



Policy Brief

CREATING A
FRAMEWORK FOR LONG TERM
ELECTION OBSERVATION AND
GUARANTEEING
THE SECURITY OF OBSERVERS:
POLICY CONSIDERATIONS

Executive Summary

Long term observation of elections is a vital tool in promoting the integrity and credibility of electoral processes. The information and analysis provided by longterm observers can act as an early warning system and provide key points of interventions and improvement by election stakeholders, such as election administrators, law enforcement agencies, parties, candidates and voters. Observing the electoral process over an extended period also allows observers to assess the genuineness of the election outcome.

In order to be effective, observers must have full and unimpeded access to the entire electoral process and to electoral stakeholders. This allows them to make a fully informed assessment of the process. They should also be able to conduct their activities without harassment, intimidation or violence. Yet this is not always the case.

The main conclusions of this brief point to the need to provide a framework which acknowledges the value of election observation in general and long term observation in particular and which empowers observers to carry out their work as best they can and protects them as they do so. Therefore the brief highlights the following recommendations:

- a) The legal framework of elections should expressly provide for the observation of all keystages of the electoral process and spell them out in the law.
- b) The legal framework should enable the access of observers to the said processes by requiring electoral authorities to accredit those who want to observe these processes.
- c) The definitions and prohibition against intimidation and hate speech during elections should also specifically include intimidation and hate speech against observers and the organisations deploying them. Obstruction of observers should also become an illegal offence.
- d) Organisations which monitor the electoral process over a long period such as violence and conflict monitors should also be included in the conflict management structures established at national, provincial and local level.

Creating a framework for long term election observation and guaranteeing the security of observers: Policy considerations

Statement of the Problem

Although in recent years the focus of election monitoring and observation has shifted beyond just the voting and counting days, this is not reflected in the legal and administrative frameworks in Zimbabwe. For example Section 40G of the Electoral Act states that observers shall be entitled to observe the electoral process and “in particular the conduct of polling”. Although this does not necessarily preclude the observation of other stages during the election cycle, it does create a bias towards the polling days. However it is now widely accepted amongst election experts that elections are a process often taking place over an extended period of time and that polling days are merely a reflection of what has happened during the preceding stages of the election cycle (See Appendix 1).

This bias towards polling days has been reflected in administrative practices whereby observers are not always officially accredited to observe key elections stages or to observe and monitor the political environment in the months before the election. Accreditation for long term monitors and observers is absolutely necessary as without official status, it is extremely difficult to observe the pre-election phases with the same rigour and comprehensiveness as the polling period.

Charging observers a fee for accreditation as is done in Zimbabwe can be prohibitive if interested organisations and individuals do not have the required funds. Nonetheless, officially accredited observers still sometimes face resistance from election officials and have been refused entry to polling stations and other election sites. More needs to be done therefore to ensure that observers and monitors can have access to information and to stakeholders. Election stakeholders are to be educated on the role and value of observation and monitoring and should be directed to offer full cooperation and protection to accredited election monitors and observers at all stages of the elections.

Additionally hostility towards election observers from political party supporters and law enforcement agencies has resulted in attacks and detention of observers. This has resulted in instances where observers have been attacked, often by political party supporters resulting in serious injury or even death. This was at its peak in 2008 with violent attacks against observers, raids on offices of observers and arrests the leaders of society organisations (CSOs) which were deploying observers. Similar arrests of CSOs occurred during the 2013 elections.

The political environment in Zimbabwe remains volatile. This does not create a conducive working environment for observers. Areas where there are these high levels of hostility often become no go areas for observers and it becomes difficult to recruit observers and gather information about the electoral process in those particular areas.

Policy Options

The following are key policy issues (inclusive of options) available regarding voter education:

The following options are presented as possible methods by which the problem can be ameliorated. They centre around making changes that will have an impact on the administrative and political environment in which observers operate, their powers of intervention and the levels of protection and security offered to them.

1. It should be mandatory that the voter education curriculum delivered by both the election management and any other organisations contains information about election stakeholders and their different roles in the electoral process. This will raise public awareness about the role of observers and this clarification should reduce incorrect perceptions and thereby reduce suspicion of their intentions.
2. The Electoral Act should state clearly all the major stages of the election that observers are to be accredited for. These events include delimitation of electoral boundaries, voter registration and inspection of the voters' roll, nomination of candidates, election campaigning, training of election officials, voting and counting of votes and tabulation of results. Ideally the law should also provide for accreditation of long term observers of the political environment. This recognises the importance of the different electoral stages, provides clarity to all election stakeholders. Making it a requirement for accreditation to be provided for these events and leaves no room for discretionary accreditation by election administrators. It may however place an extra burden on election administrators to manage observers as it requires extra arrangements to be made by the election management body.
3. The description of intimidatory acts in the Electoral Act (Part XVIII A) should be expanded to include penalties for acts of intimidation against prospective observers or those who have already been accredited and deployed. This will act as deterrence to those who intimidate observers and prevent observation in certain areas. Additionally obstruction of accredited observers should also be an illegal practice in the same manner as obstruction of voters in Section 149 of the Electoral Act

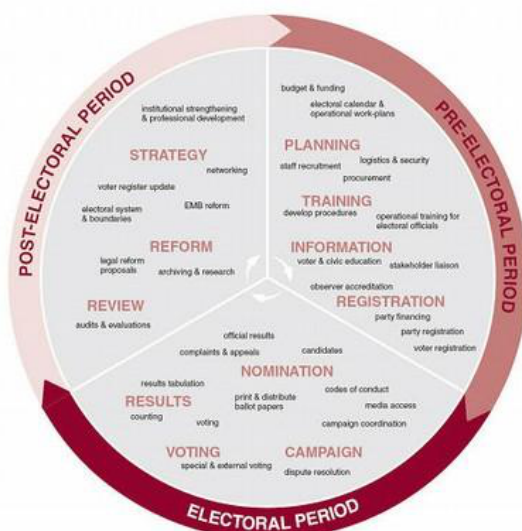
4. The conflict management and investigation mechanisms such as liaison committees should include representatives of organisations who are engaged in long term monitoring and observation of the process. By including non-partisan observers, the committees will be able to take note of objective data and reporting during their deliberations. This also recognises the value of long term observation.
5. Incitement to violence or intimidation against election monitors and observers through hate speech should be prohibited and punishable by the law and should clearly be defined as an electoral offence. This will reduce acts of violence against observers.
6. The law should recognise observers as key electoral players who require the same form of protection as election officials and election materials. This would make election observation more secure and largely guarantees safety and security of observers. Given large numbers of observers, this may create logistical requirements that law enforcement agencies are unable to meet.

Policy Recommendations

ZESN hereby makes the following recommendations:

- a) The legal framework of elections should expressly provide for the observation of all key stages of the electoral process and spell them out in the law. This change would be effected in the law by legislators
- b) The legal framework should enable the access of observers to the said processes by requiring electoral authorities to accredit those who want to observe these processes. This would be the responsibility of the election management body to implement
- c) The definitions and prohibition against intimidation and hate speech during elections should also specifically include intimidation and hate speech against observers and the organisations deploying them. Obstruction of observers should also be defined as an illegal offence. It will be the responsibility of the law enforcement agencies to investigate allegations of hate speech and for legal system
- d) Organisations which monitor the political environment and electoral process over a long period such as violence and conflict monitors should also be included in the conflict management structures established at national, provincial and local level. The election management body will be responsible for implementation and including these organisations in the conflict management structures.

Appendix 1: The Electoral Cycle.



Creating a framework for long term election observation and guaranteeing the security of observers: Policy considerations

References

The Electoral Act: Chapter 2:13

Statutory Instrument 89 of 2013

Zimbabwe Election Support Network (ZESN) Report on the Zimbabwe

29 March Harmonised Election and 27 June 2008 Presidential Run-off

Zimbabwe Election Support Network (ZESN) Report on the 31 July

2013 Harmonised Elections

“ZESN offices raided” at <http://www.gndem.org/ZESN-offices-raided>

retrieved 22 March 2017

“Zimbabwe police raid election monitors offices” at

[http://www.sabc.co.za/news/a/f78f7f804e9e59958fcdff7da4cd6ad7/Zi](http://www.sabc.co.za/news/a/f78f7f804e9e59958fcdff7da4cd6ad7/Zimbabwe-police-raid-election-monitors-office-20130220)

[mbabwe-police-raid-election-monitors-office-20130220](http://www.sabc.co.za/news/a/f78f7f804e9e59958fcdff7da4cd6ad7/Zimbabwe-police-raid-election-monitors-office-20130220)

Declaration of Principles on International Election Observation

African Union- Principles Governing Democratic Elections in Africa

Zambia- The Electoral Process Act 35 of 2016

Electoral Commission of Zambia- Are you a monitor or an observer at

<https://www.elections.org.zm/monitor.php> retrieved 21 February 2017.

Promoting Democratic Elections in Zimbabwe

+263 4 250736 / 791443

0798193 / 791803

info@zesn.net | zesn2011@zesn.net

www.zesn.org.zw



Zimbabwe Election
Support Network
[ZESN]



ZESN1

