



Policy Brief

Enhancing Transparency
in Zimbabwe's
Electoral Processes: Voter Registration,
Voting and Results Management

Executive Summary

This policy brief intends to inform and advise on how to improve transparency in electoral processes in particular the voter registration, voting and results management processes. Transparency is a key principle for credible and democratic elections. A transparent election process is 'one in which each step is open to scrutiny by stakeholders (political parties, election observers and voters alike), who are able to independently verify that the process is conducted according to procedures and no irregularities have occurred.' The essential steps in this context being: (a) who is going to be on the voters' roll (voter registration) (b) how is one going to cast (voting) (c) counting of the vote, announcement of results and chain of custody (results management). Transparency in an election helps to establish credibility and public confidence in the polls, as the citizens can scrutinize whether the polls are a true reflection of the choice of the people.

The ability to exercise the above mentioned principles is largely outlined in the Constitution of Zimbabwe (chapter 7), the Electoral Act as amended on 1 July 2016 and relevant schedules. However, there are four areas that need immediate attention to enhance the transparency of the 2018 electoral processes. The observations are premised on contemporary policy inadequacies, practices and regional and international principles. In short, (a) Voter registration must happen under public scrutiny to ensure that it is all inclusive, accessible, complete and insulated from undue influence, (b) Voting must be monitored to ensure integrity of the process and secrecy of the vote - that is no voting method (manual or electronic) or election official shall make it possible to determine by any means how a person votes in an election (c) Votes must be counted, transmitted, verified and collated under public scrutiny at all times with timely announcement of accurate results and (d) all materials used for the election must be stored safely and must be available to the public after any election for any verification processes. To substantiate and elaborate our policy submissions we look at the problem in the next section.

Statement of the Problem

A credible reservoir of research shows that a significant part of Zimbabwean citizens view transparency in electoral processes in particular the voter registration, voting and results management processes as inadequate. Yet transparency in elections is important in ensuring credibility, democraticness and acceptability of elections. Due to lack of transparency, major opposition political parties have never accepted the outcome of Zimbabwe general election results in the new millennia. To establish and maintain public confidence in the electoral system there is need for political parties, election observers and citizens to gain access and be able to scrutinize and verify the processes. Without transparency, Zimbabwe's 2018 general elections will be disputed as before and this will not augur well for the country's democratic and economic development. It is therefore important to continue to search for solutions in improving transparency in registering, voting, counting and chain of custody from not only local but internationally accepted regulations.

Critique

Transparency in voter registration and voting is inhibited by policies and practices that seek to limit independent public oversight and citizen involvement in the election processes. To begin with, section 40C of the Electoral Act which stipulates that voter education materials must be 'adequate, current, correct and not misleading or biased in favor of any political party' can lead to arbitrary exclusion of voter educators perceived to be unfriendly to the Zimbabwe Electoral Commission (ZEC) and therefore limit transparency in public participation and scrutiny. What is 'correct' can become value laden and subjective without a legal definition of the benchmarks. The lack of transparency in the law can therefore lead to expensive, arduous and long drawn legal battles between ZEC and would be voter educators in ways that will sour relations. In addition, the Electoral Act complicates the process of clearing the voter education materials as stakeholders must submit the voting material to ZEC 28 days before their use.

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In terms of registration, the Electoral Act simply empowers ZEC to, 'appoint persons from time to time to assist in voter registration.' Who these persons can be is left to anyone's guess. The legal framework is not transparent enough. It is important to outline that the current voter registration system is also not viewed by a significant section of the public as transparent, secure and of integrity. The law is clear that the voters' roll must be free from duplications and multiple entries. However, from a MPOI-ERC survey, 40% of respondents were of the opinion that the voters' roll is not free from duplicate and multiple entries. A combined total of 46% of respondents believed that the voters roll was 'not at all free' from ineligible voters.

Evidence suggests that there was no uniformity in the application of the rules in 2013. Whilst voter registration was easy, more accessible and fast in the rural areas, it was more laborious in the urban areas. Voter registration in practice favored the ruling party's strongholds. The systemic rural bias in the registration process was evident in that there was disproportionate distribution of mobile registration units in the rural areas. The distribution of mobile voter registration units seems to have been based more on geographic distance than the demographics of Voting Age Population (VAP) in each constituency. This becomes important in that 40% of respondents in the MPOI-ERC survey mentioned above said they registered to vote through the mobile registration units whereas a third (33%) registered through visiting the registration centers. In the same survey, 57% said they prefer to register via mobile registration units because of accessibility. The process and system must aim at registering 100% of VAP in line with the principle of completeness. Once compiled, ZEC has not always made available within reasonable time and in electronic form the voter register to the public in contradistinction to section 21 of the Electoral Act. Professionalism, transparency, independence & competence of ZEC must not be compromised.

The policy framework also inhibits transparency in the chain of custody in two ways. First, section 70 (3) of the Electoral Act allows with ease the destruction of election materials after the vote. It reads that, the Chief Elections Officer shall cause to be destroyed all the ballot boxes and sealed voting materials relating to that constituency not earlier than the fourteenth day after the end of the election period unless an election petition is lodged in relation to the ward or constituency concerned. The time period is relatively short and the decision is left to an individual. The ease with which the law allows destruction of voting materials might be read as a strategy to conceal some transgressions. The law must not only be transparent but it must be seen to be transparent. Second, the law is not explicitly clear that the candidates, agents and the public have a right to inspect or gain access to the voting materials after the election for purposes of verification that the election indeed reflected the will of the people. As a result, ZEC denied Jameson Timba, a losing Mt Pleasant constituency candidate in 2013, the right to open the ballot boxes and verify whether the announced result really matched the voting materials. As this remains fudged in the law, there is a possibility of a repeat of the Jameson Timba scenario. To establish and maintain public confidence in the electoral process, results management systems should incorporate the fundamental international principle of chain of custody and ensure that election materials are not compromised in movement or storage.

On results management, the policy framework is not clear on how the vertical transmission of results from polling station to ward, constituency, provincial and national command center should be monitored. According to regional and international best practice, votes must be counted and transmitted under public scrutiny at all times with announcement of accurate results. Zimbabwe's national policy framework is clear that observers, agents and candidates should provide oversight during counting, verification and collation of results. However, procedure after counting at polling station does not provide clear room for public oversight. All is left to the election officer. Section 64 (2) of the Electoral Act stipulates that, immediately after affixing a polling station return on the outside of the polling station... the presiding officer shall personally transmit to the constituency elections officer for the constituency to which the polling station belongs— the ballot box and packets..., accompanied by a statement made by the presiding officer. The law is silent on the role of candidates, agents, observers and monitors during the transmission of election results. In addition to election results management and in line with the global principle of timeliness, tabulating, counting and announcement of results must always be timely in practice. In the entire election results management, a voter should never be linked to his or her vote to ensure secrecy of the vote.

Whilst we have largely focused on the national, regional and international fundamental principles that govern a democratic election are also important to establish and maintain transparency and citizen confidence in the electoral process, voter registration, voting and results management systems. We posit 12 fundamental principles, outlining their central objective and applicability in summary below.

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Table 1: Principles that govern transparent and democratic elections

Principle	Central Objective	Applicable Concept
Insulation	The processes, systems and individuals must be protected from outside manipulation, undue influence and bribery.	Voter Registration, Voting and Election Results Management
Uniformity	All laws, rules and regulations that govern elections must apply equally.	Voter registration, Voting and Election Results Management
Timeliness	Tabulating, counting and announcement of results must be timely	Election Results Management
Integrity	To ensure professionalism, transparency, independence & competence of EMB	Voter registration, Voting and Election Results Management
Accuracy	Information should be correct, comprehensive and free from error	Voter registration, Voting and Election Results Management
Accountability	Responsiveness to stakeholder needs	Voter registration, Voting and Election Results Management
Inclusivity	All eligible voters having equitable opportunity to register as voters as well as to vote	Voter registration, Voting
Accessibility	The electoral process must be as easy as possible without any hindrances, legal or practical, for every eligible citizen	Voter registration, Voting
Chain of custody	Election materials must not be compromised in movement or storage	Election Results Management
Completeness	Process and system must aim at registering 100% of VAP	Voter registration
Secrecy of the vote	A voter should never be linked to his or her vote	Voting and Election Results Management
Irreversibility	Voters must not be illegally removed from voters roll, once cast a vote should not be changed and results must not be reversed illegally	Voter registration, Voting and Election Results Management

Policy Recommendations

ZESN hereby makes the following recommendations:

- To improve public oversight, citizen participation and plural sources of accurate information, ZEC needs to simplify and speed up the process of approving voter educators. Parliament must amend section 40C of the Electoral Act to substantively define what is meant by 'adequate, current and correct' voting material to safeguard against subjective prejudice. ZEC must also clear voter education materials within seven working days to facilitate the ease of doing voter education.
- To improve accessibility, inclusivity and completeness, ZEC must increase mobile voter registration facilities devoid of rural bias as provided for in section 17 A (2) (a) of the Electoral Act as this is a preferred mode of registration by citizens with easy access. ZEC must also adopt the concept of 'voter registration weekends' whereby designated periods around the country (including urban areas) are put in place for sweeping voter registration as practiced in South Africa.
- For the abundance of caution in improving transparency and integrity in voter registration, the law should clearly spell out that traditional leaders, members of the security sector, party officials and graduates from the Border Gezi Training Camps should not be allowed to assist ZEC in carrying out voter registration. Such legal clarity is going to inspire public confidence given the sordid past of the aforementioned in the previous elections.

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- To insulate the voter register and enhance its integrity, ZEC must speed up biometric voter registration under public scrutiny and oversight. This system will insulate against multiple voting – de-duplication, voter impersonation-adjudication and ballot stuffing. The procurement, development, testing and certification of the equipment should be carried out transparently, so stakeholders are confident the equipment cannot be manipulated and cannot be tampered with to favor one political party. ZEC must ensure proper custody and maintenance of the voters roll and registers so that no one can tamper with the voters roll. This will protect against unauthorized access, alteration and disclosure.
- To improve transparency, accountability and strengthen the chain of custody, the legislature must make it clear in the law that ZEC cannot deny a candidate, election agents or observers the right to gain access and inspect the voting material after the election whether for judiciary and or non-judiciary purposes. The law must be explicit that all polling material, ballot papers, hardware, software, transmission facilities and storage centers shall be open to interested parties to verify the results after the poll without time limits. In other words, the destruction of election materials as stipulated in Section 70 of the electoral act must be outlawed.
- To improve transparency, accuracy and public confidence in the election results announced, the legislature must amend the law to make it unequivocally clear that candidates, agents and observers should be present during the vertical transmission of returns from polling station, ward, constituency, provincial to national command center. ZEC must in practice also timely announce the results of the poll as counted and verified without undue influence and not stand in the way of the winner to assume power in line with Constitutional obligations.

References

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See P. Zamchiya and C.Mangongera, 2015. Strengthening Electoral Democracy in Southern Africa, Crisis in Zimbabwe Coalition, Harare, Zimbabwe
Ibid.
ZEC failed to provide the electronic voters roll in 2013 in line with best international practice.
See <https://www.dailynews.co.zw/articles/2013/11/07/zec-opposes-ballot-recount>
see SADC Principles and Guidelines Governing Democratic Elections and Election Observation missions and African Charter on Democracy, Elections and Governance
For the model see, The African Union Election Observation Mission to the 7 May 2014 National and Provincial Elections in the Republic of South Africa

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