

Zimbabwe Election Support Network (ZESN)



Pre-election Update No. 4

**NOMINATION COURT UPDATE
18 FEBRUARY 2008**

METHODOLOGY

ZESN continues to monitor the pre-election period ahead of the harmonized elections in March 2008 using long term observers deployed at constituency level throughout the country. The coverage of ZESN observers ahead of the election stands at 97% of all the constituencies. During the Nomination Court sitting on the 15th of February 2008 ZESN fielded observers in all venues of the nomination court sittings of the Presidential, Senate, Parliament and Local government candidates.

SUMMARY

According to the reports from ZESN observers, proceedings went on well in most of the nomination court sittings. Four candidates had lodged in their nomination papers by close of day with ZANU-PF's Robert Mugabe filing his papers through Emmerson Mnangagwa, MDC's Morgan Tsvangirai lodged through Nelson Chamisa and Simba Makoni filing his papers in person. Another candidate, also standing as an independent, Langton Towungana managed to file his papers before the nomination court closed at 1600hrs. Four prospective candidates had their papers rejected by the court, Daniel Shumba of the United People's Party, Abel Ndlovu of the Peace Action Freedom for All, William Gwata of the Christian Democratic Party and Advocate Justin Chihota. Reasons for the rejection of their nomination papers included late submission. In the case of Daniel Shumba and Advocate Chihota it was due to inadequate documents.

Major highlights of the nomination process included minor skirmishes reported and observed at the Harare Magistrates Court for ZANU PF, the fielding of more than one candidate from one party throughout the country causing tension and the huge number of independent candidates in most of the constituencies heightening political competition.

Also interesting to note was the delay in the announcement of nominated candidates with extreme cases being noted in Shinje where adjournment lasted until midnight. While all nomination courts were reported to have opened on time, closure was maintained at 1600hrs with processing of filed papers continuing into the evening.

Political parties contesting the election include the following:

- Zimbabwe African National Union (Patriotic Front) - ZANU PF
- Movement for Democratic Change - MDC (Tsvangirai)
- Movement for Democratic Change - MDC (Mutambara)
- United People's Party - UPP
- Zimbabwe African National Union - ZANU Ndonga
- Zimbabwe Democratic Peoples Party – ZDPP
- FDU

Independent candidates have also been fielded for all elected positions throughout the country.

Presidential nominees are:

- Robert Gabriel Mugabe – ZANU PF
- Morgan Tsvangirai – MDC
- Simba Stanley Herbert Makoni – Independent
- Langton Towungana - Independent

NOMINATION PROCEDURES: LEGAL FRAMEWORK

Presidential election

A candidate for election to the office of President must submit a nomination paper signed by not fewer than ten persons who are registered on the voters' rolls for constituencies within each province. The form may specify a distinctive symbol which the candidate wishes to appear on the ballot paper in conjunction with his or her name; and if the candidate is to stand for or to be sponsored by any political party, specify that fact, together with the name of the political party and an abbreviation of such name which the candidate wishes to appear on the ballot paper.

Where a nomination paper specifies political party affiliation and the party symbol, it must be countersigned by a person who is an office-bearer of the political party concerned with authority to certify that the candidate is to stand for or to be sponsored by that political party.

A deposit must also be paid upon nomination. If a poll takes place and the number of valid votes cast for an unsuccessful candidate is less than one-fifth of the number of valid votes cast for the successful candidate, the sum deposited by or on behalf of the unsuccessful candidate shall be forfeited and form part of the funds of the Commission. For the presidential election the prescribed sum was set at one billion dollars (\$ 1, 000, 000, 000.00).

Parliamentary Election

Section 46 of the Electoral Act provides for the nomination of candidate for election to senate or House of Assembly. A candidate for election as a member of Parliament must submit a nomination paper signed by not fewer than ten people who are registered on the voters roll for the constituency

for which the candidate seeks election. The nomination papers may specify a distinctive symbol, which the candidate wishes to appear on the ballot paper in conjunction with his or her name. Further, if the candidate is to stand for or be sponsored by any political party, the papers may specify that fact, together with the name of the political party and an abbreviation that name.

Where running on a party ticket the nomination paper should be countersigned by an office-bearer of the political party concerned with authority to certify that the candidate is to stand for or be sponsored by that political party.

A deposit must also be paid upon nomination. In this election the deposit for nomination was set at one hundred million dollars (\$100, 000, 000.00)

Nomination papers may be lodged with the constituency elections officers for the constituencies concerned at any time after the publication of the proclamation of the election and nomination court.

Upon opening of the Nomination Court, an announcement should be made in open court whether any candidate has lodged his or her nomination paper before the sitting of the court and, if so, the name of the candidate. The Court will then receive any further nominations for election.

It is interesting to note that the law provides for nomination courts to be held at constituency level. The Electoral Commission however, combined constituencies and conducted nomination at provincial level. This perhaps is an indication of the logistical and resource constraints faced by the Commission in managing this election.

No nomination paper shall be received after four o'clock in the afternoon of nomination day. However, if at that time a candidate or his or her chief election agent is present in the court and ready to submit a nomination paper in respect of the candidate, they should be given the opportunity to do so.

Nomination papers may be rejected if in the view of the presiding officer, any symbol or abbreviation is indecent or obscene; or is too complex or elaborate to be reproduced on a ballot paper; or so closely resembles the symbol of any other candidate contesting the election in the constituency concerned; or the recognised symbol or abbreviation of any other political party, where this resemblance is likely to cause confusion. Any symbol specified as a prohibited symbol will also be rejected.

Another reasons for rejection is if the nomination paper states that the candidate is to stand for a political party and the officials have reason to believe that that fact is not true; or if any of the qualifications for nomination is not met, or the deposit is not paid.

Local Authority elections

In terms of section 125 of the Electoral Act, aspiring councillors must be endorsed by at least five people whose names appear on the on the voters roll for the ward concerned.

As in parliamentary elections, nomination papers may be lodged with the Commission at any time after the publication of the notice of election and the closing of the nomination court on the day, fixed as nomination day.

Together with the nomination papers, aspiring candidates must lodge

- a written certificate of clearance obtained from the Zimbabwe Republic Police, as evidence that the candidate concerned during the five years immediately preceding the date of nomination has not been convicted of contravening specified sections of the Rural District Councils Act [*Chapter 29:13*] and the Urban Councils Act [*Chapter 29:15*] or an offence involving dishonesty.
- a written certificate of clearance obtained from the relevant council, as evidence that the candidate concerned is not in default with the payment of any levy, rate, charge or tax due and payable to the council concerned, and has been in such default for more than one hundred and twenty days

However, the effect of Presidential Powers Regulations - SI 13B/2008, gazetted on 6 January 2008 was that candidates for local authority elections no longer have to produce police and local authority rates clearance certificates when submitting their nomination papers.

NOMINATION PROCESS

As already noted, the nomination process throughout the country went well. Opening time was observed throughout and so was the closing time. In Masvingo however, the announcement of candidates nominated was delayed owing to a power outage and delays in the processing of submitted papers.

PROVINCIAL HIGHLIGHTS

HARARE

At the Presidential nomination court, processing of individual nomination papers appeared to be slow, with the candidates or their representatives spending the bulk of the day waiting. Announcement of the final nomination results was further delayed due to submission of nomination papers by four of the prospective candidates shortly before closure of the court. Of these four, which three were rejected.

Nomination papers for the prospective UPP candidate Daniel Shumba were not accepted as he had arrived after 4pm. Mr. William Gwata of the Christian Democratic party has his papers rejected on the grounds that the ID numbers given by his supporters did not tally with those on the voters roll.

In Harare, ZESN received reports of political violence at the Magistrates Courts after 1500hrs when ZANU PF prospective candidates clashed over the submission of nomination papers. Riot police had to be called in to diffuse the tension as supporters of contesting candidates from the same party continued to exchange strong words. The ZANU PF provincial structure, through Mr.

Savanhu, managed to contain the skirmish and calm was restored. The announcement of successfully nominated candidates only occurred after 2000hrs.

Cases of duplicate candidature from the same party were recorded across the political divide in the Parliamentary, Senate and Local Government nominations while independent candidates also filed their papers. The majority of the independent candidates were disgruntled losers of the primary election process within the opposition and ruling party both at parliamentary and local government levels in Harare.

Another issue, which arose, was that some independent candidates apparently attempted to file papers with the same or similar symbols. Officials rejected this, on the grounds that only political party candidates could use the same symbol. These aspiring candidates were requested to rectify their papers.

Challenges noted at the Parliament and Senate Nomination Court included congestion as one courtroom for the entire process. Harare has a total of 29 constituencies and given the number of contesting candidates anticipated, a more comprehensively adequate logistical arrangement could have been put in place to ensure the smooth and quick processing of nomination papers.

At Town House the process went ahead with no reported incidences of irregularities. There were, however, reported cases of duplicate candidature from the same party and confusion around ward boundaries.

MASHONALAND WEST

While the process was conducted in a transparent manner, a ZESN observer in Kadoma witnessed an incident that occurred outside the court where two suspected ZANU-PF supporters exchanged blows. Their quarrel was apparently over their party's prospective nominees. The problem was rectified with the police intervening and the candidates lodged their papers without further incidences.

Rejection of nomination papers filed was reported at the Arda District Sub Office where 3 prospective council candidates from ZANU PF with inadequate papers attempted to file. In Karoi, only prospective candidates or their agents were initially allowed into the Nomination Court although observers were later permitted into the court.

In Makonde, a report was made that ZEC refused to accept late submission of nomination papers from all political parties even though prospective candidates had earlier had their papers rejected on the basis of inadequacy and there had been an attempt to secure the relevant papers.

An interesting case was noted in Chakari constituency where father and son will contest the election on a ZANU PF and MDC (Mutambara) ticket respectively. Reports received suggest that the father, Ziyambi, was apparently not aware that his son harboured political ambitions and would contest against him in an election.

Reported disqualifications at the Provincial Court in Chinhoyi totaled 11. The reasons for rejection included inadequate papers and nomination by persons not registered as voters. A total of 9

independent candidates were nominated including Kindness Paradza, formerly a member of ZANU PF.

In Magunje, a prospective candidate of ZANU PF in Ward 6, Sengwe was discovered to not appear on the voters' roll while the losing candidate in the primaries of the same party appeared on the roll, conveniently was present at the nomination court and successfully filed his papers instead. 8 candidates in Magunje had their papers rejected for various justifiable reasons including none payment of rates. Perpetua Masango from MDC (Mutambara) had her papers rejected because she is below the age of 21. At the same court, the announcement of successfully nominated candidates was followed by commotion with supporters of the MDC alleging favoritism in the conduct of ZEC officials during the nomination process.

At Chegutu Town Council office, it is reported that alleged ZANU PF supporters soaked nomination papers for one prospective MDC candidate in water resulting in his failure to file for nomination.

MASHONALAND EAST

The nomination process in the province went on well with no reported incidences of irregularly accepted nomination papers. At Mtawatawa, the ZESN observer noted that ZANU PF filed uncontested in a total of 9 wards (wards 1, 3, 5, 6, 14, 16, 17, 4 and 7). At Ruwa ZANU PF was uncontested in 3 wards. The opposition MDC however successfully managed to field candidates in all the constituencies and for senate and parliament.

Nomination of candidates was, as has been noted earlier, delayed to late in the evening following challenges in the processing of filed papers.

In Murehwa, one aspiring MDC candidate had his nomination papers rejected on the basis that he is alien. The opposition however successfully filed nomination papers in the rest of the wards in the district council.

MASHONALAND CENTRAL

The announcement of results suffered a similar fate as has been noted throughout the country. In one of the extreme cases at Shinje Growth Point, announcement of successful nominations was only done just before midnight.

Of note was the rejection of papers from an MDC prospective councilor for ward 9 on the basis that his papers were not in order resulting in ZANU PF being uncontested. In another case, MDC was uncontested in ward 16 because the ZANU PF candidate was found to be alien.

In Bindura the processing of nomination papers continued beyond 2100hrs with the 2 MDC parties, ZANU PF, UPP, ZANU Ndonga and independent candidates successfully filing for nomination. In Shamva, the ZESN observer noted the rejection of papers from 5 MDC prospective candidates in wards 15, 17, 27, 9 and 26 for various reasons including not having a long birth certificate, not appearing on the voters' roll and having alien parents.

MIDLANDS

The nomination process is reported to have progressed smoothly throughout the province with no incidences of disturbances being reported by ZESN observers. In Kwekwe, one prospective candidate representing MDC Mutambara had his paper rejected because they were not in order while one sitting councilor from MDC Tsvangirai was disqualified because he is an alien.

There were allegations that a successfully nominated MDC candidate, Gwaradzimba, had his family threatened with violence by suspected ZANU PF supporters and a report was subsequently made to the police.

MASVINGO

While the nomination process was conducted in an orderly and professional manner, there were reported incidences of ZEC failing to clearly announce which of the 2 MDC factions had fielded candidates and where. Masvingo presents the biggest and probably most interesting contest for parliament and senate due to the successful nomination of more than one candidate from the same political party in 6 parliamentary constituencies and 2 senate seats. The duplicate candidature from the same party is alleged to be emanating from party primary's that were repeated in the province following a directive from the presidium and sustained disgruntlement after the reruns.

Masvingo also witnessed dual candidature from the same political party. For instance, Dzikamai Mavhaire will stand against Mrs Mandava for senate while the former governor Josiah Hungwe will contest against Callisto Mbengegwi in Mwenezi Chivi. In Masvingo Central constituency, Edison Zvobgo Jnr will stand against Edmund Mhere, in Chivi North Samuel Mbengegwi will contest Huruva while in Gutu South Shuvai Mahofa will stand against Henrietta Rushwaya, all of ZANU PF.

In Chiredzi, concern was raised that the former Chief Executive Officer for the rural district council, Alois Baloyi headed the delimitation process in the district and then continued to successfully file nomination papers to stand as an MP in Chiredzi South.

The process of nomination in the province was briefly disrupted by a power outage, which was quickly rectified. Announcement of successfully nominated candidates was done at 0300hrs this morning.

BULAWAYO

ZESN deployed observers to monitor the nomination processes in Bulawayo, Lupane, Nkayi, Tsholotsho, Binga, Filabusi, Beitbridge, Plumtree, Gwanda and Victoria Falls.

In Bulawayo, nomination for councilors proceeded smoothly with no disturbances and the process was concluded on time as reported by ZESN observer at the City Hall.

However nominations for parliamentarians were generally lethargic and were bogged down by a high court appeal filed by Eddie Cross (MDC Tsvangirai) who after initially having been disqualified on grounds of insolvency filed an urgent chamber application, which resulted in the extension the closure of nomination from 4pm to 6pm during which the appellant successfully filed his nomination papers. The whole nomination processes concluded around 2am this morning.

A prospective Senator, Mrs. Patricia Ngulube failed to file her papers after she was deemed an alien.

MATEBELELAND NORTH

In Binga the nomination process was partially disturbed by a power outage, which resulted in most prospective nominees failing to make copies of their documents as photocopying machines were not functioning.

Of the 25 wards for the Binga Council elections only MDC (Tsvangirai) and ZANU PF managed to field a candidate in every wards. The MDC (Mutambara) did not present any nominees for both the parliamentary and council elections. There was however one independent candidate who apparently is a former ZANU PF member who had lost in the primary elections. The nomination for parliamentarians for Binga was done in Bulawayo, nearly 600km away from the constituencies.

In Lupane there were 28 wards uncontested, with ZANU PF duly elected in all 28. MDC (Mutambara) had 26 candidates successfully nominated whilst the MDC (Tsvangirai) fielded candidates in 10 wards.

The ZESN observer also reported that Colleen Ndebele of ZANU PF contesting in Ward 4 of Lupane filed papers supported by voters registered on the roll for Ward 27. Mr. Ndebele himself appeared on the roll for Ward 4. His papers were accepted despite queries raised by an independent candidate regarding the legality of this. As noted above the law provides that voters in the ward where the candidate intends to stand should sign nomination papers.

In Nkayi the MDC (Mutambara) won 5 council wards unopposed. Interestingly, MDC (Mutambara) will also secure a sixth ward in Nkayi, (ward 22) as both of the candidates duly nominated for the ward hail from the same party.

The MDC Tsvangirai did not field any candidates for the local authority election, but House of Assembly and Senatorial hopefuls only. There were also nominations for the UPP, FDU and an independent for both the senatorial and house of assembly positions.

In Hwange one prospective candidate Mr. Hower Banda of the MDC (Mutambara) was disqualified due to his alien status. ZANU PF won one ward uncontested at nomination.

MATEBELELAND SOUTH

In Gwanda a prospective candidate for the UPP, Mr. Alexander Moyo was disqualified as he arrived after the closure of the nomination court. He intended to contest Gwanda Central, which at

the end of nomination attracted interest from 6 duly nominated candidates vying for the House of Assembly seat. The MDC (Mutambara) fielded two candidates for Bulilima West. No constituency was therefore uncontested.

MANCALAND

In Chipinge, it is reported that all major political parties managed to field candidates in all the wards. Of note, one aspiring candidate in Ward 11, Matambudzeyi Mlambo's papers were rejected on the basis that her mother is an alien.

Dual candidacy was also reported in Mutasa South and Makoni Central, where several candidates from ZANU PF wanted to file papers in the same wards. However, this problem was apparently solved internally and eventually others withdrew leaving one candidate in each ward.

RECOMMENDATIONS

Notable challenges, which were observed, were related to logistics in the management of the process. Throughout the country, a manual system was used where hard copies of the voters' rolls were used to verify registration of candidates and supporters. There was limited use of computers. Further, small, often cramped venues were used as nomination courts which invariably limited public access to the process

While the nomination process was conducted in a manner that promotes democracy in Zimbabwe, ZESN recommends that more effort be made towards the following strategic arrangements:

- Adequate funding of the Electoral Commission to ensure efficient management of processes.
- Dissemination of adequate information on the requirements of candidates for all contested seats in time so that cases of rejected nomination papers are reduced.
- Timeous availability of 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

The Zimbabwe Electoral Commission (ZEC) should ensure that citizens receive relevant education on electoral process to enable them to exercise rights such as standing for election. This should be part of a concerted and comprehensive voter education and information exercise to provide information such as electoral boundaries.

In order to avoid the disappointment of failing to lodge their papers, prospective candidates should ensure that their papers are in order well in advance. The provisions of the law, which allow filing of papers before nomination day, could also be used.

ZESN also recommends that political parties also ensure that their candidates have the correct particulars that qualify them as candidates so that rejection of nomination papers on clearly justifiable grounds is reduced. Furthermore, political parties should seek adequate advice to be able to clearly and correctly interpret the law regarding the nomination process, including the fact that nomination is not confined to the date of the nomination court. Appreciation of such facts could help in ensuring that nomination papers are filed on time and not a few minutes before the closure of the court.

ZESN also urges all political parties to practice effective internal democracy and political tolerance such that intra party violence that poses the greatest threat to the conduct of next month's election can be reduced if not avoided

Further, all political parties and independent candidates should refrain from the use of violence in any part of their quest for political office.

CONCLUSION

ZESN remains committed to values that ensure that citizens freely participate in elections in an informed manner and in a free political environment and will continue monitoring any political processes and developments for the purposes of enforcing checks and balances.

PROMOTING DEMOCRATIC ELECTIONS IN ZIMBABWE

FOR COMMENTS AND FURTHER DETAILS CONTACT

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