

BALLOT *News*

MAGAZINE FOR ZIMBABWE ELECTION SUPPORT NETWORK

ISSUE NO. 2 SEPTEMBER 2007

Elections 2008...



Zimbabwe needs an electoral system...
CAPABLE OF HEALING POLITICAL WOUNDS



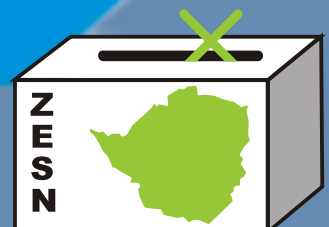
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INFORMATION HOTLINE

Tel: +263 (4) 250735/6 or 703956 Cell: 023 277 140
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Website: www.zesn.org.zw



PROMOTING DEMOCRATIC ELECTIONS IN
ZIMBABWE

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EDITORIAL TEAM

Rindai Chipfunde - Vava
Ellen Kandororo - Dingani
Jealousy Mawarire
Tsongai Kokerai

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EDITORIAL

Welcome to the Ballot News 2nd issue of 2007! In this issue we focus on various articles as Zimbabwe prepares for the next years' elections.

This issue therefore seeks to continue with the debate and discussions on some of the interpretations, implications, and prospects towards the 2008 elections in particular on the Constitutional Amendment Bill Number 18. The issue looks at various aspects like the voter registration, which make up the fundamental aspects of a free and fair election. For the registration to be fair, comprehensive and inclusive, potential voters must be aware of the registration process and have reasonable opportunity to complete it. In addition, voter registration should be premised on the principles of inclusiveness, fairness, comprehensiveness, and flexibility to extend dates of registration in order that the process caters for all would-be voters.

The issue also looks at issues around the Constitutional Amendment Bill Number 18, with its proposed 'harmonisation' of the election of parliament and president, the proposal to increase the number of House of Assembly and Senate seats, and most disturbingly the clause that seeks to allow a joint seating of the Parliament to elect a head of state in between general elections. While the practice of parliament seating to elect a president will not be unique to the Zimbabwean situation since other democracies like South Africa elect their president the same way, in Zimbabwe, it is the provisions in the executive presidency to appoint non-constituency members of parliament and senate that makes the system unfair to the opposition. The incumbent before the first results of the elections are announced, the incumbent already has 10 seats in the house of Assembly and 34 in the Senate. In the event that there is a joint seating of parliament to elect a president, out of the 294 tasked with electing the president, 44 or 15 percent are presidential appointees. This makes the whole system unfair given the current constitution and its provision for executive powers.

In an extract from the latest Zimbabwe Election Watch there are highlights of further examples of breaches of the SADC Principles and Guidelines Governing Democratic Elections by Zimbabwe. The South African-led SADC initiative to resolve the Zimbabwean crisis is also reported to be in danger of collapse if Zanu PF insists on pressing ahead with plans to amend the constitution through Parliament, obviously undermining the calls for a new constitution by the opposition in the talks. Zimbabweans'

hopes lies on the SADC initiative, and on President Thabo Mbeki's reiterations that , Considering that only eight months are left before the elections next year, South Africa needs to speed up the process so that there is ample time to put in place the necessary reforms prior to the election.

Of major worry is that some of the processes, which are pertinent in an election like the voter registration, are taking place under a backdrop of grumbling from the opposition and civic bodies. There are allegations that Zanu PF continues impregnating the voters' roll with phantom voters. In our report on the exercise, we called for the extension of the mobile registration period that was open from 17 June 2007 to 17 August 2007. We even suggested that the process should have been a door-to-door exercise taking into cognisance the economic hardships that are prevalent in the country. The process which was not well publicised by the responsible authority, the Zimbabwe Electoral Commission (ZEC) is said to have registered, ludicrously, only 80 000 voters.

Democracy is a process and a way of life and operation on an ongoing basis rather than every four to five years. Elections are simply one institutional mechanism for the achievement and maintenance of democracy. The texture of democracy relates to many of the rights that the Zimbabwe government has curtailed over the last few years. Zimbabwe is suffering from a democratic deficit and observers must take this into account when observing, monitoring and declaring the conduct of elections. It is crucial that observers to Zimbabwe next year, in particular, the SADC, starts monitoring events in Zimbabwe and be deployed at least 90 days before the election as recommended by the SADC Principles Governing Democratic Elections. It is also important that SADC ensures that when these elections take place the results should not be contested.

I hope that this issue will again meet its main objective of providing a constructive platform for the exchange of viewpoints and to develop ideas about the prospects for Zimbabwe ahead of 2008 elections

Rindai Chipfunde

Rindai Chipfunde - Vava
Editorial Director

“CONSTITUTIONAL Amendment Number 18: IMPACT ON THE PROPOSED 2008 Elections”

By **Takura Zhangazha**

The words 'constitution' and 'elections' have become significant political constructs over the course of the last eight or so years in Zimbabwe's history. They have come to be informed by political actions that have, in part, been successful or of limited impact, depending on which side of the political divide one finds her/himself. The phrase 'elections' or 'general elections' invokes, within the political psyche of many a Zimbabwean citizen, memories and perceptions of violence, vote rigging, populism and patronage on the basis of one-sided patriotism. This is because elections have become a flawed, but sort of permanent fixture, on the country's political landscape.

The public anticipates elections, even though they may forget when these are due, or alternatively, are used to hearing of their announcements on a regular basis with the full knowledge that these will not add that much value to their lives, except, of course, those two significant elections that occurred in 2000. In the National Referendum on Constitution as well as the energies that accompanied the Parliamentary election of the same year, the public had a faith that possibly equalled that of 1980, faith that belied a belief that elections are the legitimate root of political change.

Constitutional reform has also risen up the public consciousness ladder primarily because of the 'no vote' victory of 2000. What was apparent, and perhaps important,

in the latter was the first national electoral defeat of Zanu PF since our country's independence. And it is this victory that gave people an understanding of the possibility of defeating Zanu PF through an electoral process. For the ruling party, however, it was a lesson well learnt and it went about tinkering with the constitution to enable its

'harmonisation' of the election of parliament and the executive, all within a fairly lethal cocktail of increases in the number of House of Assembly and Senate seats plus, most significantly, its incredible clause that seeks to allow a joint seating of Parliament to elect a head of state in between general elections. It would be immediately trite to say that there is no harmony in this political project, primarily because it has been proposed through an undemocratic framework. There is need to realise that the issue was promulgated within the confines of the ruling Zanu PF party at its Goromonzi annual conference. It is also important to note the manner in which the proposed constitutional amendment process completely ignores the historical processes aforementioned over and about constitutional reform. It is because of this that one would immediately recall the mantra of the National Constitutional Assembly, (NCA), that of a new



Takura Zhangazha addressing a ZESN public meeting

controversial land reform to go unchallenged as well as expand its basis of patronage by re-introducing a bicameral parliament.

It is, thus, this background that brings us to the particular issue of Constitutional Amendment Bill Number 18, with its proposed

constitution only through a people driven, democratic process.

Through this article, I intend to highlight the political meaning of the proposed Bill. I intend to tackle the manner in which it raises a significant national 'Crossing the River Jordan' scenario especially if elections are

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held under its proposed provisions. This will relate to the full import of what the state and its structures could possibly mean. I also intend to raise the spectacle of Zanu PF managing its succession politics through the amendments. And lastly I will attempt at an appraisal of the response that has been given by civil society, together with the opposition, to this Zanu PF succession project and highlight some fundamental issues that are at stake as a result of the aforementioned issues. I will however, not delve into the sections of the Bill.

A Reconfiguration of A patrimonial but Distant State

The proposals within the Bill are interesting to those that have studied the manner and mannerisms in which states are reconfigured. In this particular instance, the bill has come to represent reconfiguration of the Zimbabwean state through the elite at the expense of input from the ordinary citizenry.

That the ruling party intends to undertake this constitutional reform exercise solely through its parliamentary majority is indicative of politics without the people. It is also a significant pointer to how politics has come to be played out solely within the confines of distant institutions such as parliament and still be assumed to be legitimate because the members within the legislature were elected to enact law.

Those that view parliament in such a narrow sense fail to grasp an evident reality that the Zimbabwean state, as a political entity, is facing a serious legitimacy crisis with its populace. This is because the output from Parliament over the last seven years has been all about increasing state repression and justifying the closure of political space under the pretext of 'Third Chimurengas' whilst forgetting that there is always need for the state to be relevant and legitimate to the people. In this sense, Constitutional Amendment Number 18 then becomes an exercise that merely exacerbates the

illegitimacy of the state. In typical fashion, the proposed amendments are viewed by the people as another Zanu PF ploy to prolong their stay in power, and as a result thereof, these proposals do not incite any form of public interest because the public does not consider it any of their business.

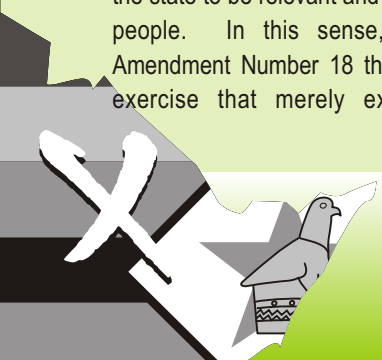
Zanu PF And Long Haul Politics

It is also because of this increasing delegitimisation of the state that the proposed amendments can be viewed as being mainly about Zanu PF attempting to make a national and final search for a solution to its succession politics. The ruling party in our country has decided to take its internal politics out of its central committee and straight into the national legislature through one specific clause that allows a joint sitting of the House of Assembly and the Senate to elect a President until the next general election. Whilst it can be argued that there are some democracies with this sort of clause, it cannot be but suspicious that the government of Zimbabwe is proposing this at a critical time for the ruling party. It is a public secret that Zanu PF has been talking succession for some time now and the proposals in Number 18 merely enable Zanu PF to allow President Mugabe to handpick a successor who will then be easily elected by Parliament, especially given the likelihood that Zanu PF will have an evident majority in the bicameral parliament. This also means that the ruling party will try all means, and through the liaison of Number 18, to ride out the current economic crises until at least it wins a parliamentary majority and the presidential election in March 2008. Following which, its current leader will serve only a portion of his term in office and leave the rest to an approved successor in a style very similar to the politics of Botswana's ruling party. This successor will obviously have to have some credibility with the West, SADC and the African Union as well as promise a sprinkling of democratic reforms to the Zimbabwean state in order to court the much needed foreign direct investment.

Civil Society and the Opposition

It is also important to consider the reactions and roles that civil society organizations have etched for themselves within the processes that Amendment Number 18 has created. There has evidently been a muted response from civil society about Amendment Number 18. The reasons are obviously around a given weariness of the issue of constitutional reform that borders on resignation and of course wanting to leave the struggle over the same issue to the NCA. This is, at best, a very impolitic response that does not galvanize the public to realize the national and structural significance of the proposed changes to the constitution. It might be imperative to remind colleagues in civil society that this is not 'business as usual'. Amendment Number 18 leaves the oppositional movements in Zimbabwe with the potential of not being able to challenge Zanu PF's hegemony outside of the framework of elections until 2013. In essence, therefore, civil society must reengage the public on Constitutional Amendment Number 18 in a manner akin to the 'no vote' campaign of 2000. It must also provide its own draft constitution and explain why it is a better alternative to the one being proposed by Constitutional Amendment Number 18. And in doing this, it must be mindful of the fact that there is need to think beyond March 2008, and prepare for the long haul of oppositional politics against a reformed and reforming Zanu PF.

In ending, there are political realities that we as Zimbabweans need to grasp. The ruling party is not going to stop Constitutional Amendment Number 18, primarily because it is designed to assist it manage its succession politics. Simultaneously, it must not be lost on those of us in the oppositional movement, that these proposed amendments represent 'Rubicon' or 'River Jordan' political frameworks for a democratic Zimbabwe. March 2008 is extremely important both in its results as well as in our preparedness to tackle its vicissitudes with foresight ■



CONSTITUTIONAL AMENDMENT 18

DO ZIMBABWEANS KNOW THE IMPLICATIONS?

By Sandra Mujokoro

WHILE civil society is deeply disturbed over government's intentions to amend the Constitution for the 18th time since independence, many Zimbabweans are not adequately informed and may be wondering what all this fuss is about.

The Constitution of Zimbabwe Amendment (No. 18) Bill, that seeks to harmonise Presidential and Parliamentary elections, was gazetted on 8 June 2007.

There are a lot of questions that one might ask. These could include how far the government has gone in engaging the people of Zimbabwe in the consultative stages of this amendment given that the decision was arrived at during the Zanu-PF annual congress. Does Zanu-PF equate to Zimbabwe's total adult population? How informed are Zimbabweans about the meaning of these changes and their impact on their lives?

While Zimbabweans today might be preoccupied with efforts to ensure they secure food for survival, it would be equally important to establish how many of them are aware of this Bill and what it is intended to achieve. This is particularly so, in light of the fact that the Bill, if passed into law, would have consequences that would affect the general public.

It is, therefore, critical to make people aware that despite the hardships they face and their pre-occupation with survival strategies today, there is need for them to take part in policy making processes and governance issues. There is need to inform the public on the importance of not leaving their fate, and that of the country, to a single political party.



Zimbabweans today are pre-occupied with efforts to ensure they secure food for survival

The public should be informed on the provisions of the Bill, for instance, its proposal to enable Parliament to elect a new President to replace the incumbent in the event of death, resignation or removal from office through section 28(3)(b) of the Bill. According to the Bill, if the President dies, resigns or is removed from office, the Senate and the House of Assembly must sit together within 90 days and elect a new President. A President so elected will hold office for the life of the existing Parliament (section 29(1)(a)).

This proposed change is undemocratic, because if it is accepted that an executive President must be elected by popular vote, which the Constitution stipulates in section 28(2), then his or her successor should be similarly elected. The fact that elections are expensive cannot justify a provision that would allow an executive President to hold office without a popular mandate. Currently, through (section 28(3) of the Constitution, if a President dies, resigns or is removed from

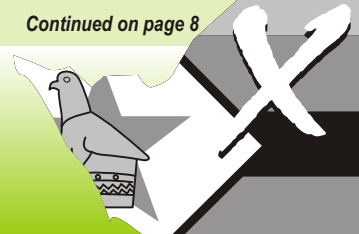
office, a presidential election must be called within 90 days.

The Bill also recommends five other changes to the current Constitution, including the shortening of the term of office of the President to five years from six, so that it runs concurrently with that of parliament.

The Bill also seeks to establish a Human Rights Commission (HRC). It should, however, be noted that any credible HRC must be reasonably representative and be given adequate powers to investigate human rights abuses and, where appropriate, to order their remedy.

The proposed Commission will not meet the first of these criteria. Its chairperson will be a lawyer appointed by the President after "consultation" with the Judicial Service Commission. He will appoint the other members from a list of nominees submitted

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by a parliamentary committee, but there is no indication on how the committee will select its nominees. It is likely, therefore, that political considerations will influence the appointment of all the members of the Commission, including the chairperson, and that they will be chosen for their political allegiance rather than competence.

Another worrying issue that is not addressed by the Amendment is the importance of the people's right to access public information, especially relating to electoral procedure and voting rights. The government body responsible for the provision of voter education and the registration of voters among other election-related processes, the Zimbabwe Electoral Commission (ZEC), should be at the forefront, explaining to people, through adverts in the mainstream media and road shows, the need for them to participate in elections.

Provisions should be put in place to allow civic organizations, political parties and any other interested bodies, under the supervision of ZEC, to engage in civic and voter education. These also have a crucial role to play in educating and informing the public about the implications of this amendment and indeed, in helping to explain what laws are best suited for governing the country. Leaders should not arbitrarily impose laws on the general polity without its consent. Such a practice is inimical to democratic practices. It is, in essence, an antithesis to democracy.

Opposition parties should be allowed to campaign freely and take advantage of their campaign rallies to educate and inform the electorate on the implications of Constitutional Amendment No.18. As it is, most of the knowledge about the effects and implications of this amendment remains the preserve of those who drew it up and their supporters who attend conferences where its contents are discussed.

The absence of alternative mainstream media has also shrunk the public sphere in which the Bill could be debated. There is very

national public broadcasting corporation, the ZBC. This has resulted in very little or no independent, dispassionate analysis on the subject.

What is really shocking, and has killed public participation in political issues in the Zimbabwean context, is government vilification of civil society and the ostracization of civic bodies from engaging in governance issues when, in the context of the African Union Government, President Robert Mugabe believes that civil society must be engaged.



Members of the public queuing to vote

little information in the media about the Bill. While the two independent weeklies, *The Zimbabwe Independent* and the *Standard* may have tried to avail the platform to discuss the Bill, for instance the *Standard* Column, "The Election We Want", the two papers are elitist and not accessed by the majority of Zimbabweans who rely on the government-controlled *Herald* or *Sunday Mail* newspapers, and the equally controlled

If the constitutional changes that are being proposed will have any implications on the lives of Zimbabweans, then surely President Mugabe must be consistent in the message he has for the continent that the people in whom sovereignty resides must have a say in whatever form the constitutional order will take. This entails letting civic organizations take the discussions to the people ■

ELECTORAL SYSTEMS should ensure **WOMEN** GET FAIR REPRESENTATION

By Jealousy Mawarire

Fundamental to understanding the repression, exclusion and general oppression of women is the need to understand how systems the world over, political, social and economic, have contributed to the subjugation of women. And any form of movement, feminist or otherwise, that seeks to fully subvert the subservient position that women find themselves in, has to initially deal with the idea of grounding understanding of this oppression in theory and practice. It is in light of this that electoral systems have to be choreographed in a manner that ensures women get fair representation.

A lot has been said about how electoral systems have benefited the incumbents. Other works have also cited how opposition political players and ethnic and racial minorities have been sidelined from government and parliamentary participation by electoral systems that ensure the dictatorship of the winners. Sadly, very little has been said about how all the electoral systems, Majority Plurality Systems, Proportional Representation and Semi Proportional Systems have ensured men remain the dominant political players in any system of governance that stem out of an election process.

It is pertinent to outline here that every form of political, economic and social practice that is meant to perpetuate male domination is proffered apparently in gender-neutral ways that only critical inquiry can expose.



Women should also get a fair representation

Democratic constitutions, as Thenjiwe Mtintso, Deputy Secretary General of the African National Congress (ANC) in South Africa noted, just give the general direction which democratic trajectories take, but do not get into the fundamentals of how the oppression of women can be eradicated.

She argues that "Democratic constitutions deliver formal, but not substantive equality" and that "a conscious development of theory is critical to help us understand the workings of patriarchy, its character and form in our countries as it exists in and interacts with other oppressive forms such as racism and capitalism." Mtintso further notes that "Indigenous approaches, informed by other experiences but based on our concrete situation should be applied" to our approaches to ensuring gender equality and these could take the form of re-orienting existing electoral practices to ensure they conform to the objective of bring about gender parity.

It is interesting to note that, hitherto, efforts to address the exclusion of women from the political playground have always been mooted as stop gap measures to quell the ever-rising voices of women calling for political recognition and equality yet circumventing the real patriarchal nature of most political systems that have ensured women are always subjugated.

Piecemeal changes to electoral processes in line with the 30 percent quota suggested by the 1997 Southern African Development Community (SADC) declaration on gender development are some of the measures put in place as safety nets to contain calls for true proportional representation of women in politics- PROPORTIONAL in the sense of women being allocated seats in line with the percentage female votes cast. It is therefore, critical that every existing electoral system be examined with gendered lenses.

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DID YOU MISS THE MOBILE REGISTRATION EXERCISE?

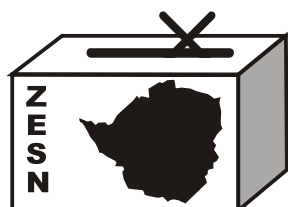
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The electoral process has been taken by feminists as the most conducive political arena to be changed if gender parity in political representation could be realised. This realisation stems from the apparent malleability of electoral systems compared to cultural systems that promote male dominance. While there is consensus that most electoral systems favour men when implemented, there is considerable agreement that the PR system, where it has been implemented, has resulted in more women being elected than where other systems have been used.

March 1998 in terms of women's representation Sweden, Norway, Finland, Denmark, the Netherlands, the Seychelles, Germany, New Zealand, Argentina and Austria all utilized various forms of proportional representation. Several individual country situations, in which electoral systems have been changed, have further emphasized the apparent structural superiority of PR systems.

Good as this might appear, there is need to transform the PR practice to ensure it truly represents, in percentage ratio, the number of women who vote in line with the number of

The voting process has been made to appear as a gender-neutral exercise where the ultimate vote does not reflect the gendered nature of the total votes cast. While arguments could be proffered as to the wisdom, or lack thereof, of ensuring ballot papers reflect the gender of the voter, in cases where gender equality is seriously considered, one would argue that it is not a wild idea. It is absolutely discriminatory to have 10,5 percent women parliamentarians in a country where 56 percent of the voters are women.

It is with this understanding that PR can be improved to ensure the allocation of seats, between men and women, would reflect the ratio of male-to-female votes cast. Hypothetically, a political party that wins 46 percent of the total vote in an election where 100 seats are at stake and 75 percent of the votes cast are from women, has to reserve 75 percent of the 46 seats to women. This means that 35 of the 46 seats go to women.

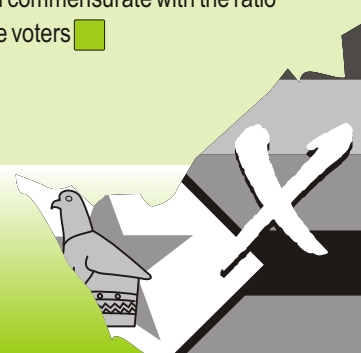
There should be some logical benchmark from which proposals for women representation stems from. Currently, the call for 50-50 percent representation, while

it is a move in the right direction, should be face-lifted to ensure where there are more women voters than men, the percentage seats allocated to women should be proportional and commensurate with the ratio of male to female voters ■



Women have always had a slight advantage in proportional representation (PR) systems compared to other systems. There is a considerable accumulation of comparative evidence that underlines the structural advantages of PR in advantaging women's representation. Of the top 10 countries as of

Seats available. While PR has been touted as one electoral system that offers a glimmer of hope to those that advocate for proportional representation in its entirety, no efforts have been made to look at the merits of allocating seats proportionate to the gender aggregation of votes.



VOTER REGISTRATION BOOSTS TURN OUT

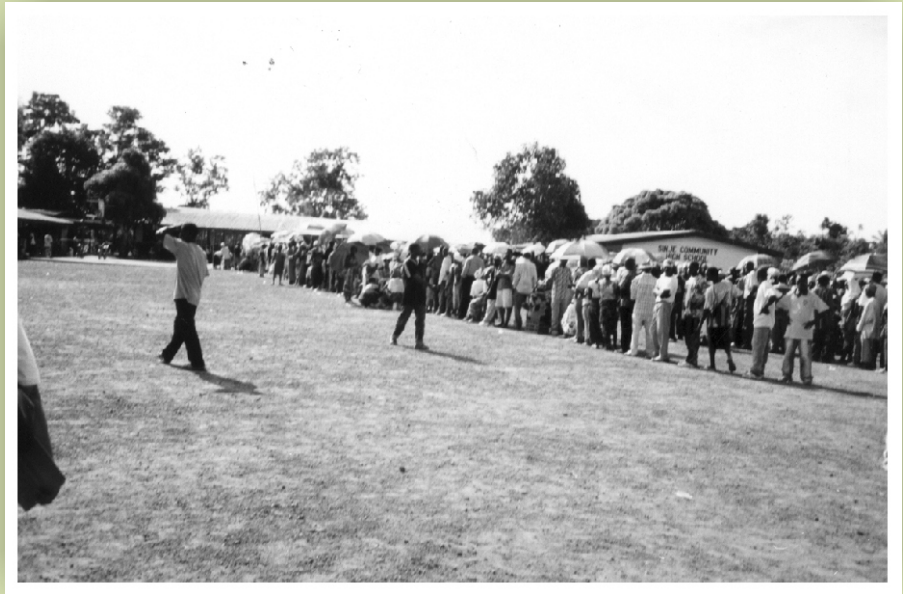
By Ellen Kadororo - Dingani

There is a tenant that voters' registers are not just one additional element of the electoral process; they are in fact a crucial factor in the establishment and consolidation of a democratic system of government. Having comprehensive, accurate voter registers should be considered a prerequisite for free and fair elections. There have been however, exceptions to the rule such as the independence elections in Zimbabwe in 1980 and the election in South Africa in 1994 where no rolls were used because both these countries were coming from war.

The main function of a good voter register is not only to promote high voter turnout, but also to enable any turnout at all. In general, it can be expected that comprehensive, continuously updated voter registers will produce higher voter turnout rates, although as an indirect effect. In fact, voter turnout rates are over 70 percent in most well established democracies where comprehensive and continuously updated voter registers exist.

It is ZESN's belief that the people can only make their choice or voice their sentiments by voting in elections hence the need to curb voter apathy in elections. Voter apathy can in actual fact dilute the value for democracy. But however, though high voter turnouts are desirable also among political scientists and economists specialising in public choice, the issue is still debated. A high turnout is generally seen as evidence of the legitimacy of the current system. Dictators have often fabricated high turnouts in showcase elections for this purpose. For instance, Saddam Hussein's 2002 referendum was claimed to have had 100% participation.

Assuming that low turnout is a reflection of disenchantment or indifference, a poll with very low turnout may not be an accurate reflection of the will of the people. On the



People queuing to vote

other hand, if low turnout is a reflection of contentment of voters about likely winners or parties, then low turnout is as legitimate as high turnout, as long as the right to vote exists. Still, low turnouts can lead to unequal representation among various parts of the population. In developed countries, non-voters tend to be concentrated in particular demographic and socioeconomic groups, especially the young and the poor. In India, however, the opposite is true.

The poor, who comprise the majority of the demographic, are more likely to vote than the rich and the middle classes. In low-turnout countries, these groups are often significantly under-represented in elections. This has the potential to skew policy and a food for thought for voters. Some nations thus have rules that render an election invalid if too few people vote, such as Serbia, where three successive presidential elections were rendered invalid in 2003 because of the an average low turn of about 43%. Serbia's registered voters actually participated in the three rounds of the election, far below the 50% voter turnout required to make the elections valid.

Against the backdrop of the earlier observations in our last submission, it is not surprising that successes in African electoral democracy have been scanty and several challenges importunate. Challenges are acute in a plethora of areas of the electoral process: the legal framework, management of voters' registration, uneven electoral playing fields, conflict management and resolution, use and abuse of incumbency, and effective voter education. These, in our view, are areas in dire need of reforms particularly in Zimbabwe. But reforms are possible only where there is democratic consensus, a commodity that unfortunately is in short supply in our country, where political divisiveness and polarization has become rife.

Political consensus should therefore be achieved in a divisive and polarized polity. Though this is not a simple matter, but democratisation is difficult without it. It is common knowledge that consensus requires the political elite to put aside narrow-minded interests and agree and commit to a common national agenda towards democratisation.

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The point here is that a prerequisite for reforming the legal (constitutional) framework for political and electoral conduct is political consensus.

Zimbabwe's electoral legal framework should ensure that Zimbabweans are not disenfranchised and should boost people's confidence in the electoral process of the country. It is then our argument that whilst several processes are taking place in pushing for consensus between the two main political parties (ZANU PF and MDC), it is our view that activities around political campaign and other processes like voter registration should halted otherwise the nation will be caught unawares.

The legal framework for elections specifies the parameters for electoral conduct and most electoral deficits in Africa are embedded in this area. The appointment of the Electoral Commission, timing and the process of conducting elections, eligibility criteria for political parties and candidates, registration of voters, voting procedures, election observers' rights or lack thereof and other election-related matters are all defined by the legal framework.

Hence, the need for continuous advocacy for the reform of an electoral framework that is illiberal and seeks to promote a particular party or leader. This reform would obviously entail removing repressive conditions for elections as well. Unfortunately, such is the situation in many of the emerging democracies in Africa.

The starting point for reforming the electoral system and processes, therefore, is the review of the legal framework to ensure that rules and regulation are consistent with best practices, particularly as outlined in the SADC Principles Governing Democratic Elections. According to these principles clause (2.2.1& 2.2.6) 'all citizens should be given the right to participate in the political process and an equal opportunity to vote and be voted for'. In contrary to this fundamental clause, the current situation in Zimbabwe is that not all

citizens are able to vote since the Electoral Act stipulates that only people resident in a constituency are able to vote. Postal votes are only allowed for certain classes of state employees, to the exclusion of citizens in the Diaspora. It is again ZESN's submission that there is need to allow individuals who are not in their constituencies the right to vote using the postal voting system. This should be done in a transparent manner which should include publicizing the total number of people, criteria of people who would have applied to cast postal votes and this should extended to Zimbabweans living in the Diaspora.

A pertinent area, which contributes immensely to the electoral processes, is the management of the voters' roll. Overallly this issue of voter registration process presents a recurring challenge to elections in Africa. Most African countries have laws that allow for registration of voters within a specified timeframe and those who miss it are consequently disenfranchised. No notable efforts are made to educate and conscientise the electorate about these fundamental exercises in the electoral process.

Zimbabwe's voters' roll as been alluded in the previous article, has been a source of controversy with allegations of ghost voters, disenfranchisement and duplicated of names. These difficulties have not escaped even countries with acclaimed elections, such as Ghana whose four successive elections have included one that replaced one elected government with another in 2000. The problem with the voters' registration can be resolved by adopting modern information and data management technology to streamline and create a transparent voter registration system.

In Africa many countries are now considering online registration to increase accessibility and convenience and to avoid long and arduous registration processes. The goals of an on-line voter registration system are said to provide improved service to electors through fast, timely, secure, and convenient access by enabling them to add, change, or confirm elector registration information via the

internet. In addition online registration also seeks to improve the quality of data contained in the roll by registering members of difficult-to-reach groups such as the youth, in this case the urban youth of course.

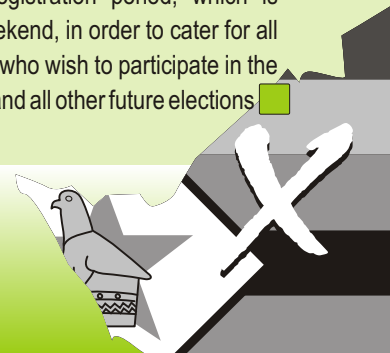
In effect, an on-line voter registration system would largely circumvent many problems and improve voter confidence and might also boost voter turnout in the nation. Even though initial investment could be prohibitive in terms of equipment and infrastructure, the long-term benefits of increased transparency and accountability that reduce controversies and inconveniences would justify such reforms.

The ongoing mobile registration is coupled by a number of challenges, which includes, lack of adequate of human and material resources and inadequate publicity. There is also lack of a clear outline on the target groups, which would have assisted the electors in boosting confidence in the process.

It is therefore pertinent that the responsible authorities need be reminded that voter registration should not be a cosmetic exercise but should be a meaningful and all-inclusive electoral process in order that it may amply serve its purpose in the conduct of fair elections. Comprehensive voter registration should be the starting point of increasing turnout in elections.

If Zimbabwe expects a boost turn out in next year's elections, then the ongoing voter registration exercise should be taken seriously to ensure that all eligible targeted electors are registered and that they are then also given ample time to inspect roll. A massive publicity campaign on the process and importance should be carried out so that voters turn out in large number to exercise their democratic right to vote in any impending elections.

ZESN continues to call for the extension of the mobile voter registration period, which is ending next weekend, in order to cater for all eligible citizens who wish to participate in the 2008 elections and all other future elections.



The impact of...

THE PROPOSED CONSTITUTIONAL Amendment No.18

on THE 2008 ELECTIONS

By Irene Petras

The Constitution of Zimbabwe Amendment (No.18) Bill, 2007 ("the Bill") was gazetted on 8 June 2007 and has stirred considerable public debate. Some have welcomed it as a means of "streamlining" the electoral process and reducing costs by allowing presidential and parliamentary elections to be held simultaneously; some have shown satisfaction at the proposed introduction of a Zimbabwe Human Rights Commission, ostensibly in line with Zimbabwe's international obligations. However others see this Bill as yet a further attempt to tamper with an already fatally flawed constitution to further impinge on the fundamental rights of citizens and to further the interests of the privileged and partisan elite at the expense of the long-suffering public. Rather than consult widely with the public and produce a long called-for "people-driven constitution", lawmakers are seen as once again ignoring the demands of the people for short-term gain.

At face value, and in what can be described as a "normal" political, socio-economic and legislative environment, it is likely that many of the intended amendments would not face much popular resistance. However, if one has regard to the implications of this Bill, it is clear that there will be a considerable negative impact on the running and outcome of the 2008 elections and beyond.

The electoral process and the rights of a voter can be affected at any of the following stages: pre-polling (including delimitation of constituencies and voter registration), polling day, and the post-polling period.

Delimitation of Constituencies and Impact on Voter Registration

The proposed amendments relating to delimitation of constituencies give rise to several concerns. Already, there exist

"Leadership should come from the people. People should see that you have the right leadership qualities to become their leader. Let people elect you because you have the potential." Robert Mugabe.

concerns about the lack of independence of the Delimitation Commission (DC), and these have not been addressed in the Bill. Members of the DC are appointed by the President in consultation with the Chief Justice (who himself is appointed by the President). Further, it is intended to have the delimitation report submitted to the President for approval and potential re-working. As an electoral candidate himself, and as leader of a political party, it is clear that the President is an interested individual and should have no role in such an important exercise as drawing of constituency boundaries or approval of its outcome. These responsibilities should rest at the very least with Parliament.

Further, the Bill seeks to increase the number of constituencies from 120 to 200, which will then be divided into 50 senatorial constituencies. There is no information as to when this exercise will be undertaken, and how the public, the civil society and political parties will be able to input and/or scrutinize the process. A mobile voter registration exercise has recently ended, and potential voters should have registered to appear in the constituencies in which they will vote. Without knowledge of how the boundaries have or will change it is clear that, on polling day, a large number of voters will be turned away and fail to cast their ballot as a result of being in the wrong constituency. This has occurred previously and it can only be assumed that in 2008 it will be on a larger scale and significantly affect the outcome of the poll.

The Bill seeks to increase the percentage for variation of numbers of voters per constituency from 20% to 25% (a significant number) without justification. With the addition of an extra 80 constituencies, there is serious potential for gerrymandering. In previous elections constituency boundaries have been redrawn to provide significant advantage to candidates of the ruling party without need to justify the change. Areas where there is significant support for the ruling party have been subdivided into individual constituencies to increase the number of seats being awarded to this party's candidates. In areas considered to be opposition party strongholds, rural constituencies have been combined with the urban to dilute support and numbers of opposition seats. This is likely to occur on a wider scale in 2008.

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Further, the criteria for delimitation are not clear. Whilst the Bill provides for the DC to give consideration to physical features, means of communication, the geographical distribution of voters and existing electoral boundaries, universal standards for delimitation have not been listed as requirements. It needs to be representative, allow participation of stakeholders, allow for equal voting strengths, and be accurate to enhance independence and impartiality of the process.

The Composition of the House of Assembly and the Senate

The Bill proposes to increase the number of Senatorial constituencies from 66 to 84. Only 50 will be popularly elected, while 18 chiefs, 10 provincial governors and 6 presidential appointees will make up the numbers. None of these 34 can be said to be representative of the will of the people. The House of Assembly will increase from 120 elected members to 200, with an additional 10 seats for presidential appointees.

As noted before, in principle there would not be much argument against increasing the numbers of members of Parliament where they are directly elected by the voters, as this would ensure greater representation for, and better access to, constituents. However, Zimbabwe's economy is in freefall; state institutions, including Parliament, are already grossly under-resourced which impacts on service delivery. For this reason alone Zimbabweans can ill afford a further bloated institution, which places additional, strain on the overburdened taxpayer. Further, presidential appointees have no business in Parliament. The executive should not be able to appoint any members of the legislature whatsoever, as this has a negative impact on the separation of powers. Even chiefs, who have a legitimate role to play, should be outside the legislature and form an advisory council. If the intention is to improve representation of traditionally marginalized groups such as women, the disabled and the elderly, amongst others, then this should have



Dr. Lovemore Madhuku addressing a ZESN public meeting on Constitutional Amendment 18

been clearly provided for in the Bill, but should still have been subjected to the democratic process. As such, it can only be assumed that the numbers have been increased as a means of further extending patronage to more supporters of the ruling party.

Choosing Our President For Us

The proposed amendment to the Constitution, which will have the most drastic consequences for the rights of voters, comes in Clauses 2 and 3 of the Bill. What these clauses give with one hand - a reduction of the presidential term of office from 6 to 5 years - they remove with the other. Whilst voters will have the opportunity of voting for a president in an election, their power is immediately diminished as this elected individual, if s/he dies, resigns, or is removed from office, can be replaced with another individual "elected" not by voters, but by a simple majority of all members of the Senate and the House of Assembly (including presidential appointees who will number 44 out of a total of 148), and will remain in office for the remainder of the original term.

This clearly contravenes numerous regional and international human rights treaties to which Zimbabwe is a state party, and which

safeguard the fundamental right of an individual to participate freely in the government of his/her country, either directly or through freely chosen representatives and which require full participation of the citizens in the national political process. These include the African Charter on Human and Peoples' Rights, the International Covenant on Civil and Political Rights, as well as the SADC Principles and Guidelines Governing Democratic Elections (which principles have been domesticated in our own Electoral Act). This cannot be justified in a democratic society and the only possible explanation for its inclusion is to manage a succession issue, which has the ability to unseat the incumbent government.

Elections 2007 and the Proposed Zimbabwe Human Rights Commission ("the Commission")

An analysis of the implications of the proposed Commission would require a treatise on its own. In the context of elections, it is important to note that the clear trend in Zimbabwe continues to be that of markedly increased human rights violations in the run-

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up to, and immediately aftermath of, a poll. Perpetrators of human rights violations continue to roam free or are amnestied, and this has contributed to a growing culture of impunity. Courts have been unable to punish perpetrators as they are not brought before the courts by the Attorney-General. Where orders have been made, they are blatantly ignored by the executive. Add to this mix an array of repressive legislation, selectively applied against human rights defenders, by the very legislators and institutions who wish to set up a human rights body and it becomes very difficult to believe that this proposed commission will be of any effect in the current context.

On the outstanding issue of ensuring that an effective electoral court is properly established, the Bill is silent. The provisions

indicate that the commission will have limited powers (if any at all) to protect human rights and to punish offenders during an electoral period (or any period at all). With similar resource constraints and composed again of presidential appointees, this commission will

"Leadership is only true leadership when it recognises that it is made by the people, and if it fails to realise the wishes of the people, it would be a mistaken leadership."

be considered by many to be partisan and unable to act against supporters of the presidential candidate to whom they owe their continued survival.

Conclusion

The Bill, if passed in its current form, will have a serious negative impact on the outcome of the 2008 elections. Elections, in all stages,

must be run by an independent electoral management body, which continues to remain elusive in the Zimbabwean context. The voters, at all times, must be allowed to exercise their fundamental right to elect representatives of their choice, including their president and their legislators. Judicial independence and the effectiveness of the justice delivery system must be guaranteed and perpetrators of electoral-related human rights violations must be punished in a manner, which is effective and is conducive to a reduction of the culture of impunity in our society. Our representatives must heed the call for popular input into the supreme law of the land rather than continuing the trend of continuously amending a flawed document, which cannot substantively achieve its purpose of protecting the liberties of Zimbabweans ■



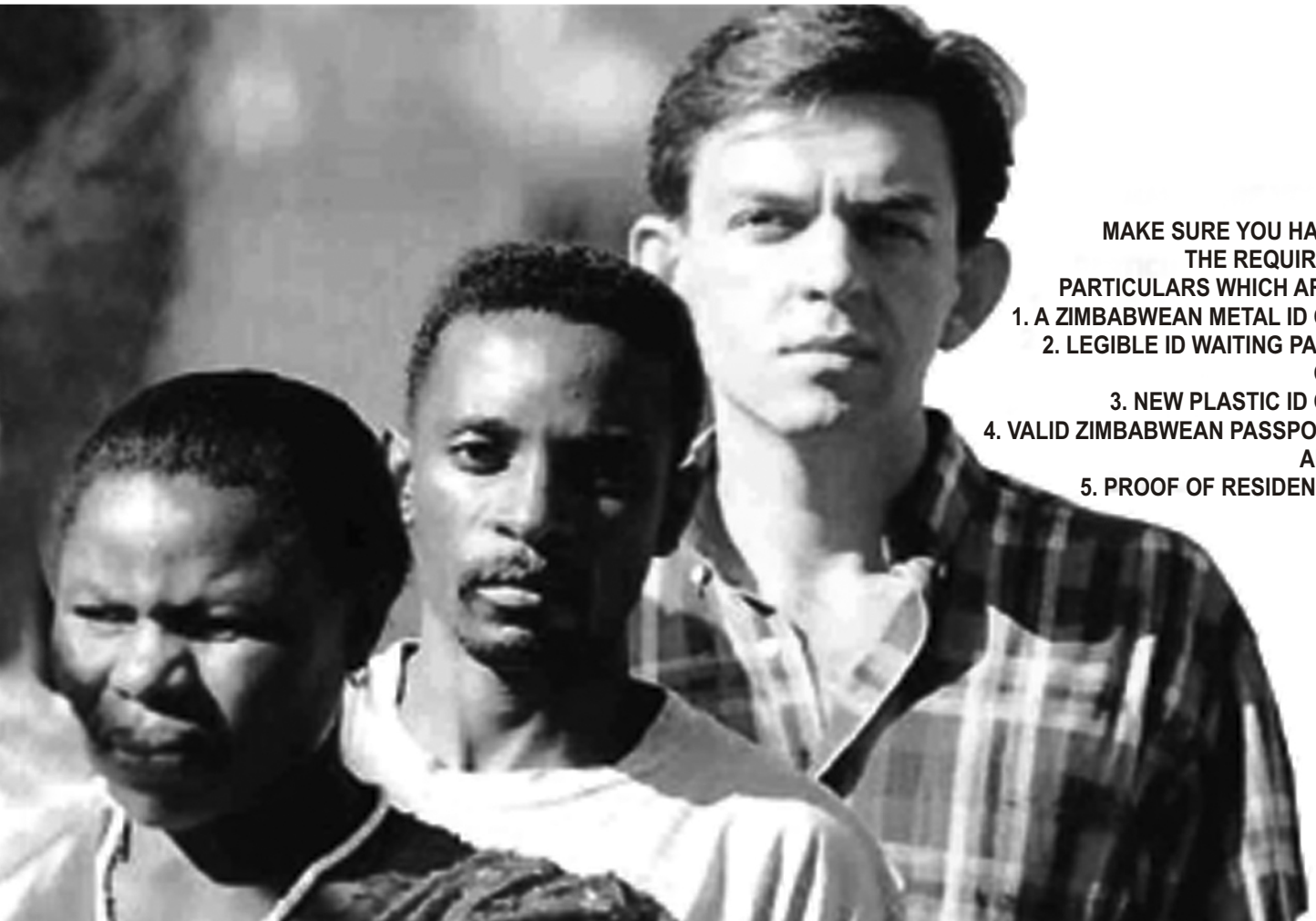
People being addressed at ZESN public meeting on Constitutional Amendment 18

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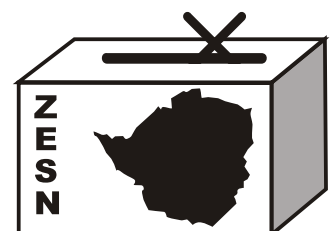
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**PROMOTING DEMOCRATIC ELECTIONS IN
ZIMBABWE**

SIERRA LEONE ELECTIONS an example of the ELECTIONS we want

By Jealousy Mawarire

The recent presidential and parliamentary elections in Sierra Leone on 11 August 2007 where the Zimbabwe Election Support Network (ZESN), under the auspices of the African Union (AU) and the National Democratic Institute for International Affairs (NDI) send some observers, were an eye opener and a living testimony of how other African countries have evolved democratically. Most importantly, the Sierra Leone elections exhibited the gateway to electoral credibility in a country whose previous elections were littered with irregularities. This was Sierra Leone's first post conflict election managed by a local electoral management body after the 2002 which was managed by the United Nations.

What struck the ZESN team most was the amount of trust that the electorate, the political parties, civil society and government had in the National Electoral Commission (NEC), the body tasked with running the elections in the country. Other than the fact that the commission is truly independent of government, the idea that it is headed by a person whose public profile attracts approval and contentment from all sectors of the society is neither here nor there.

The Sierra Leone experience showed the need for a truly independent electoral commission headed by a credible individual whose moral aptitude is beyond reproach if elections were to be credible in this country. In the case of Sierra Leone, the NEC chairperson is a trust-worthy and incorrigible professional whose appointment was acceptable to all stakeholders in the electoral

process. That Dr Christiana Ayoka Mary Thorpe, the head of NEC is a nun and a devout Christian are not the only facets of her profile that made her acceptable, but that her vision, that of bringing credibility into whatever she does, weighed in heavily towards her universal acceptance in the electoral process is never in doubt.

What a country that has had a history of disputed elections needs is a transparent, people-driven electoral process that could suddenly bring trust where there is mistrust, satisfaction where there is suspicion and credibility where the song has always been fraud and post election litigation. This, however, comes with the appointment of a

truly independent electoral management body whose secretariat is professional and whose terms of reference are non-partisan.

With Sierra Leone, the chairperson was just what the doctor had ordered a person whose determination was to see there was credibility in the way the elections were conducted. She managed this by ensuring the process was transparent and inclusive of everyone who had a role to play. In one of the many interviews she had with the press in her country, she clearly spelt out her vision.

"At NEC we're doing our best to establish credibility in all what we do. Our approach has been to get everybody in the process and let the nation know that collectively we all have a role to play in ensuring that the elections are credible and acceptable," she told one journalist.

Clearly, fostering credibility is what she did. Party activists and polling staff involved in irregularities during the local elections in 2004 were purged during the staffing of NEC for the 2007 elections. 1500 NEC officials who were implicated in electoral fraud related accusations in 2004 or those who were found



A ZESN Observer inspecting ballot boxes in Sierra Leone

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to be party activists were dismissed in the chairperson's attempt to come up with a truly independent and professional team that would ensure the elections are credible and acceptable

Furthermore, in its endeavour to "get everybody into the process," NEC created a platform through which political parties interacted with it to input suggestions and recommendations for electoral reform that were in tandem with its goal of ensuring a credible free and fair election. Consequently, NEC supervised the establishment of the Political Party Liaison Committees (PPLC) at national and district levels to register, regulate, monitoring adherence to the code of conduct and mediate disputes among political parties. In addition, it provides political parties with opportunities to request additional information and challenge NEC's decisions on various aspects of the electoral process.

Despite the logistical challenges the political campaigns were visible and vigorous. ZESN officials were impressed by the scheduling of campaign activities for different political parties on different days to reduce political clashes and tensions. They did not witness incidences of violence. Furthermore no campaigns were observed after the 24 hours deadline before Election Day. Neither was there any campaigning noted on Election Day.

The process of voter registration that NEC embarked on was another major stride towards ensuring that a lot of people participated in the election process. According to the European Union Observer Mission (EU OM) about 2 619 565 people registered to vote. This is 91 percent of the total number of people eligible to vote in the country. Apart from people participating as

voters, 35 domestic organisations and 5400 local observers were deployed to observe the election covering 87 percent of the polling stations open on Election Day. The same observers were also accredited to observe the voter registration and delineation of boundaries exercises.

It is our submission that our own electoral management body could learn from Sierra Leone the importance of having total figures of people eligible to vote in the country and

credibility as an exercise that sought to ensure everyone eligible to vote was registered. However, in our case, it is very difficult to appreciate the 45 000 voters registered so far in the on-going mobile voter registration exercise as a milestone in ensuring popular participation in the electoral process. According to ZEC (Herald 13 August 2007), the 45 000 registered is a significant number but one would question its significance vis-à-vis the unknown total number of people eligible to vote who were targeted by the exercise.



Everyone has a role to play: Men and Women

making them public so that when they announce the percentage number of people registered in the voter registration exercise, people would have a benchmark on which to refer to. That the 2.6 million registered to vote in the Sierra Leone election constitute 91 percent of the total number of people eligible to vote gives the voter registration exercise

In order for an election to be credible, it is key that there is constant communication between the electorate and the electoral management body through different media available in the country. In Sierra Leone, that communication was always available.

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ZESN officials noted that public debates and forums were done by the Sierra Leone Association of Journalists [SLAJ]. This gave citizens an opportunity to hear political parties' policies and manifestos in order to vote from an informed position.

According to the NDI preliminary report, "NEC regularly and effectively communicated information about the process to voters, political parties and the over 37 000 polling staff" it had. NEC also established a permanent two-way dialogue with political parties through the Political Parties Liaison Committee (PPLC) to inform them of the process and incorporate their feedback. For instance, the NEC made an important change to the electoral procedures the week before the polls in response to concerns raised by political parties during a PPLC meeting. Individuals with voter registration cards (VRCs) but whose names did not appear on the final voters' register were not allowed to vote, contrary to what was previously written in the NEC training manual for polling staff.

In addition, NEC made a provision that voters who lost their voting cards but their names still appeared on the register could get a certificate two weeks before polling day to enable them to cast their vote on election day. NEC also pressured parliament for reforms and urgent positive changes to the Electoral Laws Act were passed in June 2007. Parliament established the Elections Offences Court, a subdivision of the High Court with jurisdiction over electoral offences of criminal nature. This innovation built confidence among stakeholders in that there were legal processes to address issues of an electoral nature. The Election Petitions Court, was also established under the Elections Laws Act. It provided mechanisms essential for the hearing of electoral civil offences such as disputed results. These two courts provide political parties a legal process to resolve their disputes without resorting to violence, or taking the law into their own hands.

The timetable for petitions was also improved with the introduction of a new set of provisions stipulating that petitions must be submitted within seven days of the official announcement of results and should be concluded within four months.

NEC also ensured the whole voting process was people oriented as special treatment was accorded to groups of people with special needs during voting. The elderly, pregnant women and those with babies were given preferential treatment on voting day. In another positive development, tactile ballot guides for the blind were available in polling centres. Provisions were also made for the old and illiterate voters to cast their votes without assistance. There are three ways that a choice can be registered in Sierra Leone, by marking an x on the choice or putting a tick. Alternatively voters may use ink that is provided in the booth to mark their ballot papers. This meant that the aged and illiterate were able to cast their votes without assistance from polling officials. This is particularly important in Zimbabwe where we have a huge number of assisted voters.

NEC also made the processing of voters smooth and fast by the provision of more than five polling stations in one centre. Despite voting starting at 7.00 am and officially ending at 17.00 hrs, by 1500 hrs no queues were noted and this enabled counting to start immediately thereafter when it was still daylight. This is unlike in our case where polls close at 7 pm when it is dark thereby increasing mistrust during the counting process. The counting was conducted in a transparent manner and immediately copies of the results were posted on the walls outside polling stations for the public to see.

That the NEC chairperson succeeded in coming up with a professional team to run the elections is manifest in the litany of eulogies that different observer groups showered NEC with. The AU observer mission concluded "NEC organised the elections in an open, impartial and competent manner. Most stakeholders expressed satisfaction with the

office especially faced with infrastructural challenges in transport and communication." The Economic Community of West African States (Ecowas) noted that NEC administered the elections with "commendable professionalism, fairness and firmness," while the European Union observed that NEC had organised the elections "in a transparent and impartial manner." NDI expressed that the way NEC conducted the elections "established Sierra Leonean ownership over the process" while the National Election Watch (NEW), a coalition of civic and non-governmental organisations lauded NEC for an electoral process that "was uniquely open and participative" which has "fostered an atmosphere of positive expectations for the next political dispensation."

The Sierra Leone elections are an example to many, Zimbabwe included, that where there is will to conduct a credible and acceptable election, the human resources and expertise are never in short supply in the country in question.

For our country to run successful, credible, free and fair elections, as is the case in Sierra Leone, the electoral management body has to be truly independent and headed by a credible, morally astute professional whose credibility is never in doubt. Furthermore, ZEC should have its own infrastructure and not rely on the Registrar General's office and staff and the Electoral Directorate, which is made up of the army, the police and the senior civil servants thereby politicising the election. It should cease to be an appendage of any ministry but should be an independent entity reporting only to a democratically elected parliament.

The Sierra Leone elections showed that given enough political will, the enactment of a wholly independent, impartial and competent electoral management body is not only possible but also very important in restoring the electorate's confidence in the way elections are run. It also gives credibility to the whole electoral process ■



MISA-ZIMBABWE COMMUNIQUE ON SADC INITIATIVES AND MEDIA LAW REFORMS

By MISA - Zimbabwe

MISA - Zimbabwe acknowledges the Southern African Development Community (SADC) efforts to end the Zimbabwe crisis and welcomes the talks between the opposition MDC and ruling Zanu PF being mediated by President Thabo Mbeki of South Africa.

According to media reports the main issues on the agenda include the need for a new Constitution, electoral law reforms and the amendment of repressive laws such as the Access to Information and Protection of Privacy Act (AIPPA), Public Order and Security Act (POSA) and Broadcasting Services Act (BSA).

With the 2008 presidential and parliamentary elections only a few months away, the question of equitable and equal access to the public media as envisioned under the SADC Principles and Guidelines on the Conduct of Democratic Election will inevitably be of intense interest and debate. It is in that vein that MISA Zimbabwe is of the strong view that the mediation process should involve all stakeholders. This will ensure that the process is all embracing and representative of the concerns of the generality of the citizens of Zimbabwe as

reflected by the diverse civic society groups in the country.

MISA-Zimbabwe submits that those involved in the talks should consult widely in order to capture the views of the general populace whose voices should be represented through civil society organisations in order to input into the mediation process as well as render legitimacy to the initiatives through an all inclusive consultative process.

According to press reports MISA-Zimbabwe is made to understand that laws such as AIPPA which has contributed to the curtailment of free voices, opinions and views through the closure of four privately owned

workers, publishers and editors have been harassed, intimidated or arrested under AIPPA since its enactment in 2002 effectively contributing to the shrinkage of Zimbabwe's democratic space.

AIPPA should, therefore feature prominently during the talks between the opposition MDC and ruling Zanu PF as its well-documented history and trail of destruction and onslaught on the civil liberties of Zimbabweans speaks for itself.

AIPPA's very existence as complemented by other restrictive media laws such as BSA, POSA, Criminal Law Codification and Reform

Act, Constitutional Amendment (No 17) Act and the Interception of Communications Bill recently passed by Parliament and the Senate, compromise the right to media freedom and freedom of expression which is critical to democratic practice more so towards the creation of an environment conducive to free and fair elections.

MISA-Zimbabwe insists that AIPPA

should therefore be tabled as a separate item on the agenda given the role it has played in limiting access to information and restricting the free flow of alternative views, ideas and opinions on issues of good governance and



It is in that vein that MISA Zimbabwe is of the strong view that the mediation process should involve all stakeholders

newspapers, has been sidelined as a peripheral issue which will only be addressed through discussions on the need for constitutional reforms and the need for an explicit provision that guarantees Press Freedom. Scores of journalists, media

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accountability through the closure of independent platforms such as the Daily News, Daily News on Sunday, The Tribune and Weekly Times. This law violates regional declarations and principles such as the Windhoek Declaration and SADC Principles and Guidelines on the Conduct of Democratic Elections declarations and principles which are designed to foster democracy, accountability and good governance in southern Africa in order for the region to realise its full socio-economic and political potential as a family united and bonded by the same democratic values and principles.

MISA-Zimbabwe, therefore submits that AIPPA has contributed towards the reversal of the shared regional visions and missions as embodied under the Windhoek Declaration, SADC Principles and Guidelines on the Conduct of Democratic Elections, the African Charter on Human and Peoples Rights and the Banjul Declaration on the Principles of Freedom of Expression in Africa thereby warranting the serious and meticulous attention of delegates to the SADC mediated talks as a single and separate agenda item.

The quest for constitutional and electoral reforms will undoubtedly also feature prominently during the ongoing South African mediated talks between the opposition MDC and ruling Zanu PF as central and critical to the holding of free and fair elections in 2008 and other subsequent elections thereafter.

Intrinsically linked to the creation of an environment conducive for free and fair elections is the need to transform state broadcasters into truly independent public broadcasters. The long term credibility and compliance with the SADC Principles and

Guidelines rests on pressing member states to institute comprehensive media law reforms that will expunge restrictive media laws such as the Broadcasting Services Act and Access to Information and Protection of Privacy Act.

The SADC Guidelines espouse the full participation of citizens in the electoral process, press freedom and equal access by all political parties to state media, freedom of association and political tolerance and independence of the judiciary among its other 10 fundamental tenets for the holding of free and fair elections.

It is in that regard that the transformation of the ZBC into a truly independent public broadcaster among other contributory factors will go a long way in securing a free and fair environment ahead of the 2008 elections and thus render the SADC guidelines meaningful and achievable.

The SADC Guidelines espouse the full participation of citizens in the electoral process, press freedom and equal access by all political parties to state media, freedom of association and political tolerance and independence of the judiciary among its other 10 fundamental tenets for the holding of free and fair elections.

The very existence of repressive and restrictive laws such as AIPPA and POSA and the BSA as it relates to the state's control of the ZBC are designed to regulate free speech thereby muzzling the citizens' right to freely formulate and air their beliefs and political attitudes through open discussions and platforms, more so, through the ZBC which is funded by the taxpayer.

Public service broadcasting therefore plays a critical role in meeting the citizens' desire and hunger for the broadest possible information, advice, debate and analysis to enable them to make informed decisions and choices on issues that affect their daily lives.

The prevailing regulatory environment as dictated by the BSA and the ZBC's governance, ownership and management structure chokes its editorial independence allowing the Ministry of Information and Publicity free reign over the appointment of its Board of Directors, Chief Executive Officer and editorial decisions.

ZBC has remained biased in favour of the government and the ruling Zanu PF as it has centred more on serving as the public relations arm of the ruling elite and their acolytes in contravention of the SADC Principles and Guidelines, the African Charter on Broadcasting and the Banjul Declaration on the Principles of Freedom of Expression in Africa.

The editorial stance of the ZBC as a public media should therefore change as it has failed to meet its public service mandate and conform to the SADC guidelines. Free and fair elections include freedom of the press and access to national radio and television, which remains utopian under the existing constitutional and legislative environment, which has seen the government tightening its grip on the ZBC

MISA-Zimbabwe submits that for the ZBC to be respected as a truly independent broadcaster, there is need to repeal the BSA and ensure that the new legislation surrenders the appointment of its board of governors to a transparent public nomination and selection process.

MISA-Zimbabwe demands that the SADC should therefore insist and impress upon the ruling elite during their forthcoming summit which will be held in Zambia this August that the transformation of state broadcasters into truly independent entities that reflect the plurality and diverse views of society is a precondition to the holding of free and fair elections ■



ZIMBABWE

needs an **ELECTORAL**

SYSTEM capable of healing

POLITICAL wounds

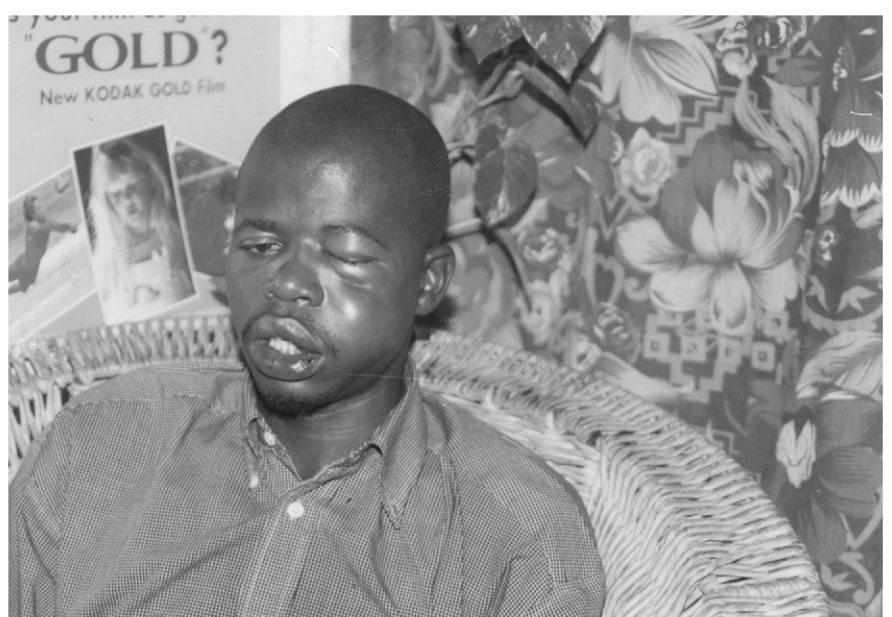
By Jealousy Mawarire

Judging from past events, the Zimbabwe political landscape is a minefield that has generated acrimonious relations between the two major political parties in Zimbabwe, Zanu-PF and the Movement for Democratic Change (MDC). Pre-election violence, accusations and counter-accusations of electoral fraud and litigations have characterised the elections in Zimbabwe since 2000. Such a political climate calls for an electoral process capable of healing the wounds resultant of the political tension obtaining in the country since the dawning of the new millennium.

There is need for an electoral process that can create joyous losers, those that lose in humility and rational enough to realise the election is not all about winning but creating a Zimbabwe that we want. May be the first question would be what is and electoral system?

An electoral system can easily be understood as a way in which votes are translated into seats. There are hundreds of electoral systems currently in use and many more permutations on each form. However, there are three broad families of electoral systems

- Majority Plurality Systems (First Past The Post/FPTP; Block Vote; Alternative Vote; Two round System)
- Semi Proportional Systems (Parallel; Limited Vote Single Non-Transferable Vote/SNTV)



Political violence victim

- Proportional representation systems (List PR; Mixed Member Proportional, Single Transferable Vote)

Zimbabwe's electoral system is a "first past the post" system with single member constituencies where the candidate with the most votes wins a seat in the House of Assembly/Senate.

While the system ensures accountability to constituents for those elected, FPTP has, however, tended to create outright winners who care little about building bridges with contesting parties. Therefore, used on its own, FPTP tends to fail in the proposed task of healing political wounds.

It is with this understanding that we propose proportional representation to be merged to FPTP to come up with the best electoral system for the parliamentary vote, and PR proper for the senate. Therefore, the Mixed Member Proportional Representation (MPPR), as used in Lesotho, would entail that FPTP would be used for contested parliamentary seats while PR would come into force for compensatory seats which, in the current situation, are occupied by non-constituency MPs appointed by the executive.

There is need to contextualise this call by assessing the political situation since 2000. The mood of bitterness in Zimbabwean

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politics can be traced back to the liberation struggle and the Matabeleland massacres during the first few years of the 1980s. After some form of thawing during the 1990s, the bitterness mood resurfaced in bludgeoning proportions after the militarisation of Zimbabwean politics when the war veterans entered the political fray after the 2000 referendum. The general mood of bitterness created political polarisation, suspicion and intolerance that has made it impossible even for well-meaning religious groups and neighbouring countries to negotiate a compromise political solution.

It is our submission that, given the mood of bitterness that has engulfed our political climate, there is need for an electoral system that is capable of healing the political polarisation that we find in our society today. Among all the systems available, Majority Plurality Systems (MPS), Proportional Representation (PR) and Semi Proportional Systems (SPS), it is PR that can perform the task of healing political wounds with resounding success. We tried it in 1980 and it worked. With a bit of dexterity amassed from experience, the PR system can be merged with the current electoral system to come up with a system that can harness the advantages of both while systematically diminishing the disadvantages associated with the two electoral systems.

The basic approach of proportional representation is simple: legislators are elected in multimember districts instead of single-member districts, and the number of seats that a party wins in an election is proportional to the amount of its support among voters. So if you have a 10-member district and Party A wins 50% of the vote, it gets five of the ten seats. If Party B wins 30% of the vote, it gets three seats; and if a third party gets 20% of the vote, they win two seats. Electoral system designers have devised several ways to achieve these proportional results, and so there are three basic kinds of PR: the party list, mixed-member, and single-transferable vote (also called choice voting).

While PR has its own disadvantages like reducing the personal accountability of parliamentary representatives to their constituents and encouraging the executive to adopt an authoritarian predisposition in its relationship with the legislature, its advantages outweigh, by far, the noted disadvantages.

PR systems, as a starting point, were devised to solve the many problems caused by plurality-majority voting systems especially that of creating bitter losers and intolerant winners. As a rule, PR voting systems provide more accurate representation of parties, better representation for political and racial minorities, fewer wasted votes, higher levels of voter turnout, better representation of women, greater likelihood of majority rule, and little opportunity for gerrymandering.

We have had problems where, just because a party wants to win the majority seats in the current electoral system, constituency boundaries have been drawn to the advantage of the incumbent. One advantage of proportional representation is that it would greatly reduce or eliminate the problem of partisan gerrymandering -- one of the scourges of the single-member district system.

Currently, constituency boundaries are usually drawn to create district majorities that favour certain parties or incumbents -- a cynical exercise designed to cheat some parties out of their fair share of seats. This is true when one looks at the Harare South constituency where peri-urban and rural districts were incorporated into the new boundaries to dilute the Movement for Democratic Change urban vote.

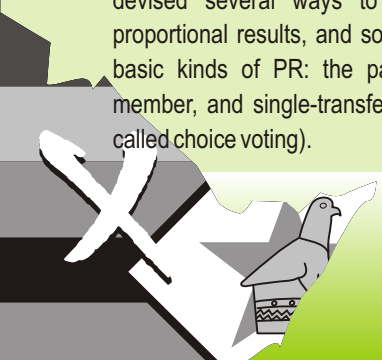
However, as mentioned earlier, how constituency boundaries are drawn in PR systems usually has no significant impact on representation. If the multi-member PR districts are sufficiently large (five or more seats), it does not matter whether a party is a majority or a minority -- all parties receive their fair share of seats.

Where it has been used, PR has managed, as in the case of South Africa, to promote regional balances, racial diversity and gender representation in parliament. This has ensured racial reconciliation, thawing of political tension and animosity and created a political environment conducive for empowering women politically.

Unlike the First Past the Post system, which is the commonest systems used in Majority-Plurality Systems and the one we use in Zimbabwe, where the winner takes everything, proportional representation does provide a window through which losers can still participate in governance issues. Where PR is used, losing in an election does not necessarily translate to failure to participate in governance as all participating parties who would have garnered votes, albeit in a losing cause, will still get solace from the fact that they would get seats in the legislative assembly.

What Zimbabwe needs now, is not an electoral system that creates bitter losers. We need a process that enables all parties in an election to work towards the political and economic turn-around of the country. This can only be achieved if all players in the political juggernaut, majority party, minority parties, men, women, blacks and whites could be allowed to participate in governance issues. We experimented with PR just after the liberation struggle and the system worked wonders as we managed to effectively implement a reconciliation process that became the envy of the world.

Since political tension is high and bitter political rivalry abounds, it is time we go back to where the rain started beating us and map out a survival strategy that would work us out of the political and economic quagmire that we find ourselves immersed in. It is not a bad idea to re-think systems that have worked for us before and if it means going back to 1980 and modify the electoral system a bit, so be it ■





MISA

Zimbabwe Statement on Constitutional Reforms

As Zimbabwe works towards restoring its relations with the international community particularly with the United Kingdom, it is MISA-Zimbabwe's carefully considered view that concerted efforts towards reviving the stalled constitutional reform process will go a long way towards fulfilling that objective.

While President Robert Mugabe is on record acknowledging the need to build bridges with Britain, an all-encompassing constitutional review process will help in sending the right signals to the international community.

It is MISA-Zimbabwe's strong view that the constitutional reforms being agitated for will go a long way in building the democratic bridges which will foster national unity across the socio-economic and political divide and instil an increased sense of belonging to their country.

The issue of Constitutional reforms is one that deserves collective discourse through a transparent, all-encompassing and independent Commission, which will be better placed to receive the views of Zimbabweans without fear or favour. This would entail revisiting the contents of the rejected Draft Constitution of 2000 as well as concerns raised by civic society organisations during the 2000 process that resulted in the referendum rejection of the draft constitution.

By revisiting the rejected document, the government will demonstrate that it is willing to respect and embrace the democratic aspirations of its citizens through a people-driven and people-owned process.

Construction of the bridge for constitutional reforms needs to be embarked on as a matter of urgency if Zimbabwe is to access the much sought-after international goodwill and foreign investment.

This process should culminate in a justiceable Bill of Rights

that will secure and entrench our basic rights and freedoms in conformity with international standards and deliver the killer punch against draconian laws such as AIPPA, POSA, Broadcasting Services Act, Criminal Law (Codification and Reform) Act and the Official Secrets Act among others.

In saying this MISA-Zimbabwe is firmly guided by the universally recognised position that an unfettered media is the *sine quo non* to the enjoyment of freedom of expression as it fosters a culture of accountability, transparency and good governance.

MISA-Zimbabwe is cognisant of the fact that Section 20 of Zimbabwe's Lancaster House-negotiated Constitution does not specifically guarantee freedom of the press, a void that the Supreme Court noted in 2003 when it upheld AIPPA to be constitutional.

The right to freedom of expression and inevitably that of the press is a fundamental right without which all other freedoms will be illusory - difficult to attain and express. As a freedom of expression advocacy and lobby group, MISA-Zimbabwe, therefore, insists that a new democratic Constitution should include a constitutional guarantee that expressly recognises and protects freedom of the press.

The issue of the Bill of Rights viewed against the backdrop of the tremendous Executive powers vested in the Head of State, is key to a democratic Constitution which respects and protects freedom of speech, media freedom, free conscience and thought.

We reiterate that constitutional reform is too important an issue to be left to one political party simply because it commands a majority in parliament. Constitutional reform must benefit all Zimbabweans regardless of political or religious affiliation, economic status, colour or creed. ■



FEEDBACK LETTERS

Dear ZESN

Your ballot news (Issue No. 1) of 1 March 2007 made interesting reading in more than one respect: the diverse and divergent views and interpretations of the coined operative term "harmonization" (of the 2008 elections).

Your contributors, in spite of their different interpretations of the term, are generally agreed that the synchronization of the electoral process is not a bad idea after all.

I would like to applaud Eldred Masunungure for his forthright article, not least of all, his definition of the term harmonisation. Personally I hold that "harmonisation" is not the most appropriate term, given the array of the other more suitable synonyms, to readily choose from. Using other terms, the 2008 elections will be synchronized or rationalized. In business parlance to rationalize is to reform by re-organizing industry so as to get rid of waste. Rationalization can also mean to take place concurrently or simultaneously. I am happy to observe that Eldred, in his contribution, explained harmonisation in different ways and words to the advantage of the general public. I profess that those who came up with the term harmonisation have the unenviable task of convincing me that their definition of the term is the most appropriate one.

I would want to acknowledge my respect for the views expressed by your contributor Peter Tendaiwo Maregere in the same issue of the ballot news. I like people who offer their views impartially and in a non-partisan manner.

Anonymous Lupane

Dear ZESN

I was excited to read your issue of the Ballot News, March 2007, in particular the different ways in which your contributors tackled the issue of 'election harmonisation'. It was refreshing to note that the debate varied from legal understanding of the proposed harmonisation to social implications of the Bill. It was also very important that some of your contributors argued that harmonisation was not even part of the 'Zimbabwean problem'. Instead of paying particular attention to the Bill that seeks to bring the harmonisation, some of your contributors were analytical enough to seize on the current discussions around the Bill and bring out the real problems bedevilling the country.

They brought out important issues that the Bill does not address but are very pertinent in the Zimbabwean crisis. Some pointed on issues like curtailing of the freedoms of assembly, expression and movement, the issue of political intolerance, the impartiality of electoral management bodies' staff and unequal access to the media which are issues I believe are very important and highly inimical to efforts aimed at promoting democracy in the country. I urge you to continue looking for such diverse and informative contributors. I look forward to reading your next issue.

Shingirai Paratema, HARARE

If you have any comments or contributions please write to:
ZIMBABWE ELECTION SUPPORT NETWORK

10 Rochester Crescent

Belgravia

Harare

Tel / Fax: +263 (04) 250735/6 or 703956

Email: zesn@africaonline.co.zw / info@zesn.org.zw

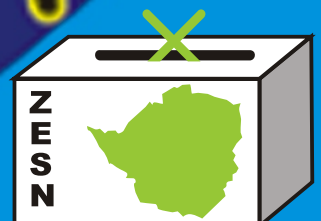
Look me in the eye...



**I am a
registered
voter!**

INFORMATION HOTLINE

Tel: +263 (4) 250735/6 or 703956 Cell: 023 277 140
Email: zesn@africaonline.co.zw / info@zesn.org.zw
Website: www.zesn.org.zw

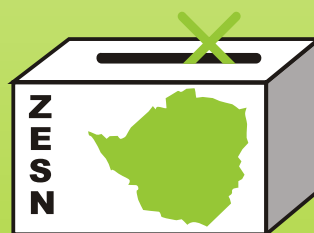


PROMOTING DEMOCRATIC ELECTIONS IN
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ZIMBABWE ELECTION SUPPORT NETWORK

10 Rochester Crescent, Belgravia
P. O. Box BE 630 Belvedere, Harare
Telfax: +263 (04) 250735/6 or 703956
Email: zesn@africaonline.co.zw / info@zesn.org.zw .
Website: www.zesn.org.zw