

Zimbabwe Election Support Network

The Zimbabwe Electoral Environment Post March 2002- Any Changes for Better or Worse?

Summary

Following the much disputed victory of Robert Mugabe in the long awaited March 2002 Zimbabwe Presidential Elections, several major elections have been held in Zimbabwe. These elections have been influenced by four main factors have played a significant role. These are violence, voter apathy, the economic crisis, and the on and off again talks between the opposition Movement for Democratic Change (MDC) and the ruling Zimbabwe African National Union- Patriotic Front (Zanu- PF).

Background

The March 2002 elections were greatly significant to two groups of citizens. For Zanu-PF supporters, there were key to their retention of political power and influence in an environment of real threat posed by the MDC. For the MDC, they held great potential for the party to gain power and for many Zimbabweans for a change to the socio-economic order which had prevailed in Zimbabwe for over 22 years. The elections came at a time when political polarisation in Zimbabwe peaked to hitherto unheard of levels. Thus there was great potential for both sides of the political divide.

Thus the violence which accompanied the election was not a surprise to many observers given the fact that the contest was a veritable battle for the hearts and minds of the Zimbabwean citizens. Many of these citizens were victims of the violence that erupted between the two parties. The violence was mainly perpetrated by supporters of the ruling party including militia groups aligned to the ruling party. Many of the citizens protested at the results of the elections which saw Zanu-PF retaining power amid accusations of state sponsored violence and manipulation of the electoral process.

Reaction to the Results

Immediately following the announcement of the election results, the MDC protested strongly the results and promptly filed an election petition against the election of Robert Mugabe citing violence and accusing the Registrar-General of deliberately falsifying information on the voters' roll in order to give the ruling party an unfair advantage. One and half years after the election results, the election petition remains in the court system with no end in sight.

Predictably the government lauded the results as an expression of the true will of the Zimbabwean people. The results were seen as legitimising the Zimbabwe electoral system and also the land redistribution which had been a source of great debate before the election . Given that so many people in the urban areas –predominantly opposition supporters- queued for more than half a day in order to be able to vote, the feelings of the ruling party were not shared by the majority of urban dwellers.

In the post election period, with the election victory almost as a justification for undemocratic behaviour, Zanu-PF began to strictly enforce some of the laws that had been promulgated amid much protest in the pre-election period in 2001. Of particular

note was the very strict application of the media laws that of course culminated in the closure of the Daily News, the only independent daily newspaper in Zimbabwe. The government also introduced laws such as the Electoral Amendment Bill which although not yet passed will have a fundamental impact on the electoral framework in Zimbabwe today. Non-Governmental Organisations continued to be reviled as enemies of the state and agents of the imperialist west. The President has indicated on several occasions that legislation is being drafted which will curtail the activities of NGOs and increase governmental control not only of their activities but also their budgets. In a time of drought, several local and foreign food relief agencies stopped their food distribution programmes protesting against attempts to control the food distribution by Zanu-PF. The Public Order and Security Act (POSA), and Access to Information and Protection of Privacy Act (AIPPA) remain in force and are increasingly used to control demonstrations and to justify periodic arrests of independent journalists.

In the past eighteen months, NGOs have faced threats and intimidation and violence not only from law enforcement agencies namely the Zimbabwe National Army and the Zimbabwe Republic Police but also from militia groups which support the ruling party. The ZRP is accused of colluding with the ruling party in the repression of opposition voices mainly by not arresting perpetrators of ruling party sponsored violence. The ZNA has several times in the past year been accused of engaged in random, arbitrary and unprovoked acts of violence against innocent victims. Other groups have been implicated. These are mainly the war veterans- those who fought in the war for liberation and are mainly ruling party supporters but also graduates of the National Youth Service Training Programme which was introduced to the Zimbabwean people as a developmental initiative but has assumed a sinister character as members are increasingly implicated in acts of violence, from assault, rape, torture, arson, intimidation and even murder on behalf of the ruling party.

The economic crisis which buttressed the calls for an end to Robert Mugabe's rule of Zimbabwe worsened as the economy continued to implode at an untenable rate. Many basic commodities remained scarce and when they became available, runaway inflation led to the steep increase in their prices which put most of these commodities beyond the reach of most Zimbabweans including what is left of the middle class in Zimbabwe. Fuel and cash shortages were there for most of the early part of 2003 and these as yet have not been resolved. As the government continued to struggle to come up with mechanisms with the economic crisis unemployment rose to 75% and continues to rise. As is the case worldwide, a prolonged economic crisis always produces a political crisis and Zimbabwean is not an exception. It is quite clear that the answer to the economic crisis lies in a political settlement.

However the road to the political settlement which is filled with on –again, off again talks between the MDC and Zanu-PF interspersed with lukewarm attempts at mediation from several African heads of state has proved to be long and winding. It is not made easy by the stubborn refusal of both parties to compromise on their key points. The MDC that the government of Robert Mugabe is illegitimate and the ruling party that it will not talk to a party which does not recognise the Presidency of Robert Mugabe. The situation is not made any easier by the fact that Morgan Tsvangirai the leader of the MDC is facing charges of treason for allegedly plotting to assassinate the President of Zimbabwe, his very partner at the negotiation table. The talks have not fulfilled their potential at all and has proved nothing more than an opportunity for the protagonists to rail at each other once again with a lot of sound and fury ultimately signifying nothing.

Elections Since March 2002

In this mire of confusion, political intrigue and uncertainty several significant elections have been held since the March 2002 . The breakdown is given in the table below:

ELECTION	DATE	Reason for Election	Victor
Kadoma Mayoral by Election	27-28 July 2002	Death of Mayor	Zanu-PF
Rural District Council Elections	28-29 September 2003	General Elections	Zanu-PF
Hurungwe Parliamentary By-Election	28-29 September 2003	Death of MP	Zanu- PF
Insiza Parliamentary By-Election	26-27 October 2002	Death of MP	Zanu-PF
Kuwadzana and Highfield Parliamentary By-Elections	29-30 March 2003	Death and Dismissal of MP	MDC
Local Authority Elections	26-27 April 2003	General and By-Elections	Zanu-PF
Urban Council Elections	30-31 August 2003	General Elections	MDC and Zanu-PF
Makonde and Harare Central Parliamentary By-Elections	30-31 August 2003	Death and Resignation of MPs	Zanu- PF and MDC

There are also vacancies in Kadoma Central, Zengeza and Gutu North constituencies. These elections are pending and are sure to be hotly contested as Zanu-PF continues to inch towards the two thirds parliamentary majority needed to effect amendments to the constitution.

Generally the citizens have not retained the interest which they had in elections at the levels of March 2002. The time and energy that people exerted in March 2002 has not been matched in these subsequent elections. Many voters were disappointed with the outcome of the elections and three years after the birth of a real parliamentary opposition, the life of the ordinary Zimbabwean has actually become worse so many have begun to question the value of the ballot. This is compounded that civic organisations are unable to penetrate the areas where voter education is most needed and that rural areas and even in urban areas, the situation is now so tense politically that it has become very difficult to undertake voter education activities so potential voters are in the dark as to the power and potential of their votes.

The activities of militia groups and party supporters mainly ruling and opposition party youth have impacted negatively on the electoral process as they have created an atmosphere of fear in the electorate many who now vote on the basis of fear and coercion. Thus voter turnout which was relatively high for the Presidential Elections has now decreased to the abysmal levels seen in the most recent elections in August 2003.

Legal Framework

The legal framework in existence before the Presidential election of March 2003 has remained unchanged. The repressive pieces of legislation that were enacted just before the Presidential elections remain in force. They include the Public Order and Security Act (POSA) and the Access to Information and Protection of Privacy Act (AIPPA) which are designed to restrict freedom of expression, association and movement. They are still in force even though the Access to Information and Protection of Privacy Act (AIPPA) was slightly amended.

The Public Order and Security Act (POSA)

The Public Order and Security Act (POSA) has provisions which stipulate that for public gatherings the regulating authority (the police) should be notified within four days before the gathering.. The word 'notified' has been erroneously interpreted to mean 'apply' and that the regulating authority, who is the most senior police officer in a district or province has the power to grant the permission to hold the meeting or not. This severely crippled the activities of civil society organisations. Members of organisations which decided not recognise the law and went ahead to hold meetings without the permission of the police were arrested.

The Access to Information and Protection of Privacy Act (AIPPA)

The Access to Information and Protection of Privacy Act was restrictive on the aspect of publishing anything that might be considered to be defamatory of the Presidency or anyone from the public service.

These two laws were promulgated just before the Presidential elections presumably to quash dissent.

The Citizenship Amendment Act (CAA)

The Citizenship Amendment Act, which was enacted about the same time as POSA and AIPPA, sanctioned people holding dual citizenship. It stipulated that anyone who had dual citizenship or whose parents had dual citizenship should renounce the other citizenship and apply for restoration for the then Zimbabwean citizenship. Many people from Malawi, Zambia and neighbouring Mozambique whose parents where farm workers in the then Rhodesia were affected by the same law in as much a way as people of Western origin. Later in the year there was an amendment which purported to exonerate people whose parents had foreign ancestry but were born in Zimbabwe or the then Rhodesia.

The General Laws Amendment Act (GLAA)

The General Laws Amendment Act (GLAA) was the piece of legislation that specifically provided for electoral issues. It sought to restrict the participation of civic society in the electoral process by according the Electoral Supervisory Commission the power to conduct voter education and to grant permission to anyone who wanted to conduct the same. It went further to state that anyone who wanted to apply should disclose their source of funding and should be locally funded.

The Act also stated that one needed to furnish proof of residence by producing telephone or water bills bearing their name and address and in cases of those who stayed in the rural areas then a letter from the chief or kraalhead will suffice as proof of residence. These provisions were later considered by the Supreme Court of Zimbabwe to be ultra vires the Constitution on the grounds of intruding on one's right to privacy.

However this sadly is still practice when people are being registered to vote and even the advertisement which the Electoral Supervisory Commission issues out during election time still make reference to proof of residence as a requirement for registration as a voter.

The General Laws Amendment Act was later considered to be null and void for the reason that when the Act was introduced into Parliament, proper Parliamentary procedure was not followed in the law making process. The process had been irregular and therefore it lapsed on the grounds. This was decided in a High Court judgement.

Electoral Regulations Statutory Instrument 41B of 2002

The regulations were enacted just after the General Laws Amendment was said to be void. The regulations were promulgated under Section 157 of the Electoral Act amended parent regulations in Statutory Instrument 58 of 1992. Since the regulations were promulgated under Section 157 of the Electoral Act, they are permanent.

The provisions of the regulations were the same as those which had been in the General Laws Amendment Act save for the fact that they were silent on the issue of voter education. In Section 15B(2) the Regulations state that the Commission shall appoint, accredit and deploy in each polling station members of the Public Service as monitors. The monitoring of elections was previously the role of civil society organisations. The regulations made it the function of the members of the Public Service and civic society was relegated to observing elections, a role which can be considered to be a spectatorship since 'observing' according to the Act means (subject to such conditions as may be prescribed)

- a. observing the conduct of polling
- b. be present at the verification of statements of presiding officers and the counting of votes cast at the election in terms of the Act.
- c. Bring any irregularity or apparent irregularity in the conduct of the poll or the counting of votes to the attention of the monitor on duty or the Commission.

Note that an observer only brings an irregularity to the attention of a monitor on duty and not to the polling officials. Since the monitors are members of the Public Service and the Presiding officers are usually the senior members of the Public Service whose Ministerial Head is from the ruling party, which incidentally has a candidate for that particular election then invariably questions of partisanship become an issue.

Electoral Amendment Bill

After the regulations, in July 2002, Parliament introduced the Electoral Amendment Bill which in essence has the same provisions as the General Laws Amendment Act. This has however not been made into law.

THE ELECTION PROCESS

The technical election process itself has remained much the same in since the Presidential Election. The process begins with the inspection of the voters' roll following which period parties choose their preferred candidates, usually through party primary elections. These candidates are then required to appear at the nomination courts where they are expected to fulfil certain criteria in order to be eligible to stand as candidates. Following the nomination courts, campaigning begins where the candidates use various methods of promoting their manifesto(s). Polling takes place over two voting days and one counting day.

Below is an analysis of the election process as it has operated in the period since the March 2002 elections:

Inspection of the Voters' Roll

Generally this has been characterised by apathy on the part of the prospective voters. There are a number of causes of this apathy. Firstly as already alluded to above, most voters lack a holistic appreciation of elections as one of the key tenets of democracy. Most voters give prime importance to the actual voting days without realising that the voters' roll and how it is used and compiled is one of the key areas of interest in an election. Oftentimes residents and citizens do not know that there are elections in their area until they see the posters from the Registrar-General's office. There is poor publicity of the process and how vital it is to elections. For most of the elections cited above there was poor turnout. Monitors also note the placing of some inspection centres in places that are not voter friendly such as near ruling party base. It is also reported in some areas that party supporters sit near inspection centres in order to intimidate those who are going to inspect especially supporters of the ruling party.

In several of these elections most notably the Kuwadzana by-election, the MDC accused the office of the Registrar General which compiles the voters' roll of fraudulently registering supporters of the ruling party from other areas. The Registrar-General was also accused of retaining the names and identification particulars of dead people on the roll and thus that the voters' roll was a misrepresentation of the true figures of voters in the area or district. A new phenomenon also emerged in recent elections of people who claim to be registered by the party chairperson or village head who come to the polling station on voting day expecting to vote.

There is a parallel registration process that is undertaken and it is not clear where this information then ends up.

Another problem was that of people who had voted in the March 2002 election who attempted to vote in subsequent elections and found that their names were not in the voters' roll. The voters' roll therefore remains one of the greatest unsolved mysteries in Zimbabwean politics. Its compilation remains mysterious for most observers adding to the questions already raised about its integrity.

Nomination Courts

In most recent elections, the nomination courts have emerged as key problem areas for opposition and independent candidates. For the 2002 Rural District Council Elections the MDC claimed that hundreds of prospective candidates were physically prevented from reaching the nomination courts by ruling party supporters. Similar allegations were made for several councils in the 2003 Urban Council elections where the ruling party won all the council seats in three councils amid allegations of serious violence and intimidation of opposition.

According to the reports of ZESN long term monitors, the sight of ruling party supporters barricading nomination courts is now a familiar one in many elections. The nomination courts have almost become sacred ground where only the very brave may enter.

Campaigning

As has already been pointed out, political campaigning in Zimbabwe is fraught with many challenges and obstacles. This has certainly been the experience of those who have had the temerity to challenge Zanu-PF's political control. Since the emergence of a strong opposition movement which climaxed with the formation of the MDC in September 1999, it is no longer a given that all power belongs to Zanu-PF.

The violence that has become part of politicking and electioneering in Zimbabwe rivals other violent political systems in the world. The levels of violence dissipate and escalate depending on the political significance of the election. Therefore the violence seen since the Presidential election has not reached the heights experienced pre-March 2002. There has been no election to match the stature of that one. However the violence, which was part of the Highfield and Kuwadzana by-Election election, was similar though perpetrated to a lesser extent.

The election related violence includes acts of theft, assault, vandalism, kidnapping, torture, arson, rape and murder. This violence is perpetrated by party supporters, youths, war veterans and in some instances the army. Although it would be untrue to say that the MDC is innocent in all the acts of violence, it is not untrue to say that those who are implicated as prime instigators and perpetrators are ruling party supporters and members particularly the youth wing.

Violence does not only take place between party supporters and members but it is also perpetrated against members of the public and prospective voters. Members of the public have been forced to purchase Zanu-PF cards, to attend night time re-education campaigns, and day time rallies. Other methods used are door-door campaigns, distribution of pamphlets, novelty campaign materials. The state-owned print and electronic media is often used to campaign for the ruling party and its policies. The

private independent media often vilifies the government in its report which invariably means that the voting public in Zimbabwe rarely have access to impartial election reporting.

Whilst the ruling party is free to campaign, the opposition candidates often complain that they are often refused police clearance under the notorious POSA. Where rallies are held, a number have been disrupted by Zanu-PF youths. The police in some instances do arrest the perpetrators although in most cases they are allowed to go free.

Thus more many candidates and even the voting public, campaigning takes place in a violent atmosphere. In the rural district council elections of 2002, even after the sitting of a violent nomination courts, some of the nominated candidates fled their homes as the threats continued after the nomination courts. In the August 2003 urban council elections, some of the nominated MDC candidates had their property destroyed and their houses burnt down on the eve of the elections

The most unsettling aspect of this process is that violence has become part of the accepted norm of campaigning in Zimbabwe. As violence prevails over the normal election processes, the value of the vote decreases to the point where the public no longer views casting of the ballot as a legitimate way of changing the government. Elections in Zimbabwe are now associated with violence to the extent that people no longer want to be associated with political activity of any kind in particular elections. This was borne out by the voter apathy exhibited in the last election, which quite fairly can be partly attributed to the fear that has now gripped the Zimbabwean electorate.

Also of concern are the documented incidents of vote buying. Food is being used as a campaigning tool particularly in these times of drought.

Polling Days

Generally the polling days are quieter than the pre-election and post-election period. Few incidents of violence are reported on these days although in Kadoma during the urban council elections, the level of voter intimidation and threats against observers and voters alike was very high. Sometimes polling stations open late and some voting materials are missing but these are mainly administrative shortcomings as opposed to a pattern of behaviour that would point some form of tampering with the electoral system.

What is noteworthy is the growing tendency of party supporters mostly ruling party supporters to be camped in the environs of the polling stations, sometimes within the 100m boundary and sing and chant slogans whilst voting is underway. Reports have also been received that presiding cannot or will not control Zanu-PF officials and polling agents whilst they are in the polling stations raising concern about the impartiality of election officials

The Activities of Non-Governmental Organisations and Observation of Elections.

NGOs participate in elections in many different ways in particular voter education, media monitoring and polling and counting observation. Other ancillary activities include training of journalists and electoral research and advocacy. There appears to be an official confusion or indecision regarding just how much power and authority NGO's

should receive. The powers of civic organisations to monitor elections and they have now been relegated to the role of observers.

Although NGOs receive accreditation to observe, in every one of the elections mentioned above there was at least one incident of one observer who was denied entry to polling station because the presiding officer had not prior knowledge of the existence of observers. Given that these observers are given official accreditation this seems odd and is either gross administrative incompetence or a deliberate act on the part of government. Added to this official attacks on the notion a number of ZESN 's observers have been arrested tortured, threatened and beaten by ruling party supporters including war veterans