



## ZESN'S STATEMENT ON PROPOSED ELECTORAL REFORMS

**08 July 2010- Harare** – The Zimbabwe Election Support Network (ZESN) welcomes the move to legislate proposed electoral reforms that were agreed to by political parties into the Electoral Act. However, there are a few issues that need to be thought through as these proposals are brought before the Legislature. ZESN seeks to promote the democratic conduct of elections in an environment that protects and promotes the rights of citizens.

- 1. Voter polling station specific voter registration:** The proposed legal reforms seek to do away with the ward based voters' roll and introduce a polling station specific voters' roll. ZESN welcomes this reform but cautions that though this system may make identification easier and voting quicker, in the current politically polarized environment, there are a number of risks that may be faced by voters such as prevention of voters from going to vote as well as retributive polling and post voting violence and intimidation.

Further, issues of equity of voters have to be taken into account, some polling stations will have more people than others and this may result in apathy if not addressed, hence more polling centres may have to be placed within a polling station for those places with more voters. We advise that sufficient resources be provided to ensure success of this re-registration and that the entire process be done by the Zimbabwe Electoral Commission with the support of a truly independent and competent secretariat.

ZESN believes the new voters' roll must also be open to inspection and audit by political parties, citizens and electoral observation bodies well ahead of any election in which it is used.

- 2. The role of the police in electoral processes:** The legal reforms seek to change the role of the police officers in electoral processes to that of maintaining law and order. It is important to note that electoral violence in Zimbabwe does not normally take place on polling day and so deploying huge numbers of police officers on polling day which is usually peaceful does not address violence that takes place before and after polling day. Electoral violence has taken place before and after elections and the police have not been able to protect the citizens. It is therefore important for the law to address issues of selective application of the law to ensure greater protection of citizens in the pre-polling, polling and in the post polling periods.
- 3. Releasing of presidential election results within 5 days:** This is an improvement from past experiences where results were released late, however, in the past elections results were published within 48 hours an indication that it is possible if the political will exist. There is also need to emphasize that election results need to be managed with transparency and openness to all relevant stakeholders such as political party agents and observers. More importantly those given responsibility must follow the law and the rules strictly.
- 4. Nomination processes:** The uniformity in the nomination procedures for all parties is a welcome development as political parties should appoint and submit to ZEC not more than three authorized persons to make nominations on its behalf. The old procedure remains for independent candidates. ZESN welcomes this move as it reduces the problems of duplicate candidature for one party in the same constituency that took place in 2008 which confused voters and resulted in unnecessary vote splitting between political parties.

5. **Accreditation of observers:** ZESN is concerned that the proposed laws remain silent on the issue of observers being invited by the Ministry of Justice and the lack of decentralization of the accreditation procedures. It is important that the process of inviting and accrediting local and international observers be the sole responsibility of ZEC. It should be transparent and open to those willing to participate. In the past, accreditation of domestic observers has not been very certain and they have been accredited on the last minute. In addition, the centralization of accreditation centres in Harare and Bulawayo only has been a logistical nightmare for domestic observer groups. ZESN is also concerned about the cherry-picking of international observers which is discriminatory and exclusionary to other stakeholders with an interest in observing the election. Zimbabwe must allow open and transparent observation of its elections by local, regional and international observers invited and accredited by an independent and impartial electoral body.
6. **Special body for complaints of political violence:** The new provisions allow the Attorney-General to set a unit to prosecute and investigate cases of politically motivated violence is an acknowledgement of the existence of violence. ZESN is concerned with the way in which the same office has handled cases of political violence in the past where investigations have been delayed to the point where justice is delayed. In addition, the politicization of the office has been a contentious issue. The proposed laws seek to provide for a special law that upon conviction, the court can make a special order banning candidates from further participation in the electoral process. The Special body is to liaise with the police and multiparty liaison committees. ZESN welcomes these efforts to curb politically motivated violence during electoral processes. There is however a concern that most of the provisions work in places where there is rule of law and equality before the law.

The police for example was not able to help victims of politically motivated violence in 2008 and there is very little confidence in this body by the citizenry as a body for their protection hence referring cases of violence for investigation and prosecution with the institutions that looked on as the electorate were harassed, killed and maimed seems futile. ZESN reiterates its call on the need to reform the security sector and the Attorney-General's office in order to increase the confidence of the citizens.

ZESN therefore reiterates its call for reform of the security sector and the Attorney-General's office in order to restore law and order before, during and after elections. In the absence of such reform, the special body is likely to fail promote and protect citizens from political violence.

7. **Postal voting:** Postal voting has been problematic as the process has been opaque and lacking in transparency. The proposed laws provide for postal voting for people on state duty abroad and locally. Past experience has shown that the security sector's voting ahead of the polls has been unsupervised, unobserved (despite many demands). In addition it has been a subject of controversy because of allegations of forced voting for a specific candidate and party. Issues of transparency are important from the start to the end of the postal voting process and the process should be open to observation.
8. **Assisted voters:** In the case of illiteracy, the person may now choose a person of their choice. While this is a welcome development it should be extended to everyone who needs assistance. ZESN also recommends that Braille ballot papers should be introduced for the visually impaired to protect the secrecy of their vote as there have been allegations of partisan presiding and polling officers in the past elections.
9. ZESN welcomes the removal of the police from observing assisted voters as this has been seen to intimidate the voter and obscure free choice.

10. **Transparency in the number of ballot papers printed and distributed to each polling station:** This is a welcome development which increases the transparency of the process. Parties agreed to make an amendment in the Electoral Act that required ZEC to provide to political parties and candidates participating in an election, the number of ballots printed and distributed to each polling station.
11. **Run-Off:** The laws will continue to provide for the provision of a run off if no candidate is able to secure 50 per cent plus one vote to win. It is important to note that violence in 2008 occurred during the run-up to the run-off hence we call for measures to be put in place to protect the citizens from election related violence.

We are concerned about the continued silence on the following issues that ZESN has been raising over the years;

- **Zimbabwe Electoral Commission (ZEC):** The capacity of ZEC to efficiently and effectively run elections has been questioned. Previous experience has shown that ZEC does not have adequate human and financial resources to efficiently and effectively run elections. The impartiality of the Secretariat has come into question. These issues need urgent redress. The absence in the country of the new Chairperson, Justice Simpson Mutambanengwe needs an immediate solution. He is needed to lead reform, restructure, resource and capacity building of the ZEC team to create a truly effective independent and trusted electoral management body.
- **Media:** ZESN believes the media plays a pivotal role in elections and therefore re-iterates its call for substantive and timely amendment to the Broadcasting Services Act and AIPPA and the promotion of media pluralism. The public media must be depoliticized and the promotion of partisan and hate media against sections and views opposed to those in control of public media must be ended.
- **Transparency:** ZESN believes that for elections to be free and fair there is need for transparency in all processes of the elections which include among others results management, transparency in the processing of postal votes and the review of the voting rights in the citizenship act. ZESN reiterates its position of having substantive and meaningful reforms to the architecture and operations of elections in Zimbabwe. There is need for wholesale electoral reforms that will create a new culture of transparency, inclusiveness, fairness and openness to ensure that the outcome of the election is legitimate and acceptable.
- **Diaspora Vote:** We also note with concern that the issue of the Diaspora vote has been sidelined yet again. It is important for people in the Diaspora to have a say in the governance of their country.

ZESN reaffirms its view that in order to create the ideal environment for electoral democracy, it remains critical that there be genuine institutional reform to restore professionalism and impartiality in arms of government that should sustain democracy. As we have urged before, the electoral environment must be free of political violence, selective prosecution, and suppression of civil society organizations, repressive laws and practices, protection of electoral criminals as well as a biased or partisan public media.

It remains critical that the Constitution making process results in true capturing and reflection of the will of the people. Having signed many international, African and SADC instruments adopted for greater electoral democracy, ZESN encourages that as part of current reform, these be adopted and domesticated.

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**PROMOTING DEMOCRATIC ELECTIONS IN ZIMBABWE**

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