

ZIMBABWE ELECTION SUPPORT NETWORK



ELECTORAL REFORM PROPOSALS

ELECTORAL ARCHITECTURE

1. Legal Framework

Some amendments were made to the Electoral Act in the prior to March 2008 e.g. requiring posting of election results outside polling stations and constituency tabulation centers and other relevant pieces of legislation such as POSA, AIPPA and the Broadcasting Act. However these reforms were piecemeal in nature. Furthermore, there was a reversal to some of the reforms made on the eve of the 29 March election, without the knowledge of the Electoral Commission, through a presidential proclamation, for instance the requirement that police officers to be stationed 300 metres from polling stations.

Recommendations

- ZESN continues to recommend a comprehensive reform process with significant citizen's input.
- Removal of Presidential Powers [Temporary Measures] legislation in relation to elections

2. Election System

While Zimbabwe continues to conduct its elections within the Westminster system of first past the post [FPTP] based on the "winner-take-all" model, the unfolding political and leadership challenges in Zimbabwe can hardly be solved through such winner-take-all, zero sum frameworks. Besides being exclusionary, they generate tension in an environment already pregnant with tension and agitation..

Recommendations

The solution to the political stalemate in Zimbabwe lies in an electoral paradigmatic shift to more inclusive, accommodating, win-win electoral systems based on proportional representation and mixed electoral systems

3. Election Administration

Sound election administration is critical in building political party confidence in the conduct of elections. The delays that accompanied the release of election results, especially presidential results, do not reflect positively on ZEC's election management capacity and autonomy. Its management of the delimitation, nomination, voter education, voter registration and inspection processes particularly raised concern. Information on the delimitation exercise was not adequately provided. For example the public and parliamentarians were not given adequate time to debate and make inputs in the exercise. Delays in the delimitation of boundaries [constituencies and wards] saw voter registration and inspections and setting of the nomination date being done before the finalization of the delimitation exercise. To increase transparency of the process, it is recommended that the law should require the Commission to disclose the total number of ballots printed for each election.

Recommendations

- Commissioners could be appointed through an open process that includes public nominations which Parliament through the Standing Rules and Orders Committee shortlists on the basis of qualifications and integrity before final appointment by the President.
- Independent, adequate and qualified personnel.
- Ensure the independence and efficiency of the body, including financial autonomy.
- Increased accountability of the Commission. For instance, Commissioners could each be given areas of responsibility to enhance accountability. The law could require the commissioners to divide among themselves responsibility for the commission's different activities so that each commissioner would be responsible for a particular activity and, in this way, promote equal participation by all commissioners. An alternative way of distributing functions between commissioners would be to give each commissioner the responsibility for a particular province.

- Method of appointment should ensure the impartiality, all-inclusiveness, competence and accountability of the body. the participation of opposition parties and key stakeholders. The selection process of commissioners should be transparent and engender confidence in all stakeholders. These selection processes should also ensure that gender, special needs groups and youth participation or representation is achieved.

ELECTORAL OPERATIONS

1. Voter Registration and Inspection of the Voters' Roll

The requirement that voters should produce "any satisfactory documentary evidence reasonably proving where they live" proved in effect to be a restrictive requirement. The voter registration exercise was also hampered by a number of logistical problems such as inadequate time allocation, inadequate resources, insufficient and incorrect information was provided to citizens about the registration process, that little time was allocated for the inspection of the voters' roll, that in some cases, upon registration, some potential voters were not provided with registration slips. Also in some cases conflicting information was provided on documents required to enable one to register as a voter.

Recommendations

- Voter registration should be approached as an ongoing process.
- Stringent requirements which discourage and disable people from registering as voters should be done away with.
- The voter registration exercise should be sufficiently publicized to ensure that every citizen who desires to participate in elections is able to do so.
- Adequate resources [time, human and financial] should be allocated towards the voter registration exercise to enable ZEC to undertake its voter registration mandates.
- The number of polling stations in urban areas should be increased to allow for adequate and equitable access to the polls.
- ZEC should ensure that all voters registered during the inspection period as well as during the mobile voter registration exercises are urgently issued with voter registration certificates so that they are not disenfranchised.
- There should be a complete transfer of the management of the electoral process including preparing of the voters' roll to ZEC. This should not only be in the law but also in practice.
- The election management body should then play a more proactive role to ensure that every eligible voter is registered.

2. Voter Education

To strengthen the voter education exercise, it is recommended that:

- ZEC avail adequate resources for voter education.
- Adequate monitoring mechanisms should be put in place to ensure that voter education is conducted in a uniform, professional and non-partisan manner.
- A comprehensive voter education and information exercise should be conducted in order to reduce cases of voters going to wrong polling stations or wards on voting day.
- ZEC should work with civic groups to ensure national coverage with adequate voter education.

3. Delimitation

While a new delimitation exercise was conducted in advance of the 29 March 2008 election, there was insufficient time for people to participate in the process. A preliminary delimitation report was not tabled as envisioned in the law, to provide an

opportunity for formal input by the political parties. The final delimitation report was tabled in parliament very late in the electoral process. This left little time to educate the public on changes to ward and constituency [house of assembly and senate] boundaries. It also caused confusion for the nomination process within political parties, in some cases forcing re-runs of some primaries. Parliamentarians were not given adequate opportunity to debate the delimitation report and make any recommendations for changes to the setting of constituency boundaries. Failure to allow this debate and to hear the recommendations of the parliamentarians flies in the face of the letter and spirit of the constitutional provisions. In future, the Zimbabwe Electoral Commission, which is now responsible for delimiting constituencies and other electoral boundaries, must be obliged to give public notice before embarking on a delimitation exercise and "so far as is practicable within the time available", entertain representations from political parties and other interested parties who are likely to be affected by its decisions, stick to universal principles of representatives, equal voting strength and serviceability, independence and professionalism.

4. Nominations

To strengthen nomination processes and practices, it is recommended that:

- The provisions of the law, which allow filing of papers before nomination day, should be used.
- Adequate funding should be allocated to the Electoral Commission to ensure efficient management of nomination processes.
- ZEC should ensure that citizens receive relevant education of the electoral process to enable them to exercise rights such as standing for election. Adequate information should be disseminated on the requirements of candidates for all contested seats, and this should be done in time to reduce rejection of nomination papers.

Other recommendations include the timeous availability of information on ward and constituency boundaries so that nominees are identified from the correct wards and constituencies. Adequate dissemination of voter information so that prospective candidates know the actual venues of the nomination courts. Uniform, collective and timeous announcement of nominated candidates to avoid speculative reporting by the media and other stakeholders.

5. Access to State Media

It is recommended that:

- More broadcasters [independent radio and television stations] should be licensed.
- Public broadcasters should be obliged to "afford all political parties and independent candidates such free access to their broadcasting services as may be prescribed" in the law.
- The regulations must provide for the total time allocated to each political party or candidate, the duration of each broadcast by the party or candidate, and the times when the areas to which such broadcasts are to be transmitted.
- ZEC should be more proactive in its monitoring of broadcasters during the election period to ensure that they observe these provisions.
- Media should be barred from publishing language encouraging racial, ethnic or religious prejudice or hatred or inciting violence or likely to lead to undue public contempt towards any political party, candidate or class of persons in Zimbabwe.

6. Postal Voting

Postal voting in Zimbabwe has also remained controversial, shrouded in secrecy, inaccessible to observers, riddled with allegations of intimidation, malpractice and non-transparency. In the runoff, members of the security forces such as police, the army and prison officers reportedly voted in the presence, and under the directions of commanding officers who instructed their juniors to vote for the ZANU PF candidate or risk losing their jobs. This practice constitutes a banal breach to

the basic principles that underpin electoral practices. It is strongly recommended that the doctrine of secrecy as well as transparency that is applied to other electoral processes must also apply to postal voting.

7. Conflict Management

In future, to enable the Electoral Court to resolve disputes expeditiously before elections take place, there is need for competent, effective, independent and impartial judiciary and electoral institutions. There is also need to complement the judges of the Electoral Court with staff, equipment and adequate resources. The jurisdiction of the Electoral Court should be broadened, for example the resolution of disputes occurring prior to the election.

ELECTORAL STAKEHOLDERS

1. Political Parties

It is recommended that:

- Political parties must walk the talk of political tolerance. The message of zero tolerance to political violence must cascade from the top leadership structures to the grassroots,
- All political parties, the electronic and print media must be barred from using/publishing any form of inflammatory language and hate speech.
- Political parties should be compelled to practice effective internal democracy to reduce or avoid intra-party violence
- Acceptable conduct should be agreed in a legally enforceable code of conduct for political parties. The enforcement of offences should be vigorous and penalties should be prohibitive such as disqualification of candidates or huge fines. This would ensure that parties abstain from vote buying or any other dishonest or unethical election campaign conduct.

2. Election Observation

To improve election observation, it is recommended that:

- ZEC should have the decisive say on which observers to invite and accredit without any ministerial veto power as is currently the case,
- Accreditation should be decentralized
- Devise an easier way of accreditation
- ZEC must also accredit sufficient numbers of local and international observers to allow comprehensive observation of elections.
- The security of independent and domestic election observers must be guaranteed.

3. NGOs and Human Rights Defenders

Human Rights NGOs also bore the brunt of retributive violence. There was widespread harassment of observers, human rights lawyers, journalists and others who were thought to be either sympathetic to the opposition or did not give adequate coverage to the ruling party. Civil society and the work they do should be accorded more respect as it is important for democratic principles to take root in Zimbabwe. Attacks on civil society organizations in Zimbabwe should be condemned as they are a violation of the right of Zimbabweans to have a voice.

4. Security Forces

It is therefore recommended that mechanisms be put in place to ensure that security forces conduct themselves in a professional and non-partisan manner. Although the presence of police officers at polling stations is necessary to maintain order, such deployment should not be done in such a way that could lead to the intimidation e.g. if large numbers of police or when they assist voters.

5. Traditional Leaders

The role of traditional leadership in the politics of Zimbabwe remains a highly contested terrain. It is therefore recommended that traditional leaders remain apolitical and should embrace all their subjects regardless of their political persuasion.

6. External /Diaspora Voters

It is recommended that the Electoral Commission be given the power to establish a system that allows Zimbabweans living outside the country [diaspora] to vote by post if they are unable to return to Zimbabwe to cast their votes.

7. Assisted Voters

It is recommended that only a trusted friend or relative of the voter's choice be allowed to render assistance in order to safeguard the secrecy of their ballot and avoid intimidation.

CONCLUSION

The period under the Global Political Agreement gives Zimbabwe a unique opportunity to effectively deal with electoral reform and ensure a conducive environment and conditions that guarantee respect for the will of the people before the next election.