

Looking at the management of the 2001 Zambian tripartite elections

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Introduction

Zambia became independent in 1964. It is a republic governed by a president and a unicameral national assembly. After two decades of one-party rule, multiparty democracy was introduced with the holding of the 1991 election. The Movement for Multiparty Democracy (MMD) won the election and Frederick Chiluba, a former trade union leader, became president. The MMD, as its name suggests, campaigned vigorously for creating a more open, democratic and pluralistic society in Zambia.

In 1996, the MMD again won the election, taking 131 of 150 seats in the National Assembly. President Chiluba was re-elected for a second term in office. But this election was marred by controversy and dispute. Before the election, constitutional amendments were introduced to allow only Zambian citizens to stand for the presidency.¹ The 1996 Zambian Constitution stipulates that both parents of the candidate must be "Zambian by birth or descent", and that the candidate must have "been domiciled in Zambia for a period of at least twenty years".² These are the requirements that made it possible for Chiluba to ban former president Kenneth Kaunda from running in the 1996 election. It is assumed the introduction of the requirement was a technique to disqualify an important opponent. Kaunda's party, the United Party for National Development (UNIP), boycotted the 1996 election. The boycott impacted negatively on participation, with only 1.1 million people out of a possible four million voting. The Electoral Commission of Zambia (ECZ) declared the election 'free and fair'. However, there was widespread criticism of election conduct from local and international observers. This election marked a trend of declining quality in election procedure, evidenced by the disqualification of leading candidates, spotty coverage of voter registration, lack of internal democracy in the ruling party, abuse of government resources during the campaign and growing hostility from Chiluba's cliques towards watchdogs groups. Since Chiluba was serving his last term in office, it was projected that the 2001 elections would be wide open and competition tense.

The countdown to the 2001 tripartite elections

Two issues dominated the countdown to the 2001 elections: the campaign for a third term waged by Chiluba and the opposition parties' talks of forming a coalition.

The problems started when Chiluba failed to secure a third term bid. For the MMD this meant that a new candidate needed to be found. The choice soon became a challenge since Chiluba and his cronies had not prepared for such an eventuality. The difficulties in choosing a replacement created division within the party. Chiluba chose Levy Mwanawasa as his replacement, but managed to change the party's constitution to allow him to retain his own position as its president.

Opposition parties, together with civil society organisations and churches, opposed Chiluba's attempt to stand for a third time, and were involved in discussions to form a coalition in an effort to defeat Chiluba's MMD in the elections. The understanding was that after winning the elections, the coalition would then go ahead and form a government of national unity, which would amend the constitution and agree on an economic strategy that would inform the government's socio-economic policies.

At least seven opposition parties, including UNIP, were involved in the talks. Everyone agreed that this was the only way that the opposition could secure victory against the ruling party. If this aspiration had been concretised it would have been the first time in the political history of the country that an alliance between political parties was formed. The opposition parties agreed on an electoral pact, a minimum common programme and on a multiparty government. But they failed to agree on a presidential candidate for the coalition. Every leader of the opposition parties believed that he was the right candidate to lead the coalition. The lack of agreement on who should lead the coalition left all political parties with no option but to continue campaigning under their respective banners. This was an advantage for the MMD, which preferred to go to the voters with a divided and unprepared opposition, as it did in 1996, when UNIP boycotted the election. One thing was certain, while there was pressure on the opposition to unite, there was equally pressure on the ruling party to divide and destroy it.

All three opposition parties that emerged as prominent – the United Party for National Development (UPND), the Heritage Party (HP) and the Forum for Democracy and Development (FDD) – had serious weaknesses that made it difficult for them to win the elections individually. The UPND strength has been the academic and career background of its leader, Anderson Mazoka, but the party and its leadership have been accused of tribalism and regionalism, making it difficult for it to win votes countrywide. For the two remaining parties, their strengths were also their weaknesses. Both the HP of Godfrey Myanda and the FDD of General Tembo drew their strength from previous supporters of the MMD. What they did not realise was that this support was part of the larger Zambian population, which considered them to be no different from the MMD. Analysts argued that the fact that parties like the FDD or the HP were opposed to the third term did not make them 'clean'. Their decision to join the movement against the third term was coincidental and not a matter of principle:

in fact all of the people who left MMD did not do it voluntarily. They were pushed out. They are just as corrupt as those who have remained in the MMD.³

The division in the MMD occurred, not as a result of ideological differences, but as a result of intense power struggles between party elites, whose interest in self-enrichment is more obvious than their commitment to democracy.

Opposition parties succeeded in bringing Zambians together because of the third term debate. Beyond that, the people expected political parties to convince them on how differently they intended to do things in Zambia. A quick look into the opposition parties' manifestos reveals that they were only different in form, but were similar in substance. They did not differ much from the ruling party's manifesto either. This is why the election campaign was fought on moral grounds rather than on policies. It also explains why the opposition focused on the corruption within the MMD in order to further undermine it.

The support the MMD received in 1991, and which was renewed in 1996, was of two natures – political and economic. Politically, the people of Zambia expected some civil liberties, political rights and a sense of human dignity. While all these elements seem to be apparent in Zambia today, they were achieved through a permanent struggle by civil society against a government that has not been prepared to allow them to flourish.

On the economic front, Zambians expected the MMD to alleviate poverty and improve their living standards. But the Zambian socio-economic story under the MMD's Chiluba is a sad one. When voted into power ten years ago, under the banner of the MMD and supported by the labour movement of Zambia, Chiluba promised to do things differently from his predecessor, and put in place transparent and accountable government. He also promised to bring back the dignity of the Zambian people by ensuring a better life for all. None of this materialised. Instead, life for the majority of Zambians deteriorated considerably. With an estimated annual per capita gross national product (GNP) of US\$320 in 1999, Zambia is among the poorest countries in sub-Saharan Africa, where GNP is US\$500 on average. This means that people live in dire poverty. It was under these harsh economic conditions that the 2001 elections took place.

The 2001 election

Pre-election

Necessity for constituencies' delimitation

The electoral commission started planning for the tripartite elections in 1999. According to its chair, "the main preparatory activities were: reviewing of constituency boundaries, delimitation of polling stations, voter registration, inspection of provisional voters' roll, collection of voters' cards, certification of the voters' roll, and conducting of nominations".⁴ Article 77 of the constitution gives the ECZ the responsibility of reviewing constituencies. There were 150 constituencies and 5509 polling stations before the elections. There were calls to increase the number of seats, particularly in order to reduce the huge size of the rural constituencies, but this would have required a constitutional amendment and would also have necessitated an increase in the size of the parliamentary chamber.⁵ The argument is that the different size of constituencies, which ranged from 5028 to 61 328 voters, might have a negative impact on the way the president is elected, so that the value of individual votes varies enormously. In fact, Article 77 of the constitution also makes reference to the necessity of making constituencies "nearly equal ... as is reasonably practicable", having regard to the problems of communication and the geographical features of an area. It is suggested that the election results indicate that large disparities in the size of constituencies have an impact on the balance between parties.⁶ The failure to undertake a thorough delimitation gave rise to serious criticisms from civil society organisations and political parties.

The time factor might have prevented the ECZ from motivating government to respond to political parties' requests to increase the number of constituencies.⁷ The ECZ undertook what it called a delimitation of polling districts and a review of constituencies and wards from 13 March to 12 April 2001. This process resulted in the number of polling stations being increased (by 20%, from 4610 in 1996 to 5509 in 2001), thereby cutting down the distance that voters needed to travel in order to cast their votes in some constituencies.

The delimitation process was delayed because of the unavailability of census data. Article 77 of the constitution lays down that the quota for a constituency is determined by dividing the total number of inhabitants, ascertained by reference to the latest census. The constitution also requires that the electoral commission should, with reference to the latest census, undertake a periodic review of boundaries. The question here is: Why was the census data not ready when everybody knew which year elections were to take place?

Voter registration: controversy continues⁸

Under the Article 76 of the 1996 Constitution, the ECZ is responsible for supervising the

registration of voters. Registration is conducted under the Electoral Regulations of 1973.⁹ The ECZ was responsible for compiling the national voters' roll and undertook voter registration. The controversial voters' register, prepared by the Israeli computer company Nikuv in 1996, was discarded, and a new one was compiled for the 2001 elections, in an effort to rebuild peoples' eroded confidence in the registration exercise. However, political parties expressed concerns about the late start of the registration, and also complained that it did not continue for a sufficiently long period.¹⁰

The fact that the new voters' cards were printed in the same colour (yellow) as the old Nikuv cards further increased scepticism.¹¹ Out of 4 687 000 eligible voters, 2 604 000, or 55.5% registered. Political parties were also very critical of the ECZ charging some K55 million (US\$ 12 000) for a copy of the register. It appeared that this was meant to limit the opposition's access to the register, contradicting the growing spirit within the Southern African Development Community (SADC) that political parties' access to the voters' roll should be free of charge. The ECZ defended its position, saying that it needed to cover the cost of reproducing the voters' roll. The political parties, which have financial limitations, asked for the voters' roll to be saved on disk so that each party could print its own. This proposition was rejected by the ECZ. The parties were then bailed out by the European Union, which paid for their voters' roll copies.

Voters were required to pay a minimum of two visits to the polling station: first to register and second to verify their details, collect their voting cards or rectify any mistake. They had to visit again to collect their cards after a correction.¹² This process created tension between the electoral commission and the donors. The former thought that, given voter apathy, having people visit the EC offices twice or more would psychologically encourage them to vote. In the view of the latter, this was too much to ask of voters, and was a futile exercise that would discourage people from voting.

A week was allowed for the verification of the voters' registers, which the political parties felt was not enough.¹³ In general, voters did turn up to verify and collect their voter's cards, although many were found waiting at different polling stations, with almost every polling station in Lusaka having uncollected cards. This was due either to lack of interest or lack of information, which might mean that voter education did not reach all the electorate. However, provision existed where voters were allowed to collect their cards at the polling stations on the day of elections. The ECZ made provision for voters to cast their votes despite mistakes on their voter's cards. In this case, voters were allowed to vote with their national registration cards and 'RV1 forms'.¹⁴

The ECZ is of the view that, had it received the census data much earlier, it would have allocated enough time for the registration and verification process. Also, the fact that the president alone had the prerogative to decide when the elections should take place impacted negatively on the ECZ's preparation work. There was just too little time from when the president announced the election date for the ECZ to prepare adequately for them.

Candidate nomination

There were nominations for the presidential, parliamentary and local government elections, and this took place in December for only one week. The electoral commission was able to announce the date soon after the president announced the election date.

Presidential nomination

The law in Zambia does not allow independent presidential candidates. A candidate is

requested to stand on behalf of a political party. Presidential candidates lodge completed and attested statutory declaration and nomination papers with the High Court before the chief justice. Aspiring candidates were asked to take along with them 'two hundred supporters' who had to be registered voters in any constituency in Zambia.¹⁵ They were also required to pay a K400 000 non-refundable nomination fee. Eleven candidates were successful¹⁶ and the nomination took place from the 27 to 30 November 2001, from 9 am to 3 pm.

Parliamentary nominations

One day was allocated for parliamentary candidates to submit their applications. All candidates were required to bring along nine supporters registered in the relevant constituency. These were required to have in their possession the green national registration and voter's cards. Candidates paid a K40 000 non-refundable nomination fee. Some mistakes were made in the parliamentary nomination process, with, for example, two constituencies being allocated one nomination centre; in another instance, a constituency did not appear on the list.¹⁷

Local government nominations

Local government candidates were given only one day to lodge their nominations. They were asked to come with nine supporters registered in the relevant wards. The supporters had to bring along their green national registration and voter's cards. Local government candidates paid a K20 000 non-refundable nomination fee.

The ECZ published presidential and parliamentary centres where nominations were supposed to take place, but failed to do so for local government nominations. This put these candidates in the difficult position of trying to figure out where they should go to lodge their nomination papers. This may have been because the ECZ is not empowered by law to manage local government elections, or it may have been due to negligence on its part. This is why the ECZ must be legally empowered to manage local government elections.

Campaign process: an unlevel playing field¹⁸

The campaign for the tripartite elections saw 11 candidates vying for the post of president. For most people this was a recipe for violence.

The simplest definition of democracy states that democracy is about a variety of choices. In this respect the Zambian polls reflect how far the country has come in firmly adopting this value of pluralism. In general the campaign went well without major incidents of violence or intimidation being reported.¹⁹ However, intra-party skirmishes were reported in *Electoral Monitor*, mostly in the copper belt and Luapula province.²⁰

Despite the lack of violence and major reports of intimidation there were aspects of the campaign that seriously reduced many Zambians and international observers' trust in the electoral process. The terms of the code of conduct contained in the 1996 Electoral (Conduct) Regulations clearly oblige all candidates to commit themselves to compliance when signing their nomination papers – however, key provisions were disregarded by most political parties, although to differing degrees.

Access to the media

The media plays an important role in any election. The fairness of the media in the coverage of the Zambian election campaign was criticised by political parties, non-governmental organisations (NGOs) and international observers for giving the ruling MMD excessive coverage compared with that given to the other parties. The Electoral Code of Conduct of 1996

requires all media be fair and balanced in presenting information about parties and candidates contesting the elections. A quick look at both the print and electronic media shows that the opposition parties did not have much access to them, and when they did, it came with heavy conditions, either in terms of high financial payments or being forced to tone down their criticisms of the MMD government.²¹ Right up to election day, government persisted in its campaign to deny opposition parties airtime on public television. It ordered the Zambia National Broadcasting Corporation (ZNBC) not to air a decisive presidential debate on the eve of the elections.²² The ZNBC went even further, disobeying a High Court order instructing it to fulfil its contract to transmit the debate.²³ Preliminary media monitoring between 2 and 6 December by Coalition 2001, showed the ruling MMD as having by far the most coverage on state and private media, both television and radio.

A week before the elections NGOs and international organisations started openly criticising the electoral process, but surprisingly they had contradictory positions on the overall electoral process. The Washington based Carter Center, the locally based Panos Institute of Southern Africa (PANOS) and some indigenous monitoring groups said the misuse of government resources and slanted media coverage skewed the political playing field in favour of the MMD.²⁴ However, the Zambian Independent Monitoring Team (ZIMT), a local monitoring group, was of the view that the political climate was conducive to the holding of internationally accepted elections.²⁵ ZIMT chief, Alfred Zulu, said that it was difficult in any election to completely separate state and ruling party resources; what was happening in Zambia was not totally strange and specific to Zambia.

Nevertheless it is important to state that, despite the fact that the code of conduct was flagrantly ignored by the state-owned media, in particular the ZNBC, the fault was somewhat offset by the free time given to all the presidential candidates, arranged by the electoral commission and sponsored by the European Union. This showed how crucial foreign involvement could be in restoring some kind of equality in a very uneven electoral set up.

Use of public resource

Normally it is very difficult in Zambia to manipulate elections on polling day.²⁶ The ruling party MMD, as do other ruling parties on the African continent, used the advantage it had to access state resources for its election campaign. In the 2001 elections, the ruling party decided to ignore the code of conduct that prevents any party using government resources for party election purposes. As the Carter Center reported in its second interim statement on the 2001 Zambian elections:

District administrators continued to be prominent in the campaigning activities of the ruling party, the MMD, despite the High Court ruling of 4 December 2001 declaring that, as civil servants, they were not permitted to engage in political activities.²⁷

Not only did the MMD use civil servants in its campaign, it also used other resources, such as government vehicles and helicopters, frequently and with impunity. This reminded many people of the time of the one-party state, when no distinction was made between the party and the government.

It is also important to state that many other political parties disregarded the code of conduct in numerous instances. The UPND was accused of accommodating college students in the high cost residential area of Livingston in exchange for their votes. It also killed a cow to feed the students. One student went so far as to say that he was happy that UPND had given students a chance to exercise their right to votes, providing accommodation and food during

holidays 'as an indication that they were a caring party' – "they are feeding us and have given us a place to stay for free. This is an offer we cannot refuse and December 27 we promise to give them our vote".²⁸

The real problem with the electoral process was that there was no one to enforce the law. The ECZ was of the view that the legal framework did not empower it to do so.²⁹ Even if it wanted to enforce the law, it would not have been able to do so because it had no capacity. Many political parties that complained to the ECZ about irregularities in the campaign were sent to the police. The police in general failed to act, either for lack of proper instruction, lack of knowledge of the electoral process or simply because they were influenced by orders from the executive not to do so, thus bringing their neutrality into question.

Whilst during the campaigning period the police failed in many instances to deal with parties that did not respect the code of conduct, policemen and women present at polling stations on election day performed their duties as professionals and no serious complaint against a member of the security forces was made. This shows that the 'smart partnership', with ECZ briefings of the police, worked.

Voter education

The capacity and ability of election officers during elections is key to the success of the electoral process. Equally important is the education of voters on the electoral procedure. A good interaction between the ECZ and other stakeholders, in terms of information sharing in the pre-election period, prevailed. The ECZ put in place what it termed an 'open door policy' whereby the ECZ and other stakeholders could freely engage and consult on matters related to the elections. The holding of meetings between the ECZ and political parties in the run-up to the 2001 elections led to improved relations when compared with the 1996 elections.³⁰ This interaction has resulted in the establishment of three committees: the National Voter Education Committee (NAVEC), the Conflict Management Committee and the International Observer Committee.

*National Voter Education Committee*³¹

The ECZ set up NAVEC in October 2000. The increasing level of voter apathy influenced the creation of this committee, which aimed to encourage people to register and vote in the elections. Its mission was "to undertake a national and non-partisan voter education coordinated by the commission".³² The ECZ held workshops and training programmes for the electoral officers and other stakeholders such as political parties, security personnel and non-governmental organisations.³³

Despite the fact the training took place its effectiveness has been questioned. The police have been criticised for deliberately failing to enforce the Electoral Code of Conduct. A preliminary pre-election report by the Carter Center contends that "the government is exerting pressure on the police not to apply the Public Order Act fairly".³⁴ There is also concern that many law enforcement officials did not receive formal training on election law and the Public Order Act, as well as how the two interrelate. The act was amended in 1996 with respect to public meetings to delete the word 'permit' and replace it with 'notify'. However, the law still serves as a permit due to the many conditions it contains.

All political parties without exception expressed their dissatisfaction on the conduct of the police, who in practice have the power to determine who may conduct and organise public meetings at a certain district, contrary to the act. The Public Order Act is a good instrument, but its effectiveness can only be ensured if the police, whose role is to enforce the law,

become less politicised.

Despite its many critics, the ECZ should be commended for initiating voter education in the absence of a legal mandate for it to do so. In general, people were of the view that the existence of the committee and the work done in a short space meant that voter education was much better than in previous exercises.

*Conflict Management Committee*³⁵

The Zambian Electoral Commission established the conflict management committee in response to past election experiences, particularly with by-elections, which were affected by an increased level of conflict that could have been dealt with amicably through mediation and negotiation.

The committee included members of political parties and NGOs. The ECZ set up a conflict management committee to achieve the following objectives:³⁶

- ♦ to prevent and manage electoral conflicts with a view to achieving peaceful elections and mutually agreed on resolutions through mediation of conflicts that arise in the electoral process;
- ♦ to strengthen the capacity of the electoral commission to deliver successful, free and fair elections by providing an early warning system that can assist it in responding to potential conflicts in the pre-, election and post-election phases; and
- ♦ to nurture a democratic culture through encouraging and promoting the conduct of conflict-free elections.

The committee also established sub-committees at the provincial and local level. The formation of the conflict management committee to address the question of the enforcement of the electoral code of conduct seemed to be ineffective in these last elections. The simple reason was that it started at a period close to the elections and its implementation posed serious difficulties. It would have been effective if it had been formed much earlier. Despite this, its establishment as a permanent structure has created hope and there are strong expectations that it will function efficiently for the next elections. However, observers believe that the committee created harmony among political parties and authorities. For example, getting permits from the police was routine during the campaign period. It is important to emphasise that the committee was not at full strength when it began work because it only completed the training a few days before the election took place. This was partly due to the late securing of donor financing by the ECZ.³⁷ The peaceful elections cannot be attributed to the introduction of conflict management.

International Observer Committee

The ECZ also created an International Observer Committee. This was a forum created for information sharing on observation. A number of meetings took place between local NGOs, the commission and international observers. The committee helped iron out differences, especially between the ECZ and the European Union observer team.

Accreditation of observers

Observers – local and international – were invited to observe the elections. Despite differences on some key procedural issues between international observers and the ECZ, it, the government and the opposition accepted independent foreign observers with no difficulties.

A national committee of international observers was established. This committee was composed of representatives from the ECZ, the UN, the ECF, the OAU and the Foundation for

Democratic Process (FODEP). It helped coordinate the activities of the observers.

The electoral commission introduced fees for election monitors, both local and foreign.³⁸ There was an outcry from NGOs involved in election monitoring and political parties which feared that monitors might not be able to raise such huge sums of money in such a short time. There was also the fear that this would reduce the number of monitors necessary to cover all the 5509 polling stations countrywide. Fortunately, foreign donors came forward and paid for most of the local observers. Despite this, NGOs and the political parties believed that the ECZ's decision to charge fees was taken in bad faith to try to discourage local and international observers. The Zambia Reconstruction Organisation (ZAMRO) took the ECZ to court to dispute its decision. While the decision to charge could be justified, the fact that it was taken without consultation and at short notice hindered effective election monitoring.

Printing of ballot papers

The fact that three elections – presidential, parliamentary and local – were taking place at the same time put pressure on the government's capacity to produce all the ballot papers in time. The presidential and parliamentary ballots papers were printed at the government printers. All political parties were present during the entire printing process. When printing started at the government printers only one of the four printing machines was operational, forcing the ECZ to consider ways of speeding up the process. Accordingly, it sub-contracted another Zambian company to print the local government ballot papers. While everybody accepted the necessity of such a move, many political parties questioned the way the ECZ conducted itself in selecting the private company without consulting or informing them.³⁹

A lesson that can be learned from the printing crisis that occurred during these elections, with non-operational printing machines, is that the preparation for elections must be a continuous process and not something that is done at the last minute.

Election phase

The election date

The commission was confident that it would deliver a credible and legitimate election within 30 days from the announcement of the election date by President Chiluba. At the same time the commission did not rule out that inefficiencies could occur in some areas because of insufficient time for preparation.

When the president announced 27 December as the election date many observers raised concerns about the negative effect this would have on the electorate. There appear to have been two issues involved. First, it was argued that 27 December would disenfranchise many voters, as they would be out of their constituencies for the Christmas and New Year festivities. Second, the date fell in the rainy season and there was a high probability that the rain would disturb proceedings, especially in rural areas where many voters could find it difficult to reach the polling stations. For most Zambians this move by the president was made in bad faith.

Delivery of election material

The delivery of electoral material proceeded relatively well. The Zambian Air Force was involved in the delivery of ballot boxes. However, there was an incident where the electoral commission vehicle transporting ballot papers got involved in an accident. Fortunately, the ballot papers were not damaged.⁴⁰ In another incident it was reported that parliamentary ballot papers for Senanga constituency in Western Province were wrongly transported to Solwezi in North Western Province barely twenty-four hours before the elections.⁴¹ Measures were

taken, however, to ensure that ballot papers were flown to the correct area.

The delivery of election material to the different Lusaka constituencies created an impression that somewhere, somehow, the electoral commission had lost control of the process.⁴² Some polling stations received their ballot boxes and papers very late in the night preceding polling day, leaving little time for verification by the electoral officers. In some cases materials never reached the polling station. This was particularly so in some areas where local government ballot papers failed to arrive. In some areas the polling station opening was delayed for one or two days because of the late arrival of ballot papers or ballot boxes.⁴³ In other areas polling stations ran out of ballot papers for all three elections.⁴⁴ If the experience in Lusaka was so poor, it may well have been worse in the other provinces, and especially in rural areas. Many voters may have been disfranchised as a result of delayed poll opening and the subsequent late closures.

The deployment of observers

In general no merger problem occurred with accreditation of international observers. The ECZ was in charge of the deployment of international observers. All received their accreditation and identification tags well on time, before going into the field. However, there were some problems with the accreditation of local monitors. In one incident, Coalition 2001 affiliates were quoted as having received "the identification tags in the name of the National Organisation for Civic Education (NOCE), an organisation to which it has no link".⁴⁵

Observers were seen at most polling stations.⁴⁶ The presence of all 11 political parties' agents' in each polling station strengthened the monitoring process.⁴⁷ There was also very good communications between ECZ officials and monitors at the different polling stations.

Security

Security was well organised with each polling station covered by one or more police and security force officers. The security agents performed their duty without interfering with the proceedings. The police seemed to have received a proper and clear briefing.

Atmosphere at the polling stations

Despite pre-election fears of voter apathy, tens of thousands of voters turned up at the polling stations to exercise their democratic rights. The Zambian peoples' determination to vote was inspiring to watch. The choice of date as well as the rain seemed not to have deterred voters from electing their political representatives. Zambians were determined to make a statement.

The atmosphere generally was peaceful and reports from around the country did not contain any major incidents of violence or intimidation. Zambians turned out in large numbers to cast their votes well before polling stations opened at 6 am. They remained patient despite the slow process that saw some polling stations not closing until the following morning.

A general observation is that the ECZ underestimated the task at hand. It failed to provide capacity in terms of the staffing and logistical support necessary for efficiently conducting tripartite elections. The ECZ was unprepared for the high turnout. Polling stations opened at 6 am and were supposed to close at 5 pm. The high turnout and the delay in delivering voting materials in some polling stations saw the process taking longer than expected. Many of those polling stations that received their material in good time and which opened at 6 am had to remain open until the next day. It was clear that the ECZ failed in the preparation period to make accurate estimations of the time required for all registered people to cast their vote. It

did not make provision according to the numbers of registered voters, but worked on assumptions, one of which was that there would be a low turnout. Accordingly, it was forced to extend polling stations' closing time. It then failed to communicate this decision to all presiding officers, leaving most of them uncertain as to when exactly their polling stations were to close.⁴⁸

The high turn out should not cause us to turn a blind eye to those people, mostly the elderly and disabled, who failed to cast their votes simply because of the slow voting process. Many people were tired and returned home without voting. Also, no provision was made to help disabled people to cast their vote.

There were also some management problems that affected the smooth election proceedings:

- Most of the polling stations countrywide were understaffed. The ECZ failed to match the number of registered voters to the number of electoral officers at polling stations. The same number of electoral officers was deployed to stations that were bigger in terms of voters registered as was deployed to smaller polling stations.⁴⁹ The consequence was obvious; both electoral officers and voters were tired before they could finish with the proceedings. Enthusiastic voters became increasingly disillusioned with the slow pace as time went on. Also, the lack of concentration of election officers and party agents in the early hours of the morning left room for people to take advantage and try dirty tricks. It was in the early morning of 28 December that a presiding officer in Matero constituency was caught trying to tamper with a ballot box.
- The ECZ also failed to estimate the voting time for the tripartite elections, which was supposed to be different from previous elections. The minimum voting time for a voter to go through the three voting stages was between four to seven minutes.⁵⁰ Consequently, many voters were forced to endure long lines and an extremely long wait. This was exacerbated by the lack of sufficient lines.
- The size of some polling stations also affected the proceedings; some were just too small to accommodate electoral officials (at least seven per polling station) and political party agents (11 per polling station) and observers. The Zambian December heat meant that people worked in stuffy crowded rooms.
- There was an insufficient number of polling booths at many polling stations. At most stations no more than two booths were provided. This made the job of processing voters quickly difficult for the polling staff.

All these factors contributed to a considerable reduction in the early enthusiasm that voters showed at the opening of polling stations and the professionalism that the electoral official demonstrated.

Another important observation that needs serious rethinking is the position of polling booths. At many polling stations voting booths were positioned in a way that allowed everybody to see the voter either directly or from a window. Most of the problems experienced at polling station could have been avoided with better planning and consultation.

Monitors and political party agents reported having noticed the presence of officers from the president's office at the polling stations. If this was a correct observation it may have been a strategy to intimidate voters and any other agents involved in the election.

Counting

The counting stage started late and most officials were tired. The FODEP, Coalition 2001, the Carter Center and the European Union reported that in many circumstances agents and observers were not adequately able to inspect the ballot papers as they were classified and

counted by polling officials.

The results from some far-flung places were announced before those from certain nearby areas. This followed the same pattern as in the pre-election period, when in the 24 hours that followed the closure of many polling stations, the state-owned television station announced only the results of constituencies won by the ruling party MMD, despite the fact that the results from non-MMD constituencies were apparently also available.

The electoral commission took too long to print out the updates on presidential election results. There may have been a justification for the delay, however the ECZ failed to explain it directly to stakeholders.⁵¹ The breakdown in communications simply increased confusion and suspicion. On 28 December, people kept asking for an explanation as to why the election result was not being announced; the ECZ failed to respond. The lack of a communication strategy to respond to enquiries and concerns of the electorates and political party candidates was the ECZ's biggest weakness throughout the entire electoral process.⁵²

Equally important, the counting and tabulation process started late and was not well organised. Most of the electoral officers, party agents and observers were tired by the time counting started and were unable to adequately inspect ballot papers as they were classified and counted.⁵³ Most observers criticised the tabulation of results at constituency centres and the relaying of those results to Lusaka.⁵⁴ Mistakes might have occurred during counting and the transmission of results to the ECZ. While these errors may not have been deliberate, they raise legitimate suspicions in the minds of the political parties and the electorate.

Announcement of overall results

The chief justice, Matthew Ngulube, announced the overall result on 2 January 2002, a week after the elections. The announcement coincided with the inauguration of the president-elect, Levy Mwanawasa. All ten opposition parties rejected the result of the election, citing serious malpractice during all stages of the electoral process. They had only 14 days to petition against the results of the election, which they said, were manufactured by the ruling party. If they had succeeded, President Mwanawasa would have gone into world records as the president to serve the shortest time in office. However, things have moved beyond disputing the election result, as Mwanawasa, who won with only 29% of the total votes, has taken it upon himself to try and reconcile with other political parties.

Post-election phase

Conflict management activities

The constitution of Zambia requires anyone with complaints about the election to lodge a petition with the High Court within 14 days of the swearing-in of the new president'. During the counting of votes, political parties raised some concerns with the chief justice about alleged malpractices during the elections.⁵⁵ Opposition parties asked that the ECZ assess those grievances before the new president could be sworn in.

The chief justice turned down the request from the opposition parties for a recount of ballot papers. He said that his functions were constitutional and statutory and did not extend to requesting a recount, and that only the ECZ, which organised the election, has the power to do so. As for him, he said: "I enter the game at the stage where the Electoral Commission submits the results to me."⁵⁶

Conclusion

The Zambian elections taught us few lessons about electoral democracy in Africa in gen-

eral and Southern Africa in particular:

- the need for an independent electoral commission (IEC) that is totally independent from the control of the executive in terms of its financial and administrative decision making;
- the need for a conflict management mechanism;
- the need for a communication strategy between political parties and the IEC. Many problems were created simply because of the failure, especially the IEC's failure, to have a proper communication strategy;
- the need to decentralise the office of the IEC to the provinces and local government. This would allow the commission to control activities on the ground. As it stands now IEC activities are conducted by government officials who have other mandates and pay little attention to the work of the IEC;
- the need to have a fixed date entrenched in the constitution 'by which' elections should be held. This would contribute to proper planning and reduce the manipulation of the date of election to suit one political party; and
- the need to review periodically the electoral system to reflect the new developments in the politics of the country. The current system in Zambia has already shown some weaknesses with an unpopular candidate ruling as a majority president.

Endnotes

- 1 The Zambian constitution has undergone four changes since independence in 1964, which principally dilute the requirement to hold referenda (by Kenneth Kaunda's government in 1967), to alter any critical aspect of the constitution and in 1996 the MMD restricted potential presidential candidates to second-generation citizens.
- 2 Constitution of Zambia Article 34 (b) & (f)
- 3 Interview with a taxi driver in Lusaka, June 2001.
- 4 'Message from the Electoral Commission Chairman, Justice Bobby Bwalya', *The Choice* (Electoral Commission, 2001).'
- 5 Interview with commissioner Reverend Mwape.
- 6 It has been suggested that the lack of delimitation has given the MMD four extra seats. This is calculated by taking the seats below 10 000 voters – of which MMD won a large majority – and the seats above 25 000 – of which MMD won the minority – and then reworking the figures for both in proportion to the main block of seats with between 10 000 and 25 000 voters.
- 7 The last delimitation of constituencies took place in 1991 when the number of parliamentary seats increased from 125 to 150. Any new delimitation has to be in place before the dissolution of Parliament so that it can come into effect at the forthcoming election.
- 8 The 1996 Constitution (Article 75) gives general information on who can and cannot register.
- 9 The registration of 2001 was the last one to have set a final date by which an elector has to register; as from 2002 there will be continuous registration, governed by the Electoral (Registration of Voters Amendment) Regulations 2001.
- 10 Concerns have been raised that the registration process was too rushed. Previously the ECZ planned two weeks for the registration, which was insufficient. The period of registration was then extended for two more weeks. The ECZ also increased its registration campaign as part of its voter education. Critics say the campaign was aimed more at urban than rural people.
- 11 Some people thought that there was no change and they could use their old cards.
- 12 Interview with commissioner Reverend Mwape.
- 13 Interview with Bony Goony, Social Democratic Party, Lusaka, September 2001.

- 14 RVI forms are issued to people when they register to vote.
- 15 Supporters were requested to have in their possession their green national registration and voter's cards.
- 16 Levy Mwanawasa (MMD), Anderson Mazoka (UPND), Lieutenant-General Christon Tembo (FDD), Benjamin Mwila (ZRP), Partor Nevers Mumba (NCC), Yobert Shamapande (NLD), Brigadier-General Godfrey Miyanda (HP), Inonge Mbikusita-Leewanika (Agenda for Zambia), Gwendoline Konie (SDP), and Micheal Sata (PF).
- 17 In Western Province the two constituencies, Liuwa and Kaome, were given one nomination centre. In the same province Shangombo constituency was not on the list.
- 18 It was never easy to determine the effect of the unlevel playing field created by the MMD. But the simple fact that the MDC believes in its efficacy undermined the concept of fair election.
- 19 The National Democratic Institute (NDI) country representative Adrian Munga, who had a chance to tour Southern Province to assess the political climate ahead of the polls, said that both the electoral commission and the parties were prepared for elections. He said that election campaigns were peaceful with no hint of impending interparty violence. The team, which was based in Lusaka, monitored the last rallies of the MMD, the UPND and UNIP. All rallies were peaceful.
- 20 *The Monitor* of 25–30 December 2001, No 191, reported that ruling MMD supporters instigated most of the clashes. FODEP national secretary Alex Ng'oma said that MMD cadres in Kitwe and Ndola had been on the rampage over the previous few days, brandishing assorted weapons and stripping naked people clad in opposition attire. In Ndola, MMD cadres stormed the home of HP parliamentary aspirant Ned Nzowa and assaulted his father.
- 21 For example, the head of the HP was forced to pay K5 million to appear on national television.
- 22 The Panos Institute of Southern Africa and the Zambia Institute of Mass Communication, which organised the debate, put up a legal challenge to the ban, but it was too late for the court to rule on the matter. Zambia Independent Media Association chair, Masausto Phiri, accused the Minister of Information and Broadcasting, Vernon Mwaanga, of being behind the ban.
- 23 The debate was planned well in advanced and the ZNBC promised to televise it.
- 24 'Electoral process flawed.' In *The Monitor*, No. 190, 21–24 December 2001.
- 25 *Ibid.*
- 26 At the polling station observers (local and international) are allowed inside, together with political party agents. Ballot boxes are opened and the election proceedings happen in view of everyone. Observers and party agents are allowed to report immediately any irregularity. The counting of votes is also done at the polling station with all present.
- 27 European Union Election Observation Mission, Second Interim Statement on the 2001 Zambian Elections. Lusaka, Zambia, 31 December 2001.
- 28 *Ibid.*
- 29 The ECZ was accused of failing to punish parties involved in corruption and bribing of voters during the campaign.
- 30 Interview with Justice Bobby Bwalya, chair of the ECZ. According to the political parties they had a good relationship with the ECZ in the main. However, the fact that the Parliament which dissolved just before the elections was dominated by the MMD as well as the fact that all commissioners are nominated by the president, meant that the ECZ continued to appear to be an instrument of the ruling party, especially of the president.
- 31 Eleven NGOs were elected to NVEC from the main NGO body. They are: Foundation for Democratic Progress, Zambia National Women Lobby Group, Southern African Centre for the Reconstructive Resolution of Disputes, Voters' Association of Zambia, Anti Voter Association Programme, Forum for Human Rights, National Organisation for Civic Education, Democratic Governance Association of Zambia, Zambia Reconstruction Organisation, Zambia Independent Monitoring Team and Zambia Civic Education Association. The commission was represented on the committee.
- 32 The Electoral Commission of Zambia, '2000 Annual Report'.
- 33 'Message from the electoral commission chair', *ibid.*
- 34 *The Post*, 24 December 2001.

- 35 The committee was established after looking at the practice in the SADC region and noting that, since the judicial process took so long to solve electoral conflicts, there was a need to form the committee. Only South Africa has an established conflict management committee.
- 36 *The Choice*, ECZ special election issue, Lusaka, 2001.
- 37 The Norwegian Agency for Development Cooperation (NORAD) contributed NOK 2 100 000 to conflict management activities for the 2001 elections; the Carter Center funded the provincial conflict management training.
- 38 The ECZ imposed a K10 000 on each domestic election observer and a K150 000 on international observers. The ECZ sold copies of the voters' register at K10 000 each (these enabled monitors to check the particulars of voters being called out before they cast their votes).
- 39 Some political parties claimed that they were only informed 48 hours after the printing of the local government ballot papers had begun.
- 40 Conversation with Justice Bwalya, commissioner Sakala and commissioner Reverent Mwape.
- 41 *The Post*, 27 December 2001. Also confirmed with the commission.
- 42 One would have expected Lusaka to be problem-free as far as the delivery of election material is concerned. However, almost everybody was surprised to learn on the day of voting that some constituencies had not received their materials. For example, in most of Matero constituency, and in parts of Madevu and Munali, ballot boxes had not arrived the day before polling as promised. ECZ apparently started delivering ballot boxes at 6.30 am on polling day, initially with a single lorry, to 64 polling stations. Understandably, this contributed to the opening of some polling stations being delayed until late afternoon.
- 43 Monitors deployed by Coalition 2001 reported that at Chasefu and Lumezi voting started on 29 December.
- 44 For example at Mwinilungu, in North Western Province, polling stations which ran out of ballot papers on the first day of voting only had their supplies replenished in the afternoon of the following day.
- 45 *The Monitor*, 191, 25-30 December 2001.
- 46 European Union Election Observation mission, Second Interim Statement on the 2001 Zambian Elections, Lusaka, 31 of December 2001.
- 47 In Matero observers caught one presiding officer tampering with ballot boxes. The officer was arrested.
- 48 This confusion led to arbitrary decision-making by presiding officers, unequal treatment across different polling stations, and made it more difficult to police the voting process at night, given that many polling stations had insufficient or no light, which hindered the security of the vote and in some cases prevented voting.
- 49 For example, the University of Zambia had over 4000 registered voters at a single polling station while stations with less than 500 voters were given identical quantities of material and numbers of staff.
- 50 It seemed that the ECZ, under pressure, failed to make an accurate estimate of the time it would take for people to cast three ballots. Even where voting started on time, many polling stations had to remain open into the next morning in order for all voters to cast their votes.
- 51 The ECZ sited problems with communications and with transporting ballot boxes to the central verification point as reasons for delays in announcing the election results; this was supported by other observers. Also, many polling stations that opened late or where rain interrupted the proceedings were behind others in counting. A more convincing reason was that despite the fact that the ECZ was receiving results from polling stations by telephone from the presiding officers it could only announce results once they had been verified at the central verification point. Therefore, the political parties were receiving results from their agents at the polling stations which the ECZ was not announcing until they were verified, which caused serious confusion and suspicion.
- 52 This situation forced people to speculate on what was really happening. Many people spoke of election rigging without proof but simply because of lack of confidence in the way the ECZ was handling the counting of votes and announcement of results. The same situation caused the President of UPND, Anderson Mazoka, to act in a violent way by storming the house of the ECZ chair, Judge Bobby

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- Bwalya, in the early hours of the morning to convey his concerns (*Saturday Post*, 29 December 2001).
- 53 Carter Center, 'Interim Report on the Zambian 2001 Presidential Elections'.
- 54 The Carter Center reported that the tabulation process was chaotic, often taking place in inadequate and insecure premises. Its report mentions a case where an independent observer discovered ballot boxes diverted to a private office inside the counting centre (Manali) without the presence of party agents and observers (see Carter Center, 'Zambian Election Observation Mission 2001, Interim Statement', Lusaka: 30 December 2001)
- 55 Chief Justice Matthew Ngulube asked the ECZ to assess all grievances raised by opposition UPND presidential candidate Anderson Mazoka (see *The Post*, 2 January 2002). Some of the malpractices included: faxes containing results that were not authenticated and with sources not verified; some ballot papers uncounted in some polling stations; a returning officer found with blank ballot papers in Mandevu constituency; voters being turned away by officers while still standing in queues; in some provinces, such as Northern and Luapula, polling agents and candidates denied the right to accompany ballot boxes to verification centres. FODEP president Dr Alfred Chanda said his organisation discovered one case where the results for a presidential candidate were wrongly entered as 955 instead of 3955 votes.
- 56 *The Post*, 2 January 2002.