

ZIMBABWE ELECTION SUPPORT NETWORK



ZESN Calls for Comprehensive Electoral Reforms and Level Political Field

Harare – 8 September 2016 – The Zimbabwe Election Support Network (ZESN) is concerned by utterances attributed to senior Government officials in the media insinuating that there will be no more electoral reforms before the 2018 harmonised elections. The utterances come against a background of numerous calls by CSOs and 2013 regional observer groups for the full alignment of Electoral laws to the Constitution as well as for the creation of an enabling political environment.

ZESN, cognisant of recent efforts by the Government to implement electoral reforms such as the General Laws Amendment Act (2016), reiterates its position that the reforms have been piecemeal, selective and inadequate. In addition, the slow pace of alignment of the country's laws to the Constitution threatens the entrenchment of democratic values and raises questions on the constitutionality of future elections in the absence of substantive realignment and reforms.

ZESN notes that there are still a number of pertinent reforms that need to be implemented as recommended by the African Union and SADC 2013 observer missions related to the electoral architecture, the political environment and ZEC operations. Furthermore, a number of provisions in the current electoral laws are misaligned with the Constitution in a number of ways and in some respects undermine the letter and spirit of the Constitution.

The African Union and SADC Election Observer Mission reports on the 2013 elections highlighted a number of shortcomings that would require review to fully conform to the Constitution, National Laws as well as to regional guidelines¹ on the conduct of elections. The African Union and SADC reports recommended that voter registration, the voters' roll, voter education, access to election material, media access, Special vote, the role of the police and legislation such as POSA be reviewed to conform to the letter and spirit of the Constitution. ZESN notes that the recommendations by the African Union and SADC observer missions are in sync with the Network's own observations on areas that require reforming. ZESN therefore reiterates that the government should demonstrate political will in

¹ The Durban Declaration on the Principles Governing Democratic Elections in Africa
The African Charter on Democracy, Elections and Governance.
SADC Principles and Guidelines Governing Democratic Elections

addressing the following areas which were also highlighted in a petition submitted to Parliament by the Electoral Resource Centre in February this year;

ZEC Independence

ZESN notes that the independence of ZEC is compromised by the fact that the Commission reports to the Minister of Justice, Legal and Parliamentary Affairs. ZESN recommends that Parliament should instead have that oversight role so that the independence of ZEC is not undermined. In addition, ZESN calls for the timeous and adequate resourcing of ZEC to enable the Commission to discharge its mandate efficiently and effectively.

Political Environment

As such legislation that hampers the enjoyment of fundamental freedoms including the Public Order and Security Act (POSA), the Access to Information and Protection of Privacy Act (AIPPA), must be repealed. In addition as recommended by the African Union there must be active involvement of civil society and other actors in the reviewing of these laws and the creation of a conducive political environment to enhance the country's democratic consolidation. In addition, vices such as the selective application of the law and impunity must be addressed.

Access to election material

ZESN reiterates its call for the ZEC to ensure that critical electoral information such as the voters' roll in both electronic and hard copy format and election residue must be easily accessible to key stakeholders especially to aid electoral petitions whenever they arise.

Voter Registration

The Constitution gives the ZEC sole mandate for the registration of voters and maintenance of the voters' roll. ZESN is concerned by the provisions in the GLAA which do not fully comply with the Constitution as it brings back the Registrar General of Voters whose role in voter registration was abolished. ZESN therefore calls for a review of the Electoral Act to provide clarity on the exact nature of this involvement in the voter registration process. ZESN further calls for a continuous voter registration exercise.

Special Voting

ZESN notes with concern the removal of the Special Vote which had been set up to facilitate early voting by uniformed forces and electoral officers assigned to duty on election day. Although in the 2013 election the Special Vote was characterised by logistical and management challenges it was a positive development in ensuring the secrecy of the ballot for uniformed forces. ZESN calls for the reestablishment of the Special Vote which was abolished by the GLAA.

Media Access

ZESN calls upon ZEC to rigorously enforce the relevant regulations of the Electoral Act to ensure the compliance of the State media during elections as well as to afford all political parties equitable and balanced access. The bias and limited access to the State media has been one of the most persistent complaints in the pre-election and election phases. Furthermore, ZESN calls for media pluralism, diversity and independence.

Voter Education

ZESN calls on ZEC to ensure that there is greater involvement of civic society organisations in the development and conduct of civic and voter education throughout the electoral cycle to enhance participation in electoral processes. It is therefore imperative for the government to further review restrictive provisions of the Electoral Act as they relate to voter education to enable adequate, continuous and comprehensive voter education.

Election Dispute Resolution

ZESN notes that Section 183 of the Constitution prohibits judges from sitting in more than one court. Thus the current composition of the electoral court is unconstitutional as the Amendments to the Electoral Act fail to address the issue of judges sitting in the Electoral Court seating in other courts as well. ZESN therefore calls for constitution of the electoral court in line with the provisions 183 of the Constitution. Furthermore, the functions of the Electoral Court must be decentralised to other provinces so that it is easily accessible.

ZESN believes that electoral reforms must be accompanied by the political will to create an enabling political environment that safeguards freedoms enshrined in the Constitution. In addition, some of the reforms do not need legislative review but require enforcement of already existing laws and review of electoral administrative procedures in order to increase transparency in the electoral processes. To create an enabling political environment, there is need to address electoral-related violence by implementing existing provisions through the involvement of the Human Rights Commission, ZEC, Police , Multi-Party Liaison Committees in investigating, monitoring and management of conflicts.

ZESN continues to call for the full alignment of the electoral laws with the Constitution and for the creation of a conducive electoral environment as the country gears for the 2018 harmonised elections.

**PROMOTING DEMOCRATIC ELECTIONS IN ZIMBABWE
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