

PAPER PRESENTATION AT THE SEMINAR ON DIALOGUE BETWEEN POLITICAL PARTIES AND CIVIL SOCIETY ORGANISATION WITH THE THEME “*BUILDING SYNERGIES BETWEEN POLITICAL PARTIES AND CSOs TO DEEPEN DEMOCRATIC GOVERNANCE AND HUMAN DEVELOPMENT AFTER 2011 ELECTIONS*” HELD IN LUSAKA FROM 13-14 APRIL, 2011

ZAMBIAN ELECTIONS: AN AREA OF CONTENTION

INTRODUCTION

TWO decades after the reintroduction of multiparty democracy in Zambia, the country has been wavering while remaining steadfast on the path of a vibrant pluralistic and multiparty democracy. The 2011 tripartite elections yet again saw the transfer of power from one party to another for the second time since Zambia’s independence. The new government recognizes the critical role good governance plays in national development. Essential elements of representative democracy like ours include respect for human rights and fundamental freedoms, access to and the exercise of power in accordance with the rule of law, the holding of periodic, free and fair elections based on secret balloting and universal franchise as an expression of the sovereignty of the people, the pluralistic system of political parties and organizations and the separation of powers and independence of the branches of the government.¹ However, in the past 20 years, occasionally, the dream of multiparty democracy and good governance has come to the brink of collapse under the weight of dictatorial tendencies by the successive national leadership.² This paper intends to examine how the country has conducted itself in terms of elections and recommend to the new government to address some of the pitfalls in the electoral process.

ZAMBIA’S ELECTORAL PROCESS

Elections are bedrock of good governance as they provide an avenue for the electorate to participate in either electing or being elected as leaders. When periodically and in a free, fair and transparent way, elections help the electorate evaluate the performance of elected leaders by either voting them back or out at election time. In Zambia, elections have been generally contentious to reform both constitutional and electoral

CONTENTIOUS ISSUES IN THE ELECTORAL PROCESS.

It is important to note that democracy comes with responsibility and that duty to promote and protect the free will of the electorate is the onus of every citizen. Zambia’s electoral process has been found wanting by many stakeholders in terms of guaranteeing free expression of the will of the electorate to electoral conflict and petitions. The root causes are many and varied. This paper identifies some of the root causes and the way forward in minimizing electoral tension, conflict and even violence in the electoral process. Some of them include the following:

- Requisition that a winning presidential candidate obtains 50%+1 vote
- Establishment of fast track election tribunals and constitutional courts

¹ African Union Declaration on elections, Democracy and Governance Article 3

² Zambia’s 2001 tripartite Elections Report by the Foundation for Democratic Process (FODEP)

- Change of the electoral system from the FPTP to Mixed Member Proportional Representation (MMPR)
- Enshrinement of the election date in the constitution
- Extension of the inaugural period from the current within 24hours to 90 days
- Continued role of the Chief Justice as both Returning Officer and Adjudicator during presidential petitions
- Disclosure of political party funding sources
- High levels of electoral malpractices and increased election disputes and litigations e.g. after 2011 elections about 70 parliamentary seats were petitioned for various reasons among them falsehood and malpractices
- Inadequate and partisan issuance of NRCs;
- Limited time for voter registration resulting into disfranchising some eligible voters;
- Flaws and anomalies in the voter registration exercise and voters' register respectively;
- Suppression of civil and political rights such as freedom of assembly and press freedom through the abuse of the public order Act and state owned media;
- Low participation by marginalized people such as women, the poor, youths and persons with disabilities;
- limited practice of the political culture of mutual tolerance, consultations, consensus building, compromise and cooperation among various players resulting to suspicions and conflict in the electoral process;
- abuse of public resources, office and electoral corruption;
- inadequate administrative capacity and political will in the management of credible, free and fair elections;
- limited enforcement of the electoral code of conduct and lack of dependable institutional structures to depend on in times of differences;
- Commercialization of elections and lack of legal framework to guide the electoral expenditure
- Voter apathy and limited civic and voter education;
- Culture of personal hatred, vengeance, victimization and petty jealous above public interests and aspirations;
- Regionalization and tribalisation of politics;
- Small winning margin between the winning and runners-up candidates leading to suspicions of rigging
- Perceived lack of independence by the institutional of good governance such as the ECZ, ACC, DEC and the Zambia Police Force;
- Unclear role of Office of the President during elections
- Failure by elected leaders to respect, fulfill and deliver the campaign promises;
- Widening gap between the rich (elected leaders) and poor (electorate);
- Election of the mayors. Stakeholders are proposing through universal suffrage rather than the current practice;
- Making the office of the councilor more attractive by attaching incentives to it to attract qualified personnel to vie for the position.

EXPECTATIONS AFTER 2011 TRIPARTITE ELECTIONS

Since the PF, as a party, has been in opposition for 10 years before being ushered into office on 23rd September, 2011, they are aware of some of injustice perpetuated by the successive ruling parties and elites that has eroded electoral credibility over the years. As result, many Zambians are expectant and hopeful for better and credible electoral process devoid of violence, corruption, hate speech and

vindictiveness but one which is democratic, inclusive and definitive. In this regard, FODEP and other civil society expect the following:

I. The Government

The government is charged with the primary responsibility of maintaining national unity, peace and security through various institutions for the betterment of the nation. In this regard, the government has an overall responsibility of promoting and protecting the free will of the electorate as a basis for maintaining national unity, peace and security. Going by the PF manifesto sections 22 and 23 on legal and constitutional and electoral reforms, it identifies failures of the previous government to give the people a new constitution that reflects their will and aspirations and the stagnation of the electoral process which has remained a contentious issue. The PF government has promised to embark on legal, constitutional and electoral reforms aimed at realizing good and democratic governance.³ Our expectations of the PF government include but not limited to that:

- Government believes in and practices democratic, free and fair elections as the one source of legitimate power
- Respect, promote and protect laws and institutions that are charged with the responsibility of promoting free and fair elections such as ACC, ECZ, Police etc;
- Not to discriminate political parties, their candidates and leaders, supporters, sympathizers on the basis of their political affiliation or indeed practice and promoting any form of discrimination;
- Not to abuse state security agents such as Police, OP, ACC, ZRA, DEC, media, etc to harass institutions and individuals perceived to be not tolling ruling party's agenda;
- Endeavors to promote dialogue and unity among and with various stakeholders in the electoral process and take practical steps aimed at building confidence in the process;
- Willing to reform and provide timely and adequate funds and logistical support to the ECZ to facilitate smooth conduct of elections;
- Accept and tolerate divergent and conflicting views and opinions as a cornerstone for any functioning democracy and use persuasion to harmonise such views rather than using threats and intimidation;
- Respect and appreciate the existence and legitimate operations of CSOs and opposition parties and accept them as legitimate partners in national development and finding national solutions;
- Facilitate opening up official channels of conflict management and resolution with stakeholders in ironing out concerns and grievances in national governance;
- Avoidance of dividing communities on political, religious, regional and tribal faultiness by sponsoring individuals and groupings with the view of undermining democratic process, reforms and practices;
- Able to develop effective communication with stakeholders based on truth and facts about its activities, successes and challenges
- Show capacity and progress in reducing poverty, hunger, disease, corruption and general human suffering in order to promote and translate participatory democracy into substantive democracy that delivers to the people in with the PF constitution under the preamble which states: ...recognizing that the party is the leading political force and shall continue to revolutionary

³ Patriotic Front (PF) Manifesto 2011-2012

organization in which participatory democracy shall be rigidly and strictly maintained...” and in line with Article 3 of the party constitution.⁴

- Review the NGO Act and review the registration of NGOs/ CSOs by the Ministry of Home Affairs which deals with national security.

II. RULING PARTY

As a ruling party its supremacy over everything is projected in the party Constitution Articles 3 and 5, which states “the party is supreme and a guiding political force in the land and ensures that all public institutions both state owned enterprises and popular mass and similar organizations are led by members of the party.” In recognizing the party’s supremacy, it will be imperative for the ruling party to practice the following:

- Supports the government in maintaining national unity, peace and security;
- Believes and practices democratic, free and fair elections and internal democracy;
- The party and Its supporters refrain from being lawless by taking the law into their hands;
- Respect the rule of law and supports anticorruption crusade both in words and deeds and avoid engaging in any illegality, violence and corrupt activities but become champions of peace, good governance and democracy so that the democratic credential of the government and the President are not brought to public ridicule and contempt;
- Educate its membership and leadership about the provisions of the electoral laws and regulations as well as fundamental principles of a credible, free and fair elections as key for good governance, peace and prosperity;
- Refrain from undermining the principles of separation of power;
- Exercise mutual tolerance and respect to void arousing ill-feelings of their political competitors;
- Lead by example in all sectors of life.

III. Electoral Commission of Zambia

The new government must ensure that:

- the ECZ efficiently and sufficiently manages elections in a fair and free manner and in accordance with the Zambian and universally acceptable electoral laws, regulations and procedures to avoid political and electoral conflicts;
- ECZ demonstrates high levels of independence, professionalism, competence, capacity and impartiality in managing elections;
- ECZ uses perceived non-partisan officers in managing elections and appointment modalities and composition of the Commissioners is reviewed;
- Ensure that printing ballot papers are done locally transparently by involving various stakeholders e.g. political parties, media, CSOs, church, etc, and distribution of election materials is done sufficiently;
- Ensure that ECZ is decentralized to district level and that conflict management committees are effectively functional during the entire electoral process and able to address concerns raised by stakeholders professionally, honesty, prompt and fair manner;

⁴ PF Constitution 2007 page 3

- Department of the NRPC is electronically linked to the ECZ to help in capturing Zambian becoming of the voting age and ensuring that village and district registers are functional to held in the cleaning of voters' register of deceased voters;
- Ensure that ECZ strengthens communication channels with various stakeholders to promote understanding and appreciation of the mandate, operations and responsibility of the Commission

IV. Opposition parties

Political parties are lifeblood and soul of any functioning multiparty democracy. It is therefore that the party in power and the government preserve and guards this ecosystem. It is often said that opposition political parties are a government in waiting and need also to lead exemplary conduct befitting a democratic and responsible government. Any attempt to destroy and suppress the existence of political parties casts doubt on the genuineness and commitment of that government to democracy. It this with this background that the new government is expected to:

- Ensure that opposition parties also believe in democratic, free and fair elections and practice internal democracy
- Promote peace, security and unity in the electoral process
- Respect the provisions of public order Act, Electoral Act and Electoral Code of Conduct and support the effective enforcement of these laws and regulations;
- Provide constructive criticisms and remain to committed to principles non-violence by using respectful language, desist from engaging in corruption and illegality;

V. NGOs and Civil Society Organisations (CSOs)

CSOs are a link between the general public and the state although often times have been accused of having no constituency to represent by politicians who claim to be elected hence having the mandate of the people. CSOs are well placed to engage in national peace-building activities in the electoral process and help legitimize the outcome of the process through election monitoring. CSOs have a critical responsibility of protecting and promoting free expression of the will of the electorate through the ballot paper.

Under the new government, we expect that

- CSOs and NGOs practices internal democracy and believes in democratic elections
- Maintain balance between the state and general public and demonstrate exemplary democratic conduct;
- Practices high levels of impartiality, professionalism, competence, transparency, accountability and integrity in their operations in order to build confidence in the electoral process;
- Continue to provide sufficient, accurate, timely and non-partisan information on the electoral process and procedures to help the masses make informed choices and actions;
- Promote and protect the rule of law and abide by various national and electoral regulations
- Balance the advocacy of human rights with responsibilities to promoting peace and national progress
- Work closely with ECZ and its structures and monitor the operations of the Commission

VI. Media

The media is the mirror of society and plays a key role in informing and educating the public especially in the electoral process. It influences the character and behavior formation and conduct of various electoral players. For this reason, the media has a central role in fostering national peace, unity, security and national development. The media therefore must understand, appreciate, promote and protect the principles of competitive, free and fair elections. It should itself practice internal democracy and freedoms.

Under the new PF government, we want to see that:

- Media operates freely and the FoI Bill is enacted into law.
- Ensure that deliberate trainings of media organizations and journalists to make them knowledgeable in the electoral issues, laws and regulations governing the process to enable them disseminate accurate and reliable information to the public
- Avoid biased coverage of events and use respectful and decent language both in news stories and editorial comments and practice responsibility through self-regulation.
- Embark on media reforms

VII. Church

The church is an oasis of national peace and unity. It must remain so in its capacity for nurturing and protecting national peace unity and development for all. It has been instrumental in fight social injustices and unconstitutional decisions by political leadership. In the electoral process, we saw the church increasingly getting involved in election monitoring and preaching fairness and peace. The new government must allow the church to intensify their fight for justice and fairness in the electoral process by ensuring that just and democratic laws procedures and practices and the church itself must embrace democratic principles of tolerance and co-existence, practice democracy, justice and fairness in their structures and operations for their voice of justice to remain credible and relevant.

VIII. Trade unions and students

Unions must

- Believe in democratic, free and fair elections and practice internal democracy and urge their members to actively participate in elections as a way of promoting social justice.
- strive to remain non-partisan and avoid being used or bribed by strong forces such as politicians either in government or opposition;
- Educate and sensitise members on human rights and freedoms, electoral laws, rules and practices and respect of democratic processes;
- Demand for social justice for their members within the stipulated labour and national laws to promote peace and harmony

IX. Law enforcement agencies (LEAs)

The LEAs are created to ensure that peace is preserved in the interest of everyone. Their role is critical when the political environment is highly charged with political and personal emotions, anxieties and even tension. The LEA must be within the ambit of law strike a balance between protecting national peace, security and order on one hand and protecting and promoting the fundamental rights and freedoms of various political players on the other hand.

In a plural democracy like Zambia, the Police have a responsibility to

- Protect and promote freedoms of all players to freely assemble and associate as well as campaign during elections in accordance with the laws.
- Maintain high levels of integrity, impartiality and professionalism by conducting themselves in a manner that gives public confidence to all players in the process. It is for this reason that the appointment of the Inspector General of Police and other commissioners be reviewed and their term tenure constitutionally guaranteed.

X. Judiciary

It is vanguard of justice because where there is no justice, there is no peace. Sometimes, the promotion of justice becomes increasingly difficult during elections as players use all sorts of tactics including illegal, corrupt and criminal to maintain or secure power. The moment the judiciary is seen to be compromised, those who suffer injustice may resort to other means through which they think can achieve justice. It is therefore important that judiciary under the new government promotes justice in order to enhance peace in the electoral process let alone respect of the will of the people. It is our desire to see that the judiciary remain proactive, firm and fair in judging electoral petitions and expeditiously dispose of them. This calls for professionalism, independence, integrity and fairness. It is also cardinal for judiciary to interpret correctly provisions of the constitution, electoral laws and regulations guiding stakeholders and promptly enforce them. In this case, judicial reforms need urgent attention.

XI. Parliament

We all know that the mandate of National Assembly is to make laws and ensure that such laws are in conformity with the spirit of promoting and protecting democracy and free and fair elections. The new government has a mammoth task to

- Ensure that Parliament remains independent and dignified to enable it protect and promote laws and regulations aimed at creating confidence in the electoral process.
- Ensure that the Speaker exercise political impartiality in presiding over deliberations in the House in order to minimize political tension resulting from frustrations due to political interference;
- Promote bi-partisan parliament which support democratic legal and constitutional reforms in the House on mutual understanding of the benefits of such reforms rather than on instruction given during party caucus meetings;
- Promote lobby skills among MPs from the ruling party so that MPs regardless of their political affiliations must initiate and support democratic legal and institutional reforms to deepen and consolidate democracy, good governance and free and fair elections which are indispensable element for sustainable development.

XII. Cooperating partners

Zambia 's electoral process has been heavily supported by cooperating partners such as the United Nations Development Programme, European Union, etc since the country returned to multiparty democracy in 1991. Support has been towards civic and voter education, human rights education, election monitoring and capacity building of the ECZ among other election related activities. With this in mind, the new government should ensure that:

- Continue supporting election related activities including peace-building and conflict management and resolution initiatives in order to facilitate public understanding and appreciation of democratic principles and behavior;
- Effectively use diplomatic channels of communication with them to encourage them to engage in activities and conduct that respect human rights and freedoms as a basis for promoting sustainable national peace, security, unity and development
- Demonstrate interest in conducting credible elections and refrain from making public statements or action that undermine democratic legal and electoral reforms

XIII. General citizenry

As stated earlier, it is the responsibility of every citizen to maintain national peace, security and unity and promote credibility in the electoral process. Also, the power of the ballot is in the hands of the general citizenry who must effectively and massively exercise it. The general citizenry have the overall responsibility of promoting and protecting the free expression of their own will by voting for candidates of their own choice. To realize this, government should ensure that civic and voter education is encouraged to inculcate in the citizenry a high sense of personal and collective responsibility and the capacity to analyse politicians' campaign messages and political parties' policies, programmes and ideologies critically and independently to enable them refrain from mob psychology but make choices from an informed view point.

1. Recommendations

In the interest of strengthening the democratic process and in light of the discontent of opposition parties and other stakeholders on the outcome of elections, the following are the suggested recommendations:

- ECZ must be given more controlling powers by reviewing the ECZ Act. In the same vein, the electoral legal framework needs strengthening with electoral laws being comprehensive and unambiguous. Ensure that the ECZ endeavors to satisfy stakeholders that it is truly autonomous by actions and utterance hence the need to review the appointment modalities and composition of the Commissioners
- Public Order Act in its present form is still prohibitive and requires revisitation.
- Need for genuine, open and continuous inter-party dialogue amongst stakeholders like this one and the ruling party must be commended for taking lead in initiating this dialogue. In addition, the ruling party should be more tolerant to opposing views and accept that Zambia is a plural society in which no single grouping has a monopoly of say on national issues. It is our sincere hope that the spirit of give and take among political parties should prevail if the nation is to remain on the democratization path it embarked on in 1991.
- CSOs need to uphold their principles of impartiality and objectivity in order to gain credibility and the confidence of the general public, government and opposition parties and work closely together to achieve their respective objectives on promoting, protecting and enhancing good governance and democracy;
- The media should remain and continuously work towards being a watchdog of the democratization process and democracy. It is an indispensable pillar of democracy. It is our appeal to the government and all media owners to devise deliberate editorial policies aimed at creating a just, open and civilized society in which every citizen will enjoy his/her liberties

without any form of discrimination or exploitation. The media should appreciate that they are serving the general public and not selected interest groups. They should be impartial and objective in the dissemination of information so that members of the public and even relevant authorities make informed decisions.

- Registration of voters must be continuous while the capacity of the Department of the NRC should be improved
- Like in 2011 elections, police need to be oriented to the electoral law and policing if they are to effectively police and enforce the law during the electoral process and government continue with its legal reforms in order to create strong institutions and legal frameworks which will safeguard the rights and freedoms of the people in line with fundamental principles of democracy and good governance.

Conclusion

Democracy and justice are cornerstones of the political and social change required to reduce poverty, corruption and maladministration. Democracy is a question of human dignity and this includes the political liberties, the right to freely express one's views, the right to criticize and to influence opinion and the right to health and work, to education and social security. Human dignity is the right and the practical possibility to work with others in shaping the future together. These rights, these democratic rights cannot be reserved for a certain sector of society. They have to belong to all people. Therefore, Democracy is more than just holding elections on a regular basis but about creating a culture of mutual respect and the will to compromise. It requires democratic parties and organizations that can work unconstrained and the right for all to organize and have their voices heard. In this regard, "Democracy demands justice. One cannot win a people by filling the pockets of those who are already propertied; while the poor are driven into ever deeper misery...social liberation is a condition for democracy"⁵

⁵ Olof Palme-Swedish labor movement's organization for international issues and development cooperation, Stockholm 21 February 1968