

Was the Poll Properly Conducted?

In considering whether the poll was properly conducted we focused on the following issues, namely:

- a) Independence of Electoral Commission
- b) Professionalism of the election officers
- c) Adequacy of the registration system
- d) Events on polling day
- e) Security of ballot papers and boxes
- f) Conduct of the count

Independence of the Electoral Commission

During the preparation for the elections the independence and impartiality of the Electoral Commission came under close scrutiny. One problem with the Commission, constituted as it was, was that its members lacked security of tenure, since the President had the power to remove them. This was criticised as lacking that degree of independence which would create a feeling of trust among the opposition parties. Notwithstanding that the Commission was legally constituted, the fact that the third member who resigned was not replaced by the President attracted much criticism.

The judgement of the Commission in not permitting the counting of the ballots to be undertaken at polling stations was also severely criticised by the opposition parties and although the Commission gave reasons these proved to be unacceptable to the critics. Another decision of the Commission which drew considerable criticism was the insistence that voters produced their voters' cards in order to vote on polling day. The high incidence of loss of voters' cards and the absence of a proper procedure to obtain a replacement on a timely basis deprived a lot of voters of their right to vote. This was anticipated by the opposition parties who made representation to the Commission to dispense with the use of the voters' card in such cases.

The Commission dealt with the situation by approving the issuance of certificates of registration which permitted voters who lost their cards to vote. However, the procedure for issuing the certificates was flawed and as a result many voters were unable to get these certificates. The Commission was also criticised for the slow pace at which they processed accreditation permits for local monitoring groups. Despite all these criticisms there was no suggestion that the Electoral Commission acted partially towards any of the political parties or was not acting independently of the Government and the ruling party.

Professionalism of the Election Officers

We were generally impressed by the competence of the election officers. They performed their various election tasks with dedication and impartiality. They were

friendly and helpful to voters, parties' agents, international observers and local monitors. In some cases however, we observed lapses on the part of election officers which were due in part to inadequate training or political bias. We believe that in the future more attention should be paid by the Electoral Commission to this aspect of election preparation.

Adequacy of the Registration System

The compilation of a comprehensive and accurate register of voters is an essential prerequisite for the holding of free and fair elections under the electoral system existing in Zambia. To achieve this the qualifications for registration must be clearly stated and the registration process efficiently executed. Every Zambian citizen who has attained the age of 18 years is qualified for registration. Although so qualified, no person can be registered who is under a declaration of allegiance to some country other than Zambia; or who has been declared of unsound mind, or is under sentence of death or imprisonment imposed by some court in Zambia, or who is not in possession of a national registration card issued under the National Registration Act.

A qualified person must register in the district where such person is normally resident and on registration, receives a voters' card. Since only persons who are registered can vote, it is important that the closing date for the register be a date shortly before the date of the election. This ensures that as many citizens as possible who attain the age of 18 years before the election can register and exercise the right to vote. The registers used in this case were compiled in October 1988 and revised in October 1990 – a year before this election. The opposition complained that this registration exercise was for a referendum and first response from the electorate was lower than would have been the case for registration for multi-party elections.

It may well be that the limitations of financial and administrative resources precluded a later revision, but in the event many young persons attaining the age of 18 and those who changed their address after the register was closed were precluded from registering and thus prevented from voting.

There were justified criticisms of registers on that ground, particularly by the MMD which felt its support was strong amongst the youth. We were told that these and other criticisms had been made to the Director of Elections about alleged inaccuracies in the list of voters. In a statement issued to the media the Director said that these inaccuracies were due to human error and gave a public assurance that corrective measures would be taken. Attention should be given to devising and implementing mechanisms to make possible a revision of the register not earlier than three months before the holding of an election, and the preparation of an accurate list.

Some persons who had had voting cards and whose names had appeared on the provisional list learnt when they appeared to cast their vote that the notation 'cancelled' or 'replaced' appeared against their names. Those whose names were marked 'replaced' could not locate the new section of the register to which they had been transferred, they were thus unable to vote. Some names failed to appear altogether on the register. The indications were that the revised lists prepared from the original list were not adequately publicised to enable persons to note errors and take steps to have them corrected. This is a matter which needs attention.

We noticed errors in some registers at polling stations which indicated that defects must have crept into the computerisation process during their compilation. There were missing numbers within the sequence of the voters' register which in some

cases could only be explained by a faulty computerisation process.

The regulations which governed the registration process required voters to present both their national registration and voters' cards at the polling station. The high incidence of lost voters' cards presented a particular difficulty for many voters on polling day. Although the Registration of Voter Regulations set out a procedure for the replacement of lost voters' cards during the annual revision of the voters' registers, the absence of any such revision in 1991 made it impossible for that procedure to be used. Instead the Electoral Commission decided to permit the issuance of Certificates of Authority to vote.

The procedure laid down for issuing the certificates proved to be inadequate in some districts since initially they were issued from a central point in the districts and voters had to travel long distances to obtain them; sometimes without success during their first visits. There was also no uniform procedure for the issuance of these certificates, as in some districts they were not issued after Sunday 27 October, while in other areas issuance continued up to and even on polling day.

We believe that the possibility of using the national registration card alone for the purposes of identification of voters at the polling station should be examined and that, if the voters' cards were retained in the end, a procedure should be devised to replace lost cards at any time and not only during the period when the registers are being revised.

Events on Polling Day

Polling day marked the climax of the preparations for the elections. In Zambia, events commenced with the opening of the polls at 0600 hours, by staff who were required to arrive at least an hour earlier. Agents for candidates and parties who were assigned to the polling stations had also been instructed to be present in good time before the doors were open.

The procedure required the identification of voters by checking their cards or certificates as well as their national identity cards. When the voter was properly identified by checking the details of the voter's card against the information on the register, the presiding officer crossed out the name off the register and recorded the number on the ballot stub. A ballot paper with an official mark was issued to the voter, who went to a booth, marked it, folded it and then deposited it into a ballot box in full view of the Presiding Officer and polling agents as well as independent monitors. However, concern was expressed by opposition parties that the practice of recording the registration number on the stub jeopardised the secrecy of the vote.

Each party had a symbol and the ballot paper bore that as well as the name and party of each candidate. An independent candidate was issued with an individual symbol. Each party and candidate had an agent at each polling station to observe the proceedings and these agents had to take an oath before being admitted to the polling station. As accredited observers we were authorised by the Director of Elections to enter polling stations to observe the polling proceedings.

Well before sunrise, queues of voters had formed at many polling stations. There was an air of peace and quiet as the mainly silent, or quietly whispering, voters waited to cast their votes. We were interested to see that the women and men usually formed separate lines. Most polling stations opened promptly but some were delayed, because of lack of transportation, inadequate lighting and other administrative problems. Where stations opened late, the voting hours were often extended

to make up for the lost time. The general polling environment at the opening stages of the polls was peaceful, and conducive to the voters expressing their choice freely.

For the most part, polling sites, being schools or other public premises, offered adequate accommodation for the staff, equipment and materials required. Polling officials, political agents and observers were accommodated without much difficulty, but there were a minority of cases where temporary facilities (mostly canvass tents) were erected as polling stations because no suitable premises could be found in the area. Some of these tents were cramped and less than ideal. The actual physical layout was important as each station had two ballot boxes – one for the Presidential election and another for the National Assembly elections. The ballot boxes were made of metal and appeared sturdy and well suited for their function, while the polling booths although not strong were generally adequate.

We were generally satisfied with the distribution of election materials which arrived at the majority of stations well before polling commenced. But as could be expected in the business of organising elections, inevitably some polling stations experienced late delivery of election materials, while at others these were in short supply.

Polling officials were generally friendly and helpful to voters and observers alike. They appeared to be confident and impartial in the execution of their tasks. The few complaints received were due more to ordinary human error than political corruption or bias. There was some evidence to suggest that inadequate training led to simple mistakes by some polling officials, and we think that this is an area which will require future action by the Electoral Commission.

Agents of the political parties were present in almost all polling stations, and they maintained friendly relations throughout the day despite representing opposing parties. They also appeared to behave responsibly in co-operating with the polling staff and observers.

We were satisfied that polling officials made a serious effort to observe the electoral law and procedures, particularly at the opening and closing of the polls. Indeed, we witnessed a few instances where a liberal interpretation was placed on the rules to accommodate cases of genuine difficulty faced by the voters.

The security measures at the stations were visible but low key, and were in no way intimidating to the voters or observers. The security officers were friendly and helpful and, in a few cases which we witnessed, responded responsibly under pressure.

As we expected, the movement of the ballot boxes was hampered by transport difficulties. This was partly responsible for the late start of the count in some constituencies.

Overall, the counting of the votes was greatly delayed and was further held up in some constituencies due to overcrowding at the counting centres. We believe that the procedures adopted in Zambia contributed to this. We would urge the Electoral Commission to re-examine this aspect of the electoral process.

We encountered certain irregularities at several polling stations. Many of these flowed from imperfect voters' registers which, in a large number of cases, failed to include the names of persons who were issued with voters' cards. Notations such as 'removed' or 'cancelled' were found on the registers without any explanation. This left the aggrieved prospective voter confused. In other instances, people turned up

at the wrong polling station and found it impossible to find their way to the correct one.

We have already pointed to human error leading to irregularities, such as the failure to seal ballot boxes properly and omitting to stamp ballot papers with the official stamp. We believe that these lapses can be prevented in future by more rigorous training of election officers.

Finally, we feel that the role played by local monitoring groups and foreign observers contributed to the conduct of free and fair elections. Our task was made much easier by the training given to local monitors and by the exchange of information, the helpful briefings and warm co-operation which characterised our relationships with both local and foreign observers.

Transportation of Ballot Boxes

The decision of the Commission not to permit the counting of the ballots at the polling stations, which was widely condemned, made the transportation of ballot boxes to constituency counting centres the focus of much attention. This was an important link in the chain of activities which followed the close of the polls. It is one of the most vulnerable points in the electoral process, particularly in the distant rural districts, and fears for the integrity of this process were widely voiced. In fact, there were allegations that the ballot boxes would be tampered with while they were being transported to the counting centres.

We therefore considered it important that the boxes were kept in the secure custody of presiding officers in full view of party agents and independent observers, until they were handed over to the Returning Officers at the respective counting centres.

In these circumstances, we stressed the importance of allowing the agents of political parties or candidates to travel in the vehicle with the boxes to the counting centre, as we did not believe that merely following behind the vehicle would generate confidence in the process.

It was also important that reliable vehicles were available to transport the ballot boxes, this was vital to the success of the operation because if a breakdown occurred along the route, suspicion was likely to develop at a time of considerable excitement for party supporters.

As it happened, we were not aware of a single incident of tampering or that any attempt to do so had been made.

Security of Ballot Papers and Boxes

Before polling day, we received several complaints relating to the security of ballot boxes and ballot papers. The principal fear was that the transportation of ballot boxes from the polling stations to the counting centres was likely to attract hijacking of ballot boxes or other forms of tampering. The opposition parties expressed concern that their agents would not be able to travel with the ballot boxes from the polling stations to the counting centres because of inadequate means of transportation. These fears were not borne out by the events of polling day. There were however considerable delays in the transportation of the ballot boxes from the polling stations to the counting centres. Except for one incident resulting in the loss of 4,000 ballot papers, we were not aware that any loss of ballot boxes or ballot papers

took place. An announcement was made of the missing numbers and the ballot papers were replaced.

Conduct of the Count

One of the most controversial decisions made by the Electoral Commission was that votes should be counted at centres designated in various parts of the country. After the closing of the polls the ballot boxes would be transported to these centres by the Presiding Officer together with all the other documents pertaining to the holding of the poll and would be delivered to the Returning Officer.

The MMD had proposed that ballots be counted at the polling stations. They feared that with polling stations sited in isolated outlying areas accessible only by very bad roads there would be ample opportunity for interference by UNIP agents and partisan government officials. The Electoral Commission refused to reconsider its decision which was vigorously supported by UNIP. This decision was seen by the mmd as confirmation of their perception that the Commission was not impartial and aggravated the atmosphere of mistrust.

There are arguments on both sides which we have carefully considered. Counting at polling stations does strip some of the protection of secrecy from the voting process. A small community can be identified as having overwhelmingly voted for the losing side and be discriminated against in the allocation of development funds. The arrangement which was put in place considerably weakened the force of that argument since boxes were in fact counted polling station by polling station at the centres.

On the other hand, the Commission could have had doubts as to whether physical conditions at the more isolated polling stations would be conducive to a proper count. We have commented on poor lighting and cramped accommodation. The counter argument was that these were difficulties which could be overcome by the provision of better polling stations, a desirable goal in any event.

There were also doubts as to whether Presiding Officers and their assistants could be depended upon to make the somewhat difficult decisions that may have to be made as to the validity of ballot papers. Counting at centres required a far smaller number of counting agents supervised by a Returning Officer – usually a more experienced official. This argument could be met by providing training for presiding officers and their assistants in counting – a mammoth task considering that there were 3,489 polling stations.

Undoubtedly the final results would have been known more quickly had the votes been counted at the polling station. We have already mentioned the superhuman efforts which were required of the counting assistants and returning officers at the centre.

In the end the ballot boxes were transported to the centres without interference and the worst fears of the MMD were not realised.

We could not achieve a consensus as to which of the arrangements was preferable. The issue is one of the greatest sensitivity and should be discussed and hopefully amicably resolved well before the next election.

Pursuant to the decision to use counting centres, the Commission was forced to make two important concessions to meet the complaints by opposition political

parties and other interested groups and individuals. It made it mandatory (instead of discretionary) for the Presiding Officers at polling stations to allow the parties' agents to accompany the ballot boxes when they were being transported from the polling station to the counting centre. It also dropped the practice of mixing up ballots from a number of boxes, which was believed to safeguard the secrecy of the vote.

An important aspect of the counting exercise was the treatment of invalid ballots caused by the failure of voters to adhere to the voting procedures. We were favourably impressed by the detailed instructions set out in the handbook issued by the Election Office with respect to the counting procedure to be followed in determining whether a ballot was valid or otherwise. (Please see Annex xx for examples of valid and invalid specimen ballot papers given in this handbook).

Wherever we went we observed that parties' agents, particularly those of UNIP and MMD, were taking an active part in observing the proceedings at polling stations. We did in one or two instances come across cases of the absence of parties' agents from the polling station, but this was by no means a widespread occurrence. In the majority of cases UNIP and the MMD had two agents each, one observing the Presidential, and the other the National Assembly elections.

Monitors from the two main local monitoring groups, namely ZMT and ZEMCC were at the majority of polling stations. In some cases each group had two monitors, but there were cases where monitors from only one of the two groups were present. Despite considerable initial difficulties with obtaining passes to visit polling stations, these were eventually issued and the monitors were allowed access to polling stations throughout the country. They performed a very useful role and were eager to share their experience with representatives of international observer groups.

Representatives of the several international observer groups monitoring the elections were also given access to polling stations throughout the country on polling day. Information was exchanged with the monitors who were permanently based at the polling stations. We formed the view that the elections were held in a calm and good spirited atmosphere, free of violence and intimidation for the greater part, which was endorsed by every other monitoring group.