THE ELECTORAL SYSTEM AND DEMOCRATISATION IN ZIMBABWE SINCE 1980

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Introduction

In the past few years a body of useful and illuminating studies of electoral systems in the various countries of Southern Africa has emerged. The electoral profiles have been useful in showing the similarities and differences between different national electoral systems as well as their strengths and weaknesses. The Electoral Institute of Southern Africa (EISA) is one of the key institutions which have actively encouraged research and comparative analysis in this field. One system that has attracted considerable interest is that of Zimbabwe. Recent contributions on Zimbabwe's electoral system have concentrated on building a profile of the system, analysing the politics of electoral administration and developing a critique of the limitations of the present electoral structures (Sachikonye 1999; Makumbe and Compagnon 2000; Spicer 2001). This growth in electoral studies is welcome and timely because it appropriately places elections at the centre of the discourse on governance.

As the Democratic Republic of Congo (DRC) consolidates its peace process and initiates a programme of democratisation, this is a timely juncture to consider which model of electoral system would be appropriate and sustainable for its purposes, given the country's post-independence history and experiences and the aspirations of its people. The model will be developed by the institutions and peoples of the DRC on the basis of a national dialogue and compromise. The electoral profiles and experiences of other countries will, of course, be useful to the extent to which they show the positive and negative aspects of the systems used in those countries. To that degree, constitutional experts, politicians and civil society organisations in the DRC will seek to identify what has worked in other electoral systems, and what has not.

This paper examines Zimbabwe's electoral system as it has evolved since independence. It begins by outlining its origin in the Lancaster House compromise constitution, and the subsequent changes it underwent. This is followed by an evaluation of the key institutions involved in the administration of the elections

themselves with particular attention paid to their strengths and weaknesses. These institutions include the Electoral Supervisory Commission (ESC), the Delimitation Commission and the Election Directorate. The paper considers the significance of the performance of the electoral system as a whole during the 2000 elections, which became a post-independence landmark. In particular, the relative strengths and shortcomings of the system are weighed.

This paper was originally prepared before the March 2002 presidential election, whose conduct and outcome further exposed the serious weaknesses in Zimbabwe's electoral system. I add a brief postscript highlighting the flaws in the March 2002 election, which generated an international debate and outcry, leading some countries and organisations to declare that the election was not 'free and fair'.

A national electoral profile would be incomplete if it were not related to the wider challenge and process of deepening democracy, more generally understood as democratisation. Democratisation involves the construction of participatory and competitive political institutions and requires that democratic rules become firmly institutionalised and valued by all the political actors (Bratton and van de Walle 1997). Clearly it takes years, if not several generations, to build and consolidate such democratic institutions and values on the basis of a broad national consensus. In that sense, democratisation is a protracted process – often a 'work-in-progress' rather than a single event. Elections are therefore central to the process of democratisation. The electoral system in Zimbabwe needs to be placed in this broader context. To what extent has the system enhanced or slowed or hampered the democratisation process in the country? What changes have therefore been sought to make the electoral system more democratic and legitimate? The paper implicitly reflects on these issues before concluding with a set of recommendations for a fair, transparent and accountable electoral system.

THE ELECTORAL SYSTEM AT INDEPENDENCE

The main features of the electoral system at independence were spelt out in the Lancaster House Constitution, which was negotiated between the British colonial power, the nationalist/liberation movement and parties to 'internal settlement' set up in 1979. It was of necessity a compromise agreement which was as much intended to end a protracted civil war as to pave the way to an internationally recognised independence. Until 1979 the black majority had been denied the right to participate fully as voters in the electoral system. The concept of 'one person, one vote' was enshrined in the Constitution, and the proportional representation system used in the 1980 election. As a compromise, the Constitution provided for 20 reserved seats for the white minority in a 100-seat House of Assembly. In addition, the Lancaster House Constitution provided for an upper house, the Senate, with 40 members. Fourteen of the seats were reserved for blacks elected by the 80 black members of the Assembly, 10 were reserved for whites elected by the 20 white members of the Assembly, 10 for traditional chiefs, and the remaining six were filled by Presidential

appointment (Moyo 1992). Again, as a compromise measure to safeguard the interests of whites in parliament, the Constitution entrenched the racial composition of the Senate and House of Assembly by prohibiting any constitutional amendments that would have the effect of abolishing white seats in the two houses before 1987.

The significant aspects of the constitutional provisions related to the use of the proportional representation system in the 1980 election and the safeguards on racial representation for seven years. Both provisions were aimed at building confidence in a society that had, until then, been engaged in a fratricidal civil conflict.

In the 1980 elections, the PR system incorporated a 5 per cent threshold in its allocation of seats to the contesting parties. Three black parties – Zanu-PF (under Robert Mugabe), PF-Zapu under Joshua Nkomo and the United African National Congress (UANC – under Abel Muzorewa), and the main white party – the Rhodesian Front (RF – under Ian Smith) contested and won seats. Zanu-PF won 57 seats, PF-Zapu 20 and the UANC 3, while the RF swept all 20 seats reserved for whites. However, this was the last election in which the PR system was used. The Electoral Act was amended in 1987 to introduce the first-past-the-post, or 'winner-takes-all' system and in subsequent elections (until 2000) Zanu-PF was the major beneficiary of the new system. Other amendments in 1987 abolished the 20 seats reserved for whites and introduced a powerful executive presidency.

KEY INSTITUTIONS

The four key institutions involved in the Zimbabwean electoral system and process are the Delimitation Commission, the Electoral Supervisory Commission (ESC), the Election Directorate and the Registrar-General's Office.

The Delimitation Commission

The Delimitation Commission is responsible for determining the boundaries of constituencies (currently Zimbabwe is divided into 120 constituencies). The last Delimitation Commission Report was presented in 2000, just prior to the elections of that year. The Commission is convened by the President at five-yearly intervals, or prior to the holding of the next election. It submits to the President a report comprising a list of the constituencies delimited, with the names assigned to each and a description of their boundaries; a map of the country showing the delimited constituencies and any further information the Commission considers necessary (Delimitation Commission 1995).

In dividing Zimbabwe into constituencies the Commission takes into account the physical features of and means of communication within an area, the geographical distribution of voters registered on the common roll, and any community interest between voters registered on that roll. Constituency boundaries should be delimited to incorporate, as closely as possible, equal numbers of registered voters.

The Electoral Supervisory Commission

The ESC is the body tasked with the responsibility of supervising the electoral process. Its functions are:

- To supervise the registration of voters and conduct the election of members of parliament and of the President.
- To supervise the registration of voters and conduct of elections to the governing bodies of local authorities.
- To consider any proposed Bill or statutory instrument which may be referred to it and which relates to presidential, parliamentary or local authority elections.

Like the Delimitation Commission, the ESC is appointed by the President, to whom it reports on matters relating to its functions. Through the Ministry of Justice, Legal and Parliamentary Affairs it can have its reports placed before parliament. The ESC is funded by parliament through the same Ministry of Justice, Legal and Parliamentary Affairs; its budget is determined by the ministry, which has a decisive say in how the allocated funds are used. Effectively, therefore, the ministry controls the use to which funds may be put, and the ESC is treated the same way as any other department of the ministry (ESC 1997).

At the end of each election, the ESC submits a report to the President on the conduct and outcome of that election. The issues covered in these reports are usually wide-ranging, encompassing voter registration, financing of campaigns, election monitoring, instances of intimidation and violence, media coverage and the counting of votes. Significantly, they also pronounce on whether a particular election is 'free and fair'.

THE ELECTION DIRECTORATE

The Election Directorate, which was created in 1990, consists of civil servants under the chairmanship of the Public Service Commission (PSC). The responsibilities of the Directorate are:

- To co-ordinate the activities of ministries and departments of government in regard to the delimitation of constituencies, the registration of voters, the conduct of polls and all other matters connected with elections.
- To give instructions and make recommendations to the Registrar-General in regard to the exercise of his functions under the Electoral Act, and other persons in the employment of the state for the purpose of ensuring the efficient, proper, free and fair conduct of elections.
- To ensure that elections are conducted efficiently, freely and fairly.

Electoral Act, 1996

Prior to 1990 the forerunner of the Directorate was an informal body of civil servants established in recognition of the fact that the Registrar-General did not have the necessary power to command the resources he needed to execute his duties under the Electoral Act. The establishment of the Election Directorate added to the number of players involved in the electoral process, splitting responsibility between them still further. However, it has been argued that without the present Election Directorate, no one could currently command sufficient authority to secure the resources necessary for the effective and efficient management of elections.

THE REGISTRAR-GENERAL OF ELECTIONS

The Registrar-General (R-G) of Elections is a public servant whose office falls under the Registrar-General's office in the Ministry of Home Affairs. His functions in the electoral process, however, entail his being answerable to the Ministry of Justice, Legal and Parliamentary Affairs. Since the functions of the Registrar-General are funded by the Ministry of Home Affairs, his office is answerable to both ministries concurrently.

The Registrar-General is responsible for the execution of the electoral process. This specifically involves the following responsibilities:

- registering voters;
- preparing voters' rolls;
- presiding over the nomination court for the nomination of candidates;
- providing ballot papers;
- setting up polling stations;
- providing electoral staff;
- declaring election results;
- taking custody of election materials.

                                                            Electoral Act 1996; EEC 1997

These extensive functions make the Registrar-General of Elections central to, and therefore very powerful in, the electoral process. At the same time, any weaknesses or limitations in the discharge of these functions have a ripple effect on the entire electoral process. The centrality of the Registrar-General is enhanced by other provisions in the Electoral Act. For instance, it is clearly stated that the Registrar-General 'shall not be subject to the control of any person or authority other than the Election Directorate' (Electoral Act 1996). By implication, this means that the Registrar-General is not subject to the control of the ESC, although he shall have 'regard to any of its reports or recommendation'. More generally, the Registrar of Elections is expected to provide the ESC with reports relating to the registration of voters and the conduct of elections, as well as to keep it informed on matters relating to the exercise of his functions under the Electoral Act. However, in practice the Registrar tends to act independently from the ESC.

In concluding this section, it is worthwhile highlighting the unique role of the Zimbabwean electoral commission, the ESC. Compared with electoral commissions in several other countries in Southern Africa, the ESC is a weak institution, lacking autonomy. Indeed, its role is deliberately ambiguous. Nowhere are its powers explicitly stated, nor has it been clear which powers it can assume without risking a challenge (ESC 1997). Although the Constitution states that the powers of the ESC may be provided under an Act of Parliament, no such provision has been made. It has been left almost entirely to ESC members to decide for themselves what they perceive their powers to be. A specific concern relates to the lack of authority on the part of the ESC to impose sanctions for breaches of electoral laws during the period of campaigning and voting.

Furthermore, as noted above, the ESC has no independent budget. It depends for its operations on a small allocation from its parent ministry – its 1995-96 budget allocation, for instance, amounted to a meagre Z$200 000. During the 2000 election this budget was increased to Z$4 million, a small grant by any standards in view of its responsibilities. Moreover, the ESC has no staff or office of its own – these facilities are provided by the parent ministry of Justice, Legal and Parliamentary Affairs. In view of its ambiguous and limited powers and meagre resources, the ESC is therefore constrained in exercising its 'supervisory role' in the electoral process. The powers which would normally devolve on an independent electoral commission have been dispersed to the Election Directorate and the Registrar-General of Elections. It is the view of most opposition parties and civil society organisations that this lack of independence has undermined the ESC's public image as well as the credibility of the electoral process. Clearly, the Election Directorate and Registrar-General of Elections are more substantial players in this process than the ESC itself for they draw upon government resources and intervene at all crucial stages of the electoral process.

MAJOR LANDMARKS AND CONSTRAINTS IN THE ELECTORAL PROCESS

For all its imperfections, the Zimbabwe electoral system has handled regular parliamentary elections since 1980 under a nominally multi-party system. Following the epoch-making independence elections there were other elections conducted in 1985, 1990, 1995 and 2000. There were also presidential elections in 1990 and 1996. The post-1980 elections were held under the 'first-past-the-post' system, which tended to favour the incumbent party. For instance, in 1985, Zanu-PF increased its seats to 64 while those of PF-Zapu declined to 15. The smaller Zanu-Ndonga party won only one seat.

The overall context of political competition between 1982 and 1987 was one of conflict between Zanu-PF and PF-Zapu. This conflict flared into a civil war in the Matabeleland provinces and its cessation was resolved through political negotiation, which eventually led to a merger agreement between the two parties. The agreement

formed the basis of what was termed a Unity Accord, one of whose objectives was the establishment of a one-party state system (Banana 1989). The commitment to the concept of a one-party state was an attempt by Zanu-PF – ultimately unsuccessful – to assert complete hegemony over the political system. This was strenuously resisted by opposition parties and civil society organisations, including the labour movement, which view such a concept as outdated and a harbinger of entrenched authoritarianism. However, although the campaign against a formal one-party state was successful, it did not mean that a de facto one-party state could not emerge (Mandaza and Sachikonye 1991). That is precisely what happened between 1989 and 2000.

Parliamentary Election Results
Elected Seats 1980-2000

	1980	1985	1990	1995	2000
ZANU-PF	57	63	117	117	62
ZAPU	20	15	–	–	–
ZANU-Ndonga	–	1	1	2	1
MDC	–	–	–	–	57
RF/CAZ	20	15	–	–	–
UANC	3	–	–	–	–
ZUM	–	–	2	–	–
INDEPENDENT	–	5	–	1	–

Source: ESC reports (various)

After the merger of Zanu-PF and PF-Zapu, the new merged party (still known as Zanu-PF) easily dominated the elections of 1990 and 1995. In the 1990 election, Zanu-PF won 117 of 120 directly elected seats. In the 1995 election, it retained those seats. In addition, presidential patronage ensured that 30 non-constituency seats were filled with figures sympathetic to Zanu-PF. Misgivings about an electoral system which effectively provided monopoly to one party inevitably grew in the 1990s. One indicator of the misgivings was the growing alienation amongst voters. It is noteworthy that the number of voters who participated in elections declined steadily after the 1980 election. From an estimated turnout of 94 per cent in 1980, the proportion declined to 57 per cent in 1995 and fell further, to 32 per cent, in the 1996 presidential election. It was also significant that opposition parties boycotted the 1996 poll because of their misgivings about the electoral system.

The unsatisfactory and contentious aspects of the system included the delimitation process, voter registration, the electioneering and monitoring process as well as inequitable access by different parties to resources.

As detailed above, the Delimitation Commission is appointed by the President to determine constituency boundaries. One notable limitation of the Commission has been the absence of a constitutional provision for public participation in the delimitation process, resulting in the absence of involvement of interested stakeholders – especially political parties, women and youth organisations. The Commission reports to the President, who may raise objections if he is not satisfied with it, but the public is denied the same privilege. It has therefore been argued that the public should be entitled to give its opinion and seal of approval to the delimitation exercise and, by so doing, reduce the likelihood of a challenge to the validity of the exercise. In the same way and for the same reasons as voters' rolls are subjected to public inspection, the Delimitation Report should also be inspected and verified by members of the public before it is finalised. In light of this, several recommendations have been made about ways to improve the standing and effectiveness of the Commission (ESC 1997). These are that:

- The consultation process before the President appoints members of the Commission should be more broadly based.
- A preliminary delimitation report, which should be published in the *Government Gazette* and should be open for inspection and comments by the public, should precede the submission of the report to the President.
- The Delimitation Commission should be appointed or convened well in advance of a general election to allow sufficient time for proper performance of its functions with the participation of members of the public.

The credibility and legitimacy of Delimitation Reports will hinge on whether they meet these conditions and expectations.

The issue of voter registration has been bedevilled with problems in the past. As observed above, it is largely the responsibility of the Registrar of Elections to ensure that registration is carried out properly and that the voters' rolls are up to date. There have been persistent problems with ensuring that the voter registration process is properly managed. For example, between the general elections of 1985 and 1990, the voters' roll was not updated by the Registrar of Elections to remove names of deceased voters or those who had renounced their citizenship. The registration exercise is not well publicised and an unsatisfactorily large number of voters often find that their names do not appear on the constituency roll on which they thought they were registered. Equally seriously, the fact that no reliable voters' roll was produced for the 1990 elections meant that the work of the Delimitation Commission was handicapped (ESC 1990).

In view of these experiences some analysts have recommended that voter registration should commence well in advance of elections so that all eligible voters

may have an opportunity to register. This opinion has been reinforced by civic organisations and political parties, which have advocated that voter registration should be a continuous exercise, which would incorporate those who reached the voting age of 18 and eliminate voters who died in the period between elections. Should a system of continuous registration be adopted, there is also an argument for a cut-off date by which registration stops – six months before an election, perhaps. It is also argued that there should be an institutional department which undertakes electoral work on a full-time basis (ESC 1995).

There are several observations to be made with regard to electioneering or the election campaign process. Although the country has enjoyed political stability for most of its post-independence years, its election campaigns have not been free of problems. Every election since independence, particularly those in 1985, 1990 and 2000, has been marked by varying degrees of intimidation and violence. Most of the violent incidents occurred between supporters of the ruling Zanu-PF and state security operatives on the one hand and opposition party supporters on the other.

> the irony of the 1985 election … was the almost unbelievable reaction of many Zanu-P supporters, mainly women and youth in urban areas. A few days after news of the election victory, they went on a rampage, beating up and evicting members of opposition parties from their houses. Whole families and their belongings were thrown out onto the streets … Several people were killed in this post-election violence.

> Sithole 1986

Further violence broke out during the 1990 election campaign when election-related intimidation and violence was reported in most provinces (CCJP 1990). Probably the most notable incident was the shooting of an opposition candidate who was contesting a seat against the Vice-President, Simon Muzenda.

On the whole, there were far fewer incidents of intimidation and violence during the 1995 election campaign. However, this was not a foretaste of better behaviour in the future because the barometer shot up significantly during the 2000 election campaign.

Other aspects of the electoral process that should be considered relate to the monitoring of elections and counting of the votes. It is important to note that election monitoring is a relatively new phenomenon in Zimbabwe, with the first exercise mounted during the 1995 election. About 4 000 election monitors were recruited in 1995, mainly by civic organisations, principally the church and human rights organisations such as the Catholic Commission for Justice and Peace (CCJP), the Zimbabwe Council of Churches (ZCC) and Zimrights. Monitoring has been defined as the process of observing and evaluating and rectifying irregularities (together with responsible officers) during the election process, 'with a view to

ensuring that the elections are carried out in a conducive atmosphere and that they are fair in accordance with the electoral laws and norms' (ZCC 1995).

The ESC has acknowledged the valuable contribution of election monitors. During the 1995 elections, there was a full coverage by monitors of all constituencies. Monitors could enter any voting or counting station. They were required to report all complaints and irregularities to the ESC through provincial co-ordinators. The monitoring programme during the 1995 election appears to have been successful. Since then, the ESC has also drawn upon monitors to observe subsequent by-elections and local government elections. However, problems were experienced in monitoring the highly-charged 2000 election.

According to the Electoral Act, a constituency registrar should establish as many fixed polling stations as he may determine to be necessary for purposes of conveniently taking a poll of his or her constituency. The constituency is required to publish the places at which the polling stations are to be located and the hours during which they will be open. A constituency registrar may also provide for mobile polling stations that can be moved from place to place in his constituency. The main criteria determining the location of polling stations are convenience and accessibility. It is expected that stations will be accessible to all categories of voters, including women and the elderly.

While security and technical arrangements for elections have been reasonably adequate, several other problems have been experienced. One was that some voters were left without access to mobile polling stations because of vehicle breakdowns and under-estimates of the voter population. Another important issue raised by some political parties relates to the number of voting days. Since independence, voting in all general elections (and by-elections) has been extended to two or three days. The reasons advanced for this extension concern the logistical aspects of voting, especially in rural areas, and the long distances travelled by voters to reach polling stations. However, opposition parties have alleged that prolonging voting beyond one day provides opportunities for vote rigging.

Finally, a number of structural issues regarding the Zimbabwean electoral process need to be spelt out. These relate to inequitable access to resources for electioneering, in particular access by parties to public funding and the media. The issue of political party funding has been a contentious one in Zimbabwean politics with most political parties charging that the funding system was inequitable. However, until the early 1990s, there was no state mechanism for funding political parties from public resources. The mechanism introduced was the Political Parties (Finance) Act, which confined funding to parties with a minimum of 15 seats in parliament. It was not until 1998 that Zanu-PF's monopoly of state funding was legally challenged by an opposition party in the Supreme Court. The Court ruled that the threshold for access to funding should be lowered to a minimum of 5 per cent of votes received by a party in an election contest.

Access to funding determines the capacity of a political party to field a certain number of candidates as well as its access to the media, transport and other necessary

facilities for campaigning. Most opposition parties have been seriously handicapped by the absence of these resources. By contrast, Zanu-PF received Z$65 million annually from the state in 1998 and 1999. In addition, it took advantage of its ruling party status to utilise other state resources at election time. These included government vehicles, personnel and accommodation facilities. From the perspective of opposition parties, this was patently unfair: it was pointed out that 'either all parties should not have access to any state resources or there should be an equitable distribution of these resources' (a party representative quoted in Sachikonye 1999). The ESC itself acknowledged the centrality of funding, observing that the disadvantages faced by opposition candidates in terms of transport and financial resources were quite evident and pronounced (ESC 1995). It went on to recommend that the issue of party funding be addressed before the next election, but this was not to be – it remains an outstanding issue.

Party access to the media, particularly at election time, is also inequitable, largely because of monopoly of control and ownership by government of the key public media. Through the Mass Media Trust, the government owns and controls the major newspaper chain, Zimpapers, which runs two dailies, two Sunday papers and several weeklies. It also virtually controls the main television and radio network, the Zimbabwe Broadcasting Corporation (ZBC). Although there are a few independent weekly and monthly newspapers and magazines, their circulation is small; notably, none of them is owned by any of the opposition parties.

Not surprisingly, perhaps, the state-owned media have tended to be partisan in their coverage of election campaigns. An independent media commission has therefore been proposed by opposition parties to address the problem of partisanship during election campaigns. Such a commission would seek to ensure media neutrality by insisting on equal access to radio and television for contending parties. In addition, a commission would hear complaints and concerns pertaining to election coverage. For its part, the ESC has recommended the preparation of comprehensive guidelines on election coverage, such guidelines to become the code of ethics for election coverage (ESC 1995).

Elections are in the public interest, and are central to democracy. The arguments for equitable access by all parties to the media and for a code of ethics in election coverage are compelling.

No discussion of the limitations of the Zimbabwean electoral system would be complete without reference to a major debate about the relative merits of the 'first-past-the-post' and the proportional representation systems. In constitutional reform proposals drawn up by a government-sponsored Constitutional Commission (CC) and by the civil society-driven National Constitutional Assembly (NCA), the concept of a PR system was accepted in principle. While the NCA draft proposed a full PR system, the CC draft advocated a mixture of PR and 'first-past-the-post'. The constitutional reform process is currently in limbo, but it is hoped that when it is resumed the issue of electoral reform will feature prominently in order to address the imperfections in the current system.

THE ELECTORAL SYSTEM AND THE 2000 ELECTION

The strengths and weaknesses of any electoral system are clearly highlighted during an election, and Zimbabwe's 2000 parliamentary election was no exception. The 2000 election acquired a special significance in that the two main contending parties were more or less evenly matched. As in past elections, the conduct of the actual polling on election days was satisfactory. Most international and domestic observers attested to the technical capacity of election officials to conduct a credible poll and to count the votes. The report of the Commonwealth Observer mission was typical of the observer reports:

> … the polling and counting days were generally calm, orderly and peaceful and the process went smoothly. We were impressed with the spirit of those queuing to vote, which was often determined, sometimes enthusiastic and almost always composed … We were impressed with the professionalism of the polling station staff. While levels of competence varied, the Presiding Officers and polling officials were generally impartial, efficient and effective and had clearly been well-trained …
>
> Commonwealth Observer Group 2000

For its part, the European Election Observation Mission concurred that the voting process was calm and well organised, while the Electoral Commissions Forum of SADC countries spoke of the 'professional and competent manner in which the polls and vote counting was conducted' (EU Observation Report 2000; ECF 2000). It is useful that this final stage is conducted mainly by civil servants, most of them teachers and local officials who value professionalism.

However, the earlier stages of the electoral process were not as flawless. Those observer missions that arrive to monitor only the last stage are likely to draw misleading conclusions. The earlier stages of voter registration, delimitation, electioneering and monitoring are as important as the final stage. One critical assessment of how these early stages were handled showed that they were accompanied by considerable flaws (MMPZ 2001). One of these related to voter registration. It was observed, for instance, that the state of the voters' roll was a matter of concern well before the election and that during polling it was evident that, despite attempts to update the roll, major problems still existed (Commonwealth Observer Group 2000). These problems had, regrettably, resulted in the disenfranchisement of large numbers of potential voters, many of whom asserted that they had completed all necessary procedures but still did not appear on either the main or the supplementary rolls. Large discrepancies existed on the voters' rolls and, during the polling days, about 7 per cent of potential voters in some areas were turned away because they did not appear on the roll (Saunders 2001). The process of voter registration therefore remains the Achilles heel of Zimbabwe's

electoral system, which should be addressed as a matter of urgency well before the next election is due.

There were also shortcomings in the timing of the appointment of the Delimitation Commission prior to the 2000 election. The late appointment of the Commission delayed its work; indeed, its report was made available to the public only three weeks before the polling days. This resulted in opposition concerns that, because no proper public scrutiny was possible, changes might have been introduced that would benefit only the ruling party, which the opposition would have insufficient time to challenge (EU Observation Report 2000). The shortage of time in which to inspect the report meant that there was bound to be some confusion amongst voters in constituencies where boundaries had changed about where they should vote. Clearly, the Delimitation Commission should have ample time in which to conduct its work and the work should be undertaken in a transparent fashion.

The 2000 election is likely to be remembered for a long time, though, largely because the election campaign was carried out amid a degree of intimidation and violence unheard of since independence. Clearly, the stakes were much higher than in any other election since that of 1980. Although the months and weeks before polling day were characterised by this unprecedented violence, election day itself was calm. By most accounts, the widespread violence, which resulted in more than 30 deaths, was perpetrated against opposition candidates and supporters. The violence tarnished the image of Zimbabwe and its electoral system considerably (Sachikonye 2000). There was consensus amongst civil society organisations, the independent media and observers that intimidation and violence adversely affected the electoral process. In the final analysis, these factors did not make the achievement of 'free and fair' elections possible. Many regions, particularly but not exclusively in rural areas, effectively became 'no-go' zones for opposition party campaigners (Saunders 2001). There was also plentiful evidence that most of the intimidation and violence was carried out by Zanu-PF and its 'war veteran' supporters, and was aimed principally at the strongest opposition party, the Movement for Democratic Change (MDC). According to one observer group which visited the country much earlier than most:

> Pre-election violence created an atmosphere of anxiety and fear. It substantially restricted the exercise of freedoms of opinion, expression, association, assembly and movement, as well as the right to be secure from physical harm due to political affiliation. The abilities of political parties and many candidates, predominantly from the opposition, to campaign openly and freely do not meet international standards for fair electoral competition.
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> NDI 2000

Similar sentiments were expressed by international observer groups such as the Commonwealth Observer Group (COG) and the EU Election Observation Mission.

Electoral violence was to some extent linked to 'land occupations', which were orchestrated by both Zanu-PF and the 'war veterans'. The net impact nevertheless cast a dark shadow over the campaign period. This was exacerbated by the apparent inability or unwillingness of security agencies, especially the police, to act against those involved.

Yet another impediment to a smooth electoral process in 2000 was the regulations relating to monitoring that were introduced in the middle of the campaign. Less than three weeks before polling, a number of changes were made to the Electoral Act, including one which removed authority over observers and monitors from the ESC and granted it to the Registrar-General. The new regulation further stipulated that only one monitor would be allowed to be present within each polling station at any one time. The monitoring groups, which had previously planned to place four to five monitors within each station, viewed the reduced number as increasing the risk of electoral fraud and intimidation of individual voters.

During the election period itself, in June 2000, there was some prevarication by the Registrar-General's Office before 16 000 domestic monitors could be accredited. One observer mission noted that, in some instances, it 'was too late for many monitors to reach outlying districts to monitor polling stations there' (EU Observer Mission 2000). This prompted the ECF to recommend that the Zimbabwe electoral authorities should 'establish clear procedures for the accreditation of domestic monitors early in the electoral process' (ECF 2000).

As in previous elections, the matter of unequal access to media coverage was a distinguishing feature of the 2000 contest. It often took the form of providing very generous space for the views and campaign activities of the ruling Zanu-PF party and virtually ignoring those of opposition parties. This was very clear in the state-controlled media. The opposition campaign was highlighted mainly in the independent media, coverage that was limited by the absence of independent radio and television. It was not surprising that most domestic and international observers singled out media partisanship as having a major bearing on the electoral process. As the Commonwealth Observer Group pointed out:

> The radio and television broadcasts of the ZBC, particularly the news bulletins, were heavily biased in favour of the ruling party. It has been instrumental in getting the party's message to the rural areas and in denouncing the opposition. Numerous bulletins on the ZBC during the election campaign started with lengthy reports of speeches by Zanu-PF ministers and candidates. Sometimes such reports comprised half of the entire bulletin, which also contained no mention of any opposition parties.
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> COG 2000

Another group concluded that 'the ZBC and government-controlled newspapers were used as publicity vehicles for Zanu-PF' (EU Election Observation Mission 2000).

It was also noted that most editorials in the state-controlled press concentrated on government policy on land while those of the independent press reported on the desire for a change in leadership and economic policy.

The people who did not benefit from the manifestly biased reportage were the voters, who were not provided with sufficient information to help them make up their minds about whom to vote for. With a few exceptions, the media thus failed to provide a balanced and educative coverage for the benefit of the electorate. A domestic media monitoring group added to the chorus, observing that vital lessons should be drawn from the manner in which the media had covered the 2000 election. One such lesson was that it had clearly emerged that electoral support for the two main parties, Zanu-PF and MDC, was roughly equal – a reality which should be reflected in their access to the media, as well as in the amount and quality of coverage given to their candidates.

Finally, another significant aspect of the 2000 election was the tug-of-war, indeed the clash, between the ESC and the Registrar-General's office during the campaign. Two episodes revealed the rupture between the two institutions. After persistently complaining, to little avail, about a serious lack of staff and resources to supervise and monitor elections effectively, and about the lack of information from the Registrar-General, the ESC chairman, Bishop Hatendi, resigned from his post in early 2000. This confirmed the uneasiness of the relationship between a weak ESC and a relatively powerful Registrar-General's Office.

In an unprecedented legal challenge to the R-G, the ESC then charged that it had not been involved in the supervision of voter registration for the 2000 elections as the Electoral Act required. It also challenged the government decision to make changes to the electoral system by decree, without consulting the ESC. These changes affected the accreditation of monitors and observers, as well as rules for the postal ballot system. The court ruled against the ESC's contention that it was 'the sole body' entrusted by the Constitution with supervising elections and accrediting monitors, observers and polling agents. The de facto powerful position of the R-G was thus reinforced by the ruling, and the authority of the ESC authority was further substantially eroded. Clearly, there would need to be an urgent review of the relations between the ESC and the R-G, and of the role of the ESC in the broader electoral system.

CONCLUSION AND RECOMMENDATIONS

Democratisation

The principal objective of this paper was to examine the main features of Zimbabwe's electoral system with a view to highlighting its strengths and weaknesses and those elements that require revamping. However, another objective was to show a link between the broader process of democratisation and the specific aspects of the electoral process. Political developments in the past 21 years show a fragile multi-party system buffeted by many pressures, not least a concerted Zanu-

PF agenda for complete hegemony. The quest for such hegemony underlay the imperative for a Unity Accord, which was sealed in a merger with the only major opposition party, PF-Zapu, in the 1980s. More generally, the adherence by the ruling party to a one-party state ideology showed a strong streak of intolerance and authoritarianism. The fact that there was far less violence during the election campaigns of the 1980s and 1990s can largely be attributed to the fact that the challenge posed by opposition parties was weak. It was an era in which Zanu-PF possessed a 'dominant party' status. But this had a stultifying effect on the democracy, which had remained fragile at best. Among the inhibiting elements were the virtual monopoly of state-owned media and an electoral system that was biased towards the interests of the ruling party – witness, for example, the powers the President wielded in appointing 30 parliamentarians, members of the Delimitation Commission and the Electoral Supervisory Commission. Public participation in the running of electoral institutions was circumscribed, and genuine political pluralism was threatened.

While authoritarianism and intolerance grew, especially in the late 1990s, civil society organisations flowered and strove for greater democratisation. There was a proliferation of human rights organisations, labour unions, student unions, women's groups, media organisations and constitutional reform advocacy groups as well as a noticeable growth in the density of civil society organisations, which became sites of resistance to the growing state authoritarianism and ruling party arrogance and intolerance.

Among the matters contested by the state and the ruling party on the one hand and civil society on the other were deficiencies in the electoral system. Much of the impetus behind the constitutional reform movement centred on the question of overhauling the system. Civil society organisations have been active in providing civic education to voters and monitors, and continue to campaign for fair media coverage during elections. Taken in combination, the activities of these organisations are a major contribution to democratisation. Inevitably, democratisation of society and its institutions is a protracted process.

However, there have been periods during which some of the campaigns have paid off. As observed above, in the 2000 election the opposition movement won 58 directly contested seats, compared to 62 won by the ruling Zanu-PF party. The prospects for genuine political pluralism seemed much brighter than they had at any time since independence. In spite of intimidation, violence and unequal access to resources by parties during elections, there is a growing maturity amongst voters. Reform of the electoral system to make it more transparent and efficient would guarantee its competitiveness and fairness and contribute to consolidating the democratisation process.

But there are other issues which must be attended to in any society (including the DRC) which wishes to ensure a fair, transparent and democratic electoral system.

Delimitation

The need to delimit constituencies well before an election is generally understood. However, what is less clearly understood is that the process of appointing members to the Delimitation Commission should be transparent and the consultation process leading to the appointments should be broadly based and should involve a body such as a Judicial Service Commission. When the Commission issues a report on the delimitation of constituencies, the preliminary draft should be published in a Government Gazette and be open to inspection and comment by members of the public as well as by interested organised groups.

It would be prudent to have the Commission appointed or convened well in advance of a general election to allow sufficient time for proper performance of its functions with the participation of the public. It cannot be over-stressed that the delimitation process is crucial. It is a vital indicator of the electoral norms and procedures in any given country not only because it establishes the territorial basis of elected representation but because the criteria and decision-making in the delimitation process illustrate important characteristics of electoral management .

Voter Registration and Education

There should be a thorough and regular transparent and participatory voter registration process. Registration should be carried out well before the election is due, and information gained from registration should serve as a basis for delimitation. Wide publicity should be given to voter registration, and the media need to play an active part in this process. The voters' rolls or registers should be available for public inspection well before polling day. As has been observed, voter registration is the first step in engagement by citizens in the electoral process and must therefore be conducted in a thorough and non-partisan manner (Pottie 2001). For many citizens in Southern African countries, voter registration is a primary contact with the state and the issue of voter identification documents is a matter of pride and significance.

Voter registration must be accompanied by civic or voter education. Civic education is indispensable in the development of a democratic culture. Responsibility for civic and voter education should not be left in the hands of civil society organisations alone. National electoral commissions have a vital role to play in the dissemination of voter education on a continuous basis. State institutions and the media need to engage in this process as well. Voter education should be aimed at empowering voters to make choices about who to vote for as well as at increasing their awareness about the basic features of the electoral process. Because illiteracy is a major hurdle, innovative methods that draw upon vernacular languages and symbols should be used to provide voters with the tools to enable them to make their political choices through the vote. More generally, this empowerment of voters should lead to increased participation in the governance

process through an increased capacity to insist on the accountability and transparency of those in government.

Conflict Resolution During Election Campaigns

Tension between contesting parties often rises sharply during electioneering periods. Unfortunately, this tension can explode into violence and disorder. It is even more difficult to address violence when the ruling party is implicated in orchestrating it. The ability to campaign without fear of violence is a vital element of free and fair elections and a basic political right that requires vigilance and commitment on the part of contesting parties, their supporters, the security forces and the electoral commission (Pottie 2001). It is therefore necessary to have a code of conduct that prohibits parties from engaging in intimidation or violence against supporters of a different party, from carrying or displaying weapons at election meetings, and from destroying voting or election material. Training party activists and enforcing the provisions of such a code could help reduce the type of violence that erupted during the Zimbabwe elections and promote respect for those holding differing views. Such efforts should continue in the post-election period to ensure peace and stability, no matter what the outcome of the elections may be (NDI 2000). However, codes of conduct should be accompanied by institutional arrangements to ensure that parties comply with them. For example, South Africa has a specially constituted court with final jurisdiction over infringements of the Electoral Act and the Code of Conduct.

It was significant that one of the recommendations of the Electoral Commission Forum (ECF) of SADC Countries who observed the 2000 Zimbabwe election was that conflict management and conflict resolution mechanisms should be developed to deal with election-related conflicts (ECF 2000). This is a valuable proposition, given the limitations of the current mechanisms. Currently, election petitions and grievances are made to the High Court in Zimbabwe. A petition alleging that an elected representative should be disqualified on the grounds of corrupt or illegal practice, irregularity and other related reasons may be presented to the High Court by an election candidate or a registered voter. One successful petition after the 1995 election put under the spotlight issues of the state of the voters' roll and the management of the polling and counting processes. After the 2000 election, more than 30 petitions were filed with the High Court, and more than half of these have still, in 2003, to be ruled on.

In the case of South Africa, political party liaison committees, operating at national, regional and sometimes local levels, are the first level at which parties can bring up complaints about each others' actions. However, if these committees are to function effectively they should not become the main forum for resolving disputes, this should be undertaken by conflict management committees (CMCs) (Pottie 2001). CMCs, whose members included specialist NGO representatives, police and army officers and election commission staff, were established in each

province about a month before polling. Their role was to mediate complaints and disputes brought by contesting parties. Clearly, electoral commissions have an important proactive role to play in initiating and sustaining conflict-resolution mechanisms so as to reduce instances of intimidation, violence and mistrust during and after election campaigns.

Balanced Media Coverage

In Zimbabwe it has been proposed that an independent media commission be created to ensure balanced coverage of party campaigns. Such a commission would spell out comprehensive guidelines for the media and ensure adequate and equal access to radio and television by the contending parties. In addition, it would receive complaints and hear concerns pertaining to media coverage.

> The media should carry comprehensive and impartial voter education, initiated primarily by the electoral commission, but also by nongovernmental organisations … Direct access to election broadcasts should be allocated on the basis of the popular support received by candidates' parties in recent elections. All candidates should receive some allocation of free airtime, even if their popular support is not apparently great. The electoral commission will need to monitor news and other coverage under the direct control of the media themselves …The election commission should convene a meeting of senior media representatives and politicians of all parties to develop an agreed code of conduct for reporting future elections …
>
> MMPZ 2001

These suggestions were echoed in earlier reports of observer groups to the 2000 Zimbabwe election. One such group concurred that 'there should be a Code of Conduct regarding media coverage and advertising during the campaign and election period either under the supervision of a specially-created body or under an independent electoral commission' (Commonwealth Observer Group 2000).

Funding of Parties and Their Campaigns

Access to funding determines the capacity of a political party to field a certain number of candidates and its access to the media through advertising, transport and other campaign necessities. As stated above, opposition parties in Zimbabwe were seriously disadvantaged by a lack of these resources, while the ruling party had the advantage in all these respects. For this reason, the ESC recommended that the funding of parties and candidates be reconsidered before the next election, a recommendation that appears to have been spurned by the ruling party and government authorities. Yet the provision of funding to parties is one means of

facilitating stability in the party system. As has been argued, there is a compelling case for party funding in Southern African countries:

> Careful management of the rules and regulations governing party funding deserves more attention in SADC. Inadequate party funding, particularly for opposition parties, can adversely affect the sustainability of multi-party electoral competition: most parties complain about inadequate funding, insufficient training for party members and party agents and opposition parties frequently complain that the party in power has unfair access to the use of state resources for partisan purposes.
>
> <div align="right">Pottie 2001</div>

A mutually agreed formula for party funding therefore needs to be worked out between parties and electoral authorities in a particular country. The formula may be based on the proportion of votes a party received in the previous election, and there may also be specific regulations concerning receipt of private and foreign funding. It is imperative that the stakeholders work out a funding formula that is equitable, transparent and workable, bearing in mind that democracy does not come cheap!

Need For a Single Electoral Authority

In this paper I have shown how the overlapping functions and roles of multiple bodies in an electoral system can hamper its effectiveness and legitimacy. One weakness in the Zimbabwean system is the concentration of power and authority in the Registrar-General's Office and in the Election Directorate, and the dilution of the supervisory role of the ESC. There has been wide-ranging debate in Zimbabwe itself concerning a suitable structure for an electoral authority. A single election commission was recommended by a workshop organised in 1997 by the ESC. The commission would be an autonomous body responsible for every stage in the electoral process from voter registration to the declaration of election results. A similar proposal for an independent electoral commission was inserted in a constitutional draft of the Constitutional Commission in 1999. The draft specified the functions of such a commission as:

- organising, conducting and supervising elections;
- registering voters and ensuring the proper maintenance of voters' rolls;
- determining the boundaries of constituencies;
- formulating and implementing civic educational programmes relating to elections.

It is unfortunate that thus far no concrete steps have been taken to establish such a commission with the power, authority and resources lacking in the current, marginalised ESC. A source of encouragement is the existence of independent commissions in other SADC countries, such as South Africa. It is hoped that the trend towards the creation of full-time, permanent and independent electoral bodies to administer elections will continue to gather momentum in Southern Africa. The role of these bodies in the consolidation of the democratic process through the supervision of political competition is a strategic one.

POSTSCRIPT: CONDUCT AND OUTCOME OF THE 2002 ELECTION

The 2002 presidential election was bedevilled by serious anomalies. First, there were major flaws relating to the voter registration process. For instance, the transparency of the electoral process was compromised by the Registrar-General's refusal to make public a consolidated voters' roll. This made it impossible for the public and political parties to inspect the roll and register any objections (ZESN, 2002). This rendered the election process open to abuse since it was impossible to identify voters or rectify the register. Indeed, there was a secret registration of voters beyond the official deadline of 27 January 2002 and a subsequent retrospective extension of the deadline to 3 March 2002 (Ibid).

Second, the production of ballot papers was not open to verification by political parties, monitors and independent observers. It was observed that extra ballot papers were printed and that election authorities refused to provide any definitive figure for the number of ballots printed (Ibid). In addition, legislative amendments were made in the run-up to the election to further compromise the limited independence of the ESC by demanding that the institution only recruit its election staff, including monitors, from the civil service.

Third, the Registrar-General and the ESC failed to provide clear and adequate public information on all aspects of the electoral process, particularly the location of polling stations. The public was not given sufficient notice to be able to identify the polling station nearest to their homes, and the opposition MDC was deprived of its right to deploy its election agents in the field in good time (Ibid).

Finally, invitations to domestic and international observer groups were selective and arbitrary. In many instances, local observers were denied access to polling stations on the grounds that they had not been accredited; indeed, most such observers deployed by ZESN, an election support network, were harassed by beatings, arrest and detention (Ibid). Violence and intimidation were widespread during the election campaign and immediately afterwards, with 54 lives lost between January and April 2002.

These were some of the factors that led the MDC to challenge the poll in the High Court – the hearing was still pending in March 2003. The case pits President Robert Mugabe, who claimed to have won by 1,68 million votes, against MDC leader Morgan Tsvangirai, who received approximately 1,25 million votes.

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