media platforms on the basis that it had the right to prevent foreign interests from undermining the country's stability and development (Human Rights Watch 2010). Though the EUEOM witnessed these discrepancies, the AUEOM was unable to track those accusations of unequal media because it arrived late in Ethiopia due to late invitation from the NEBE. Nonetheless, it met some political parties who voiced discontent with the political campaigning; they alleged that they had not been allowed reasonable media and physical space to campaign though the AUEOM could not confirm those accusations (The African Union Commission 2010). The AUEOM could have knowingly failed to acknowledge the media bias out of consciousness of the guest status it has in Addis Ababa. Yet the ACDEG specifically advises the EMBs to engage in observations in an objective, impartial and transparent manner.

The NEBE provided insufficient voter information in 2010 and excluded the CSOs from participation as by the new and more restrictive Ethiopian Charities and Societies Law hence limiting the function of organizations in electoral contestations (European Union Election Observation Mission 2010). It conducted voter registration six weeks before elections and hence could not inspect for multiple registration. However, it accommodated the extension of candidate registration deadline subsequently requested by the National Joint Council for Political Parties (European Union Election Observation Mission 2010). Except for the EPRDF, financial confines affected most political parties contributing to poorly systematized, inexpert, and internal discipline lacking elections. The NEBE made frequent appeals for peaceful elections even though it failed to curb campaign violations, harassment and intimidation by the local administration, police, and the ruling party, which ultimately intensified during last weeks before elections.

EUEOM raised a concern to the NEBE about fear opposition candidates regarding consequences of their political activities. This was due to regular filming of opposition rallies by the Information and Communication Bureau of the Government's Office for Communication as it was intimidating (European Union Election Observation Mission 2010). In the Tigray Region the EUEOM failed to confirm accusations against public authority's abuse of power by trading food aid in exchange for political loyalty. The Ethiopian government grassroots-level observation machine present in each community through the system of kebele (village or neighbourhood) administrations, through which the government applies pressure on rural population; coerced and harassed citizens to support the ruling party through use of incentives like fertilizers and discriminatory tendencies if they support the opposition. (Human Rights Watch 2010).

The NEBE gave the EUEOM an inconsistent polling station lists to that provided by constituency electoral officials which resulted in an inaccurate figure of polling stations. In many observed polling stations, the voter register was not displayed to party agents, preventing them from detecting possible changes since it was closed (European Union Election Observation Mission 2010). According to the AUEOM, some polling stations had a considerable number of spoilt votes and the canvass ballot boxes were not voter-friendly because the size and opening were too small. In some polling stations voter cards' signatures on registration did not match those prior to voting and other cards were not systematically smashed as required by procedures (The African Union Commission 2010). Other people were allowed by the NEBE officials to vote without their voter cards. The figure of ballots received in some stations was not checked against the figure provided by the NEBE issued document, making it unbearable to settle this figure with quantity of ballots during closing (European Union Election Observation Mission 2010).

Though the NEBE announced provisional results timely within 48 hours after polling stations closed, it failed to curb correction or completion of incomplete and incorrect results forms from nearly half of the polling stations at constituency electoral offices which compromised transparency of the process (European Union Election

Observation Mission 2010). Due to national security reasons the NEBE was unable to issue details of polling stations inside military barracks, raising the question of whether polling should occur in locations that cannot be freely accessed and observed. The NEBE announced a quarter of polling station results which were dissimilar to those formerly recorded by observers at polling stations though the official results and victory of the EPDRF were confirmed and accepted by most parties (European Union Election Observation Mission 2010). Furthermore, recorded figures for invalid and unused ballots were extremely inconsistent. EUEOM observers' records of polling station counts for valid and invalid votes and unused ballots varied in more than half of the cases. The AUEOM appears to be biased in favour of Ethiopia since it deemed the 2010 elections coupled with such immense electoral fraud as free and fair. The ACDEG clearly has no impact of EMBs that should protect against discriminatory electoral rules.

3.5.2 Elections: 2015

Most political parties did not fully exploit free airtime on electronic media and columns provided by the NEBE because of inappropriate political party campaign messages submitted to media houses which were screened for revision (The African Union Commission 2015). However, the NEBE allocated 10% free airtime for women candidates on electronic and print media. It engaged in continuous voter education from 2011 by producing manuals for training in diverse languages to accommodate interaction with potential voters through their preferred languages. It collaborated with the CSOs in designing and producing those voter education manuals (The African Union Commission 2015). It provided a figure of registered candidates but failed to produce to the public a complete list of registered candidates as required by its electoral system for the purposes of authentication, entitlements, and objections (The African Union Commission 2015).

The NEBE limited CSOs from receiving more than 10% of its funding from foreign sources. Its NEBE's insufficient funds led to many candidate's withdrawal resulting to the ruling party standing alone in almost all constituencies hence already eliminating political competition. The political atmosphere since arrival of the

AUEOM in Ethiopia was calm though there were reports of violent battles between opposition supporters and the EPDRF due to deep rooted unsettled conflicts in Bonga district (The African Union Commission 2015). The NEBE officials had no control over few polling stations that opened earlier than the prescribed time due to eagerness of voters hence compromising equity of same hours of polling. The NEBE officials neglected an act of showing the ballot box as empty before opening of polls in many (The African Union Commission 2015). The NEBE provided a chance for voters including the elderly, pregnant women and nursing mothers, needing assistance to be provided with help mainly by a person of their choice including election officers. The AUEOM observed that counting was delayed for about an hour after polling stations were closed. Inconsistencies in counting procedures occurred were the number of votes cast exceeded the figure of registered voters at the stations, surprisingly political party agents who were present but did not object about those discrepancies (The African Union Commission 2015). Besides improving on voter education, CSOs inclusion and women participation, EMBs in Ethiopia faced logistic challenges and violence which they failed to address. This contributed to the many electoral irregularities. The ACDEG only leave states to implement its provisions, it lacks the capacity to ensure that those electoral principles are practically implemented.

3.6 Mediation

3.6.1 Elections: 2010

The ruling party instigated rallies in dissatisfaction against the Human Rights Watch report that was published on 24 May which powerfully criticized the 2010 elections (European Union Election Observation Mission 2010). The NEBE failed to prevent unwillingness from local election officers and the police to reveal grievances to observers to the extent that they sometimes denied having received complaints which the EUEOM would have had received and officially filed (European Union Election Observation Mission 2010). The NEBE rejected the calls for re-elections by the AEUP and Medrek party and its decision was also confirmed by the Federal Supreme Court (FSC) to which the matter was appealed.

However, the NEBE trained three frames answerable for handling all election-concerned grievances such as intimidation during campaigning. The frames include the judiciary; the NEBE at national level together with its Grievance Hearing Committees at polling stations, regional and constituency level and the Joint Councils for Political Parties (European Union Election Observation Mission 2010). The NEBE experienced challenges including reluctance of opposition parties to initiate litigation since they believed that the ruling party dominated the judiciary system. More so, police and local militias were often the alleged perpetrators of such violations (European Union Election Observation Mission 2010). It received reports that hospital authorities did not release medical reports to substantiate physical injuries allegedly committed on opposition party members (European Union Election Observation Mission 2010). It also became aware of 13 cases of land, food aid, professional relocations of political party supporters and six illegal detentions. The NEBE called for mediation and referring cases to the police and Joint Councils.

3.6.2 Elections: 2015

The AUEOM performed its observation on polling day, though in three cases, observers were bothered to obtain clearance from NEBE before gaining access into a polling station yet it does not need that clearance in terms of the AU Declaration on the Principles Governing Democratic Elections and the Electoral Law (The African Union Commission 2015). The NEBE used similar complains and resolutions channel to those used in the 2010 elections. (The African Union Commission 2015). The NEBE satisfactorily engaged in mediation to form a coalition government. But it embraced deceitful approaches and ineffective settlement of disputes by dismissing complains to cover malaises and maladministration of its officials' electoral offences such as incomplete formation of the Grievance Hearing Committees at regional, constituency and polling station levels.

The ACDEG assigned EMBs to settle disputes arising from electoral processes as put forward by the rule adjudication stage of electoral governance through resolving disagreements emanating during elections. However, the NEBE turns a blind eye on electoral complains. The EUEOM could not make the NEBE attend to grievances it

was aware of. This weakened the national dispute mechanism as opposed to what the ACDEG intended. Ethiopia's pitiable rule adjudication approach compels acceptance of officially declared results due to the absence of an alternative impartial and legal means to settle disputes.

3.7 Integrity and Validity

3.7.1 Elections: 2010

The AUEOM pre-election assessment mission determined that the environment was favourable for the holding of elections after a two-day conference with electoral stakeholders including the political parties, CSOs and the United Nations Development Program (UNDP) in Ethiopia (The African Union Commission 2010). It also concluded that conditions existed for voters to freely express their will through peaceful conduct and active participation in the electoral process. The AUEOM report submitted to Ethiopia had the following recommendations:

- strict observation of the code of conduct for campaigning
- adequate voter and civic education before Election
- an improved and secured ballot box to meet international standards
- an improved voters' register and voters' card to prevent possible manipulation
- an enabling environment to increase civil society participation (The African Union Commission 2010).

The EUEOM observed that electoral officers failed to dismiss opposition revelries' mistrust from the 2005 elections aftermath had caused fragmentation of the main opposition forces (European Union Election Observation Mission 2010). Imprisonment of leading opposition figures and departure in exile of one opposition leader contributed to cumulative narrowing of the political space within the country. The EUEOM autonomously concluded the 2010 electoral process fell short of international commitments for elections, notably regarding transparency of the process and lack of a level playing field for all contesting parties. Insufficient efforts were taken to ensure a more equitable and representative electoral process. Its report to Ethiopia had the following chief recommendations:

- homecoming of exiled opposition leaders and release of imprisoned opposition leaders to reinstate assurance in the democratic process
- funding of political parties and capacity-empowering programmes for political parties
- avoidance of misappropriation of state resources during the campaign by a clear separation between the ruling party
- a computerised voter register for future electoral processes to ensure its accuracy
- accessible voter register copies to all political parties and consideration by the NEBE to form a permanent and national voter register (European Union Election Observation Mission 2010).

3.7.2 Elections: 2015

The 2015 pre-election assessment by the AUEOM team declared Ethiopia as conducive upon receiving a comprehensive briefing from the NEBE, senior officers of police, the media and the national office of the Ombudsman (The African Union Commission 2015). It concluded that the Parliamentary Elections were calm, peaceful, and credible as it provided an opportunity for the Ethiopian people to express their choices at the polls.

The AUEOM 2015 recommendations included:

- the consideration of creating a national civil registry to make it possible for easy audit and verification by electoral stakeholders
- better measures to enhance public trust in the electoral process by adopting serialised ballot papers, better quality indelible ink and appropriate ballot boxes
- improved training of all polling staff to enhance compliance with the stipulated polling hours limit of 1,000 voters per polling station as stipulated by the Electoral Law
- capacity enhancement of CSOs and the media to issue public reports during the electoral process (The African Union Commission 2015).

The AUEOM refrained from reporting on irregularities it witnessed such as unfair media coverage, violence and complains dismissal. This could be for the purposes of maintaining good relations with Ethiopia. The EUEOM which invalidated the 2010 did not receive invitation in the 2015 elections. Hence, the ACDEG principles really depend on state invitation for execution to take place.

3.8 Summary

3.8.1 Elections: 2010

Specific chief flouts the research erupted in the 2010 elections which include opposition repression, unequal party financing, unfair media coverage, CSOs restrictions, unreliable voter register and restricted freedom of speech. Vote rigging tendencies included unsecured ballot boxes and inconsistent results. The NEBE did extend the registration deadline for political parties upon request.

3.8.2 Elections: 2015

In the 2015 elections vote riggings through inaccurate figure of polling stations, closed voter register, possibility of multiple voting through unchecked figure of ballots, mismatch of voter cards' signatures on registration and voting, acceptance of incomplete forms from polling stations and undisclosed polling stations inside military barracks. The NEBE conducted informative voter education with the assistance of the CROs.

The ACDEG obliges states to invite EMBs to provide electoral assistance and observation secure credible elections. Even though EMBs were present in Ethiopia's elections, both the 2010 and 2015 elections were coupled by electoral fraud and irregularities which compromised integrity of the election process which is equally important for consolidation of democracy, hence the EUEOM deemed the 2010 contestation as far from free and fair, even though the AUEOM concluded that both elections were fair. A critical assessment about the AUEOM assessment of elections in Ethiopia could perhaps be compromised since the Addis Ababa plays host the AU Commission. Hence the AUEOM could have functioned with consciousness of its guest status in Ethiopia even though it is technically and legally a continental

structure. The EUEOM criticised the polls as they fell short of international standards and encompassed election fraud (BBC News 2010). This led to Ethiopia's increased resentment of foreign EMBs which it rejected in the following 2015 elections also marked by irregularities but nevertheless were pronounced as free and fair election by the AUEOM only present. Hence, the EMBs crucial responsibility as a kingpin for electoral governance through electoral assistance and observation to secure credible elections is was narrowed. The quality of elections administered by electoral institutions has significant correlations with the level of democracy and governance in a nation. The ACDEG was ineffective in promoting free and fair elections in both Ethiopia's elections due to Ethiopia's political will, NEBE incompetence, discriminatory electoral rules and massive electoral irregularities.

CHAPTER FOUR

LESOTHO: A DISCUSSION OF FINDINGS

4.0 Introduction

This chapter discusses implementation of the ACDEG and its impact on free and fair elections in Lesotho. Lesotho signed and ratified the ACDEG in 2010. The section evaluates implementation of the ACDEG in Lesotho using sub questions designed in accordance with phases recognized in electoral governance theoretical framework. The chapter evaluates functions of the EMBs during electoral contests of Lesotho in 2012 and 2015. It scrutinizes electoral disputes, ways in which they were resolved and how EMBs impacted integrity of elections. The sub questions addressed by the research were mentioned in the preceding case discussion section.

4.1 Legal Frameworks

Lesotho is a state party to numerous international treaties which it ratified including the 1976 International Covenant on Civil and Political Rights; the 1969 International Convention on the Elimination of All Forms of Racial Discrimination; and the 1948 Universal Declaration of Human rights (United Nations Human Rights Office of the High Commissioner 2014). Continental accords Lesotho is a party to include the 1981 African Charter of Human and People's Rights; and the 2002 African Union Declaration on Principles Governing Democratic Elections in Africa (African Commission on Human and Peoples' Rights 2017). It is also a member state of the SADC Principles and Guidelines Governing Democratic Elections which promote free and fair elections (Southern African Development Community 2012).

The Constitution of Lesotho; the National Assembly Elections Act and related electoral laws provide the basis to regulate and manage elections as intended by the ACDEG (Lesotho Government Portal 2016). The Electoral Code of Conduct and Registration of Political Parties have clauses on freedom of expression; vote counting and results; election observation and complain handling mechanisms (Independent Electoral Commission 2016). The Office of the Ombudsman strives to uphold just, fair

and accountable practices to prevent injustice, infringement of fundamental rights and freedoms and maladministration because of public entities (The Office of the Ombudsman 2012). Through these legal frameworks, Lesotho adequately strengthened the IEC responsible for election management as a member state to the ACDEG.

4.2 Background of Lesotho

Lesotho is a parliamentary constitutional monarchy with the King as head of state and the prime minister as head of government holding executive powers. The country has a bicameral parliament with two houses, the Senate being an upper house and the National Assembly as a lower house with hereditary and appointed chiefs (Beale 2013). Lesotho was once under authoritarian rule between 1976 and 1986. From 1986 to 1993 it was under a military government which collapsed amid the 1993 elections (Maundeni 2010). The nation held parliamentary elections in 1993, 1998, 2002, 2007, 2012 and 2015. Lesotho has a coalition government comprising of seven parties with the Democratic Congress and the Lesotho Congress for Democracy as two main leading parties whilst the All Basotho Convention (ABC) and Basotho National Party (BNP) are the main opposition parties. Elections that were held in February 2007 where deemed free due to the absence of violence but were not fair because of irregularities such as voter turnout and slow vote counting by incompetent officials (Matashane-Marite et al. 2007). Lesotho's ACDEG ratification in 2010 indicated its inclination to solve electoral difficulties in imminent elections.

Nevertheless, the 2012 election produced a new record of a coalition government in the nation's history, commanded by Thomas Thabane's All Basotho Congress (ABC) party, the LCD and BNP (SADC Parliamentary Forum Election Observation Mission 2012). Political tensions increased within the coalition in 2014, culminating to an attempted military coup d'état which threatened the democratically elected Thabane to flee to South Africa. As part of the SADC facilitated transition process, a peace deal was negotiated among Lesotho's political parties through the Maseru Facilitation Declaration and the Maseru Security Accord signed on 2 October 2014 (SADC Parliamentary Forum Election Observation Mission 2015). Mediation by South

Africa's Deputy President Cyril Ramaphosa, supported by SADC, and various external third-party led to snap elections in February 2015. Those elections led to another coalition comprising of seven political parties. Thabane handed over power to the new Prime Minister, leader of the DC Pakalitha Mosisili. The 2015 elections took place against the framework of political and security uncertainties though they legitimated a change of leadership. The elections were only to restore constitutional order. The 2015 coalition collapsed after calls by parliament to replace the Prime Minister with Monyane Moleleki of the Alliance of Democrats (BBC News 2017). Had Lesotho formulated legislation to guide a coalition government as previously advised by the SEOM, this recent change of government could have been avoided. Hence, Lesotho is dubiously compliant to the ACDEG principles.

4.3 Research Findings

To unpack the main question, the ACDEG was ineffective in promoting free and fair elections through EMBs in both Lesotho's elections. This is because of limited application of the ACDEG electoral rules and ineffective administrative routine which constrained EMBs from consistently implementing the ACDEG. The IEC experienced delayed voter education and appearance of deceased persons on voter's roll. This point to realities democratic transitioning states undergo. Though the 2012 and 2015 elections marked the defeat of the LCD and opposition victories since 1998, both elections were preceded by conflicts, inhumane treatment and torture of opposition members by police which impelled SADC intervention in both situations. Moreover, post-election violence occurred after the 2012 elections targeting the ruling party's ministers (Weisfelder 2014). The ACDEG could not curb these irregularities in the absence of Lesotho's political will to deter violence and intimidation and. Ineffectiveness of the ACDEG was also caused by the IEC's incompetency to enforce the Electoral Code of Conduct which could have resolved political intolerance. The path to attaining democracy in Lesotho's has a lot of challenges. Data collected was categorised into four themes mentioned in the previous section.

4.4 Rule Enforcement

The ACDEG specifically advises states to establish legal channels and institutions responsible for enforcing electoral rules which is concurrent with electoral governance key component of rulemaking which entails formation of regulatory bodies that define rules of electoral competition, and configuration of the basic framework of democratic elections. Lesotho has the needed regulatory bodies and frameworks to permit execution of free and fair elections as intended by the ACDEG. It openly invited EMBs to confirm impartiality of the IEC and legality of its electoral processes through accessing all election related materials and information. But it reserves the right to choose and vet who can observe their elections, just like Ethiopia, the only difference is that Lesotho is less explicit about it.

4.4.1 Elections: 2012

In the 2012 elections, Lesotho resorted to inviting few foreign EMBs, it welcomed many continental EMBs except for the UNDP-NAM which already had operations in the country prior to elections. This could be due to the relation Lesotho has with regional institutions in Africa. This confirms suspicions of foreign EMBs and preference of continental EMBs. EMBs invited by Lesotho include the AUEOM, EISA-EOM, COG, SEOM and UNDP-NAM.

4.4.2 Elections: 2015

The IEC invited all five EMBs which it previously welcomed during the 2012 elections. However, the quality of observation in the 2015 elections was undermined by discrepancies in the EMBs findings. SEOM observed that Lesotho lacked the legislative framework necessary for establishing a coalition government and its functioning, whereas EISA-EOM did not observe such aspect as a critical one (SADC Parliamentary Forum Election Observation Mission 2015).

The Lesotho failed to nurture results yielded from elections by not amending its law to incorporate rules and regulations for a coalition government. The IEC loosely enforced electoral laws to facilitate smooth elections. Hence the IEC functions to bred political intolerance and intimidation, yet the ACDEG depends on the state's capacity

to fully execute its principles in a politically stable environment though it masks its faults by openly inviting many EMBs.

4.5 Administration

4.5.1 Elections: 2012

The COG, UNDP-NAM and SEOM acknowledged opposition parties' and civil society's impressions on improvement of media coverage though they accused the state media of favouring government campaigns (Commonwealth Observer Group 2012). The IEC applied a widespread voter education programme which commenced in 2010 during the boundary delimitation process and continued until election period. It collaborated with CSOs to implement voter education public gatherings, workshops, leaflets, and candidate debates (Commonwealth Observer Group 2012). The EISA-EOM criticized limited funds allocated for CSOs and the IEC which impacted quality of voter education provided (EISA Election Observation Mission 2013).

The IEC made efforts to remove duplicates and deceased persons names prior to publishing the voter register in the national gazette (Commonwealth Observer Group 2012). Of the 47 cases of underage person's registration, 7 were confirmed and cancelled. The IEC, with the support of the EISA-EOM immediately suspended the official who was related to one candidate whom he had transferred voters illegally (EISA Election Observation Mission 2013). It introduced instant voters' cards to eliminate the use of passports during voter registration. That resulted in multiple registrants and appearances of deceased persons names on the voters' roll (Beale 2013). Despite these challenges, the IEC made available copies of the Electors' Register to the public and stakeholders in hard copies.

The COG observed that the issue of missing pages from the voter register in one of the polling stations was promptly rectified (Commonwealth Observer Group 2012). The AUEOM observed the campaign as peaceful, despite incidents of intolerance and isolated cases of election related violence between supporters of other opposition parties (Beale 2013). Though the campaign was peaceful it started late and the timeline

was not in line with the regulations (Beale 2013). The IEC welcomed the increase of The Lesotho Defence Forces prior to elections due to an isolated incident which occurred in the industrial area of, Maseru when the Prime Minister's convoy was bombarded with stones (Commonwealth Observer Group 2012). The IEC employed indelible ink to avoid multiple voters contributed to enhancing transparency of the voting process (Beale 2013).

4.5.2 Elections: 2015

The IEC could not control the media which demonstrated bias in its coverage of election related material (African Union Election Observation Mission 2015). (Commonwealth Observer Group 2015). Voter education was delayed due to insufficient funds. The CSOs emerged as a vital mainstay strengthening Lesotho's political and electoral settings through being involved in civic education campaigns throughout the state (EISA Election Observer Mission 2015). Voter registration was continuous from previous elections; hence the IEC only gave a two-week period to update the register which was insufficient as some voters had the possibility to miss the window period due to movement to new areas of residence. (African Union Election Observation Mission 2015). There were concerns about names of deceased persons that continued to remain on the register from previous elections though the IEC made efforts to eliminate duplicates and deceased people's names, as well as transfer of voter's names from one location to another (SADC Parliamentary Forum Election Observation Mission 2015).

Campaign rallies all over the nation were rather peaceful, with an isolated reported incident of a shoot-out between security personnel (African Union Election Observation Mission 2015). Despite the presence of SADC security contingent in the run-up to the polls and the period over and after the polls, elections were held in a context of tense political and security environment and uncertainty given events that preceded them. The IEC welcomed the intervention and traditional role played by SADC member states to deploy an estimate of 400 additional police officers to enhance security during and after elections (SADC Parliamentary Forum Election Observation

Mission 2015). Not only did SADC provide election security, it had ongoing mediation aimed at finding permanent peace and security in the Kingdom of Lesotho.

The IEC performed various tasks including improved voter education, CSOs involvement and publicised the voter register. It encountered electoral irregularities such as unfair media coverage, recurrent of deceased voters and missing pages in the voter register. The ACDEG empowers states to implement its provisions, but it also lives room for manipulation by EMBs since there are no measures to fully regulate them.

4.6 Mediation

4.6.1 Elections: 2012

The IEC assured the COG that the increased military presence because of the attack on the Prime Minister's convoy would not interfere with the Group's mission to safeguard peaceful elections. It worked with COG, advised and updated them of their extensive processes from the onset to the end of elections. Given the political crisis that had precipitated the National Assembly Elections and the mediatory role of SADC, the AUEOM, SEOM, and EISA-EOM released a joint press statement commending the IEC for its commitment and efficient way it managed the elections (Commonwealth Observer Group 2012).

The IEC tribunal and Panel heard three cases including complaints about misuse of government resources and two cases on supposed misuse of government vehicles for campaigning. The EISA-EOM witnessed the IEC placement of consultative structures responsible for conflict management mechanisms which include the Party Leaders' Forum, Party Delegates Forum, Logistics Committee, Data Committee and Monitoring Committee (EISA Election Observation Mission 2013). The District Dispute Resolution Committees comprising representatives of different political parties dealt with complaints relating to abuse of state resources (Beale 2013). At least three cases of election related disputes were brought before the Tribunal during the run-up to Lesotho's 2012 elections.

4.6.2 Elections: 2015

Minimal disputes that emerged after the candidate nomination process were referred by the IEC to Commission's Dispute Resolution mechanism. The UNDP-NAM supported the High Court and the IEC in a one-day refresher training for all twelve judges and conflict management in preparation for potential litigations and dispute resolution related to elections (UNDP 2015). District Dispute Resolution Committees and the Panel responsible for dealing with complaints relating to abuse of State resources during campaigns were functional as set up by the IEC.

The ACDEG obliges EMBs to settle disputes as suggested by the rule adjudication phase of electoral governance over determining discrepancies originating from elections. The IEC established effective conflict management mechanisms to ease the burden of electoral challenges at different stages including the Party Leaders' Forum, Data Committee and the Tribunal which addressed matters of coalition government in initial stages to the satisfaction of many political parties. The IEC engaged in a series of effective mediation and settlement efforts which enabled it to settle election disputes timely and successfully handled electoral related challenges leading to acceptance of the officially declared results through robust dispute mechanisms as proposed by the ACDEG. Lesotho's admirable rule adjudication approach captivated opposition parties to willingly accept officially declared results because of the presence of a dedicated legal channel to settle disputes.

4.7 Integrity and Validity

4.7.1 Elections:2012

The EMBs offered electoral support during the 2012 elections and welcomed an opportunity to put a joint effort towards observing Lesotho's elections (Commonwealth Observer Group 2012). They concluded that the political atmosphere was generally peaceful and conducive for the holding of transparent elections and none of the shortcomings materially affected credibility and transparency of the election process and results. Hence the elections were free and fair according to all the

observers (SADC Parliamentary Forum Election Observation Mission 2012). However, several matters existed which needed attention such as:

- a clean and reliable register prior to the next election
- that the process be started immediately and that it should provide clarity regarding the delimitation of boundaries (SADC Parliamentary Forum Election Observation Mission 2012)
- fix personal identity cards to avoid multiple registrants and under-age voters (SADC Parliamentary Forum Election Observation Mission 2012).

4.7.2 Elections: 2015

All EMBs concluded that the elections were peaceful, transparent and reflected the will of the Basotho people. Also, that the process was a credible reflection of the will of most of the people who voted. The COG illustrated that shortfalls observed were not significant enough to question credibility of the outcome (Commonwealth Observer Group 2015)..

The AUEOM and SEOM recommended that the parliament should undertake:

- comprehensive constitutional reforms to address aspects of coalition government mechanisms and floor-crossing in Parliament
- establish an effective media regulatory framework that safeguards the media maintains neutrality in coverage of elections (African Union Election Observation Mission 2015).
- The EISA-EOM and COG urged the IEC to embark on an extensive comprehensive review of the voters' roll to confirm that all deceased voters and double entries are removed and advance the process through which the IEC receives data about deceased voters (EISA Election Observer Mission 2015).
- The IEC, as suggested by the UNDP-NAM should reflect upon conducting the nomination process through the internet using the IEC website to speed and reduce time factor and resource engagement, it becomes more cost effective and accurate (UNDP 2015).

4.8 Summary

4.8.1 Elections: 2012

The 2012 Elections in Lesotho had significant irregularities. These include unfair media coverage, limited funds for voter education, inadequate voter register cleaning, appearance of deceased and underage voter. Illegal voter transfer and challenges in synchronizing previously existing voters' data base to the Mobile Registration Units, lack of a comprehensive review of the voters' roll, unfair media coverage and limited funds for voter education compromised the holding of free and fair elections.

4.8.2 Elections: 2015

The main challenges in the 2015 elections in Lesotho were delayed voter education, challenges in updating voter register, unfair media coverage to opposition parties, limited funding due to sudden elections, violence and intimidation.

EMBs are necessary instruments to reserve and reinforce democratic alliance through solidification of IECs by offering electoral support and autonomously screen administration of elections. Thus, preserving electoral governance and monitoring rule application. The presence and assistance of EMBs in Lesotho's elections did not necessarily curb electoral fraud and electoral irregularities such as illegal voter transfer, and challenges in synchronizing the voter register. EMBs present in Lesotho's contests certified the elections as free and fair, even though there were significant irregularities including multiple registrations and appearances of deceased persons names on the voter's roll. Hence, the IEC failed to safeguard genuine elections which was largely influenced by logistical challenges and an unstable political landscape. EMBs are crucial in diminishing conflicts during election times. The EMBs could have certified those elections just to maintain order, considering the social unrest and mediation prior to elections. EMBs accepted the technically faulty elections for the sake of fostering immediate political stability. Yet the ACDEG entrusts them to be concerned about the freeness and fairness of elections since unfair elections impact a nation's government in the long run.

Lesotho's 2012 and 2015 elections exposed its inability to fully adopt the ACDEG. Managerial routines such as illegal voter transfers manifested the ACDEG ineffectiveness in promoting free and fair elections through EMBs. Lesotho's partial commitment to the ACDEG's electoral norms triggered EMBs inability to implement prevailing electoral rules. That led to electoral fraud, irregularities including violence, limited state resources and underaged voters in both elections. Challenges witnessed in Lesotho are much like encounters that occurred in Ethiopia in 2010 though Ethiopia's elections were deemed unfair by the EUEOM. This demonstrates the limited capacity of the ACDEG to hold EMBs accountable to truthful reflection of their findings since EMBs are only organization, not member states. The ACDEG falls short of the ability to address EMBs discrepancies, yet EMBs are crucial in certifying and validating elections as free and fair.

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

This study provided an investigation of the ineffectiveness of the ACDEG in nurturing free and fair elections through EMBs since its inception in Ethiopia and Lesotho from 2007-2015. The objective of the research was to ascertain performance of EMBs on rule consolidation, electoral administration, and dispute settlement under guidance of EMBs in the quest to manage electoral challenges. Also, to attain free and fair elections which are integral and detrimental to democratic governance in a nation. The investigation set out to expose accomplishments and flaws of the ACDEG to provide remedies that would aid to reinforce the ACDEG operations in effectively conveying its electoral obligation of promoting free and fair elections. The ACDEG pursuit of placing African nations on a path towards democratic governance and upholding human rights is crucial. The first chapter therefore presented an introduction and rationale to this research.

Chapter two provided an appraisal of the pertinent literature about democracy, governance, EMBs and elections. It exposed positive connections among themes, which include that elections are a channel by which citizens democratically participate in validation of political and administrative authority that govern nation's affairs. It also provided the negative impact of EMBs in cases where they are biased and how elections serve to facilitate authoritarian regimes. It revealed that no matter the variance around democracy, democracy is inexistent without the government of, by or for the people, hence reinforcing the utmost importance of elections. It uncovered a significant aspect that has not yet been thoroughly researched and prepared for by the ACDEG which justifies nations' inability to achieve free and fair elections in the presence of EMBs. The study sealed this gap by identifying that some nations with dissimilar governments are incapable of fully adopting the ACDEG and conducting integral elections due to political instability, discriminatory electoral rules and political will.

The third chapter provided an analytical overview of Ethiopia's implementation of the ACDEG through EMBs that were present during the 2010 and 2015 elections. This segment of the study concentrated on the NEBE's electoral administration and its influence on exacerbating electoral challenges instead of curbing them. Ethiopia's electoral law seemed to be an instrument of facilitating electoral irregularities in both elections. Ethiopia's case enlightened how elections kept the EPRDF party in power and incapacitated relevant institutions from enforcing the ACDEG. This gave room for electoral fraud and failure to attain free and fair elections. Existence of varied democracies explains state's reluctance to adopt the ACDEG. This confirms that variances exist in African states' democratisation experiences and democratic institutions decline is prevalent. The ACDEG which strives to defend democratic governance, may be out of step with African states' governance agenda. This also explains why most African states have not yet ratified the ACDEG.

The second ACDEG weakness identified was its limited capacity to monitor and hold states accountable. Once a state has signed and ratified the ACDEG, the AU lives signatory states the comfort to or not to comply with their obligations since there are no sanctions or regulations governing state's compliance. Despite establishment of essential institutions and frameworks to provide a foundation for conduct of credible elections, ineffectiveness of the ACDEG by not regulating states' compliance harbours undying electoral irregularities on going in African nations' elections. This is evident in Ethiopia's failure to have integral elections though it has establishments to curb electoral fraud and irregularities. This shows that establishment of electoral frameworks and institutions has minimal effect on a nation's willingness to fully accede to the ACDEG.

Considering the comprehension of democracy in Africa, it is worrisome to realize that the most recent mechanism to consolidate democratic governance and uphold human rights, the ACDEG, was negligently and inadequately applied and failed to overcome electoral challenges. This lives little hope for plausibility of democracy in Africa due to prejudiced elections. Ethiopia's case confirms the argument that democratic transition processes through electoral contests are unprotected to state manipulation

and repress democratic principles of freedom so overwhelmingly and steadily as to diminish the ballot box power to an instrument of election rigging rather than a toll for democracy (Bogaards 2000) and (Schedler 2006). Elections can be apparatus of authoritarian rule rather than instruments of democracy. Validation of Ethiopia's 2010 elections as free and fair by the AUEOM whilst the EUEOM refuted those elections shows that African establishments are swayed by weaknesses. They exercise a minimal degree of institutionalisation in the broader societies they represent.

EMBs were criticised as sources of strategic manipulation of elections in the literature review. This implies that EMBs and their undertakings are not actually valuable with regards to democratic consolidation and electoral integrity. Instead, EMBs are associated with expanding foreign policy using election observation in developing nations (Geisler 1993) and (Simpser and Donno 2012). Ethiopia's case reveal that African political factions are afflicted by feeble establishments, minimal degrees of institutionalisation and frail associations to the wider society they represent. This results in suspicion of the very institutions charged with promoting and upholding democratic governance such as the AUEOM biased observation in Ethiopia during both elections.

The forth chapter laid the ineffective implementation of the ACDEG in Lesotho through the IEC's management of the 2012 and 2015 elections. It dealt with commitment of the IEC in working with CSOs and EMBs as a response to Lesotho's obligation to the ACDEG. This chapter demonstrated that electoral irregularities are perceived to be the norm in Africa and can be realized in different locations with varying political systems. Lesotho's case enlightened that EMBs could render conflicting election validity outcomes on elections that experienced similar irregularity trends. History keeps repeating itself in Lesotho due to party fragmentation and political instability. Lesotho's case elaborates that technically flawed elections are regularly accepted as credible for peace and security reasons that are delinked entirely from their technical demerits.

The EMBs in Lesotho validated both elections as free and fair though they experienced similar irregularities to Ethiopia's elections such as unfair media coverage to opposition parties, violence and inadequate voter education. Lesotho's irregularities were due to inefficient management by the IEC which functioned in a politically unstable context with limited funds and timeline to deliver integral elections. This shows that transparent electoral management is necessary to translate consent of the governed within competitive elections (Dalton et al. 2007). EMBs in Lesotho consciously ignored many irregularities they observed and validated both elections as free and fair. However, those free and fair elections of 2015 did not manifest in a stable democratic government. Instead, they resulted in a collapsed government. Those elections proved to be of no benefit to survival of Lesotho's government. Prejudiced monitoring and validation of elections by EMBs negatively impact the future of an unfairly elected government. EMBs can impact negative consequences to electoral events. This necessitates a regulatory compliance mechanism for signatory states by the AU to guard against such monitoring which erode the path Africa has progressed to attain democracy. The ACDEG should be acclaimed for conveying guidelines ought to be incorporated in various nation's institutions to curb electoral challenges and strengthen democracy. More importantly, the ACDEG's inability to regulate EMBs that validate elections in its state parties is a point of weakness since EMBs have the possibility to certify fraudulent elections.

Areas for Further Research

The present study exposed that there are areas within the ACDEG electoral rules that could constitute foundation for future research. There is need to compare government types and judicial models across the continent to concretely corroborate existing democracies that are ripe enough to accommodate the ACDEG electoral regulations willingly. Given the varied kinds of governments and democracies in Africa, it is of great importance to figure out how the ACDEG can be flexed and toughened enough to accommodate various democracies and move away from the one size fits all sense to attain free and fair elections, uphold human rights and progress democratic

consolidation. Also, states need to seriously consider implementing recommendations by EMBs soon after elections to guard against similar irregularities in future elections.

Policy Suggestions

The AU should amend the ACDEG to include precise and thorough necessities on non-compliance of signatory states to enhance effective execution of the ACDEG in addressing electoral matters and holding signatory states accountable. The ACDEG has provisions for states to request advisory assistance through the AU prior to elections. The ACDEG should encompass clauses to aid states during rule making time where incorporation of the ACDEG in to domestic laws and legislation takes place or during law amendments. Consolidation of domestic laws is a critical step and onset of electoral administration which informs the ACDEG implementation, that is rule application. Hence, the AU should have a standard procedure to guide rule making in domesticating the ACDEG in member states.

The AU should have reporting and resolution mechanisms operational during post-election period to monitor existence and recognition of governments who could have succeeded to access power through confirmed undemocratic elections. This serves to deter post-electoral violence. CSOs must be involved in the promotion of democratic governance. They play a crucial role of facilitating collaboration between the state and society. These organizations should be empowered to work closely with EMBs to nurture better accountability and transparency electoral processes within nations. CSOs are an important part of each nation, they can guard against undue influence by the government or political entities and aid EMBs operations. Ensuring autonomy of EMBs is important for in democratic governance in Africa.

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APPENDIX: THE ACDEG