

**ZIMBABWE:
PARLIAMENTARY ELECTIONS
MARCH 2005**

Report
by
Kåre Vollan

Copyright: the Norwegian Centre for Human Rights/NORDEM and Kåre Vollan.

NORDEM, the Norwegian Resource Bank for Democracy and Human Rights, is a programme of the Norwegian Centre for Human Rights (NCHR), and has as its main objective to actively promote international human rights. NORDEM is jointly administered by NCHR and the Norwegian Refugee Council. NORDEM works mainly in relation to multilateral institutions. The operative mandate of the programme is realised primarily through the recruitment and deployment of qualified Norwegian personnel to international assignments which promote democratisation and respect for human rights. The programme is responsible for the training of personnel before deployment, reporting on completed assignments, and plays a role in research related to areas of active involvement. The vast majority of assignments are channelled through the Norwegian Ministry of Foreign Affairs.

NORDEM Report is a series of reports documenting NORDEM activities and is published jointly by NORDEM and the Norwegian Centre for Human Rights.

Series editor: Siri Skåre

Series consultants: Hege Mørk, Gry Kval, Christian Boe Astrup

The opinions expressed in this report are those of the author(s) and do not necessarily reflect those of the publisher(s).

ISSN: 1503-1330

ISBN 10: 82-8158-006-2

ISBN 13: 978-82-8158-006-0

Preface

NORDEM was requested by the Norwegian Ministry of Foreign Affairs to recruit an election expert who could advise the Norwegian Embassy in Harare on issues relating to the 31 March 2005 parliamentary elections in Zimbabwe.

Mr. KåreVollan was appointed and he spent three weeks in Zimbabwe from 20 March to 5 April.

Mr. Vollan has 15 years experience from observation and administration of elections in the OSCE-region, Middle East and Africa. He was heading the Norwegian Election Observation Mission to Zimbabwe in 2002.

The Norwegian Centre for Human Rights / NORDEM
University of Oslo
June 2005

Contents

Preface

Contents

Map of Country

Introduction	1
Overall assessment.....	1
Standards and Conventions	3
The Legal Framework.....	5
Electoral bodies	6
The Pre-election Phases	7
Technical Aspects	10
Candidate Agents and Observers	11
The Election Day	12
Tabulation and Publication of Results	14
The Results	18
Recommendations.....	19

Introduction

Norway was not invited to observe the Parliamentary elections in Zimbabwe in 2005. The Norwegian Embassy decided instead to engage an advisor to work with the Embassy from 20 March to 5 April to analyse all available information and present conclusions from the analysis.

Diplomats at the embassy were accredited as observers and worked as part of a network with other diplomats, including the EU and the USA, sharing information collected before, during and after the elections.

Even though this report is not based upon first-hand information collected by long-term and short-term observers in accordance with proven methodologies, there has been a reasonable amount of credible information available during the various phases. The domestic observer network ZESN had good coverage of polling stations during the election, whereby this information could subsequently be compared with the diplomats' observations. The greatest shortcomings in terms of data have been with the tabulation of results and in first-hand information from the rural areas in the pre-election period.

Overall assessment

The 2005 Parliamentary elections represented an important improvement on the 2000 and 2002 elections in that the elections were performed in a peaceful environment without state-controlled violence. Despite this notable improvement from previous elections, the Parliamentary elections in Zimbabwe failed to meet some key internationally recognised election standards. First of all, only 120 out of the 150 seats in the Parliament are contested in direct elections. The remaining seats are appointed by the President or indirectly elected by traditional leaders who are normally loyal to the President. This violates the principles of equal and uniform suffrage. Secondly, the suppressive legislation on association, meetings and media prevented the opposition from exercising their basic rights in the years prior to the elections and during the campaign itself.

The elections in 2000 and 2002 were marred by violence orchestrated by the ruling party. The violence continued till 2004, especially in connection with mass actions, before, during and after by-elections and even in the form of inter-party violence during primary elections.

After the President's Address to the Nation in December 2004, the violence was significantly reduced and the 2005 elections were conducted in a peaceful atmosphere. The organised political violence had disappeared, and the opposition was able to campaign in all parts of the country, even though in some districts only with supporters brought in from outside the district itself.

Some technical and organisational changes were introduced in order to increase the transparency of the vote and to comply with the SADC Standards. Such improvements included: The introduction of the Zimbabwe Electoral Commission (even though with limited resources to carry out an independent electoral administration), establishment of an Electoral Court, introduction of conditions for the public media's coverage of the election campaign, voting on one day only, the count carried out in the polling stations immediately upon closing of the vote, and the use of translucent ballot boxes.

Election Day was conducted in a peaceful and well-organised manner. The voters were allowed to vote in polling stations with a sufficient capacity, and domestic observers and party agents were present at almost all polling stations. The count was also carried out in a well-organised manner, up to the compilation of the polling station protocols.

However, intimidation and threats of violence were still apparent. The Public Order and Security Act, which limits the freedom of association, makes it extremely difficult for any opposition to organise and gather support in areas controlled by the ruling party. Not only must meetings be applied for four days in advance but the police also insist on being present at the meetings, which the participants obviously experience as intimidating.

All electronic media are state owned and their coverage of the campaign was very biased. On the positive side, special election programmes were transmitted where both sides got a fair chance to present their programmes. However, the news coverage and current affairs programmes were clearly in favour of the ZANU PF.

Traditional leaders in rural communities made subtle threats in order to induce people to vote for the ruling party. There were also attempts to give voters the impression that the vote would not be secret and that post-election measures would be possible.

All the suppressive measures in combination would imply that there was not an environment in which voters could make up their minds in a free and informed manner.

Even though the reports of Election Day were predominantly positive, there were some reports of party agents who were not allowed into the polling stations, or had to leave before the count.

Unfortunately, the tabulation process failed to be as transparent as could be expected, and the detailed aggregation of polling station results up to constituency level has not been made available. This would raise serious concerns in any election. In addition, observation reports from a selection of polling stations in some constituencies have prompted reasonable questions about the results, which could only be removed by publication of all official polling station results.

Apart from the doubts in connection with the tabulation, the Election Day was good and conducted in a peaceful atmosphere. The constraints on organising an opposition and distributing a critical message did not, however, accommodate a free contest of opinions and minds.

Standards and Conventions

After the elections in 2000 and 2002 there were discussions about what standards would be relevant to an election in Africa in general, and in Zimbabwe in particular. European observer teams were accused of using European standards to assess the Zimbabwe elections, without understanding the specific needs of an African country.

The response to the accusations was that the violations were so blatant that the question of standards was academic at best. Neither the level of violence nor the obstruction of the polling in the cities (2002), where despite waiting in line from early in the morning people did not reach the polling stations, could possibly be seen as complying with any standard.

Nevertheless, the choice of standards is important. Zimbabwe is committed to the International Covenant on Civil and Political Rights (UN) and has signed the OAU/AU Declaration on the Principles Governing Democratic Elections in Africa. The Zimbabwean Government also participated in the development of, and on August 2004 agreed to, the SADC Standards and even though these are not legally binding, the Government has invested a lot of political capital in adherence to them.

The SADC Parliamentary Forum has also worked out a set of detailed standards to be used when delegations observe elections, but these standards are not legally binding for governments.

President Benjamin William Mkapa of Tanzania said in a speech in the SADC summit in Mauritius on 16 August 2004 in his capacity as Chairperson of SADC:

We are tired of being lectured on democracy by the very countries, which under colonialism, either directly denied us the rights of free citizens, or were indifferent to our suffering and yearning to break free and democratic. ... Today we are equally

committed to guaranteeing that such hard-won freedom and democracy persists and matures in our countries.

This statement and others like it have led to a general discussion within organisations observing elections regarding whether they should function in relation to local or regional norms rather than their own. The EU has, for example, published a methodology for election observation, hereby providing a standard for the election observation missions to be used all over the world.

If, however, a European organisation or country should use the regional standard, the criticism of President Mkapa might still be applicable, in that foreign countries as such continue to hold the power to interpret the African standards, giving their verdict accordingly.

As the quote indicates, the African organisations are committed to democracy for their own reasons. African standards are just as strict as the ones in use by old democracies. In some instances the SADC standards are even more specific than the European ones, which would need more interpretation.

Conventions are general in their expressed commitments. Nevertheless, reasonable interpretation does provide good guidance for elections. Standards are normally more detailed.

The International Covenant on Civil and Political Rights (UN General Assembly Resolution of 16 December 1966, ratified by Zimbabwe in 1991), states in Article 25:

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

(a) to take part in the conduct of public affairs, directly or through freely chosen representatives;

(b) to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

(c) to have access, on general terms of equality, to public service in his country.

In the OAU/AU Declaration on the Principles Governing Democratic Elections in Africa (AHG/Decl. 1 (XXXVIII), Declaration adopted at the 38th Ordinary Session of the Organization of African Unity, 8 July 2002, Durban South Africa, Article IV states:

We reaffirm the following rights and obligations under which democratic elections are conducted:

1. Every citizen shall have the right to participate freely in the government of his or her country, either directly or through freely elected representatives in accordance with the provisions of the law.

2. Every citizen has the right to fully participate in the electoral processes of the country, including the right to vote or be voted for, according to the laws of the country and as guaranteed by the Constitution, without any kind of discrimination.

The SADC Standard of August 2004 refers to both the UN Covenant and the OAU/AU Declaration. In addition, it specifies requirements for the entire electoral process. In the following, the electoral process is being assessed against generally accepted standards, keeping the SADC standards in mind, and referring to them where this is deemed appropriate.

The Legal Framework

The Composition of the Parliament

The one-chamber Parliament of Zimbabwe has, according to the constitution, the following composition:

- 120 members elected in a first-past-the-post system in single member constituencies;
- Eight provincial governors;
- Ten chiefs elected in accordance with the elections law (which stipulates an indirect election among chiefs);
- Twelve appointed by the President.

The thirty members not directly elected would normally be loyal to the President. This means that in order to gain a majority in the Parliament, any opposition would need more than 63% of the seats up for popular vote.

The (s)election to the Parliament is therefore already by the Constitution in contradiction to the fundamental principle of universal and equal suffrage as stated in the International Covenant. Even though the President himself is elected, his appointment of twenty per cent of the members of the Parliament does not provide equal opportunities for voters to vote or to run for office.

It should also be noted that a bill passed by the Parliament needs the President's assent to become law. If the President denies assent, a two-thirds majority is needed in the Parliament to force a bill through, and even then the President may decide to dissolve the Parliament instead of signing the bill.

The legislative powers therefore do not rest entirely with an elected legislative assembly, but with a combination of a partly elected parliament and the executive branch.

The Laws on the Elections

When the SADC meeting on 7 to 14 August 2004 passed the SADC Standards, it was stated that they were not designed for one particular country or situation. Nevertheless, everybody seemed to have the upcoming elections in Zimbabwe in mind, and in the public debate in Zimbabwe both parties referred to the standards with great frequency.

ZANU PF proposed a new election law and a law on an independent election commission after the SADC meeting, and the laws were adopted by the Parliament and signed by the President in January 2005. These laws introduced reforms that met some requirements of the SADC standards, and include:

- An independent election commission (ZEC).
- The count will take place in the polling stations, which significantly enhances the transparency and security of the process.

In addition the following measures were taken:

- The elections are held on one day instead of two. This eliminates the doubts about the security of the voting material during the interim night. The reform is less popular with the public, and the capacity of the polling stations must be increased, but it is a measure which was supported by the opposition;
- The ballot boxes will be translucent, which will reduce risks of ballot stuffing. (This is in accordance with a recommendation of the SADC Parliamentary Forum standard.)

The SADC Standards also emphasise the need for peaceful elections.

Electoral bodies

The Constitution requires Zimbabwe to have an Electoral Supervisory Commission (ESC). This body would assign monitors to all polling stations as well as to campaign events, and they would supervise the officials registering the voters and organising the election. According to Article 61 of the Constitution the “Electoral Supervisory Commission may make such reports to the President concerning the matters under its supervision or any draft Bill or statutory instrument that is referred to it as it thinks fit and, if the Commission so requests in any such report other than a report on a draft Bill or statutory instrument, the Minister shall ensure that the report concerned is laid before Parliament”.

The ESC also accredits the observers and liaises with the observer organisations. The ESC has, however, not had a direct role in organising the voters' rolls or the polls; this has been carried out by the election administration and the Registrar General.

As a response to the SADC Standards, a new independent election commission – the Zimbabwe Electoral Commission (ZEC) - was established in accordance with a new law early in 2005.

MDC raised objections to the law because it gives the ZEC full control of all voter education in the country. All other organisations could only perform voter education if the ZEC had first approved the training material. In addition, doubts have been raised about the manner of appointing the Chairperson.

Even though the ZEC has been given the formal authority over the full process including the voter registration, they started their work late and had few possibilities for fully taking charge of the electoral process.

The new election law also introduced an Electoral Court. The Chief Justice appoints the judges of the Electoral Court, after consultation with the Judge President. Elections petitions are to be raised with this court (except for criminal cases) and the rulings on the facts are final, whereas the application of the law may be appealed all the way to the Supreme Court. In such cases, the Supreme Court must issue a final judgement within six months of the appeal. One of the advantages of the new system is that election petitions may be processed more quickly than previously. The practice of the court has yet to be proven in full.

The Pre-election Phases

The Freedom of Association

The Public Order and Security Act gives the authorities full control of all public meetings and rallies. The law was frequently used to suppress meetings in 2002. Even though MDC in 2005 received fewer permits to hold rallies than did ZANU PF, the situation was somewhat easier than in 2002.

However, the police would still make their approval of a meeting contingent upon a police presence at the meeting. This is a serious hindrance to the opposition, with regard to working in areas controlled by the governing party. People would be afraid of showing up and freely expressing criticism, and this implies that there was not freedom of opinion and expression in the country. According to the SADC Standards the following is a responsibility of the member state, (to):

7.4 Safeguard the human and civil liberties of all citizens including the freedom of movement, assembly, association, expression, and campaigning as well as access to the media on the part of all stakeholders, during electoral processes as provided for under 2.2.5 above.

Voter registration

The voters register is maintained on an ongoing basis. It is linked to the citizens register and it is supposed to be automatically updated with records of deceased persons. When an election is announced, cut-off dates for registrations effective for that election are set. The registration for the 31 March election ended on 4 February 2005.

Serious doubts have been raised regarding the changes to the registers after 2002 and also the changes made prior to the 2002 elections. In 2002 the observers noted that the period of registration was extended without making the extension public before it had expired. In the extended period there was intensive registration of ZANU PF supporters.

From 2002 to 2005 the number of registered voters has increased from 5.6 million to nearly 5.8 million. The figures have gone up in almost all provinces, except for in the MDC strongholds Harare and Bulawayo where the numbers have decreased. The voters registers are being used to determine the number of seats per province and to control the vote on Elections Day. The change of registration figures led to a decrease of one seat in Harare and one in Bulawayo. On Election Day there was a fear that voters might have been removed from the polls and thereby prevented from voting, of the impersonation of deceased persons or other forms of fraudulent registration. The requirements for showing ID cards and the use of ink on fingers are measures taken to prevent the latter.

Some attempts have been made by MDC to check the voters rolls, and they have reported a large number of errors submitted to the ZEC. MDC has called for an independent audit of the voters registers to be carried out after the elections. It has not been possible to verify the complaints, but there has thus far been no credible manner of response to such doubts by the ZEC.

The low quality of the voters rolls was confirmed by the high rejection rate on Election Day (10-15%).

Delimitation of Constituencies

One of the big issues raised by the opposition and the domestic observers is the delimitation of constituencies. The delimitation was based on a voters register, which in turn, has prompted serious complaints.

Given the figures from September 2004 the number of constituencies per province is correct. However, it seems clear that the registration figures in Harare and Bulawayo

compared to the rest of the country are inaccurate and that the reduction of seats from these two MDC strongholds is incorrect.

Another important issue is whether the delimitation within the provinces is correct, and to what extent political considerations have been unduly influential in the re-drawing of constituencies.

The constituencies should ideally be the same size, but they should also follow administrative and natural boundaries whenever possible. The maximum deviation from the average size is set at +/- 20%. The average size of constituencies was 47,155, which meant that each constituency needed to be larger than 37,724 and smaller than 56,586. All constituencies fulfilled this criterion.

When redrawing the constituencies quite a few had to be adjusted to fall between the boundaries or to simply become more equal in size. Comments to some specific constituencies are given in Section 10.2.

Election Violence

There can be no doubt that there were far fewer reports of state controlled, systematic violence in 2000 and 2002. The violence continued from 2002 till late 2004, but has after the President's Address to the Nation in December 2004 been significantly reduced.

MDC agrees that actual, state co-ordinated violence has been reduced or is eliminated. However, local incidents of actual violence are still reported. In addition there are continued reports of subtle threats of violence, intimidation, links of voting to food distribution, etc.

There were areas where local supporters of MDC could not act openly, but where MDC had to campaign using non-resident supporters.

Media

The most important media is radio, whereas TV plays a role mainly in the cities. Electronic media are all state owned and controlled. Candidates are given access to programmes where they are questioned on their political platforms and issues. In addition, there are provisions for paid advertisements. This positive development came as a direct result of the SADC Standards, which lists the principle of '*2.2.5 Equal opportunity for all political parties to access the state media*', which is regulated through a directive issued by the Minister of Information and Publicity.

The programmes that were not directly related to the elections, such as the news and other current affairs programs, were still overly biased in favour of the incumbents. The

main news stories every day were ZANU PF leaders' rallies across the country, with very few reports on MDC rallies.

After the Daily News was closed in 2002, there was no daily newspaper in Zimbabwe supporting the opposition, but the opposition had the support of some weeklies.

A key element of reform would be the laws regulating electronic and written media in order to secure diversity and to prevent the use of state media by the incumbents for promotion of their own political campaign.

Election Campaign

Even MDC was able to campaign across the country, also in previous no-go areas. However, in some areas they had to bring in people from other areas and the local supporters could not campaign openly. The restrictions on meetings and the media situation constituted the biggest problems for the freedom of the voters.

In addition, there were frequent reports of the use of state funds and logistics for campaign purposes. Both the SADC Parliamentary Forum recommendation on Misuse of Public Resources and Funding for Political Activities, and the SADC Standards for a fair process call for strict regulation of incumbents' use of state funds.

Technical Aspects

It was a positive development that information on polling stations, polling procedures and elections officials was made public well in advance of Election Day, even though there were inaccuracies.

The number of polling stations increased all over the country. The mobile polling stations, which had reduced the transparency in the countryside during previous elections, were replaced by fixed stations.

Polling stations in Harare and in Bulawayo needed to process on the average around 1,600 voters. In other provinces the capacity was on the average from 530 to 660 voters per polling station. The difference may in part be explained by the topographical conditions, but not completely.

One concern prior to the election was therefore to what extent the capacity in the cities would be sufficient. Each polling station had three lines consisting of a table for

checking the voter IDs against the voters register, a ballot box and at least one booth for filling in the ballot. The turnout in the cities had traditionally been around 50%. However, the turnout in 2002 would have been higher had the capacity been sufficient. The average per line was expected to be around 350 voters, which was clearly within what was possible to process with a good will and efficient staff on Election Day. With statistical variations, there might have been problems, but on Election Day the capacity turned out to be sufficient.

The other aspect of the three production lines was the secrecy of the votes. Protocols were to record the result per ballot box, and some ballot boxes would contain a very small number of votes. In rural areas this would culminate in the controlling atmosphere that was already strong before the elections. Traditional leaders were telling voters to report to them before the elections and their names were ticked off on the voters registers. This was seen to be a measure not only to get people out to vote but also to make them vote in a particular way, and voters were led to believe that it was possible to gain knowledge of their vote after the elections. Therefore, the split in three ballot boxes added to the possible intimidation, and the secrecy of the vote was violated.

Candidate Agents and Observers

Each candidate could have one agent present at all times in each polling station. In addition, domestic NGOs and some international delegations were invited to observe the elections.

There were 8,235 polling stations around the country. More than 7,000 domestic observers were accredited by the Elections Supervisory Commission (ESC), out of which more than 6,000 from the Zimbabwe Elections Support Network (ZESN). Many of the remaining one thousand were co-ordinated by ZESN in such a way that most of the polling stations were covered by a domestic observer on Election Day.

The invitation to international observers was more limited than during previous elections. The SADC and African Union were invited, but not the SADC Parliamentary Forum (which filed a critical report in 2002). Zimbabwe insisted that the Parliamentary Forum should come as part of the SADC delegation, but this request was denied by the Parliamentary Forum, who argued for their independent position within the SADC structure.

In addition, a number of governments were invited, and from these only Russia from Europe. Embassy personnel of all states present in Zimbabwe could accredit their diplomats as observers.

Delegations with solid methodology and a good number of observers could have contributed to the transparency of the process. AU has guidelines for observers, and SADC has their standards. AU came with a very small group of observers, and SADC chose in the end to limit their observation to the immediate election period up to the close of the count in the polling stations only.

The Election Day

Violence and Intimidation

The voting was carried out in a calm and peaceful atmosphere. No serious incidents of violence were reported. Isolated incidents of intimidation include some cases of representatives of the authorities who were ticking off names on the voters lists or noting names outside of the polling stations. Some observers and party agents were reportedly denied access to polling stations during the vote, or asked to leave for the count.

Voters Registers

The quality of the voters registers was challenged before the elections, and on Election Day the doubts turned out to be justified. It is reported that from 5 to 15% of the voters were turned away from polling stations. The official reason given was that people were not registered or registered in a different constituency from where they turned up. This problem was compounded by the changes in constituency boundaries. However, it is the duty of the election organisers to ensure accuracy of the voters registers, and the rejection rates are much higher than what is normally acceptable.

A positive development in this context is that the rejections were recorded and reported publicly on Election Day.

Party Agents and Observers

Both parties managed to have their party agents at most of the polling stations. However, MDC agents were turned away in some areas because of problems with their accreditation. The problem seemed to be solved by midday, but MDC claimed that some agents never got access, and that some were denied the possibility to witness the count.

The Zimbabwe Election Support Network (ZESN) reported coverage of 87% of the 8,265 polling stations. They prioritised the rural areas, the areas where a close race was anticipated, and the areas that had faced problems during previous elections. The duly accredited observers of 16 polling stations were denied access in the morning, and were only let in after negotiations and interventions later in the day.

Capacity of the Polling Stations

The capacity was – as expected – much lower in the cities than in the rural areas. In the morning the lines went up to 5 – 700 in the cities, but by noon they were down to a few dozen or less. Due to the low turnout the capacity, even in the cities, turned out to be sufficient.

The Secrecy of the Vote

Prior to the elections it had been reported that voters in rural areas were led to believe that their vote could be traced after the elections. The headmen reportedly called people in before the elections to make sure they would vote and then ticked off their names on the voters registers, and this served as a form of intimidation. In addition, representatives of headmen repeated the check on Election Day.

For each polling station there were three lines of voters, each with a table for checking the voters register, a booth for filling in the ballot, and a ballot box. The lines were organised alphabetically. The boxes were counted separately, and the results for each box recorded in the protocol. Some polling stations in rural areas were small, and some boxes would contain as few as ten ballots. This endangered the secrecy of the vote.

Transparency of the Process

At 1:00 p.m. on Election Day the ZEC reported the status of the vote in a number of constituencies. The information included the turnout in the morning, the number of voters not being allowed to vote and the number of voters assisted. The turnout and the number rejected were also specified in later reports.

It was good that records were kept at every polling station of people who returned and people who assisted during the vote, and that the figures – even when they were discouraging – were being reported throughout the day. Some of the figures later turned out to be highly inaccurate, but that should not discourage the ZEC from publishing interim results in the future.

Assisted Voters

The number of voters in need of assistance was high, more than one-third in certain areas. The assistance was provided by the presiding officer at the polling station and there was a concern about the neutrality of the assistance, which may be significant to the high figures involved. There were no reports that the assistance was given in cases where it was not needed, but this is also very difficult to assess by outsiders.

The Count in the Polling Stations

The count in the polling stations took place in an orderly manner. There were incidents where observers and allegedly also party agents were not allowed to observe the count. There were also a number of places where the results had to be verified at the constituency level before being posted at the polling station, and in some places the observers were detained inside the polling station until that had happened, which violates the idea behind changing the system to counting votes at the polling station.

Tabulation and Publication of Results

The Process

The compilation of results was done in two steps: First, the ballots were counted in the polling stations and a protocol was drawn up accordingly. Then, the protocols were taken to the constituency election officer where the results were compiled. This was a new process, replacing a system where all ballots were taken to the constituency counting centres, mixed and counted together. The change was done to enhance the transparency of the process and increase the security. The reformed process adheres to the SADC principles.

Previously, when all ballot boxes were collected and counted at one constituency counting centre, it was impossible to trace results to the polling stations, the process went on for a very long time, and there were a lot of suspicions about the counting process.

The new law states in Article 64:

(1) After the counting is completed the presiding officer shall *without delay* —

...

- (b) display the completed polling-station return to those present and afford each candidate or his or her election agent the opportunity to subscribe their signatures thereto; and
- (c) personally transmit to the constituency elections officer the polling-station return certified by himself or herself to be correct:

...

(2) *Immediately* after arranging for the polling-station return to be transmitted in terms of paragraph (c) of subsection (1), the presiding officer shall affix a copy of the polling-station return on the outside of the polling station so that it is visible to the public.

The intention is that the public shall be able to check the protocol once it has been sent to the constituency, and it shall not be changed after that. However, observers noted in a number of instances that the protocols were taken to the constituency centre for review and approval before being posted. The review could take a long time. In the polling station Mai Musodzi of the Mbare constituency the polling station protocol was completed by 11 p.m., but posted only at 9:15 the next morning. In the meantime, the staff, agents and observers, including four from the international community, were detained at the polling station.

The implementation of the process raises doubts about the intentions of the election officials. If the protocols are held back in a review process not open to observers, agents and the public in general, a dark shadow of suspicion will continue to surround the tabulation process.

It is in this situation crucial that the detailed tabulation of polling station results up to constituency level is made public immediately, so that everybody can check and feel certain that their polling stations have been correctly tabulated.

Doubts Raised on the Official Figures

The ZEC should be commended for publishing figures for turnout and rejection of voters on Election Day and the following night. In doing so there will always be a risk of inaccuracies, since the figures will depend on a countrywide reporting system from more than 8,000 polling stations. Even with a reasonable amount of inaccuracies it is better to publish results than to keep them secret until the entire process is over.

On the other hand, it was noticed that some of the preliminary figures deviated greatly from the official results. At around 8 p.m. turnout figures as per 2 p.m. were broadcast on TV by the ZEC from almost all provinces. Observers as well as the ZEC reported that most people had voted at the time and very few voters turned up after 2 p.m. The turnout in Harare and Bulawayo increased by 20 to 40% from the figures for the afternoon to those of the final count. This may be realistic. However, in Mashonaland Central, and Masvingo they increased by from 100 to 190%, which cannot reflect the development of the vote during the day.

MDC has made public complaints based upon the turnout figures that were officially released at 2 a.m. on election night (1 April) giving the preliminary turnout at the end of the vote for at least 30 constituencies. The preliminary figures had turned out to be far from the final figures. In Mashonaland East, for example, for the constituencies Seke, Marondera East, Chikomba, Murehwa South, Mutoko South, Mutoko North and Goromonzi the official figures published are from 4,000 to 13,000 higher than the preliminary figures (of a total of 20,000 to 30,000).

In its press conference on 5 April the ZEC said that, "the figures were being given without prejudice and only for the purpose of giving an indication as to the turnout

trends in the various provinces and constituencies". The discrepancies do not prove that the final figures are wrong, but the differences are so high that they call for an explanation. Such an explanation is still pending. The official results are closer to the turnout of 2002, than to the results as per 2 p. m., and it is possible that the discrepancy is due to incomplete reporting and not engineering of results.

A clarification of this can only be reached by full access to the results tabulation. In most countries, polling stations results are made public by the elections authorities, in order that observers and the general public may confirm the accuracy of the tabulation. In Zimbabwe making detailed results public would be the only way of removing all the suspicions expressed after the elections.

The parties and the observers, in particular a professional organisation such as ZESN, should have been able to publicise parallel counts based upon their own polling station data immediately after the count. Only on 22 April did ZESN finalise their final analysis. The analysis is based upon observer reports from a selection of polling stations in 115 out of the 120 constituencies. It adds up the results as reported by the observers for each constituency from those polling stations where they were present. This selection of polling station results is added up to constituency level and the percentage of support for each candidate is compared with the official results as made public by the ZEC. ZESN concludes that the ZEC results in favour of ZANU PF 'vary with the ZESN pattern in four constituencies, Chipinge South, Buhera South, Makoni East and Gwanda'. These are constituencies where ZESN feels they have sufficient data to draw such a conclusion. However, ZESN's sample even in these constituencies is around 25% of the votes, except for in Gwanda where it is 50% (of the ZEC figures). It is therefore difficult to draw any final conclusions. ZESN's selection of data need not be representative for the constituency. There will often be large variations in results within a constituency and it is not a given that the polling stations where ZESN observers were permitted to observe the count are representative. On the other hand, for the four constituencies, the data do form a solid basis for raising questions. This makes the ZEC's hesitation to publish the polling station tabulation counterproductive, and it underpins the need for full transparency in the calculation of results.

The Effects of the Delimitation of Constituencies

A full assessment regarding whether undue political considerations were used would only be possible to perform with detailed local knowledge. The following is based upon overall figures only.

The Harare South constituency was a new one. This was the only one won by ZANU PF in Harare. The constituency did not follow natural boundaries, and seemed to be constructed with a political purpose in mind.

Manyame was a new constituency in Mashonaland West. The town Norton was transferred into Manyame from Mhondoro. Mhondoro changed from MDC to a big ZANU PF majority, and Manyame was won by ZANU PF. Mhondoro had after the

change only 37,744 voters. The choice that was made when establishing a new constituency in Mashonaland West might have been guided by political considerations.

Seke in Mashonaland East was reduced in size in order to meet the allowed maximum number of voters. The biggest part was transferred to Marondera West. Seke changed from MDC to ZANU PF, but Marondera West increased the ZANU PF majority. One can therefore hardly conclude that the re-drawing of boundaries was the reason for change.

In Manicaland the number of constituencies increased by one. The new constituency was Mutasa North, created from parts of Nyanga and Mutasa (South). Both of the former constituencies of Nyanga and Mutasa were previously held by MDC, and dividing them into three should strengthen MDC, provided there are no local conditions that we are not aware of. ZANU PF won all three constituencies this time, Mutasa South with a very small margin.

Also in Manicaland the constituencies Mutare South, Chimanimani, Chipinge North and Chipinge South were adjusted, by moving all the boundaries south. This was done in order to reduce the number of voters of the latter three to below the upper limit. The constituencies are located in a row in a narrow part of the province, and moving these boundaries would be the only possible means of reducing their size. However, in the selection of wards to be moved, political choices may have been made. In Mutare South and Chimanimani, MDC lost their seats.

The Bikita West constituency in Masvingo does not seem to have been changed. MDC lost their seat.

In the Matabeleland North constituency Bubi-Umguza (formerly MDC) some wards were transferred to Tsholotsho (formerly ZANU PF). It was necessary to make a transfer to reduce the number of voters below the upper limit, but there was a choice of transferring to Lupane (MDC) and Hwange West (MDC) as well, since both of these had few voters. It is not possible to draw any conclusion about the choice without detailed knowledge at ward level, but a transfer out of Bubi-Umguza was necessary.

In conclusion, from an overall assessment of the delimitation exercise the new constituencies of Harare South and Manyame are the most doubtful examples. Detailed local knowledge is necessary in order to evaluate the exact drawing of boundaries. The delimitation should therefore be done in consultation with all parties in order to remove all doubts about the neutrality of the process.

The Results

The Results per Party

The table below compares the official results for the 120 constituencies with the election results of 2000 and 2002.

Party	2000 Parliamentary Elections		2002 Presidential Elections	2005 Parliamentary Elections	
	Number of Votes	Number of seats	Number of Votes	Number of Votes	Number of seats
ZANU PF	1,206,962	62	1,695,549	1,569,867	78
MDC	1,169,894	57	1,283,911	1,041,292	41
Zanu Ndonga		1		6,608	0
Independents, including Jonathan Moyo, who won a seat in 2005				16,878	1
Spoiled				62,025	
Total	2,552,844¹	120	2,979,460²	2,696,670	120

Thirty additional seats in the Parliament are to be appointed by the President or indirectly elected by chiefs (who are loyal to the President).

The loss of votes for MDC from 2000 to 2005 of about 120,000 corresponds to their loss of votes in Harare and Bulawayo, whereas the number of votes in the rest of the country is about the same as in 2000. ZANU PF has increased their vote by 360,000 in all since 2000.

Turnout

The published turnout figures have in most cases been relative to the September 2004 registration figures used by the Delimitation Commission when they drew up the constituencies. The total figure was at that time 5,658,637, and the turnout is 47.7% of that figure. On 23 March the Zimbabwe Election Commission (ZEC) published a final registration figure of 5,789,912, and if this figure is being used, the turnout drops one per cent to 46.6%.

¹ Valid votes only.

² The valid Zanu PF and MDC votes only.

	2000	2002	2005
Number of Registered voters	5,048,815	5,607,812	5,789,912
Votes cast for ZANU PF and MDC only	2,376,856	2,979,460	2,611,159
Total number of votes cast	2,490,296 ³	2,998,758 ⁴	2,696,670
Turnout in per cent	49.3	55.8	46.6

We have not been able to find a breakdown of the final registration figure per constituency, but it seemed like the ZEC was using such a breakdown when they published their turnout in per cent.

Recommendations

In order to meet universal criteria for elections, which Zimbabwe has subscribed to and which are generally accepted, the following improvements should be made:

- A constitutional change to ensure that all the members of the Parliament are directly elected, and that the President's legislative powers are removed. Should a reform reintroduce an upper house, it is vital that the decisive legislative powers rest with directly elected chamber(s).
- The suppressive parts of legislation on associations, expressions, press and electronic media must be removed. The passed, but not signed, act on NGOs needs to be stopped.
- Carrying out of voter education should be open to all organisations without censorship.
- The rules for and practise of public media need to change so as to provide a balanced coverage of the incumbents and the opposition.
- Clear rules for use of public resources by the incumbents should be introduced.
- Voters registers need to be reviewed in a transparent process in order to remove invalid entries and to ensure that everybody who is registered has been listed in the correct constituency.
- The delimitation exercise should be done after consultation with all parties.
- The ZEC should be equipped with sufficient staff and resources to enable them to take full charge of the process. All doubts about which body is in charge of the elections should be removed, and the appointment of the chairperson of the ZEC should be made on the basis of a broad nomination process.

³ Valid votes only.

⁴ Valid votes only.

-
- The Election Law should be changed to explicitly state that the polling station results should be posted immediately following the count, without prior review by constituency bodies.
 - The Election Law should include a provision that requires the ZEC to publish the tabulation of polling station results up to constituency level without undue delay.