

ZIMBABWE ELECTION SUPPORT NETWORK



ELECTORAL REFORM PROPOSALS

ELECTORAL ARCHITECTURE

Legal Framework and operating environment

Some amendments were made to the Electoral Act in the prior to March 2008 e.g. requiring posting of election results outside polling stations and constituency tabulation centers. Other relevant pieces of legislation such as POSA, AIPPA and the Broadcasting Act. However these reforms were piecemeal in nature. Political violence affected enjoyment of fundamental human rights -association, assembly and speech. Unbalanced and unequal access to public media furthermore, there was a reversal to some of the reforms made on the eve of the 29 March election, through a presidential proclamation, for instance the requirement that police officers to be stationed 300 metres from polling stations.

- ZESN continues to recommend a comprehensive legislative and security reforms
- Removal of Presidential Powers [Temporary Measures] legislation in relation to elections
- Media reforms
- Zero tolerance on election related violence

Electoral System

Westminster system of first past the post [FPTP] based on the "winner-take-all" model, the unfolding political and leadership challenges in Zimbabwe can hardly be solved through such winner-take-all, zero sum frameworks. Besides being exclusionary, they generate tension in an environment already pregnant with tension and agitation.

Recommendations

The solution to the political stalemate in Zimbabwe lies in an electoral paradigmatic shift to more inclusive, accommodating, win-win electoral systems based on proportional representation and mixed electoral systems

Election Administration

Sound election administration is critical in building political party confidence in the conduct of elections. The delays that accompanied the release of election results, especially presidential results, do not reflect positively on ZEC's election management capacity and autonomy. Its management of, nomination, voter education, voter registration and inspection processes particularly raised concern.

Delimitation-Information on the delimitation exercise was not adequately provided. For example the public and parliamentarians were not given adequate time to debate and make inputs in the exercise.

Delays in the delimitation of boundaries [constituencies and wards] saw voter registration and inspections and setting of the nomination date being done before the finalization of the delimitation exercise.

To increase transparency of the process, it is recommended that the law should require the Commission to disclose the total number of ballots printed for each election.

Recommendations

- Review of the EMB
- Independent, adequate and qualified personnel
- Ensure the independence and efficiency of the body
- Financial autonomy of the EMB.
- Reporting to parliament
- Increased accountability of the Commission. For instance, Commissioners could each be given areas of responsibility to enhance accountability.
- The law could require the commissioners to divide among themselves responsibility for the

commission's different activities.

- An alternative way of distributing functions between commissioners would be to give each commissioner the responsibility for a particular province.
- Method of appointment should ensure the impartiality, all-inclusiveness, competence and accountability of the body.
- The participation of opposition parties and key stake holders. The selection process of commissioners should be transparent and engender confidence in all stakeholders.
- These selection processes should also ensure that gender, special needs groups and youth participation or representation is achieved.

ELECTORAL OPERATIONS

Voter Registration and Inspection of the Voters' Roll

- The requirement that voters should produce "any satisfactory documentary evidence reasonably proving where they live" proved in effect to be a restrictive requirement.
- The voter registration exercise was also hampered by a number of logistical problems such as; inadequate time allocation, inadequate resources, insufficient and incorrect information was provided to citizens about the registration process.
- Also in some cases conflicting information was provided on documents required to enable one to register as a voter.

Recommendations

- The Zimbabwe Electoral Commission should be wholly responsible for voter registration. There should be a complete transfer of the management of the electoral process including preparing of the voters' roll to ZEC. This should not only be in the law but also in practice.
- The election management body should then play a more proactive role to ensure that every eligible voter is registered.
- Proof of residence, which is needed if elections are held on a constituency basis, must be facilitated.
- Appeals against a refusal of registration, or against a decision to remove a voter from the roll, should lie to a magistrate, and from the magistrate to the Electoral Court and from there to the Supreme Court.
- ZEC should ensure that all voters registered during the inspection period as well as during the mobile voter registration exercises are urgently issued with voter registration certificates so that they are not disenfranchised.
- To facilitate the rectification of existing rolls, the Zimbabwe Electoral Commission should be given power to order a re-registration of voters in particular constituencies or wards.
- Voter registration should be approached as an ongoing process.
- Stringent requirements which discourage and disable people from registering as voters should be done away with.
- The voter registration exercise should be sufficiently publicized to ensure that every citizen who desires to participate in elections is able to do so.
- Adequate resources [time, human and financial] should be allocated towards the voter registration exercise to enable ZEC to undertake its voter registration mandates.

Voter Education

- To strengthen the voter education exercise, it is recommended that:
- ZEC avail adequate resources for voter education.
- The Zimbabwe Electoral Commission should not have a monopoly over voter education. Anyone

should be allowed to provide it; the Commission's supervisory role should be reduced to ensuring that voter education provided by other bodies is accurate.

- ZEC should work with civic groups to ensure national coverage with adequate voter education.
- Adequate monitoring mechanisms should be put in place to ensure that voter education is conducted in a uniform, professional and non-partisan manner.
- A comprehensive voter education and information exercise should be conducted in order to reduce cases of voters going to wrong polling stations or wards on voting day.

Voters' rolls

- The electronic copies of the rolls which the Zimbabwe Electoral Commission is obliged to furnish to political parties and others must be in a format that allows them to be analysed and compared. Accredited observer groups must also be furnished with electronic copies of the rolls. No fee should be charged for these copies.
- Polling agents and accredited observers at polling stations should be given access to printed copies of the rolls, free of charge.

Delimitation

- A new delimitation exercise was conducted in advance of the 29 March 2008 election, there was insufficient time for people to participate in the process.
- A preliminary delimitation report was not tabled as envisioned in the law, to provide an opportunity for formal input by the political parties.
- The final delimitation report was tabled in parliament very late in the electoral process. This left little time to educate the public on changes to ward and constituency [house of assembly and senate] boundaries.

Nominations

- To strengthen nomination processes and practices, it is recommended that:
- The provisions of the law, which allow filing of papers before nomination day, should be used.
- Adequate funding should be allocated to the Electoral Commission to ensure efficient management of nomination processes.
- ZEC should ensure that citizens receive relevant education of the electoral process
- Timely availability of information on ward and constituency boundaries so that nominees are identified from the correct wards and constituencies.
- Nomination procedures should be non-bureaucratic. Nomination papers should not be rejected on purely technical grounds, and prospective candidates must be given ample opportunity to rectify their papers if they are defective.
- Appeals against refusal of nomination should be dealt with promptly.

Access to State Media

- The Zimbabwe Electoral Commission must be pro-active in monitoring news media during elections, to ensure that they abide by Part IVA of the Zimbabwe Electoral Commission Act. The Commission should encourage the development of codes of conduct for the media.
- More broadcasters [independent radio and television stations] should be licensed.
- Public broadcasters should be obliged to "afford all political parties and independent candidates such free access to their broadcasting services as may be prescribed" in the law.

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- The regulations must provide for the total time allocated to each political party or candidate, the duration of each broadcast by the party or candidate, and the times when the areas to which such broadcasts are to be transmitted.
- ZEC should be more proactive in its monitoring of broadcasters during the election period to ensure that they observe these provisions.
- Media should be barred from publishing language encouraging racial, ethnic or religious prejudice or hatred or inciting violence or likely to lead to undue public contempt towards any political party, candidate or class of persons in Zimbabwe.

Special Voting

- Postal voting in Zimbabwe has also remained controversial, shrouded in secrecy, inaccessible to observers, riddled with allegations of intimidation, malpractice and non-transparency.
- It is strongly recommended that the doctrine of secrecy as well as transparency that is applied to other electoral processes must also apply to postal voting.
- Members of the Zimbabwean Diaspora must be allowed to vote.
- When a member of the security forces votes in advance or by post, the competent witness before whom he or she votes must not be a person who has the capacity to intimidate the member.

Ballot papers and Ballot boxes

- The legislation must specify that ballot boxes are to be made of translucent material.
- The Zimbabwe Electoral Commission must disclose the total number of ballot papers printed for any election.

Counting of votes

- Candidates and their agents, and accredited observers, should have a right to be present at the counting process; the minimum number of observers who may be present should be specified in the Act, not left entirely to regulation.
- The Act should state what is to happen if a candidate or election agent disputes the accuracy of the verification or collation of returns.

Counting of votes

- The circumstances in which the Zimbabwe Electoral Commission can order a recounting of votes must be clarified.
- If a recount is ordered, the destruction of ballot papers and other documents relating to the election concerned must be stayed.

State funding of political parties

- Funding should be done through the Zimbabwe Electoral Commission, not by a Minister.
- The threshold for funding should be reduced to three per cent of the votes cast in the previous election.
- Provision should be made for new parties to be funded.
- There should be a relaxation of the prohibition against foreign funding, to allow members of the Diaspora to participate in the country's politics.
- All parties should be required to disclose donations above a prescribed amount.

Code of conduct for political parties

- The Zimbabwe Electoral Commission, in a broadly consultative process which includes mainly political

parties, CSOs and government should draw up a code of conduct to prevent incumbent politicians misusing State resources for political purposes.

Conflict Management

- In future, to enable the Electoral Court to resolve disputes expeditiously before elections take place, there is need for competent, effective, independent and impartial judiciary and electoral institutions.
- There is also need to complement the judges of the Electoral Court with staff, equipment and adequate resources.
- The jurisdiction of the Electoral Court should be broadened, for example the resolution of disputes occurring prior to the election and should be extended to cover all matters relating to elections.
- The court should have all the powers of the High Court in civil matters, including the High Court's powers of review
- The degree of proof required for election petitions should be the ordinary civil standard: proof on a balance of probabilities.
- Electoral tribunals should be established to arbitrate disputes if mediation fails.

ELECTORAL STAKEHOLDERS

Political Parties

It is recommended that:

- Political parties must walk the talk of political tolerance. The message of zero tolerance to political violence must cascade from the top leadership structures to the grassroots,
- All political parties, the electronic and print media must be barred from using/publishing any form of inflammatory language and hate speech.
- Political parties should be compelled to practice effective internal democracy to reduce or avoid intra-party violence
- Acceptable conduct should be agreed in a legally enforceable code of conduct for political parties. The enforcement of offences should be vigorous and penalties should be prohibitive such as disqualification of candidates or huge fines. This would ensure that parties abstain from vote buying or any other dishonest or unethical election campaign conduct.

Election agents

- To avoid intimidation and subsequent reprisals, the names and addresses of candidates' chief election agents should not be published.

Election Observation

To improve election observation, it is recommended that:

- ZEC should have the decisive say on which observers to invite and accredit without any ministerial veto power as is currently the case,
- Accreditation should be decentralized
- Devise an easier way of accreditation
- ZEC must also accredit sufficient numbers of local and international observers to allow comprehensive observation of elections.
- The security of independent and domestic election observers must be guaranteed.

Election observers

- The excessive restrictions on observation of elections must be relaxed; anyone should be entitled to observe elections, and the accreditation of observers should be employed only to give accredited observers privileges such as the right to enter polling

stations and to observe the counting of votes.

- The accreditation of observers must be left to the Zimbabwe Electoral Commission; there should be no governmental interference.
- International observation of elections must be encouraged.

NGOs and Human Rights Defenders

- Human Rights NGOs also bore the brunt of retributive violence.
- There was widespread harassment of observers, human rights lawyers, journalists and others who were thought to be either sympathetic to the opposition or did not give adequate coverage to the ruling party. Civil society and the work they do should be accorded more respect as it is important for democratic principles to take root in Zimbabwe.

Security Forces

- It is therefore recommended that mechanisms be put in place to ensure that security forces conduct themselves in a professional and non-partisan manner.
- Although the presence of police officers at polling stations is necessary to maintain order, such deployment should not be done in such a way could lead to the intimidation e.g. large numbers of police.

Traditional Leaders

- The role of traditional leadership in the politics of Zimbabwe remains a highly contested terrain. It is therefore recommended that traditional leaders remain apolitical and should embrace all their subjects regardless of their political persuasion.

External /Diaspora Voters

- It is recommended that the Electoral Commission be given the power to establish a system that allows Zimbabweans living outside the country [diaspora] to vote by post if they are unable to return to Zimbabwe to cast their votes.

Assisted Voters

- It is recommended that only a trusted friend or relative of the voter's choice be allowed to render assistance in order to safeguard the secrecy of their ballot and avoid intimidation.
- Police officers must not be involved.

CONCLUSION

The period under the Global Political Agreement gives Zimbabwe a unique opportunity to effectively deal with electoral reform and ensure a conducive environment and conditions that guarantee respect for the will of the people before the next election. Timing of next election – vis a vis adequate time for preparations- new changes, conducive environment?

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