

ZIMBABWE ELECTION SUPPORT NETWORK



BALLOT UPDATE

Issue No May-June 2011

INTRODUCTION

The period between May and June 2011 saw a number of interesting political developments at local and regional level. It was a month of heightened suspense as Zimbabweans awaited the South African Special Summit on Zimbabwe to be held in Johannesburg, South Africa following Livingstone and Windhoek. In addition, the decision to suspend the SADC Tribunal until 2012 and implications for rule of law in the region and recourse for citizens in countries where the justice system has been corrupted are a cause for concern.

During this period dozens of MDC T activists were arrested and held in connection with the murder of the policeman in Glen View and residents in the area have witnessed increased intimidation as police investigate the murder. Further, statements by Brigadier-General Douglas Nyikayaramba that he would not salute PM Tsvangirai raised the ire of many and brought memories of 2008 when members of the security sector uttered the same statements with dire consequences for the country. This update will analyse these and other issues that took place during the period May-June 2011.

The Zimbabwe Election Support Network remains dedicated to the promotion of democratic elections in Zimbabwe. In line with this objective, the organisation continues to analyse the political environment in the 210 constituencies where its observers are deployed. This update is informed by observations from these constituencies and broadly captures national political developments in Zimbabwe.

ISSUE		COMMENT
The GPA		The GPA remains shaky, fraught with tensions. A number of the provisions in the GPA have remained unimplemented, effectively retarding progress. Tensions in the GNU have been attributed to increased violence and arrests of MDC activists and politicians. These tensions have implications on the effective functioning of government as they increase fragmentation and inefficiency of state institutions. The citizens continue to carry the burden of ill functioning state institutions. The death of political veteran Edgar Tekere and his conferment with hero status once again raised questions on the criteria for hero status. ZESN calls for the resolution of problems that continue to plague GPA and work for the greater good of the country.
Elections roadmap		The SADC negotiator encouraged the parties to implement outstanding issues as a confidence building measure and work towards the roadmap for free and fair elections. The much talked about roadmap was published in the media and has brought to the fore why Zimbabwe cannot have an election in 2011. ZESN welcomes the crafting of the roadmap to elections and the emphasis on reforms before any election can be conducted. The spirit and letter of the GPA should be respected as the country needs to heal before an election is conducted. However, ZESN is concerned about the absence of definitive and enforceable timelines in road map leaving it rather open ended. In addition, the roadmap does not deal with the issue of national healing which is critical to the conduct of any election in Zimbabwe considering our history of deep-seated election related conflict. A critical anomaly in the roadmap is lack of reference to repressive pieces of legislation except POSA. Some laws in Zimbabwe have been problematic to the extent that they have been used to impinge on the rights of citizens such as AIPPA and the Criminal Codification Act to mention a few. There is need for the roadmap to holistically take into account the entire legal framework with a bearing on elections for wholesome reforms to

The Constitution Making Process		take place. The roadmap also does not provide for power transfer which is critical in any country undergoing a transition. ZESN recommends that timeframes be provided for in the document so that performance can be evaluated against time. The constitution making process which has been bedevilled by stops-and-starts over the last two years, resumed in May 2011 with thematic committees set up to collate data gathered during the outreach process. Thematic committee work began on the 11th of May 2011. Thematic committees were set up according to the agreed themes which include; founding principles of the constitutions, arms of the state, systems of government, citizenship and bill of rights, women and gender issues, youth, the disabled, media, war veterans, land and natural resources and empowerment. Political parties mainly, MDC (T), MDC (N), ZANU PF seconded representatives to each thematic committee. Initially the process was envisaged as quantitative process taking into account the frequencies of expressed views. Observers noted that in the initial stages, the process was slow and observers felt that there were too many people working and progress was slow. The thematic groups were supposed to put together all data that had come from all the wards into district and provincial data sets which would be used by the drafters. The process was earmarked to take two weeks, which was unrealistic given the magnitude of the work needed to be done. The process was long drawn out by conflicts around methodology and was eventually completed on the 11th of June 2011. When the process ended on the 11th of June 2011, the ZANU PF Co-chairperson, Hon. Paul Mangwana announced that they had reached a stalemate over the issue of citizenship. He accused the MDC T formation of trying to protect narrow interests. Regarding this issue, ZESN is of the view that citizenship should be carefully looked at
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Security sector		given that in the past few years a number of Zimbabweans with foreign ancestry who used to have the right to vote were disenfranchised as they were labelled “aliens”. These people however, know no other home, and are just as Zimbabwean as anyone else, contributing socially and economically to the nation. The definition of citizenship will also affect the many Zimbabweans that are born in foreign countries such as South Africa, Botswana, the United Kingdom and others, where millions of Zimbabweans have emigrated to. While Zimbabweans in the Diaspora continues to contribute in our economy, they are not accorded any political rights. Citizenship is an important national issue which needs careful, objective consideration. ZESN commends COPAC on having conflict resolution mechanisms to resolve these sticking issues. ZESN calls for the resumption of the constitution making process so that the country can move forward and fulfil the benchmarks of the GPA. The next process is the drafting stage and there is secrecy about the identity of the drafters. ZESN calls for a transparent process that will be able to build citizen confidence in this very critical process of writing the country’s constitution. During the same period ZESN noted with concern the statements by Brigadier-General Nyikayaramba in the media to the effect that he would not salute PM Tsvangirai and that succession in ZANU PF is not an issue to discuss. Nyikayaramba was on record saying the military want elections in 2011 with or without a constitution. This caused a furore in the media circles. These premature calls for elections without substantive reforms are worrying. While ZANU PF has been saying there is no need for security sector reforms, these statements by the security sector that have been pro-ZANU PF, negate the refusal of security sector reform. ZESN calls for the professionalization of the security sector and the removal of military personnel in electoral issues. The role of the security sector should be limited to law and order and national security, not interfering with electoral
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SADC Tribunal		processes.
The Zimbabwe Week in Botswana		ZESN noted with concern the suspension of the SADC tribunal until 2012. We note that this was as a result of the ruling against Zimbabwe in the Campbell v Government of Zimbabwe case. It is after this ruling that the government of Zimbabwe, began to question the legitimacy and legality of the tribunal. Zimbabwe managed to convince other African heads of States and a commission was set up to look into the issues raised. It is with concern that ZESN notes that while rule of law in Zimbabwe has been a contentious issue, Zimbabwe is significantly contributing to the demise of rule of law at the regional level. The suspension of the tribunal has implications for SADC citizens who reside in countries where judiciary systems have been corrupted and rendered moribund. Citizens in the region will not have recourse with the regional court when they feel that their domestic courts have failed to handle their issues independently. ZESN calls for regional and local civic groups to begin to lobby with the relevant stakeholders to review the decision to suspend the tribunal and the limitation of its mandate to exclude individual citizens' cases being heard on the tribunal. Civil society in Botswana commemorated the Zimbabwe Week (June 6 to June 10, 2011) in which governance issues in Zimbabwe were highlighted. The Botswana Civil Society Solidarity Coalition for Zimbabwe (BOCISCOZ) lobbied their government on a number of issues including support for an enforceable roadmap to elections, genuine constitutional and electoral reforms before any election can be held, the cessation of violence against human rights activists and political activists. In addition they also called for the deployment of observers three months before the elections and a month after the election, review its decision to support the limitation of the mandate of the SADC Tribunal

Human rights and fundamental freedoms		to intra-state matters only among other issues. BOCISCOZ felt that governance problems in Zimbabwe has a real and direct effect on Batswana and therefore there was a need for a lasting solution to Zimbabwe's problem and premature elections before fundamental reforms were not the answer. While the GNU was meant to ensure national healing and reconciliation, reports coming from observers in the 210 constituencies do not show evidence of any healing or reconciliation taking place. Instead the rift appears to be getting wider in communities along political lines and tolerance for diversity is yet to be inculcated especially in rural areas. Observers have reported that in some parts of constituencies such as Zaka West, Magunje, Masvingo South, Zaka Central, Buhera South and Shurugwi South, citizens continue to face intimidation and harassment for supporting MDC. In addition, observers in Mbare have reported that some informal traders risk losing their livelihoods if they do not support ZANU PF. Residents are asked to attend political meetings when they are called and to make donations when asked. Traders have been threatened with loss of market stalls if they do not comply. In the same constituency, observers have reported that residents are being forced to attend political meetings and are threatened with eviction from accommodation if they do not attend. Observers in parts of Masvingo province reported that Jabulani Sibanda a war veterans' leader has had meetings with village heads in the various constituencies and warned them that they would be stripped of their positions if they were sympathetic to MDC. ZESN believes that Zimbabwe is a multiparty democracy and citizens are free to support political parties of their choice. There is need for increased tolerance for diversity in communities so that citizens can accommodate people from different political persuasions. ZESN feels that the Organ of National Healing and Reconciliation needs to find ways to increase tolerance and draw lessons of national healing from other countries that have experienced conflict.
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		ZESN observers also reported forced attendance of political meetings in Norton, Mbare, Gokwe Chireya, Chivi Central, and Chimanimani East. Political activity should be voluntary and citizens do not have to be intimidated into attend political meetings. Political parties need to popularise their programmes to citizens and persuade them to join or vote for them. ZESN observers in various rural constituencies have reported that people have been forced to take positions in local party structures during meetings. For instance in Chegutu West, some people were co-opted into party positions through coercion. People should voluntarily participate in political activities, forcing citizens to be involved is a violation of their right to free association with political parties of their choice. ZESN notes with concern threats of violence and intimidation to citizens who are perceived to support MDC. At a rally held on the 21st of May in Bondamakara Primary School in Mutoko North, it is alleged that citizens were threatened with violence worse than June 2008 if they voted for MDC by ZANU PF officials (Names withheld). At a meeting held in Nangabwe Primary School, in Chikomba East, observers reported that citizens were threatened by ZANU PF officials with the deployment of soldiers if they refused to attend political meetings. ZESN believes that the role of the military is to ensure national security, not to be used as a threat to bring citizens in line. These threats are inimical to free participation and freedom of expression which are pillars of democracy. ZESN is concerned with such utterances in this dispensation of the inclusive government which should provide an opportunity for national healing and reconciliation. ZESN observers have reported that not all parties are free to conduct meetings in rural areas. It seems that rural areas remain largely inaccessible to other political parties especially MDC. Citizens have a right to freely associate and the barring of other political parties impinges on this right.
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Media Reforms		In light of these observations, ZESN encourages political parties to seriously consider the spirit and letter of the GPA to promote national healing and reconciliation and not further divide people along political lines. The cumulative politically motivated violence in Zimbabwe necessitates genuine healing and reconciliation to take place. ZESN urges political parties to respect people's choices and their right to free association. Observers have continued to report violations on the right to information as citizens in some areas are not allowed to read the Daily News or any other independent papers. Citizens have a right to hear the various voices in the media and should not be restricted to state-owned media. ZESN noted that on the 26th of May 2011 the Broadcasting Authority of Zimbabwe (BAZ) called for applications for free to air national commercial radio broadcasting services. According to the BAZ advert that was placed in <i>The Herald of 26 May 2011</i>, BAZ will only issue two licenses valid for 10 years and the application fees is pegged at US\$9 500 and this include an initial fee of US\$2 500 and a fee of US\$7 500 for the public enquiry. In addition the advert also states that on being granted a licence, prospective broadcasters will be expected to pay a licence fee of US\$15 000 plus per annum. According to MISA a member of ZESN, a national free to air national commercial licence refers to a profit making broadcasting entity that transmits an un-encoded signal throughout Zimbabwe. Civic groups in Zimbabwe have been calling for opening of air waves in particular community radios, which broadcasts at community level, capable of enhancing interaction and debate at community level. In view of the calls for elections in Zimbabwe, ZESN is concerned about the piece-meal reforms in the broadcasting sector. Over the years ZESN has joined its member organisations like MISA, MMPZ and ZUJ in the call for media pluralism especially in the
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Voters' roll		broadcasting sector, specifically the establishment of community radio stations. In a statement issued by MISA last week the organisation said the call for only two commercial national radio stations is not only adverse to the three-tier broadcasting system outlined in the African Charter on Broadcasting and the country's own broadcasting law. MISA noted that in 2005 BAZ also called for commercial broadcasting licences and excluded community radio licences and none of the applicants were granted a licence. MISA also added that while the application fees are comparatively within the regional range, they are still prohibitive and do not reflect the economic realities of the country's citizens. This is worsened by the fact that the law prohibits foreign shareholding, which can only be permitted at the absolute discretion of the ministry of information. It must be highlighted that the developments in the print media are more heartening. ZESN is informed that to date Media and Information Commission has registered more than 25 new newspapers and magazines. These include the Daily News, News Day, The Mail and Daily News on Sunday amongst other women and sports magazines. ZESN applauds such efforts but reiterates its calls for holistic media reforms in particular broadcasting reforms especially ahead of the calls of elections or the possible referendum. ZESN is concerned about utterances by the Registrar-General of Voters that Zimbabwe's voters' roll is "perfect and world class". These statements come in the wake of research conducted by ZESN and other organisations that has revealed major flaws in the voters' roll. It is surprising that the Registrar-General can make such a turnaround when he is on record in December 2010, acceding that the voters' roll was problematic and his office
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Electoral reforms		would be working to make it up to date, current, and comprehensive. To date, no information has been made public on what is being done to overhaul the voters' roll and no public processes have been observed. The question that must be asked is on what basis the Registrar General's recent statement was made. ZESN acknowledges the importance of a voters' roll in electoral processes and how it can determine the integrity or lack of integrity of an election. ZESN calls upon the Zimbabwe Electoral Commission (ZEC) to ensure that the voters' roll for Zimbabwe is up to date, complete and comprehensive through a transparent, inclusive and participatory process. In addition, ZESN urges ZEC to ensure that the voter registration processes of cleaning and updating the voters roll remain public processes to increase electorate confidence. ZESN remains committed to monitoring Zimbabwe's political environment and analysing their implications for the conduct of elections in Zimbabwe. While some areas in Zimbabwe are experiencing human rights violations in various ways, observers have also noted areas where people's rights are respected. ZESN envisages a Zimbabwe where people's rights are respected and protected. ZESN welcomes the electoral amendment bill as a sign of commitment to making changes to the electoral regime. An analysis of this bill will be provided separately. In pursuance of our mandate of promoting a democratic Zimbabwe where free and fair elections are conducted, ZESN advocates for these minimum conditions: • <i>The creation of a violent-free environment where freedom of assembly, association and expression among others are upheld.</i> • <i>Election observation forms a critical element in any election, ZESN calls for the opening up of election observation to all interested stakeholders and for the invitation to be given by ZEC and not an executive arm of government.</i>
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