
Voting by Illiterate or Handicapped Voters

By Zimbabwe Election Support Network (ZESN)

Whilst the Constitution of Zimbabwe contains provisions to prevent discrimination on grounds of disability, the electoral laws have not always adequately covered the rights of the visually and physically handicapped. This is, of course, part of a wider societal problem and both the state and private sector should do more to enable all persons regardless of physical limitations to participate fully in societal activities.

This includes people who are illiterate, a large proportion of whom are in the rural areas especially among the elderly. Proposals in the electoral reforms are designed to advance the rights of illiterate and handicapped voters in so far as their participation in the voting process is concerned. It is important however to analyse their effectiveness and where improvements can be made.

In particular, Clause 19 of the Electoral Amendment Act introduces a new provision into the Electoral Act which allows illiterate and physically and visually handicapped voters to be assisted by persons of their choice rather than having to rely solely on state officers such as electoral officials or the police.

In the past, illiterate and handicapped voters had to be assisted by members of the police force. This was much criticised as it allowed the state, through its officers, to invade the privacy of voters in exercising their secret ballot. In so far as the illiterate and handicapped voters, this rule effectively made redundant the whole concept of the secret ballot, which is generally regarded as sacred in the electoral process.

These concerns over the involvement of the police must be viewed against the background of electoral violence and intimidation which have been prevalent in previous elections. Police and members of security forces were often implicated in the violence, either as active participants or for taking a passive, nonchalant attitude towards violence affecting mainly opposition supporters. Therefore, involving police in the voting process was tantamount to placing the illiterate and handicapped at risk of undue influence, fear and intimidation. Their free will in the voting process was basically compromised by the involvement of the police in the voting process.

It must be noted that the overall reforms are designed to exclude the police from the voting procedures, so that their role shall be restricted only to the area of maintaining law and order. We have already observed in previous articles that police officers are prohibited from interfering with the electoral process at any polling station. The language used in the proposed provision is peremptory and does not offer the police any discretion. It says, police officers, “**(b) shall not interfere with the electoral processes at a polling station**”. They are not permitted to enter a polling station unless they have been called upon for help by electoral officers or where they are casting their votes. Also for as long as they are within the confines of the polling station, police officers come under the

command and direction of the presiding officer. This prevents the dilution of the Commission's authority.

This is the context in which the exclusion of police from assisting voters must also be viewed. The new provisions are that where a voter is illiterate or handicapped rendering him/her unable to vote without assistance, he/she may nominate a relative or other person of their choice to assist them in voting. However, in circumstances where such voters who do not have relatives or other persons of their choice to assist them, the presiding officer of a polling station and two other electoral officers can provide the assistance. The presiding officer is required to keep a register in which any person who provides assistance must record his or her name, identification particulars and the name of the voter he or she assisted to vote.

Although the administrative purpose of such a list for transparency is useful, it must be recalled that voters are generally sceptical of any procedures whereby their details are recorded during the voting process.

- **It is therefore important that the voter education processes address this issue for purposes of clarification and allaying voter fears.**

Furthermore, where the presiding officer is assisting a person, he may ask questions that are necessary to ascertain his intentions where such wishes are not clear. Here again, it must be noted that such questioning may be viewed by voters with scepticism.

- **It is recommended that presiding officers should only resort to use of this power when it is absolutely necessarily otherwise it should be used very sparingly.**
- **In all circumstances, it is important that election observers exercise vigilance to ensure that voters' are not unnecessarily questioned or harassed and that their intentions are carried out.**

On broader analysis, the new provisions are welcome departures from the old provision whereby police officers were given the power to provide assistance to illiterate or handicapped voters. By ensuring that voters bring a person of their choice it could be said to promote the voter's freedom to choice. Where assistance is given only by electoral officials, it still means that the Commission retains undiluted authority over the electoral process.

Shortcomings

Nevertheless, there are some shortcomings which require careful attention:

- Although the provisions can be said to promote voter choice in selecting who will assist them in voting, there is also the risk that the voter may be intimidated into making a choice under duress. This is especially problematic in rural areas where there is close proximity between members of the community and dependence on traditional or political authorities. It may be the case, for example that the headman who is aligned to one political party may impose on illiterate or handicapped voters persons who will provide the assistance. Therefore the whole

intention inherent in this provision of promoting voter choice may in effect be negated by such impositions.

- There is also the risk that in order to make sure voters vote in accordance with specific directions, they will be forced to declare their illiteracy, even if they are literate or can vote notwithstanding their alleged illiteracy, so that each one will be ‘assisted’ by selected persons.
 - **It is recommended that election observes and electoral officials must keep a vigilant eye on the process to ensure that illiterate (or alleged illiterate) and handicapped voters are not subjected to undue influence. Where necessary questions must be put to ensure that voters are not being “assisted” under duress.**
 - **As another solution to this problem, there is no reason why visually-handicapped voters should not be afforded Braille facilities so that they can vote without assistance from any other person. There are Zimbabweans who can use such facilities but currently are forced to rely on assistance which violates the secrecy of their vote. It is quite possible that visually handicapped voters can challenge the constitutionality of these provisions which deny them the choice to vote without seeking assistance. Braille facility is already used in such countries as Rwanda and Sierra Leone.**
 - **In respect of illiterate voters, one way to prevent having to use other persons to assist them is to allow for voters to vote using thumb imprints on the ballot paper. Ballot papers usually have the party or candidate’s symbol and/or photograph. This should be simple enough for even an illiterate voter to identify. They do not have to read and write anything – all they have to do is to look at the ballot paper and place their thumb imprint (dipped in ink) next to the party or candidate of their choice. This facility should be available and explained to voters so that they do not have to be forced to rely on so-called assistants**

Conclusion

The measures to improve voter choice regardless of illiteracy or disability are probably well-intentioned. However as we have observed, they are prone to abuse, especially in rural areas where there are greater levels of illiteracy and also a large proportion of voters. Legislators must be careful not to introduce a rule that will have a boomerang effect. The risk of imposed assistants is particularly high in small rural communities and this could effectively hamper voter choice and increase levels of vote rigging through duress.

- It is recommended that there be availability of Braille technology to enable the visually handicapped to vote in secret without assistance. Any assistance will then be available from Commission-appointed electoral officials.

- More significantly, it is recommended that so-called illiterate voters be permitted to use thumb/finger imprints on the ballot paper – pictures and symbols of candidates or parties do not require any person to be literate to make a choice. Voter education should be targeted at such voters to ensure they know exactly what to do.

Finally, these suggestions give greater autonomy to the voter. When everything is assessed, the risk of spoilt votes is less harmful than the risk of imposed assistants who will force voters to vote in particular directed ways and therefore facilitate vote-rigging.

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