From Inaction to Action



CSOs Maintaining the Momentum for Electoral Reforms During the Covid-19 Pandemic in Zimbabwe

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Zimbabwe has a unique and unchartered electoral terrain for a country in the nascent phases of electoral democracy. It is a country in perpetual electoral mode unprecedented in the southern Africa region, holding the record for the most highly contested elections. The gaining and retention of power has dominated the political landscape of the country taking focus away from the more pertinent developmental issues. Most, if not all, of the elections held in Zimbabwe since the 80s have been heavily contested and characterized by violence culminating in legitimacy of those elected being called into question. Not only has elections been characterised by violence but also by unequal playing field and selective application of laws. Laws have been crafted that do not mirror international and regional standards governing the conduct of elections. In 2013 the country ushered in a new constitution and despite the holding of two harmonised elections in 2013 and 2018 respectively not much has been done to align the electoral laws to the new constitution. Alligated to this, democratic universal suffrage in the country was imposed on a political system that is still to democratise hence the numerous electoral challenges the country face. In the event that nothing is done to reform the electoral framework the country is most likely to go to the 2023 harmonised elections with a miscued electoral framework which does not allow for the equal participation in electoral processes by its citizens.

It is no brainer that the events of 2017 and the subsequent change of guard has presented a threat to the country's constitutional democracy especially the ability of the citizens to participate freely in electoral processes. With the coming into power of the "new dispensation" the country should not expect electoral democracy to appear "spontaneously". However, whilst tensions within the government and some threats of violence still exist, the current change in the political environment may help drive the electoral reform agenda. The events of the past three years have presented Civil Society Organisations (CSOs) in the country with an opportunity to continue to push for reforms that level the electoral playing field. Inadvertently, the present political context offers real possibilities for deeper electoral reforms to help consolidate democratic rule. The upcoming 2023 elections, if conducted properly, provide an opportunity to advance the democratic process in the country but this can only happen if meaningful changes to the electoral landscape are introduced. Those wishing to contest elections have now been provided with an opportunity to ensure that their legitimacy, after winning elections, is not questioned as a result of a contested plebiscite by aggressively pushing for electoral reforms. To this end, the CSOs in the country have a role to play in ensuring the electoral architecture allows for free and equal participation by all citizens in elections. Ultimately this will help prevent, what James Madison called, the tyranny of the majority which seem to be emerging in the country now.

This is not to suggest CSOs have not played a significant role in advocating for electoral reforms, far from it, the improved electoral environment and subsequent improvements to the electoral laws over the years has been attributed to the strong advocacy and lobbying by CSOs to ensure that the laws are aligned to regional and international election standards governing the conduct of elections. In many cases, civil society organisations in the country have played a crucial and pivotal role, if not the leading role, in advocating for electoral reforms. Leading Zimbabwe election oversight organisations such as the Zimbabwe Election Support Network (ZESN) and the Election Resource Centre (ERC) have driven the agenda for electoral reforms through the publications of policy briefs, position papers on electoral reforms as well as petitions to parliament. On 24 September 2020 ZESN officially handed over a comprehensive Draft Electoral Amendment Bill to the Parliamentary Portfolio Committee on Justice in which it is suggesting sweeping electoral reforms. Running parallel to these efforts by CSOs the government set up an inter-ministerial committee to lead political, electoral and legislative reforms in line with recommendations of the Motlanthe Commission of Inquiry into the August 1, 2018 post-election violence. However, this initiative has been criticized for its lack of inclusiveness and its elitist approach to the process of reforming the electoral architecture of the country. CSOs, political parties and other key electoral stakeholders protested their

apparent exclusion from the process. Inevitably, the committee is still to table its recommendations and to date no meaningful reforms have been enacted resulting from this effort almost one and half years after being set up.

It goes without saying that the foregoing efforts, especially those by the CSOs, have contributed to the continuous visibility of the agenda for electoral reforms in the country. However, with the advent of the Covid-19 pandemic there is incontrovertible evidence that focus has now shifted away from the pursuit of electoral reforms towards fighting the scourge. The agenda for electoral reforms appear to have been relegated to the tail end of the important reforms that should be in place prior to the next elections. The ERC, for example, observed in its latest ERC Election Barometer, that Zimbabwe Electoral Commission (ZEC) did not implement much of the needed administrative reforms two years after the 2018 harmonised elections. In his State of the Nation and opening of the Third Session of the Ninth Parliament address on the 22nd of October 2016 President Mnangagwa announced at least 40 pieces of legislation to be tabled in this seating of parliament. These range from new bills, amendments and ratifications bills and missing is the bill to amend the Electoral Act. The upshot is the country will most likely go to the 2023 harmonised elections with laws that are not aligned to the constitution thus setting the stage for another contested election. Moreover, the government's proposed amendments to the constitution and the enactment of the recently cabinet approved "sanction laws" will further asphyxiate participation by citizens in both the political and electoral processes of the country.

The focus for reform should now be on attending to essential reforms that improve political representation, political legitimacy and political inclusion such as the review of all legislation that has a bearing on the political and electoral environment, and in turn on the electoral process and results thereof. In addition to this, extending the franchise and the right to vote to all citizens of Zimbabwe, regardless of where they are domiciled in the world is prudent for the electoral inclusion agenda. The reform agenda should also focus on reforms to improve coherence and sufficiency of electoral laws especially the alignment of the electoral laws to the constitution and enforcing laws such as the Traditional Leaders Act and Constitutional provisions on neutrality of traditional leaders. Additionally, reforms to improve impartiality, effectiveness and credibility of election administration and management such as enhancing the independence of the ZEC should be prioritised. Changes to provisions relating to voters' registration and the voters' roll to ensure they enhance the credibility of Zimbabwean elections should be vigorously pursued. Similarly, efforts should be directed at improving the role of ZEC in electoral boundary delimitation. It is given the country's electoral landscape is littered with disputes and as such laws designed to strengthen electoral dispute mechanisms should be enacted. Furthermore, focus should now shift towards supporting reforms that enhance civic competence of citizens on electoral matters such as enhancing voter education by creating more space for stakeholders other than ZEC to conduct civic and voter education. These are a few of the priority reforms proposed by local, regional, and international observers including the Monthlate Commission, the list goes beyond these.

In periods of social turbulences such as during pandemics civil society has a unique opening for effective action to ensure free, credible, and democratic elections through advocating for electoral reforms. The agenda is no longer about holding regular elections in line with the constitutional provisions but to ensure that the elections are credible. Electoral reforms require a strong and coordinated approach if the momentum that had already been built prior to the advent of Covid-19 is to be sustained. The necessity to have a strong coordinated mechanism that will bring CSOs together in advocating for reforms during the pandemic is indispensable. The country has witnessed half-hearted approaches towards a coordinated framework with most CSOs and the government pushing the agenda for electoral reforms in silos. What is required now, given the circumstances the country finds itself in, is the setting up of the electoral reforms working group made up of different stakeholders from all sectors of society. These could be from CSOs, Chapter 12 institutions, Law Society, and media organisations to name but a few. The strong inter-linkages among civil society locally and nationally will help drive the process in time for the next elections. Timing is essential if CSOs are to engage in this type of activity especially when there is an opportunity to sustain and support

the process. The opportunity has presented itself and its up to CSOs leadership to drive the agenda in a more coordinated way than before despite the pandemic.

In this regard, CSOs, as a collective, should continue discussions with relevant legislative committees, political parties and ZEC on areas of reform during this pandemic period. To aid the engagement CSOs are encouraged to develop a harmonised roadmap on electoral reforms taking into consideration long-term and immediate reform needs. This should be supported by engagement with solution holders such as legislators who would be willing to engage with civil society on electoral reforms. Research and analysis on electoral reform issues to provide information to legislators to enable them to make informed decisions should be pursued during this period. Mobilisation of citizens' participation in the reform process, specifically support to a citizen driven electoral reform process must be prioritised. More importantly, CSOs should continue to undertake civic education for citizens to understand the reforms and to keep the reforms agenda visible using Covid-19 friendly methods such as radio, TV, social media, and fliers.

In as much as the CSOs should focus on the broader reforms, attention should also be on monitoring reforms being proposed by ZEC to align the running of elections with Covid-19 protocols. Policies of this nature should not be used to disenfranchise certain electorates. For example, the recently announced ZEC COVID-19 Policy on Electoral Activities exclude those that record low or high temperatures at polling stations from voting. Besides this bracket of voters, it also excludes those in self isolation, those under quarantine and those in hospitals in addition to the frontline workers. These policies tend to have long term impact on the conduct of future elections and as such CSOs should ensure they are appropriate and sustainable beyond the short-term gains of assisting in the running of elections during a pandemic. In addition, they should make sure such policies do not have far reaching gender implications for women's participation in elections during this pandemic.

CSOs should continue to counterbalance the narrative that conducting elections during the pandemic is impossible. Logic dictates that the myth elections cannot be conducted during a pandemic and must be postponed indefinitely should be debunked. Reality is that the running of elections during pandemics is going to be the new norm going forward and CSOs should be involved in the discourse on long-term solutions beyond the short-term current responses to Covid-19 and elections. In the sum, they should be part of the conversation on how the country plans ahead for such future occurrences of this nature. Organisations such as ZESN and ERC should be applauded for their response to the government's directive to indefinitely postpone by-elections when they issued statements and legal analysis pushing back on the directive from the Minister of Health. It is palpable nonsense to suggest that the decision to suspend elections was done in the interest of public health. The horribly misguided decision to indefinitely postpone elections is an affront to the health of democracy in the country and as such CSOs should continue to push for Covd-19 friendly elections. The agenda for electoral reforms should not take the backseat and CSOs should continue to advocate for reforms despite the pandemic. As Winston Churchill said, "never waste a good crisis". A strong drive towards a people driven agenda on electoral reforms should be pursued beyond this pandemic.

Remember to keep that distance and wash those hands

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