



Promoting Credible Elections and
Democratic Governance in Africa

ELECTION • TALK

A monthly newsletter from EISA

No. 22, 17 June 2005

Contents

ZIMBABWE

Zimbabwe's Parliamentary Election 2005: Announcement of Results	
<i>Grant Masterson</i>	1
Where to for Election Observers in the Wake of the Zimbabwe 2005 Parliamentary Elections?	
<i>Grant Masterson</i>	2
Reflections on Zimbabwe's 2005 Parliamentary Elections	
<i>Bertha Chiroro</i>	4

ZIMBABWE PARLIAMENTARY ELECTION 2005 ANNOUNCEMENT OF RESULTS Grant Masterson

Introduction

The announcement of election results is an aspect of elections which can serve to either allay or confirm fears of election irregularities, fraud and vote-rigging. The Principles for Election Management, Monitoring and Observation in the SADC Region state that significant delays in the announcement of the overall election results can lead to suspicion and a reduction in the degree of acceptance of the results, which undermines the integrity of the electoral process. With respect to the announcement of election results, it is therefore advisable a timetable for the announcement and release of the results to be transparent, predictable and reliable. Excessive delays, alterations and schedule changes can evoke suspicion regarding the validity of the announced election results.

The 2000 and 2002 elections held in Zimbabwe were tarnished by allegations of vote rigging, fraud and electoral bias on the part of the Zimbabwe Electoral Supervisory Commission (ESC) which administered these elections. The newly created Zimbabwe Electoral Commission (ZEC) was tasked with the responsibility of administering the 2005 Parliamentary elections; the ZEC was created to more fully comply with the SADC Principles and Guidelines for Election Monitoring and Observation and improve the credibility of the electoral administration body. Performing credibly for the most part in executing its mandate to administer the 2005 elections, the ZEC's lack of experience was most clearly reflected during the announcement of the overall results, at which point some irregular practices occurred. These irregularities are discussed in detail below proof of electoral fraud¹.

The Announcement of Interim Results

During the 31 March 2005 poll, Zimbabwe Television and several Zimbabwe daily

¹ *The Zimbabwe Observer*. Outrage over 'rigged' Zimbabwe Poll. Saturday 2 April, 2002.

newspapers such as *The Herald* released interim polling station turn-outs, as well as updates on the counting process, based on exit polls at various stations. However, these efforts were neither coordinated nor cohesive and this is an area in which the 2005 Parliamentary elections could and should be improved upon in future. The ZEC was not able to provide regular updates to the media and other interested observers during the polls. PEMMO notes that a coordinated strategy for the efficient dissemination of interim estimates is an effective tool in dispelling fears of election fraud, as interim estimates can be compared to the final results for verification². The announcement of progress reports during the polling period (in line with international and regional standards) could improve the transparency and credibility of the final election results when announced.

Interim Result Irregularities

The counting took place at the polling stations where the voting took place, and results were sent in via telephone to a results centre in Harare. In

² PEMMO. *Op. Cit.* 2003. P. 27.

most polling stations, the results were not displayed outside polling stations after being counted, in accordance with Zimbabwe's Electoral Law, and observers noted that no obvious supervision or verification of results received was evident³. At 8:30pm on 31 March, an official from the ZEC began to announce the election results live on state television and radio stations. The official listed the number of votes cast in a constituency, the number of spoilt ballots, those turned away from the polls and the results for that particular district. The official continued announcing the results of constituencies until, at approximately 9pm, he stopped announcing the results having completed 72 of the 120 constituencies. No reason was given for the failure to complete the announcement of results. The final results announced the next day in some instances appeared to contradict the results that had been announced on state radio and television⁴. The ZEC did not respond to EISA telephonic queries regarding this sequence of events.

Final Announcement of Results

The final announcement of results was posted in the government *Gazette*, based on the postal returns from all 120 constituencies, which were received during the evening of 31 March and the following morning⁵. No explanation was given regarding the irregular and inconsistent announcements made the previous evening by the ZEC, but the majority of the observer missions present during the elections accepted the announcement on good faith, many stating that they were satisfied with the overall execution of the elections. The final results were publicly

³ Zimbabwe Observer Mission Report: Zimbabwe Observer Consortium. *Report on the 2005 Parliamentary Elections: Assessed using the SADC Principles and Guidelines governing democratic elections*. April, 2005. p. 6.

⁴ Sokwanele Civic Action Support Group. "What happened on Thursday night": *An account of how ZANU-PF rigged the Parliamentary Elections*. Sokwanele Special Report: 5 April 2005.
<http://www.sokwanele.com/articles/sokwanele/whathappenedonthursdaynight.html>.

⁵ *Comprehensive analysis Final Report: Statistical Pattern analysis and hypothesis testing of the 2005 Parliamentary election in Zimbabwe*. Zimbabwe Electoral Support Network (ZESN). 22 April 2005.

released on 10 April 2005, and published in several daily newspapers. According to the results, ZANU-PF won 78 seats, the MDC won 41 seats and controversial spin doctor Jonathan Moyo, standing as an independent candidate, won a seat in his home constituency of Matabeleland North⁶. At 8:30pm on 31 March, an official from the ZEC began to announce the election results live on state television and radio stations. The official listed the number of votes cast in a constituency, the number of spoilt ballots, those turned away from the polls and the results for that particular district. The official continued announcing the results of constituencies until, at approximately 9pm, he stopped announcing the results having completed 72 of the 120 constituencies. No reason was given for the failure to complete the announcement of results. The final results announced the next day in some instances appeared to contradict the results that had been announced on state radio and television⁷. The ZEC did not respond to EISA telephonic queries regarding this sequence of events.

WHERE TO FOR ELECTION OBSERVERS IN THE WAKE OF THE ZIMBABWE 2005 PARLIAMENTARY ELECTIONS?

Grant Masterson

Although the 31 March Parliamentary Elections in Zimbabwe are now concluded, numerous disputes and controversies stubbornly refuse to fade away. These disputes cover the entire electoral process from the delimitation of constituencies, the political environment, vote rigging, political violence and intimidation, media freedom, the constitutional and legal environment, the interference of the international community, compliance to the SADC Guidelines and Principles and the relevance of election

⁶ Zimbabwe Observer Mission Report: Zimbabwe Observer Consortium. *Report on the 2005 Parliamentary Elections: Assessed using the SADC Principles and Guidelines governing democratic elections*. April, 2005. p. 6.

⁷ Sokwanele Civic Action Support Group. "What happened on Thursday night": *An account of how ZANU-PF rigged the Parliamentary Elections*. Sokwanele Special Report: 5 April 2005.
<http://www.sokwanele.com/articles/sokwanele/whathappenedonthursdaynight.html>.

observation. The 2005 Parliamentary elections have been amongst the most divisive elections conducted in Zimbabwe since the country's independence in 1981. Whatever the eventual outcome of these elections for democracy and good governance in Zimbabwe and Southern Africa, there is little doubt that some serious questions have been raised regarding the role and legitimacy of election observation missions in the SADC region during elections.

According to the Principles for Election Management, Monitoring and Observation (PEMMO), election observation missions exist to "secure the integrity of the electoral process by adopting people-oriented voting procedures and facilities as well as establishing a culture of peace and tolerance."⁸ Furthermore, it involves "...developing a generally accepted set of values that ensures fair electoral practice predicated on representation, accountability, inclusiveness, transparency, gender equality, tolerance and the respect for diversity."⁹ It should also be noted that these values have all been ratified by all SADC countries in the SADC Guidelines and Principles for Election Management and Observation. Yet in spite of this, a number of decisions made during the election period by both the Zimbabwean government and various observer missions appear to either disregard or subvert these principles for ulterior motives.

A Private Party: Invitation Only

A number of election observer missions produced critical reports on the Zimbabwe 2000 and 2002 elections, citing various factors which in the opinion of the reports substantively undermined the validity of the election results. None of the organizations and states which submitted these critical reports were invited to observe the 2005 elections. This included: the United States, the United Kingdom, Australia and a number of other countries that have been openly critical of the Mugabe regime, its policies and practices in the past, as well as a number of organizations with

direct or indirect links to these states. Additionally, other organizations which had made critical assessments of the general electoral environment like COSATU and the Carter Centre were also not invited. Whilst the definitive rationale behind these exclusions is difficult to ascertain, the general message is unmistakable: those who are or have been critical of the legitimacy of previous election results in Zimbabwe are no longer welcome to observe the proceedings. Put another way, only those observer missions which are likely to report on the elections favourably are invited to observe in an official capacity. One immediately obvious consequence of this policy, should it become a trend in either Zimbabwe or the SADC region, is that it has the potential to intimidate observer missions into refraining from open and critical analysis of an election for fear of not being invited back for future elections, seriously undermining the legitimacy and function of the observer mission process.

Table 1 – Countries/Organisations invited/not invited to observe elections

Not invited to observe elections	Invited to Observe Elections
SADC Parliamentary Forum (SADC-PF)	The African Union (AU)
The Carter Centre	The Southern African Development Community (SADC)
EISA	The Common Market for East and Southern Africa (COMESA)
Congress of South African Trade Unions (COSATU)	The Non-Aligned Movement (NAM)
Southern African Trade Union Coordination Council (SATUCC)	The South African Parliament
Southern African Council of Churches (SACC)	African National Congress – South Africa
The Commonwealth	Chama Chama Pinduzi – Tanzania
The European Union (EU)	FRELIMO – Mozambique
The United States of America	China
Australia	Iran
Japan	

Source: <http://www.eisa.org.za/WEP/zimbabwe.htm> 2005.

⁸ *The Principles for Election Management, Monitoring and Observation in the SADC Region*. Electoral Handbook 13. EISA/ECF. 2003. p. 3-4.

⁹ *Ibid.* p. 4.

Prejudging the issue

The SADC Principles and Guidelines enunciate a strict and professional code of ethics for election observers during the pre-election, election and post-election phases of an election campaign. One of the requirements stated in the Principles is the importance of impartial objectivity amongst the observer mission. However, during the pre-election phase of the 2005 Parliamentary elections, several key figures in the observer process were quoted stating a particular and predetermined position on the validity of elections that had yet to be conducted. The South African Labour Minister, Membathisi Mdladlana, who headed the South African Observer Mission to Zimbabwe, was quoted in the media after a meeting with President Robert Mugabe that he could see no reason not to declare the elections free and fair, despite the fact that the elections had not yet taken place¹⁰. This prompted the opposition Movement for Democratic Change to adopt an equally intolerant position, stating that they rejected in advance any findings the South African observer missions made, in the process prejudging the election outcome as well¹¹. The international community also demonstrated little capacity for objective and unbiased commentary, repeatedly condemning the legitimacy of the 2005 elections for months prior to the Election Day.¹² In all these instances, the capacity for objective and impartial assessment did not feature, with the polarization of opposing viewpoints crystallizing well prior to the election date.

Conclusion

The Zimbabwe 2005 Parliamentary Elections have raised fundamental questions regarding the role of election observers in the electoral process. The adoption of the SADC Principles, hailed by

¹⁰ *Afrol News*. Row over South Africa's Zimbabwe Observer Mission. Monday, 21 March 2005.

<http://www.afrol.com/articles/15968>

¹¹ *ZimOnline*. MDC Snubs SA Observers. Wednesday, 16 March 2005.

http://www.zimbabwesituation.com/mar16a_2005.html#link14

¹² Leithead, A. *BBC online*. Zimbabwe's veneer of fairness. Wednesday, 30 March 2005.

<http://news.bbc.co.uk/1/hi/world/africa/4394831.stm>

SADC Heads of State as a bold step forward for democracy in the region, have set the standards to which they are committing themselves to be held responsible for. However, based on the Zimbabwean example, exactly who is supposed to hold the SADC leaders accountable for meeting these standards is less clear. Election observers are realizing the clear need to expand the scope and methodology of their missions to include a wider range of criteria than are currently covered by the SADC Guidelines. Whilst the election results in Zimbabwe make it business as usual for the government, the debate on the future of election observation missions in the region is only just beginning.

REFLECTIONS ON ZIMBABWE'S 2005 PARLIAMENTARY ELECTIONS.

Bertha Chiroro

Zimbabwe's 2005 elections have come and gone and the nation remains in turmoil. Elections have not brought about peace and an end to the suffering of the majority of the Zimbabwean citizens who participated in the election. Zimbabwe remains a polarising issue both internally and externally, which is why there were contradictory verdicts on whether the elections were free and fair. Surprisingly, Zimbabwe became the first country to experiment with the SADC electoral guidelines during the 2005 parliamentary elections and yet most observer mission reports from SADC delegations are contentious. The MDC's rejection of the final result is also the rejection of the verdict reached by SADC observer missions that the elections were free and fair and in line with the SADC electoral guidelines. Now that the dust has settled, this paper seeks to revisit the political context in which the elections were held, the last minute electoral reforms, and the implications of the Zimbabwe crisis on the issue of elections and democracy.

The Importance of Institutions

Institutions are important and they sustain democracies because they set the rules of the game. Constitutional arrangements help shape the properties of party systems, which in turn affect

participation, stability and violence. Zimbabwe's constitutional and legal framework has been regarded as largely flawed by civil society, the opposition and even the ZANU-PF government had realised the need for a new Constitution itself and had agreed to a controversial constitutional reform process in 1999-2000. Before the 2005 elections, the government also introduced new reforms to the electoral regime. These included the establishment of a Zimbabwe Electoral Commission (ZEC), two months before the elections and an Electoral Court. Despite these reforms, the 2005 elections were conducted in conditions where there was no consensus over the institutions and the legal framework governing elections. The same partisan electoral institution, that is the office of the Registrar General, the Elections Directorate and the Electoral Supervisory Commission that supervised a flawed electoral process in 2002 were still in place. This factor seriously undermined the legitimacy of the poll.

Although the election campaign was generally a peaceful one, the environment in which it was conducted was one in which repressive laws existed. Through the use of repressive legislation, the Public Order and Security Act (POSA, 2002) and the Access to Information and Protection of Privacy Act (AIPPA, 2002) the citizens' rights to freedom of expression, association and assembly in many parts of the country were significantly restricted. Opposition party members and ordinary citizens have been intimidated by ruling party supporters and officials, war veterans, the youth militia and the use of food aid as a political weapon¹³. These problems clearly illustrate that the political and economic environment was not conducive for the holding of a free and fair election.

Last Minute Electoral Reforms

The Zimbabwe Government made certain last minute efforts to comply with the SADC guidelines by making a number of cosmetic reforms to the electoral laws. The Zimbabwe

¹³ Stolen: The Will of the Zimbabwean People Denied Again. MDC Report on the March 2005 Parliamentary Elections. 12 April 2005.

Electoral Commission and the Electoral Court were established 2 months before the elections causing confusion and overlap of functions between the ZEC and the Electoral Supervisory Commission (ESC). ZEC became operational on 1 February 2005. By the time the ZEC started to operate many of its functions such as voter registration had already been done by the discredited Registrar General and the Delimitation Commission had done its work and not to the satisfaction of other stakeholders. A number of administrative changes were also made, these included a general decrease in overt state controlled violence; some opening of state broadcasting media, a month before the election; accreditation of more domestic observers; voting in one day; an increase in the number of polling stations; the use of translucent ballot boxes; the use of indelible ink and the counting of votes at polling stations¹⁴.

The provision of government political party funding for both ZANU PF and the MDC, further portrayed the government's commitment to democracy. However, major flaws remained in the electoral process; mainly the timing of the ZEC's creation compromised its effectiveness. There were concerns over its independence as President Mugabe without consultation appointed the chairperson. Furthermore the delimitation of constituencies was alleged to be not transparent with allegations of manipulating the delimitation exercise in favour of ZANU PF.¹⁵ The voters' roll was said to be in shambles and was regarded by the MDC as the government's principle vehicle for electoral fraud as there were dead people on the roll and others listed more than once. With the implemented administrative changes, Zimbabwe could be said to have complied with the SADC principles and guidelines but a less superficial assessment of the electoral process reveals the extent of the flawed electoral process.

Implications for Elections and Democracy

¹⁴ Zimbabwe Election Support Network Report on the Zimbabwe 2005 General Elections. Final Copy, April 2005.

¹⁵ Stolen: The Will of the Zimbabwean People Denied Again. MDC Report on the March 2005 Parliamentary Elections. 12 April 2005.

A candid assessment of the Zimbabwe elections must take into consideration the bitter legacy of the 2000 and 2002 elections, which led to the militarisation and violence in Zimbabwe. The Zimbabwe political system is based on coercion and the repressive laws have remained intact. Although the environment was relatively peaceful, the impact of the previous violence and intimidation on the populace has been profound. New election laws have failed to create the conditions necessary for free and fair elections. Elections themselves are only a minute component of the democratic process and elections cannot be the panacea to a society polarised by conflict. In the aftermath of the elections, the country continues to face political tension and economic collapse. Zimbabweans need to go back to the drawing board and agree on the fundamental way of which they should be governed. Short of acceptable constitutional reforms and regulations for all parties, the Zimbabwe crisis will continue unabated.