

ZIMBABWE ELECTION SUPPORT NETWORK



SPECIAL VOTING PROCEDURES: WHICH WAY FOR ZIMBABWE?

Introduction

Voting is every citizen's right. No eligible national citizen should be deprived of registration or the right to vote as a result of being homeless, ill, out of the country, in prison, etc. Yet, under Zimbabwe's electoral laws only citizens outside their home constituencies on official national duty can cast postal votes, a requirement that is widely viewed as disenfranchising more than three million Zimbabweans living abroad. In view of elections due in 2011, concerted effort should be taken to correct this constitutional loophole. Special voting procedures must be put in place to allow every Zimbabwean in whatever circumstances to exercise his right to franchise. Special voting procedures are frameworks whereby electors are allowed to vote in locations other than their designated polling stations, hence "absentee voting".

Special Voting Procedures

Special voting facilities take various forms. There is mobile voting where polling officials transport a mobile ballot box to voters who cannot attend their designated polling station. For example, ill or elderly voters can cast their ballot at home or a hospital. Mobile voting usually takes place on voting day, but may also happen in advance.

Postal voting is where voters cast their ballots by post in advance on the day of elections. Early voting is whereby voters [such as election officials or security personnel] who are unable to attend their designated polling stations on the day of elections are allowed to cast their ballots early. Prison-voting is where prisoners who retain suffrage cast their ballots at special polling stations within the prison. Military voting is where members of the armed forces vote at a designated local civilian polling station or in their barracks. Special Voting procedures experienced problems relating to lack of secrecy in postal voting [on ballots], alleged corrupt practice of postal voting by armed forces, lack of ZEC oversight over postal voting process, no transparency and accountability for postal voting, missing measures against double voting on E-Day, no special provisions for bedridden or handicapped.

Out-of-country voting is where expatriate citizens entitled to suffrage cast their ballots at special polling stations, often at their country's embassy or by post. Yet this facility is not extended to the 3 million Zimbabweans who are currently in diaspora. Currently Zimbabweans are merely encouraged to travel to the country during the election periods. Even the "window of opportunity" that has come with the signing of the Global Political Agreement on 15th September 2008 is yet to be exploited to re-engage the diaspora community. The socioeconomic impasse saw most Zimbabweans moving out of the country and seeking more or less permanent settlements in countries such as South Africa, Botswana, UK, USA, Canada, Australia, New Zealand, among other places all over the world.

Global Scenarios

Yet across the world, non-resident citizens are now being afforded the right to vote, signaling a significant departure from the historical notion of a territorially defined political community. It recognizes the need to reassess the concept of citizenship in light of the increasing mobility of people. A 2007 study by the International Institute for Democracy and Electoral Assistance [IDEA] and the International Foundation for Election Systems [IFES] which surveyed external voting practices in 214 countries and territories found that of the 214 countries and related territories surveyed have *legal provisions* allowing non-resident citizens to cast a vote from abroad.

The USA has since 1975 through the Overseas Citizens Absentee Voting Rights Act, allowed its citizens living outside the country to actively participate in its elections. In Britain, the People Act of 1985 extended the right to vote in parliamentary elections to non-resident British citizens residing abroad. In Botswana, external voting is a

recent development in the state's electoral law, forming part of a series of constitutional and electoral reforms in 1997. The 1997 amendment of the Electoral Act allow non-resident citizens to vote in national elections every five years. External voting procedures follow the same procedure as registration and voting within the country. External voters may register at Botswana embassies and high commissions abroad and in major cities and centers in countries where they are expected to be an eligible voter population. External registration is normally administered by Botswana mission staff under the supervision of the IEC. Since 1989 Namibia has allowed non-resident citizens to vote in parliamentary and presidential polls. Approximately 24 different polling stations have been provided abroad for non-resident citizens to cast their votes. In 2004 approximately 1900 voters abroad participated in the parliamentary and presidential elections, averaging at about 80 per polling station. In South Africa, since 15th April 2009 thousands of its citizens living outside the country managed to cast their vote in their respective local embassies. This was after a successful court process in which the Constitutional Court ordered the independent Electoral Court to make sure that they be enabled to do so.

Disadvantages

Absentee voting often takes place outside a controlled voting environment and without the presence of observers. There is therefore increased scope for fraudulent practices. Electors who benefit from special voting procedures, such as soldiers or persons with illness, can be particularly vulnerable to intimidation from persons in authority. Further concerns may arise relating to the security and integrity of ballots cast outside of a controlled environment. For example, there are increased opportunities for fraud and manipulation in postal voting

Recommendations

- Safeguards should be put in place to ensure that the secrecy of ballots of absentee voters is maintained.
- No absentee vote is counted before the close of polling day.
- When postal-voting, safeguards should be in place to promote the secrecy of the ballot (e.g. a double envelope).
- Special measures should be in place to ensure the security of ballot boxes in relation to early voting.
- With regards to postal voting, the ballots should be distributed in sufficient time to ensure that they can be returned by day of elections.
- Observers may be allowed to accompany the mobile ballot box where mobile voting will be taking place.

Diaspora Voting

- To ensure diaspora participation in the national electoral system, the diaspora must seek legal reforms that enable it to attain dual or multiple citizenship status. A diaspora voting system akin to those used in South Africa and Botswana. The new constitution that will evolve out of the Article Six constitutional making process should provide not only for the option of dual citizenship but also the diaspora vote.
- The new electoral commission should have a specific department that focuses mainly on administering the diaspora vote. This department will work mainly in partnership with the nation's various embassies and diaspora based CSOs to conduct voter registrations and civic education programs. Voters shall at first be given the option of choosing their own local constituency in Zimbabwe during the time of registration.
- In the long term, there must be efforts to also create diaspora based constituencies in specific countries and cities to which the diaspora voters will be registered at and also alert their own representatives in the national legislature.
- Voting shall be in person by secret ballot at the identified elections centers across the diaspora. Later, options of postal and proxy voting together with that of electronic voting shall also be given serious consideration.
- The diaspora elections shall be held at least a week before the national ones and the sealed boxes be flown over to Zimbabwe well on time.
- To set in motion the Diaspora Vote Agenda, various options such as Litigation in which those in Diaspora petition the country's courts seeking an order compelling the government to allow them to vote. Article Six of the GPA can also be explored to provide for the roadmap to a process of adopting a new democratic constitution for Zimbabwe. Those in Diaspora can also form a Global Zimbabwe Forum which should act as an authoritative international voice and platform for all the representative organizations and networks of the Zimbabwean Diaspora Community.