

ZIMBABWE ELECTION SUPPORT NETWORK

POSITION PAPER

Election Results Management

Introduction

Most disputes relating to elections in Zimbabwe are a result of disputes arising from contested election results. This has been a recurring electoral problem from one election to another and this paper seeks to unpack some of the issues giving rise to these electoral disputes centring around election results management.

The paper discusses results management in general, results transmission and announcement specifically. It explores the legal framework providing for results management in Zimbabwe, the country's experience with results management in the past and will explore models available on results management.

The re is a misconception that it is limited to the announcement of election results only.

It's not the paper's intention to be prescriptive on the model to use for results management in the country but an attempt will be made to explore options that are available to enhance the integrity of any results management model thus proposed. This will be informed by the legislation, political environment, local infrastructure, technical capacities as well as both financial and human resources available.

An election results management system (RMS) is defined as the process by which an election authority counts, tabulates, aggregates and announces the results of an election, which starts immediately after the closing of polling and ends with the final results¹. There is a misconception that it is limited to the announcement of election results only. It's a process that commences from the results collation, tabulation, transmission and announcement of results.

Most disputes in elections stem from disagreements arising from the management results.

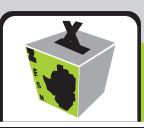
This, however, cannot be isolated as the only determinant of a successful election, it plays an integral part in the integrity of an election and the acceptance of the results by contesting parties. Most of the disputes, as will be discussed in this paper, relating to elections in Zimbabwe are a result of the disputes arising from disputed election results.

For example, in 2008, presidential elections results took more than a month before they were released raising speculation of results manipulation. Fast forward to 2018, the dispute arising from the presidential election results had to be settled by the supreme court. It goes without saying that if Zimbabwe is to address its history of disputed elections it must address issues related to the management of results among other election related issues.

When people vote they expect the results of elections immediately (yesterday) after the poll. Whilst this may not be possible, election management bodies (EMBs) can expedite the process without compromising the integrity of the results through different emerging models of results management.

The country, Zimbabwe, has made tremendous progress, over the years, towards making it difficult for ballot stuffing at polling station level through the implementation of a raft of measures including the use of translucent ballots, presence of accredited party agents and observers at polling station level, polling station based voting, giving results to agents and posting results outside the polling stations. Increased and robust training of electoral officers on results tabulation and collation has greatly improved this aspect of the electoral process.

¹ Anon. (2019). [ebook] Available at: <https://www.ec-undp-electoralassistance.org/wp-content/uploads/2018/08/undp-contents-publications-electoral-results-management-systems-catalogue-of-options-English.pdf> [Accessed 19 May 2019].



Legal Framework relating to results management in Zimbabwe

The legal framework providing for results management in Zimbabwe is spelt out in sections 63 to 68 of the Electoral Act. Section 63 of the Act provides for the procedures to be followed during the counting and the rejection process of results at the polling station level, whilst section 64 of the same Act provides for procedures to be followed after counting at polling station level.

Section 65 sets out the procedures to be followed on receipt of polling-station returns at ward centre and section 65A and B provides for procedure on receipt of ward returns at constituency centre and at provincial command centre respectively. The determination and declaration of result of poll is covered under section 66 of the Act and notification of the result of the election is covered in section 67.

Section 68 guides the Chief Elections Officer on publication names of candidates elected is to be published. The legal framework is very clear on what is expected of polling officers when managing results from the counting to the announcement but has often been criticised for lacking transparency especially on the modalities of moving results from one centre to the next.

This led to allegations, in the 2018 harmonised elections, of results being transmitted to ZEC and saved on a server, in a parallel process, which candidates and parties were not informed about². It is however clear that the legal framework for results management anticipates and addresses issues around manipulation of results and is in line with international and regional standards governing the management of results.

Country Experience with results management

The disputes around results management in Zimbabwe has never been around the collation and tabulation of results but has centred around the transmission and announcement of results. Counting at the polling stations is usually conducted in a transparent and efficient manner and in line with best international electoral standards and is observed by accredited observers and party agents. Counting is polling station-based commencing with the ballot paper verification process, that is adding the number of ballot papers such that they match with the ballot papers issued and recorded on the V11 form³. Validation of the votes is undertaken followed by the certification of the polling station return form V11 form.

This is signed by the party agents and is posted outside the polling station. The original is given to each candidate or polling agent present at polling station. The process applies to all the elections, presidential, national assembly and local authority election. The counting of ballots is mostly well organised and meticulous but extremely slow at times going late into the night.

Immediately after affixing a Polling-Station Return on the outside of the polling station, the Presiding Officer must personally transmit the Polling Station Return certified by himself or herself to be correct, specific Protocol Register extractions, Voter Statistics Tally Form, HR-Attendance Register as follows for each election.

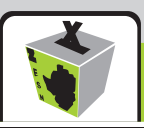
For the 2018 harmonised elections, the presidential election results were transmitted directly from the district command centres to the National Results Centre, this was meant to speed up results transmission. In previous elections, results were transmitted through the ward, constituency, district and provincial command centres before being sent to the National Results Centre. The National Assembly results are transmitted from the polling station to the ward collation centre, then the constituency collation centre were the declaration and announcement of result of the national assembly election is made by the Chief Electoral Officer (CEO).

These will find their way to the District Elections Officer, who transmits them to the Provincial Elections Officer who subsequently sends them to the National Results Centre. Quite a cumbersome process, this paper will discuss this and proffer options on how to rationalise this process. On the other hand, the Local Government results are sent to the ward collation centre from the polling station were a declaration and announcement of result of the Council Election is done by the Ward Electoral Officer, they will eventually find their way to the National Results Centre (see table 1 for illustration)

The transmission (movement) of results whilst clearly defined, is not as open and transparent as it should be. Issues to do with delays in announcement of election results have dogged elections in the past.

² EU final election observation report to the Zimbabwe 2018 Harmonised Elections.

³ This is the results sheet used at polling station level to aggregate the results.



For example, in the 2008 harmonised elections the Commission took a month verifying presidential elections results. It's not clear what role the police play in results management as they seem to be involved in the transmission of results. For the 2018 harmonised elections, whilst results were announced within the timeframe stipulated at law, there was a lot of apprehension resulting from suspicion of results manipulation.

The five-day period within which results should be announced is reasonable and within acceptable standards as observed elsewhere in the region. The process of counting, tabulating, transmission and verification of results is manual and slow and will often require time to finalise. South Africa for example, managed to release the results of the 8 May 2019 election on the Saturday 11 May 2019 three days after the elections⁴.

Zambia on the other hand, gives itself an administrative target of 72 hours within which to release results especially presidential election result⁵, whereas Malawi its 8 days within which to release the results⁶. This of course was not the case for Malawi in the last election as delays were occasioned when then Malawi Congress Party obtained an order stopping the release of election results citing irregularities in the election.

The key challenges in results management do not appear to be in the legal framework nor in the processes of managing the elections results but seem to centre around the lack of trust and confidence in the process as well as the institution running the election, Zimbabwe Electoral Commission.

ZEC has gone on to reinforce this mistrust by making errors and pronouncements that further entrenched the mistrust, for example, in Chegutu in the 2018 harmonised elections, a candidate was declared a winner in an election he never won. This was further compounded by the changing of the Presidential results. Although it is within the mandate of the Commission to amend results after audit, the inability to engage and share information with key stakeholders raised concerns on the credibility of the results. There is obviously a need to make the system transparency, efficiency and quick. The collation of results by the returning officer is manual therefore prone to mistakes.

Even where electronic calculators are used to collate the results, there is no mechanism to check the result against parameters such as the total number of registered voters in the polling constituency. The EU in its final election observation report noted that the results shared by ZEC on the computer disk, whilst acknowledging the nobility of the action, had many anomalies and inaccuracies⁷.

Examples of inaccuracies include inaccurate totals for constituencies and/or provinces, inaccurate sums for the two main candidates in two provincial level cases, double entry of some polling stations, and, in some cases, more voters apparently having voted than are on the voters roll⁸. The final results announced for the presidential results were for the percentage of the total number of votes cast instead of the valid votes cast. Although this did not affect the outcome of the final result it still cast doubts on the credibility of the elections results.

The transmission of results is slow as a result of several factors. The returning officer at a polling station level physically travels to the ward centre to transmit the results. This may, in some cases where transport is unreliable, lead to delays in results getting to the tally centers and if the process is not monitored its open to results tempering along the way. The results, however, can still be checked against the original results posted outside the polling station, but in highly contested elections suspicion will still prevail.

The results for any polling station within a constituency are only available at national collation centre after all polling stations had reported to the centre.

This will mean the Commission is in the dark as to what is happening on the ground. This is further compounded by the fact that media houses would be broadcasting the polling station results while the Commission does not know or have the same results.

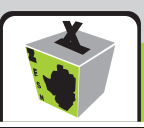
⁴ Elections.org.za. (2019). Electoral Commission: Election results. [online] Available at: <https://www.elections.org.za/content/Elections/Election-results/> [Accessed 13 Aug. 2019].

⁵ Chele Chomba CEO Electoral Commission of Zambia. Phone interview. 21 May 2019.

⁶ Malawi Electoral Act Chapter 2:01 Parliamentary and Presidential Election Sec 99

⁷ https://eeas.europa.eu/sites/eeas/files/eu_eom_zimbabwe_2018_-_final_report.pdf

⁸ Ibid



The Zimbabwe Election Observer Mission (ZIEOM) monitored results tabulation, transmission, and announcement through multiple mechanisms and noted irregularities in the method of results aggregation and the transmission of results⁹.

Most notably, there was a complete lack of traceability of the signed ward-level polling station returns forms (V11) and aggregate collation of the ward-level results onto V23 forms and opacity in ZECs provision of the final results tabulation per polling station¹⁰. These and other challenges led to several international and local observers making recommendations on how to improve the results management system.

The EU in its final report proposed that, "The results management process must be coherent and better explained to all stakeholders in order to enhance the transparency, verifiability and integrity of the election. This could include publishing the original V11 and V23a/b returns". The interventions to improve the results management system should address issues of trust in the process and the institution managing elections. This trust is not only limited to results management but is institutional within ZEC and should be addressed holistically and not in isolation. It is also clear that in order to build confidence in the results management system several things need to happen:

A review of the results management system.

A complete review of the results management system should be undertaken. This paper acknowledges that the counting and tabulation is not the biggest issue. The legal framework seems to have adequately addressed this, it's the transmission that requires the most attention. Voters want results yesterday, if results are released at the polling station level the average voter expects to see the national results yesterday as well. Delays in announcement of results usually causes apprehension and in a close election may lead to violence as witnessed after the July 2018 harmonised elections. There is need to address the speed with which the results are transmitted without compromising the integrity of the results.

It's clear that the current system is slow and prone to errors given the manual collation and tabulation of results. Its open to manipulation as results are moved from the polling station, to the ward, from the ward to the constituency centre, to the district officer and finally the national tally centre.

The Presidential results, for example do not need to go through this cumbersome process and can go from the constituency centre to the national centre. This will allow for the quick announcement of the results since the nation's attention is mostly on the presidential result.

Explore other models of results management

The Commission of Inquiry into the 1 August 2018 Post-Election Violence set up by President Mnagwawa recommended for, "electoral reforms, including the development of Information Communication Technology (ICT), to among other things to enhance the transparent and expeditious announcement of election results". The ZEC should explore the use of ICTs in results transmission.

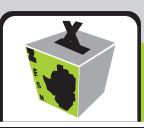
This paper seeks to motivate the utilisation of the mobile digital voter registration kits for both nominations and the capture and transmission of elections results. Utilising the digital registration kits will not only bring about efficiency in both processes but also result in cost effective utilisation of existing resources and at the same time building confidence on the results management system. This, however, is not to suggest that the Commission should be stampeded in to issuing results prematurely as this will further entrench suspicions that the results are manipulated in favour of a certain

candidate assuming errors are noted with the results. Strict verification processes should be in place to ensure accuracy of results. It is also not to suggest that the process should be rushed, rather due consideration should be taken to ensure the system respond to the conditions prevailing in the country and also to ensure that the solution falls within the skills set of the country. Countries have introduced systems that have gone idle because due process was not undertaken to get or procure systems that a best suited to the country's conditions and capacities.

The model of results management should be agreed upon by all stakeholders and they should be involved in the formulation of the solution in order to build ownership of the proposed solution. The stakeholders referred to here are mainly political parties and candidates, but may also include other state institutions (e.g., the judiciary), civil society (including observers), media and international partners (including observers).

⁹The Zimbabwe Election Observer Mission Report. Anon, (2019). [ebook] Available at: <https://www.ndi.org/publications/zieom-releases-final-report-2018-zimbabwe-harmonized-elections-relative-improvements> [Accessed 13 May. 2019].

¹⁰Ibid



The legal framework should be reviewed to in order to legalise the use of any new RMS proposed and close out loopholes used in the past to "illegally" transmit results. For example, in the past, there has been suggestions that results were transmitted through police radios and in the last election through the WhatsApp application (this remains speculative and this paper was not able to prove this). However, if these platforms are used, they are not secure and are not provided for at law.

As with all aspects of an electoral process transparency is essential for the success of any RMS. Being technically perfect is not enough, any solution proposed for the country must convince stakeholders that the RMS is accurate in translating casted votes into seats for representatives. Therefore, all steps of the proposed RMS should be transparent and allow interested actors to verify them¹¹.

Again, as with all other phases of the electoral process, the RMS must be credible, not only that but should be seen to be credible. As with voter registration, candidate management and the voting itself, strict professional management of the RMS is essential to build confidence in the electoral outcome. Laid down procedures should be adhered to and staff to man the system well trained. For this to happen, proper procedures must be put in place and staff should be trained to implement and apply them consistently and without mistakes.

The Zimbabwe elections have seen their share of complaints and the RMS proposed should have an adjudication mechanism. Candidates should have a right to raise issues, there is nothing inherently wrong with that. They are in a contest and if anomalies are noted the system should have in-built mechanisms that kick in to resolve such issues. This paper recommends RMS models that can address complaints at local level.

Once local complaints are allowed to escalate to the national level, even if they may not affect the outcome of the overall election outcome, they may compromise the integrity of the results.

An RMS should accommodate the right of stakeholders to challenge results at various levels. Electoral dispute resolution (EDR) should be embedded within the RMS and provide enough possibilities for redress at the various stages of the system, and the inclusion of decisions into the results¹².

The EDR does not necessarily have to be formalised through the court system, it can be purely administrative procedures that allows for results to be signed off by auditors at various levels of the results transmission process.

South African and Malawi have a similar system, South Africa even went further to provide for spot audits in statistically representative sample of stations mostly designed to pick double voting but can also involve examining aspects of the process used to collect and count votes to determine whether there were any significant problems¹³.

The system the country chooses should be secure and should build confidence in the electorate and contestants that the results are secure and are not open to manipulation.

This paper will not go into the modalities of how to secure the system technically but will explore ways in which the data can be secured in the possible solution section of this paper. The security of the system will instil confidence in the final results.

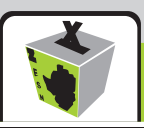
Past elections have witnessed accusations of results being changed along the transmission line. The system should encrypt the results when transmitted and should be decrypted at the results centre.

Visual access to the system should be provided to political parties but this should not mean getting access to the internal workings of the system but rather see the output of the system.

¹¹ <https://www.ec-undp-electoralassistance.org/wp-content/uploads/2018/08/undp-contents-publications-electoral-results-management-systems-catalogue-of-options-English.pdf>

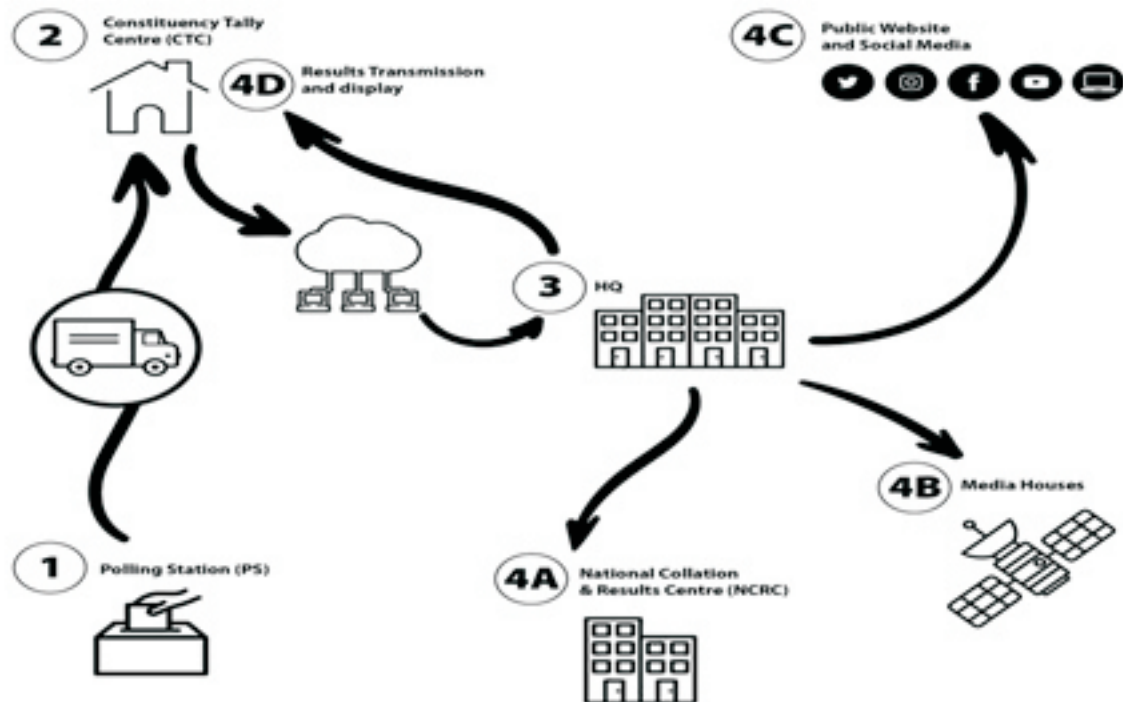
¹² <https://www.ec-undp-electoralassistance.org/wp-content/uploads/2018/08/undp-contents-publications-electoral-results-management-systems-catalogue-of-options-English.pdf>

¹³ Anon, (2019). [online] Available at: <https://www.elections.org.za/content/About-Us/News/Commission-to-conduct-sample-audit-of-results/> [Accessed 13 May. 2019].



(see table 2 below for the possible model on how to implement this proposal).

Figure : Proposed model Results Management



South Africa, for example, provided booths with computers for parties in the results centres to see and track the results. On their part political parties have an obligation to secure the results by putting in place parallel results tabulation systems that can track results from the polling station to the results centre. They can then compare their results against the official results. This can be used as evidence in the event they are appealing the results.

The above efforts are designed to help the Commission publish all election results in a complete and timely manner, including at the most granular (i.e., polling station) level. The timely publication of election results can immensely increase public confidence in the process. When election results are published in an open and transparent manner, representatives of political parties, candidates, civic organizations, and media can verify or dismiss the official results with their own observation findings¹⁴.

Open elections data is important in instilling confidence not only in the results of the elections but also in the system and bodies set up to run elections. The ability to communicate and share information in a timely manner is essential in hotly contested election. South Africa and Zambia for example have systems for public release of results.

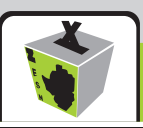
The results information is displayed on screens at the national and provincial results centres and made available on the Election Commission's website as a bulk download in a machine-readable format. (see table 2 above).

Australia has a special election media feed which provides real-time election information and results to any media organization or interested person anywhere in the world over a File Transfer Protocol (FTP)¹⁵. Kenya has provision for the equivalent of their V11 to be scanned and put up on the Commission's website to allow for interested parties to compare and audit polling station level data with the results the parties would have collected from the polling station. This is an option that the country should consider given the issues that arose from the lack on non-availability of V11 forms for use in audits by polling parties.

Election residue for a polling station is locked up in one ballot box and would require a court order for political parties to access these. In previous election petitions the courts have ruled that they could not issue judgements for the opening of ballot boxes in cases where the petitioner is challenging the results of one election and not all the elections. The posting of the polling station V11 forms will allow for easy access to stakeholders to audit the election results.

¹⁴<https://openelectiondata.net/en/guide/key-categories/election-results/>

¹⁵Ibid



Possible solution

The ideal solution should meet all the above or at least most of the above conditions if it is to instil confidence in the management of results in the country.

It must be born out of a consultative process involving all stakeholders, it must be supported by law, allows for complaints to be raised and addressed at every stage of the process, transparent, credible, secure and data should be shared openly as possible.

The solution being proposed is inspired by the RMS adopted by the Electoral Commission of Zambia (ECZ). In coming up with an RMS acceptable to key stakeholders the proposed a system that optimised on the voter registration kits to facilitate capturing and transmission of results thus cutting on cost and guaranteeing sustainable use of the kits.

The kits can pre-loaded with software that the returning officer can use to capture and validate the results as well as communications devices to transmit the results to head office immediately the results came in from the polling station.

The process should work as follows:

- At the end of polls, the votes will be counted at the polling station and the necessary forms completed,
- Once the results from the polling station are presented to the returning officer at the constituency collation centre, they will be entered directly onto the kit using the preloaded software,

- The results for the polling station will then be validated against parameters such as registered voters for the polling station and average turnout.

The agents and monitors present at the collation centre will authenticate the entry by electronic signature,

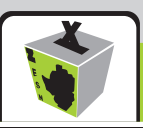
- The polling station result will be saved on the registration kit and transmitted to the nation results centre via the GSM (mobile phone) or satellite networks. The transmission will be directly from the kit through a GSM/satellite modem attached to the kit,
- The polling station result once received at national results centre will be added to the national total for presidential, constituency total for parliamentary and ward total for local government elections.

Besides transmitting the result to head office, the software on the kit can accumulate the results for each election type and display the polling station whose result is yet to be captured. Upon capturing the results for all polling stations for a given election, the returning officer will be able to print the V11 and proceed with announcement/declaration. The announcement/declaration forms will also indicate the names and signatures of all the agents and monitors that authenticated the results as they came in from the polling stations. The returning officer will still be required to fax the announcement/declaration forms from the district office. The faxed results will be used as the backup transmission systems as well as to authenticate the electronic results.

Meanwhile at national results centre, the Commission will receive results from polling stations that have reported to the collation centres throughout the country. This will provide the Commission with a nationwide picture of the trends in the results. In addition, the Commission could display the polling station results for the presidential elections as they are received and validated. **(see table 2).** This will help dispel accusations from stakeholders that the Commission deliberately releases results to give the impression that the one political party is winning only to be overtaken at the last minute with results from rural constituencies.

The results for the polling station will then be validated against parameters such as registered voters for the polling station and average turnout.

The faxed results will be used as the backup transmission systems as well as to authenticate the electronic results.



Security

Security of data (the result) against tampering is very critical to the successes of any result management system.

To ensure the security of the data, the following measures can be implemented:

- Every time a result is transmitted, it will be transmitted together with the previous three (3) results. This will ensure that every result is transmitted 3 times to cover for any message losses by the mobile phone service providers (however rare this may be).
- The result will be encrypted by the kit and will only be decoded by the corresponding software at head office.

- Results can always be audited against the manual results in the event of disputes of the results.
- Results are displayed real or near real time avoiding speculation when results are delayed because of manual transmission.
- Allows political parties to track results real time and compare with what its agents have at polling station level.

The above model has been used by several EMBs with some level of success. Zambia, for example, uses a similar model and the EMBs has managed to reduce the timeframe for results announcement from several days to within 72 hours after polls.

Conclusion and recommendations

Such RMS, as discussed above, when introduced has the advantage that it reduces the time required to release results. As observed in this paper, challenges that elections in Zimbabwe face are around the release of results. The voters want results as soon as they are released at the polling station, this of course is not practical, but RMS that integrate technology can speed up the process of releasing results.

The sharing of results at every stage of the results transmission facilitate the verification of results. Political parties and other interested stakeholders can compare official results with their own results thus reducing opportunities for results manipulation. However, the cost can be prohibitive and would require a huge capital input. The model proposed in this paper will make use of the voter registration kits for use in transmission of results thus reducing the cost of rolling out this model of RMS.

The Commission, when considering such a model, should ensure that they are involved from the onset in the design of the system and should avoid systems that locks them to the vendor and is dependent on donor support.

RMS that integrate technology should be supported by skills set within the Commission to run and maintain the system. More importantly, such systems require time to be introduced and cannot be introduced overnight. Discussions on introducing such as system should have commenced immediately after the last election and should involve all interested keys stakeholders to build trust in the system.

As discussed before, this paper does not seek to be prescriptive neither does it claim the above the solution is the best. The solution is among many solutions that can be explored as long as the process in consultative and engages critical stakeholders in its design and implementation.

The Commission, if it all is going to implement a new RMS, should ensure that enough voter education is undertaken on what the system can and cannot do. Building confidence from the start is essential in order to build confidence in the entire electoral process. What the country requires is a system that inspires confidence in the electoral process and a system that gets results out within the shortest period of time without compromising the integrity of the results.



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