

ZIMBABWE'S 2018 HARMONISED ELECTIONS

An Assessment of Credibility

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ABSTRACT

This paper assesses the credibility of Zimbabwe's 2018 harmonised elections using an electoral cycle approach, arguing that the free expression of voters' choice is a sine qua non for credibility. A study of Election Observer Missions' reports (EOMs), media reports, and observation in relation to the 2018 elections, points to inadequate legal reforms; questionable independence and impartiality of the Elections Management Body (EMB); media bias; partisan distribution of aid; abuse of state resources; vote buying; partisan involvement of traditional leaders and of the military; intimidation; and suspicious results management. The paper concludes that the 2018 harmonised elections did not pass the credibility test owing to the cumulative effect of structural inadequacies. There is thus a need to comprehensively reform Zimbabwe's electoral laws, improve elections administration, and ensure a level playing field for contestants by addressing the political environment within which elections are held.

Keywords: voters' choice; harmonised elections; credibility; Zanu-PF; militarisation

INTRODUCTION

This paper assesses the credibility of Zimbabwe's 2018 harmonised elections in relation to the question: *To what extent can the outcome convincingly reflect the free choice of the voters?* The question is fundamental in that the basic purpose of an election is to afford the electorate an opportunity to choose leaders rather than have leaders imposed on them. An election based on induced preferences or manipulation of any kind cannot be adjudged credible as it cannot reflect the will of the people. In short, the free choice of voters is a *sin qua non* for a credible election.

The paper adopts the electoral cycle framework in which elections are considered to be a process encompassing the pre-election, election, and post-election periods. What happens both during and between political elections regarding the legal framework and election administration processes throughout the cycle affects the quality of an election. The thesis of the paper is that the 2018 harmonised elections did not pass the credibility test due to various factors. These include the questionable independence of the EMB; media bias; the partisan role of traditional leaders and of the military; politicisation of aid, abuse of State resources, and vote buying; intimidation; and suspicious results management.

LITERATURE REVIEW

There has been a significant rise in multiparty elections for the executive in Africa over the past two decades (da Rocha & Khuon 2018, p. 153), but the continent has had mixed experiences with elections. Credible elections have included Liberia's first post-conflict election in 2005 and Sierra Leone's first election in the absence of peacekeeping troops in 2007 (Sweeney 2014, p. 3). Ghana's 2008 presidential election reaffirmed that country's successful democracy after the ruling party, which had won the first round, handed over power to the opposition following the latter's victory in a runoff vote (*ibid.*). Botswana, Namibia and South Africa hold elections that are internationally recognised as free and fair (Soler-Crespo 2019, p. 10).

However, the United Nations Economic Commission for Africa (UNECA) contends that the increased regularity of multiparty elections in Africa has not necessarily enhanced their value (UNECA 2013, p. 1). Even in countries considered models of democracy in Africa, there have been concerns about the denial of rights, manipulation of votes and prevention of individuals, groups, and associations from contributing to and engaging in electoral democracy (Afolabi 2017, p. 14).

A common observation regarding elections in Africa has been the lack of integrity and credibility (Afolabi 2017, p. 13). Electoral malpractices have included vote-buying, politically-motivated violence, intimidation, sectarian mobilisation, and mud-slinging as different political parties seek to outwit each other (Chikwanha & Masunungure cited by Mapuva 2013, p. 88; UNECA 2013, p. 1). Incumbency and abuse of state resources have also been exploited in pursuit of victory (da Rocha & Khuon 2018, p. 153; Cheeseman cited by Bob-Milliar & Paller 2018, p.7). This was true even for Ghana, where prior to 2016, no opposition candidate had defeated an incumbent presidential candidate in the context of a strong incumbency bias (Bob-Milliar & Paller 2018, p.11).

This paper seeks to add a voice to the challenges of electoral democracy in Africa, focusing on Zimbabwe's 2018 harmonised elections. Zanu-PF has been

declared winner in successive elections despite contestations. In the Economic Intelligence Unit's 2018 rankings, Zimbabwe comes after South Africa, Namibia, Tanzania, Mozambique, and Angola because of decades of government violence and repression against opposition parties, and discredited electoral outcomes (Soler-Crespo 2019, p. 8).

BACKGROUND TO THE ZIMBABWE 2018 HARMONISED ELECTIONS

Zanu-PF victories have, since 1980, been ensured by several factors: government control of the electoral machinery, the media and ideology; overturning election results (in 2008); the curtailment of fundamental freedoms and massive constraints on the opposition; violence and intimidation with military backing; the benefits of incumbency and abuse of state resources as well as vote buying; and the manipulation of traditional leaders. Zanu-PF's hegemony has also been partly due to the first-past-the-post electoral system used since 1985. This was after proportional representation was abandoned as it was felt, at that time, to prevent a clear victory by African nationalists, thus enabling opposition parties to form a coalition government (Sithole & Makumbe 1997, p. 125). The winner-takes-all system has guaranteed Zanu-PF plurality rather than majority victory in seats and disposed the opposition towards intra-party competition rather than coalition against Zanu-PF.

Peculiarities of the 2018 Harmonised Elections

Vicious factionalism in Zanu-PF led to the intervention of the military and the activation of an impeachment process in Parliament, culminating in the resignation of long-serving Robert Mugabe on 21 November 2018. Emmerson Mnangagwa, sworn in on 24 November 2017, replaced Mugabe and made repeated promises of free, fair, credible, and peaceful elections. In the main opposition, the Movement for Democratic Change (MDC-T), Nelson Chamisa controversially succeeded Morgan Tsvangirai, who had died on 14 February 2018. There were contestations regarding which of the three MDC-T vice presidents was to take over, resulting in a party split.

Opposition parties had hoped to increase their prospects of dethroning Zanu-PF by forming a coalition (Mungwari & Vhutuza 2017, pp. 172, 173). Fragmentation cost the opposition the presidency in March 2008 when the main opposition MDC under Morgan Tsvangirai scored a plurality but fell short of a majority (Afrobarometer 2018, p. 1). However, attempts at an umbrella coalition failed ahead of the 2018 elections, and instead the largest splinter became the Chamisa-led MDC Alliance.

The elections also recorded the highest number of parties and candidates to contest in the presidential, National Assembly, and local authority elections. However, these were essentially a contest between Zanu-PF and the MDC Alliance, reflecting the binary nature of electoral politics that had hitherto been dominated by Zanu-PF and the MDC.¹

The elections were held in a largely peaceful environment. Fundamental freedoms of movement, speech, and association were respected more than in previous elections, largely without the selective application of restrictive legislation such as Public Order and Security Act (POSA) and Access to Information and Protection of Privacy Act (AIPPA) (Catholic Commission for Justice and Peace (2018, p. iv). As a result, political parties held virtually unhindered rallies across the country. One notable exception was when former vice president and National People's Party leader, Joice Mujuru, and her supporters were attacked by suspected Zanu-PF activists in Harare on 1 February (*NewsDay* February 2018). There were also instances where people were forced to attend or blocked from attending rallies, and supporters of opposing parties disrupted rivals' rallies (Zimbabwe Election Support Network (ZESN) 2018a). Invited observers included those from the Commonwealth and European Union – a wider array than since the early 2000s.

In a bid to minimise the perception that it was biased, the Zimbabwe Electoral Commission (ZEC) also tried to engage stakeholders, particularly political parties, through Multi-Party Liaison Committees (MPLCs) (*The Sunday Mail* 2017). However, the MPLCs met infrequently at national level and generally did not serve as a forum where decisions were made, undermining their effectiveness (ZIEOM 2018, p. 9). Some political parties also expressed dissatisfaction with the manner in which ZEC conducted itself and reacted to issues during meetings (*ibid.*).

The adoption of biometric voters' registration (BVR) produced a new and cleaner voters' roll (ZESN 2018b). The Electoral Act Amendment of 28 May 2018 introduced a raft of significant amendments, including:

- the adoption of polling station-based voting (previously, voting was ward-based meaning a voter could vote from any polling station in their ward, sometimes resulting in multiple voting);
- a 10% threshold for the number of ballot papers to be printed in excess of the number of registered voters; and
- a detailed code of conduct for political parties, candidates, and other stakeholders.

1 Despite splits at different junctures, a splinter group of the MDC would always be the main opposition in elections. In the 2018 harmonised elections, the Khupe-led MDC-T was far less popular than the MDC Alliance led by Chamisa.

However, the extent to which polling station-based voting would be productive in Zimbabwe remained questionable. Addressing Zanu-PF rallies ahead of by-elections in 2015 and 2016, Mnangagwa and Saviour Kasukuwere threatened retribution, telling voters that polling station-based voting would expose which community had sold out (*The Standard*, 24 January 2016; VOA 2 December 2015).

Lack of Political Will to Reform

Although reforms were instituted as noted above, individuals in the ruling party were reluctant to allow electoral reforms. After the 2013 harmonised elections, the opposition decided not to participate in by-elections without electoral reforms. In 2016, opposition parties agreed that reforms were needed to guarantee the secrecy and security of the vote and the voter, entailing amendments to the Constitution and laws to facilitate free and fair elections (Charamba 2016). This was expressed through a unified platform they had created to push for electoral system reforms, the National Electoral Reform Agenda (NERA).

In April 2018, the MDC-T Secretary General Douglas Mwonzora agreed to amendments to the Electoral Act to level the playing field, but argued that these proposed amendments did not touch the 'real fundamentals' in terms of election management. He singled out the ZEC's logistics committee which he said remained in the hands of the state, run by officials seconded from state security (Chidza 2018). Mwonzora called for the demilitarisation of the committee if elections were to be truly credible, free, and fair.

However, in June 2015 Mnangagwa had told a rally in Manicaland that Zanu-PF would not agree to reforms but would go ahead with elections and continue to rule forever (Zulu 2015). For Zanu-PF, the 2013 Constitution had fully addressed electoral reform issues. Party stalwarts Patrick Chinamasa, Jonathan Moyo, and Ziyambi Ziyambi agreed that no legislative reforms were needed as the law allowed for democratic elections. Moyo and Chinamasa noted that the Constitution was negotiated with opposition involvement. Moyo added that a majority had supported the Constitution in a referendum (*The Herald* 2016; *The Chronicle* 2016), interpreting the call for reforms as 'clear codes to say come with reforms that will ensure that you are out' (*The Chronicle* 2016). Echoing Moyo's sentiments, Paul Mangwana, then Zanu-PF's Deputy Secretary for Legal Affairs, said the opposition should push for electoral reforms as Zanu-PF could not be expected to 'reform itself out of power' (Southern African Political Economy Series (SAPES) and National Endowment for Democracy (NED) Conference 2017).

Despite the imminent harmonised elections, the ruling party remained adamant that no electoral reforms were needed. Ziyambi, minister of Justice,

Legal, and Parliamentary Affairs, said that there was no need to ‘just waste resources doing cosmetic changes to the legislation on issues that are already materially covered by the existing legislation’ (*NewsDay* 2018). Closer to the election, Mnangagwa said of the opposition march on 4 June 2018 demanding electoral reforms ‘They are enjoying democracy which exists in this country. I think they are so happy that there is an environment where they can express themselves right, left and centre’ (*The Herald* 2018). He said that the playing field was ‘perfectly level’ as he had recently signed into law the 28 May Electoral Act Amendment. The pertinent question was the extent to which piecemeal eleventh-hour reforms, eventually agreed to by a reluctant Zanu-PF, would have a material effect on the elections.

ASSESSMENT OF THE CREDIBILITY OF THE 2018 HARMONISED ELECTIONS

This paper does not substantiate the ‘theft by numbers’² thesis. The MDC Alliance did not deploy party agents nor attempt a Parallel Vote Tabulation (PVT), but could not support this claim against Zanu-PF when it challenged their victory in court. The paper therefore focuses on other aspects that may have worked against the free choice of voters.

Electoral Malpractices in By-elections

Following the electoral cycle approach, the paper starts with the by-elections held after the 2013 harmonised elections. Reports by observer groups indicate a number of irregularities including incidents of partisan distribution of food aid; the misuse of state resources by the incumbent; the partisan role of traditional leaders in favour of Zanu-PF; and intimidation (ZESN 2015, p. 14; ZESN 2017, p. 14; CCJP 2018). Some of these malpractices had been observed in previous elections and others were a precursor to what would happen closer to the 2018 harmonised elections.

Questionable Independence and Impartiality of the Elections Management Body

An EMB that is not independent and impartial cannot be trusted to respect the voters’ choice or election outcome if the favourite does not emerge victorious.

2 The phrase was used by Makumbe (2009) arguing that ZEC manipulated figures to ensure a victory for Zanu-PF in 2008.

The non-partisanship of independent commissions is guaranteed in Section 236 of Zimbabwe's Constitution.

Public confidence is critical to the integrity of elections; perceptions matter in elections. Yet ZEC suffers from residual mistrust because of the manner in which it has conducted previous elections. Makumbe (2009, p. 132) asserts that ZEC's establishment was controversial from the outset and the commission was biased towards Zanu-PF. Ahead of the 2018 elections, a significant number of stakeholders perceived ZEC as impartial towards Zanu-PF (ZESN 2018d; ZESN 2018e; Afrobarometer 2018, p. 35). Executive interference in ZEC (ZESN 2018c, p. 21) was of concern. But perhaps the most contentious issue was the militarisation of the ZEC which opposition political parties demonstrated against between 2016 and 2017, claiming that it compromised the independence of the commission.³ This was denied by Chinamasa who argued that there 'never have been serving members of the uniformed forces working for ZEC' (Charamba 2016).

The militarisation of the EMB dates back to the Electoral Supervisory Commission (ESC) that administered elections before the formation of ZEC. Major-General Douglas Nyikayaramba was appointed as head of the ESC and was said to have resigned from the army, yet he later returned to his old job. The ZEC conceded less than 15% presence of former military personnel (*NewsDay* 2018). The appointment of former army Major Utoile Silaigwana as Chief Elections Officer in 2018 further heightened concerns about ZEC's militarisation. The Crisis in Zimbabwe Coalition (2018) expressed concern that Silaigwana was among those leading to the militarisation of the EMB as he had joined the ESC when he was still in the army. Apart from his military background, CiZC also expressed concerns that as part of the 2008 ZEC secretariat, Silaigwana was complicit in the commission withholding the March 2008 election results for nearly a month, resulting in a heavily contested electoral outcome.

Constance Chigwamba, who was replaced by Silaigwana, had her employment contract terminated five months before the election. She returned to the public service with the unanimous agreement of ZEC commissioners that the move would guarantee the independence of the commission (*DailyNews* 2018). Chigwamba's resignation followed that of Justice Rita Makarau as ZEC chairperson under unclear circumstances three months previously, on 7 December 2017. Justice Priscilla Chigumba, who replaced Makarau, argued that the ZEC policy did not preclude the commission from employing retired and inactive former military members. However, the history and loyalty of such persons justifiably raises fears, particularly after the controversial military intervention of November 2017 revealed the military's role in elections.

3 As of February 2017, NERA consisted of 13 opposition political parties.

Confirming the militarisation of the commission, the former Minister of Home Affairs, Dumiso Dabengwa, averred:

The staffing in ZEC comprises people who *are* and have been in security, people who take orders to do those vote manipulations... it is the army, police, and other security personnel that actually administer the process of voting. We also recommend that their influence and participation in elections should be done away with such that we have proper elections that are run by an independent administration.

(Muvundusi 2017)

Another former Zanu-PF senior cadre, Rugare Gumbo, agreed, saying: 'We need professional people handling the elections, it's time all the people from the military and state security get out of election management' (*DailyNews* 22 May 2017). The involvement of the military in elections was also confirmed by Namibian President Hage Geingob, who indicated that Mnangagwa and the military had trained them on elections when they visited Zimbabwe on a learning mission shortly before gaining independence (Mhlanga 2017).

In the ZIEOM assessment, the presence of a significant number of former military personnel in ZEC management positions undermined trust in the EMB (2018, p. 9). Not surprisingly, the African Union Election Observation Mission (AUEOM) found a lack of confidence among many opposition party members regarding the impartiality of ZEC and its ability to conduct transparent and credible elections (AUEOM 2018, pp. 3–4).

Media Bias

According to Makumbe, 'the mass media have the task of effectively and impartially informing the electorate on the character, views, policies and other relevant details of candidates and/or their parties' (2006, p. 49). Section 160J of the Electoral Act of Zimbabwe requires all media outlets, both print and electronic, to ensure that all political parties and candidates are treated equitably, in terms of the timing and prominence of coverage accorded to them, in the news media (Media Monitors 2018c, p. 49). This was not complied with in the 2018 harmonised elections.

There was no equal access to media for all parties and the coverage of political parties on the public broadcaster was not equal (CCJP 2018, p. 15; Eminent Persons Observer Mission Report to the Zimbabwe Harmonised Elections 2018, p. 16; SADC PF EOM 2018, p. 8). The ZIEOM observed that state-owned media

showed systematic and extreme bias in favour of the ruling party (2018, pp. 9–10). Coverage on radio and national television was disproportionately biased towards the ruling party and unfair towards the opposition (Media Monitors 2018c, pp. 50). In six weeks, Zanu-PF had 52% coverage; MDC Alliance 19%; while 22% went to the other 47 political parties that were also covered (ibid.). Table 1 below shows the coverage of presidential candidates in all media while Table 2 shows media coverage of Zanu-PF and MDC Alliance in state-owned media.

Table 1: Coverage of presidential candidates in all media

Candidate	Political party	% coverage
Emmerson Mnangagwa	Zanu-PF	57
Nelson Chamisa	MDC Alliance	15
Nkosana Moyo	APA	5
Others		23
Total		100

Source: Media Monitors 2018

Table 2: Parties' coverage in the State-owned media

Political party	% coverage	
	<i>State-run newspapers</i>	ZBC
Zanu-PF	76	48
MDC Alliance	17	6

Source: Media Monitors 2018

Tables 1 and 2 clearly indicate that Zanu-PF received disproportionately high media coverage. Throughout the campaign period, Zanu-PF adverts predominated on all radio stations and the party accounted for 93% of advertising space on ZBC stations (ibid.). Zanu-PF received largely positive coverage in the government-controlled media whereas MDC Alliance received more negative coverage than other parties (ibid.). The MDC Alliance presidential candidate was often portrayed as a liar and immature. Mainstream media, both private and public, print and electronic media was polarised in its election coverage (SADC PF EOM 2018, p. 8). A media monitoring committee established by the ZEC was largely ineffective in identifying offences and in enforcement, and therefore did not affect coverage (ZIEOM 2018, p. 10).

Partisan Distribution of Aid, Abuse of State Resources, and Vote Buying

Popular choice may also have been influenced by vote buying, the partisan distribution of aid, and abuse of state resources. The Presidential Input Scheme was evidently abused by Zanu-PF for vote buying. Significantly, then Zanu-PF Member of Parliament and minister, Jonathan Moyo, revealed in a public lecture at SAPES Trust on 1 June 2017 that despite the bad state of the economy, his party was difficult to dislodge 'because it was organically linked with the people'. Moyo pointed out that 1.6 million households had been given support through the scheme for the current season in a country where the livelihoods of 1.8 million households in Zimbabwe (nine million people) depended on land. While addressing a campaign rally in Mutoko on 9 June 2018, Zanu-PF presidential candidate, Mnangagwa, made the following comment about the same scheme:

Those we gave farms under the land reform programme can join command agriculture where we give everything, though of course they will pay back. For the rest, 1.8 million families countrywide, we used to give 5.6 million USD each year, we gave 30 million last year. But this coming year it will be 487 million so that people can get free inputs and have enough to feed themselves and sell the surplus to the Grain Marketing Board.

Mnangagwa made copious promises to communities when campaigning. For example, in Mutoko he said that since the area was not conducive for farming but had minerals, 'artisanal miners' as he referred to them (no longer called '*makorokoza*⁴') would be supported. Instead of having to get licences before they could mine, Mnangagwa said that they now had to mine first to be able to raise money for the licences. Regarding the black granite that is abundant in Mutoko, he promised that his government would introduce a law requiring companies to partner with black people and that all communities around a mining area would benefit from the mining. For the past seven years the community had wanted a bridge in the area mended, and he promised to tell Minister Gumbo to do so by Parliament's next meeting.

Masunungure observes that the use of state-financed patronage has been a constant in Zanu-PF's election strategy (2009, p. 68). The CCJP notes that food aid, agricultural inputs, access to land and local resources, and local employment opportunities, livestock and everything else needed for livelihoods have been politicised over the past decade and used to coerce voters to support Zanu-PF (CCJP 2018, p. iv). Yet this use of public resources as a form of patronage to sway

4 A derogatory name referring to illegal miners.

voters is not an option for opposition parties, especially in rural areas (Sachikonye 2005, p. 70). In the CCJP's observation (2018, p. vi):

Often, the State has ceased to exist beyond the provincial levels. Political party functionaries – some of whom have been recruited within the traditional leadership, civil and security service – take charge of all the State welfare and livelihood support interventions from the province to the village level. As such, some poor and marginalised citizens, who are the majority of voters, have been heavily coerced to give up democracy and political independence to secure their residential places and benefit from welfare and humanitarian aid.

Ahead of the 2018 elections, EOMs noted the abuse of state resources and politicisation of aid (CCJP 2018; ZIEOM 2018, p. 9). The CCJP records most of the cases. Those who were not Zanu-PF members or supporters were explicitly told not to bother attending distribution gatherings as they would not receive anything. In one case, a desperate family pleaded for a chance to rejoin Zanu-PF so that they could benefit (CCJP 2018, p. 10). The CCJP notes many other similar cases where well-known opposition party activists were denied food aid while some families had to switch political parties and liaise with the headmen to receive food relief. In this way Zanu-PF courts voters, particularly in rural areas. The rural voter has received, and will retain, largesse through affiliation to Zanu-PF and as a result is at the mercy of Zanu-PF and may exercise his or her vote accordingly.

Partisan Role of Traditional Leaders

Against the principle of non-partisanship enshrined in Section 281(2)(a-c) of the Constitution of Zimbabwe, the institution of traditional leadership has been an appendage of Zanu-PF. Traditional leaders played a partisan role in the 2018 harmonised elections (ZESN, 2018c, p. 10; ZEOM 2018, p. 9). The CCJP notes cases of traditional leaders who were coerced into encouraging their villagers to vote for Zanu-PF. Village heads were instructed to threaten villagers with the loss of land if they did not vote for Zanu-PF, and those village heads accused of supporting candidates opposing Zanu-PF were replaced (*ibid.*).

The abuse of traditional leadership was a well-intended strategy. Addressing a rally in Mutoko on 9 June 2018, Mnangagwa counselled those who hoped to be elected to Parliament:

If you are wise, for those who are campaigning to be MPs, let me tell you a secret. If you go to the Chief in your constituency with a new

blanket, groceries, and a goat and say to him, Chief I want to work in your area, humbling yourself, clapping your hands in honour. If he receives, then you know 50% is done because the Chief will call his headmen and *sabhuku's* and tell them that he has received you and ask them to do the same. That way you will easily find your way to Parliament.

He advised traditional leaders to work with Zanu-PF since their authority was limited to their respective areas and not the whole country, unlike Zanu-PF. Traditional leaders therefore have a critical role to regiment voters in rural areas and they did so for the 2018 harmonised elections. The Election Resource Centre tried in vain to use the courts to compel the president of the Chief's Council to retract statements, implying that traditional leaders have always supported Zanu-PF and would do so again in 2018 (Zimbabwe Legal Information Institute). Heal Zimbabwe Trust (2018) notes that traditional leaders served as party agents for Zanu-PF at some polling stations, and at others literally force-marched people to vote. The use of traditional leaders is effective in a closely-knit rural community and Zanu-PF is organised down to the smallest cell grouping. Also, the possible impact of traditional leaders should be properly understood as traditional leadership is the immediate form of government in Zimbabwe's rural areas where more than 68% of Zimbabweans reside (CCJP 2018, p. 7). Given the power and influence of traditional leaders, the strategy to mobilise through them probably had considerable influence on voters' choices.

Partisan Role of the Military

According to Masunungure (2009, p. 69), democracy requires that the military and security organs of the State should be non-partisan and not serve the state or political actors, whether as individuals or parties. When the military interfere in elections, the peoples' choice is likely to be adversely affected. Historically, the military has covertly and overtly supported Zanu-PF at different junctures in Zimbabwean elections. Zanu-PF used its military wing, the Zimbabwe African National Liberation Army (ZANLA), in the build-up to the 1980 elections (Sithole & Makumbe 1997, p. 134). Sachikonye notes that the Joint Operations Command (JOC) comprising commanders of the army, air force, police, intelligence, and prisons became prominent in political and election strategies in the post-2000 era (2009, p. 82). Dabengwa commented on the role of the JOC and the military in elections:

It is obvious that JOC is in control of the country. Nothing can be done without reference to that security system that was created since

2008. After the results of the 2008 election were cleared, it was JOC which said they were not to be announced over a period of time until they were able to manipulate everything and come up with a result that would keep Zanu-PF government in power. They (JOC) are physically there. They are deployed each time there are elections. Army commissars go around to influence voting in each constituency. Besides that, it is the army, police and other security personnel that actually administer the process of voting.

(Muvundusi 2017)

Endorsing Dabengwa's comments were reports of a sudden increase in army and police presence in Chimanimani West constituency ahead of a by-election held on 26 November 2016 (Zimbabwe Peace Project By-elections Update 2016). Following the determinative role of the military in November 2017, the question of the role the military would play in the 2018 harmonised elections remained fundamental. But the enthusiasm in the country, particularly Harare, because Mugabe was finally going, led many to overlook the implications of the role the military played at a time when the end appeared to justify the means.

There were however reservations regarding the role of the military as well as the so-called 'new dispensation' on free, fair, and credible elections (ZESN, 2018f p. 37). The ZIEOM notes that, while the Zimbabwe Defence Forces (ZDF) stated that it would not interfere in the elections, it did not clearly commit to respecting the outcome regardless of the winner (2018, p. 9). The ZIEOM also notes incidents of military personnel in civilian clothing engaged in politically intimidating activities. A pre-election Afrobarometer survey conducted between June and July 2018 showed that 44% of Zimbabwe's population believed that the security forces would not accept a ruling party loss (ibid.).

The 2017 military intervention dubbed 'Operation Restore Legacy' arguably confirmed the stakes of the military in party and electoral politics. In a document attached as Annexure 1 to its petition to the AU and the SADC, the New Patriotic Front (NPF)⁵ notes the following as part of the rationale for 'Operation Restore Legacy':

More worrisome were the divisive, manipulative, and vindictive acts by a cabal (the so-called G40 cabal that was characterised as negative, counterrevolutionary elements who had hung around President Mugabe) which threatened the electability of Zanu-PF in

5 The NPF – formed after Mugabe was dethroned - comprised disaffected members of a faction (the so-called G40) that was violently opposed to the so-called 'Team Lacoste' which supported Emmerson Mnangagwa as Mugabe's successor.

the impending 2018 harmonised elections, thus raising the spectre of an electoral defeat which harkened [sic] to 2008 electoral crises and more broadly, to a similar fate suffered by Zambia NPF.

(NPF Petition to the AU and SADC 2018, p. 8)

The rationale of military intervention as presented by the NPF supports Masunungure's observation (2009, p. 69) that owing to the history of the protracted liberation struggle of the 1970s, there is a symbiosis between the military elite and the political elite mediated by Zanu-PF. He asserts (*ibid.*, p. 70) that:

In the new party-state, many who constitute the military and security elite have found it difficult to dissociate themselves from the party... In this complex scheme of things, when the party is in trouble, it is incumbent on the soldier class to come to the party's aid.

Professor Miles Tendi, who has extensively researched and published on the military in Zimbabwe, states that:

In 2006, I interviewed high-ranking members of the military in Zimbabwe, including Chiwenga. I can authoritatively state that sections of the Zimbabwean military with liberation war experience, which are dominated by generals such as Zvinavashe, Chiwenga and Perence Shiri, have never been professional. They have always had a stake in national politics. They see themselves as 'guardians' of the legacy of Zimbabwe's liberation struggle and of the country's sovereignty. They believe the country's independence and sovereignty are only safe in Zanu-PF's hands.

(*The Guardian* 19 June 2008)

The involvement of the military in Zanu-PF's campaign for the 2018 elections was later hinted at by some Zanu-PF politicians. Special advisor to Mnangagwa, Christopher Mutsvangwa, was amongst those who led the civilian process of popularising and legitimising the November 2017 military intervention. He allegedly claimed that Zanu-PF would mobilise for and win the 2018 elections working with the Zimbabwe Defence Forces (Mushava 2017). Mutsvangwa later argued that he was misquoted (*The Zimbabwe Mail* 19 December 2017). But similar remarks were made by others in Zanu-PF. In a statement construed to be a reminder of the role he played in previous elections, Zanu-PF Political Commissar, Retired Lieutenant General Engelbert Rugeje, addressed party supporters in January 2018 as follows:

We are getting towards important elections this year. I came here in 2008 when things were bad. I don't know where Masvingo had got this spirit and I came and sorted things out. I came back again in 2013 and led the campaign team and I moved around the province addressing rallies and the results were impressive and this saw the current party president [Mnangagwa] giving Masvingo the post of political commissar. I expect you to give ZANU-PF all seats in Masvingo now that I am full time in politics.

(Bishi 2018)

Rugeje's statement betrays the partisan role of the military in elections; though he was still with the military, he intervened to 'sort things out and lead campaign teams', addressing rallies in both the 2008 and 2013 harmonised elections. In 2016, Josiah Hungwe, Minister of State for Masvingo Province, was quoted in *The Zimbabwean* (5 December 2016):

Yes, we can go to war. We can hire our army Our soldiers can come in to help us. We will never allow opposition political parties to rule this country. We are going to have President Mugabe as our candidate in 2018 and his predecessors must have war credentials. Don't forget what Rugeje did in Masvingo in 2008 ... we can call him again in 2018.

In December 2017, Hungwe said that Zanu-PF would campaign side by side with the army as in the Bible kings ruled with the army on their side (Pindula 2017).

An even more threatening statement was made by then Deputy Minister for Finance, Terrence Mukupe. Addressing party supporters at a Zanu-PF cell meeting on 23 May 2018, he said 'It is difficult to imagine that the military forcibly seized power from Mugabe to hand it over to a kid talking about spaghetti roads and impregnating all women' (Ndawana 2018). This implies that the military would not countenance the electoral defeat of Zanu-PF.

The NPF petition (2018, p. 8) claims that over 2 000 commissars comprising retired senior officers from the army were embedded in communities across the country before the elections. Closer to the election, the Zimbabwe Democracy Institute (ZDI) published a report corroborating the deployment of the military in communities (ZDI 2018). This was echoed by the opposition MDC Alliance and Joice Mujuru who wrote to Mnangagwa calling for the withdrawal of 3 000 soldiers from communities (Mhlanga 2018).

On 1 August, a day after the elections, the military intervened to quell protests by MDC Alliance supporters who accused ZEC of attempting to rig the

election by colluding with Zanu-PF in delaying the announcement of presidential election results.⁶ The military's use of a disproportionate amount of force and live ammunition resulted in the death of at least seven civilians. The military reportedly imposed unofficial curfews, indiscriminately assaulting people in some high-density suburbs, particularly in Harare. The military involvement in the pre-election period and elections administration may have influenced voter choice.

The preponderant role of the military has been the basis of calls for security sector reforms from civil society and opposition political parties in Zimbabwe. But Knox Chitiyo and Steve Kibble (2014, p. 22) note that the military and Zanu-PF made it clear that security-sector reform is not an option. Chitiyo quotes one senior ZNA officer in a confidential interview (*ibid.*):

Why should we reform? We are a professional organization which has operated in Zimbabwe and in operations across Africa. So what is there to reform? To us security sector reform means regime change, so that is not going to happen [...] If the British want to talk to us, then they must forget about this security sector reform.

With Mnangagwa in power, it is difficult to fathom the possibility of even a modicum of genuine security sector reforms. At a time when he was Defence Minister, Mnangagwa said:

As long as we are here in leadership, we will make sure the Defence Forces of the Republic of Zimbabwe will continue to defend the national interests and to safeguard our values and ideals which our people died for. They want to hear that you are compliant, that you accept security sector reforms. ... They would want you to say you are non-political, you must serve any government.

(NewsDay 2013; The Herald 2013)

Yet the continued involvement of the military in elections raises fears that with militarised elections, 'if the ballot produces an outcome that is incongruent with the expectations of the gun wielders, then the bullet will shred the ballot' (Masunungure 2009, p. 84), alleging 'that in the political world of Zanu-PF, the ballot is subservient to the bullet which is supreme'; arguing that this view is the supreme vitiation of elections as an expression of democratic choice (*ibid.*).

6 Though the Constitution provides for the announcement of election results 'as soon as possible after the close of the polls', ZEC was still within the five-day period provided for in the Electoral Act to declare presidential election results.

Intimidation

Intimidation has been a constant tactic in Zanu-PF's electoral campaigns since 1980 (Kriger 2005). EOMs concur that ahead of the 2018 harmonised elections the environment was largely peaceful with minimum levels of overt violence (CCJP 2018, p. 4; ZESN 2018c, p. 42; ZIEOM 2018, p. 9). A peace pledge was signed for the first time, with the coordination of the National Peace and Reconciliation Commission, whereby political parties committed to peaceful campaigns. However, not all conditions for peaceful elections were met. *SADC Principles and Guidelines* (2015, p. iii) define 'peaceful' to mean:

electoral pro(cesses [that] are punctuated by calm; are undisturbed and untroubled by violence or intimidation; are conflict-free and generally exude an atmosphere where all citizens are free and unhindered to express their right to vote, are able to offer themselves without intimidation for election, communicate freely their electoral choices, and enjoy freedom of assembly and association.

While few cases of overt violence were recorded, covert violence or intimidation was rife. This includes deliberate misinformation that BVR would make it possible to track votes, and threats of retributive violence reminiscent of those which marked the campaign period ahead of the 2008 runoff elections, should Zanu-PF lose the elections (ZESN 2018, p. vi; ZIEOM 2018, p. 9). ZESN notes that BVR-related intimidation, which misled registrants into losing faith in the secrecy of the ballot, was prevalent in most villages and some urban centres. Traditional leaders, Zanu-PF district chairpersons, Zanu-PF councillors, members of parliament, and other party officials were implicated (ZESN 2018, p. 38). Voters were also threatened with unspecified retribution in cases of non-compliance while the perpetrators of harassment and intimidation did so with impunity (*ibid.*).

The CCIP argues that the strategy of intimidation, isolation, and violence has been similar and implemented at almost the same time across the country, pointing to the fact that it was deliberate and well planned. Those structures, institutions, and individuals implicated were rewarded through a well-resourced patronage system (ZESN 2018, p. 4).

On election day in the 2018 elections, named Zanu-PF members threatened voters with violence in the event of a runoff in Mt Darwin Ward 34 (Heal Zimbabwe Trust 2018). Zanu-PF won with 1 580 votes followed by the MDC Alliance with 307 votes. The probable impact of intimidation on voter choice should not be underestimated. In a survey conducted by the CCJP ahead of the 2018 elections, more than 95% of respondents, especially those from peri-urban

and rural areas, indicated that elections meant fear, violence, coercion and intimidation, especially by traditional leaders and political activists, as well as the burning of houses and killing of political opponents (ibid.). Elections reminded respondents of the violent 2008 elections when they had to vote as instructed. Elections were also associated with internal displacements, especially in the event of a presidential runoff when they might have to desert their homes and become internal refugees after voting for their preferred candidate.

Assisted Voting

Observers reported high levels of assisted voting nationwide which could have compromised the secrecy of the ballot (IRI/NDI ZIEOM 2018, p. 10). Assisted voting is a concern in Zimbabwe's elections with a history of cases where illiteracy has been feigned, including by teachers, at the behest of Zanu-PF activists who would then become voting assistants. In the harmonised elections, Heal Zimbabwe Trust (2018) reported that a named Zanu-PF supporter assisted several people to vote at Mutauto Secondary School polling station in Buhera Ward 18. At Somthanyelo polling station in Matebeleland North, at least six youths who had completed 'O' Level were assisted to vote by the same elderly persons before this was noticed and stopped by the Presiding Officer (CCJP 2018, p. 41). Zanu-PF possibly relied on the same tactic, contrary to the practice stipulated in the ZEC 2018 elections manual that a confidante can assist only one person.

Suspicious Results Management

Suspicious results management by ZEC diminishes the credibility of the 2018 elections. In terms of Article 4.1.12 of the SADC Principles and Guidelines, member states should ensure that all electoral stakeholders accept the election results to have been free, fair, transparent, credible and peaceful, as proclaimed by competent and independent national electoral authorities in accordance with the respective laws of the land. Because losers may refuse to accept results, efforts must be taken to ensure the incontestability of election results. This can be partly achieved by having EMBs that meet the above criteria.

According to the EU EOM (2018, p. 35), citing the earlier lack of V11 forms, ZEC officers in Makoni North were still completing the forms two days after election day in the absence of polling staff and party agents. Further, ZEC revised the election results and there were mistakes in the final set of results, though these were found to have no material effect on the overall outcome of the election (ZESN 2018c, p. 67). In a PVT it conducted, ZESN found the results announced by the ZEC to be within its projections (ZESN 2018). Without evidence to back

claims of vote manipulation, the MDC Alliance found it difficult to convince the Constitutional Court to reverse the declaration of Mnangagwa as the victor. However, inconsistencies in the results understandably raised fears that the people's free choice may have been disregarded as even the ZESN PVT could not confirm whether or not there had to be a runoff. Both the Commonwealth and European Union recommended transparency and verifiability in the results management process (Commonwealth Observer Group 2018, p. ix).

The Court Case

Article 5.1.4 of the *SADC Principles and Guidelines* requires member states to ensure justice in the resolution of disputes arising from elections by means that include constitutional and electoral courts. In 2018 the MDC Alliance filed a petition seeking to overturn the ZEC decision to announce Mnangagwa as the winner of the election on the basis of alleged rigging. The case was dismissed because the complainant could not prove the case beyond doubt, as the fixation on numbers and disregard of other issues pointed to an unfair environment. The judiciary has been identified as one of the key institutions that experienced a devaluation of their powers and autonomy from 2000 to 2008 (Bratton & Masunungure 2008, p. 46; Sachikonye 2009). Article 4.1.13 of the *SADC Principles and Guidelines* calls for the condemnation and rejection of non-acceptance of results, after due process, as announced by the legally competent authorities. The key question remains whether the Constitutional Court could be adjudged competent after commenting on the position the opposition continues to hold, ignoring the court judgement and maintaining that Mnangagwa is an illegitimate president without a mandate from the electorate.

Verdict

John Makumbe (2006, p. 46) asserts that 'in some, if not many, African countries, the ruling party has mastered and perfected the art of manipulating electoral systems with the primary objective of deceiving the people into believing that they govern themselves'. He argues that 'For the most part, the incumbent party elites are able to thwart the people's choice and desperately hold on to political power' (ibid.). The paper argues that when the cumulative effect of the issues discussed above is considered, voters may not have been able to express free choice in Zimbabwe's 2018 elections.

Owing to some of these discussed malpractices, ZESN concludes that 'the integrity of the 2018 harmonised elections was undermined by an uneven playing field' (ZESN 2018c, p. 71). The ZIEOM (2018, p. 6) asserts

... while some significant incremental improvements were demonstrated in the 2018 elections, Zimbabwe has not yet established a process that treats all political parties equitably and allows citizens to be confident that they can cast their vote and express their political opinion free from fear of retribution.

In short, the 2018 elections in Zimbabwe did not pass the credibility test.

CONCLUSION

Credible elections should afford voters free choice when they cast their ballot, without manipulation of any kind. While there were notable improvements in Zimbabwe's elections (as discussed in the paper), the 2018 harmonised elections still lacked credibility.

Evidence, particularly in the pre-election and election periods, suggests that some voters may not have been able to exercise free choice through the ballot box. Piecemeal legislative reforms were instituted at the eleventh hour despite Zanu-PF having been initially reluctant, insisting that the situation was fair. But besides legislative issues, the political environment still favoured Zanu-PF with a questionable independence of the ZEC. There was also voter intimidation or covert violence; media bias; the partisan role of traditional leaders; politicisation of benefits, abuse of State resources, and vote buying; and the involvement of the military. The immediate post-election period compounded these suspicions.

While it may not be easy to quantify the cumulative effect of these concerns, there is reason to conclude that they diminished the credibility of the elections. Zimbabwe's electoral laws need comprehensive reform, with improved election administration to ensure a level playing field.

RECOMMENDATIONS

The study recommends the following:

- Strengthening ZEC's independence and impartiality by freeing it from executive interference, addressing militarisation concerns, and meaningfully engaging stakeholders;
- Ensuring equitable treatment, in terms of timing and prominence of coverage, of all political parties and/or electoral candidates in all print and electronic media;
- Legislating and enforcing laws against partisan aid distribution, abuse of State resources, and vote buying in elections;

- Enforcing constitutional provisions on non-partisan traditional leaders and establishing an integrity and ethics committee, envisaged under Section 287 of the Constitution, whose responsibilities would include dealing with complaints against traditional leaders;
- Instituting security sector reforms to stop the military from meddling in electoral politics, and setting up an independent complaints mechanism as enshrined in Section 210 of the Constitution to allow for receiving, investigating, and remedying the public's complaints against state security personnel;
- Limiting the use of assisted voting to cases in which it would be absolutely necessary to ensure secrecy of the vote;
- Taking stern punitive measures against perpetrators of election-related violence and intimidation;
- Ensuring an unassailable, transparent and verifiable results management process; and
- Strengthening the competency, independence, and impartiality of the courts to ensure justice in the resolution of electoral matters.

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Disclaimer

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