

Preliminary Statement on the 20 January 2015 Presidential Elections

By

**Chikondi Foundation (CF), Foundation for Democratic Process (FODEP) and
Zambia National Women's Lobby (ZNWL)**

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1 INTRODUCTION

Three civil society organisations, the Foundation for Democratic Process (FODEP), Zambia National Women's Lobby (ZNWL) and Chikondi Foundation (CF) undertook a joint election monitoring of the just-ended 2015 Presidential elections held on 20 January 2015 by placing 1,915, monitors at polling station across the country out of 6,456 polling stations. The monitoring by the three organisations covered all the three key stages of the electoral process including the pre-election, the polling day and the post-election periods.

1.1 Monitoring Approach

The monitoring of the presidential elections by the three civil society organisations was aimed at contributing to the attainment of credible, transparent and acceptable election outcomes all stakeholders by the public by deploying monitors to the polling stations to watch and record the proceedings as a way to assess their compliance to the domestic, regional and international standards for holding democratic and credible elections.

While the organisations closely followed the internal party processes of candidate adoption in monitoring the *pre-election period*, more attention was devoted to the campaign period, in which our district-based monitors closely followed unfolding events in the campaigns by political parties, taking note of campaign activities, media coverage, and the general political environment obtaining. The organisations also closely followed all the preparatory activities by the Electoral Commission of Zambia (ECZ), including the candidate nomination process, voters' card replacement exercise and the conduct of Voter Education by the ECZ.

On the Polling Day, the three organisations deployed monitors to 2,130 polling stations covering 49 constituencies spread across all the ten provinces of Zambia. In addition, 150 constituency collation centre monitors were deployed to all the constituency results collation centres in the 150 constituencies to enable the organisations get firsthand information on the collation process. Over 104 personnel¹ played coordination and supervisory roles to support and oversee the work of the monitors at constituency, district and provincial level in addition to undertaking mobile monitoring within their jurisdiction in the designated areas where monitors were deployed.

In selecting the areas of deployment, the three organisations prioritized areas with unique attributes including places generally considered political hot-spot areas in previous elections, seeking a balance between areas

¹ This included members of the National Mobile Monitoring teams, Provincial Coordinators, District Coordinators, and Constituency Monitors' Supervisors

considered to be opposition and ruling party strongholds, a balance between rural and urban, as well as logistical considerations for areas that were easily reached and areas where opposition law makers had crossed floors including areas where development was perceived to be at unprecedented levels and conversely areas perceived to be neglected

This Preliminary Statement that we are sharing today represents our observations and conclusions on the electoral process from the pre-election period, the polling day and the post-election period.

2 PRE-ELECTION PERIOD

As we have stated before, the holding of democratic and credible elections is largely guaranteed by the existence of a legal and institutional framework that is acceptable and respected by all electoral stakeholders especially the contesting political parties and their supporters. Such elections require transparency, tolerance, coexistence and respect for electoral laws and commitment to resolve any grievances through the established mechanisms and institutions which must be professional and impartial.

2.1 Legal, Political and Institutional Context

The 2015 Presidential election was an operation of law as contained under Article 36 and 38 of the current Constitution. It was generally held under the same legal framework as obtained in the 2011 tripartite elections as no legal reforms were instituted since the last elections. The elections were held under the following legal framework:

- The 1996 Constitution of Zambia;
- The 1996 Electoral Commission Act;
- The 2006 Electoral Act; and
- The 2011 Electoral Code of Conduct and Regulations;

We acknowledge that the general political environment remained calm throughout much of the pre-election period. However, we noted with great concern the sporadic incidents of clashes and even violence among major contending parties, particularly the PF and UPND which obtained during campaign period.

We also acknowledge the relatively professionalism and efficient manner with which the Zambia Police Service endeavoured to administer the Public Order Act and policing for the campaigns as no Political party complained of being denied any permit to convene campaign rallies or to assemble or indeed having their assembly disrupted as has often been the case in past elections. However, as CSOs, we wish to take note of allegations of some tendency of partial action by the Police in some cases of violence involving ruling party cadres. Some member organisations received complaints to the effect that Police tended to act very slowly whereas in instances involving opposition party supporters, they acted very swiftly in apprehending the perpetrators. For instance, in Shiwang'andu Constituency where the police only dispersed the PF cadres who wanted to ram into the UPND campaign team's helicopter and in Mongu where the PF who hacked UPND cadre with plank was whisked away briefly detained and later released.

2.2 Electoral Preparations

We note that the Electoral Commission of Zambia (ECZ) endeavoured to do its best to ensure a smooth preparation of the elections. We thus, acknowledge that given the time constraint, ECZ managed to recruit, train and deploy the requisite numbers of electoral staff, procure electoral materials, mobilise and arrange resources and logistics for delivery and retrieval of electoral materials.

We also wish to note with commendation that although the ECZ had to rely on the 2011 Voter Register, there was not considerable time allocated for the electorate who had lost their voters' cards to get them replaced in order for them to take part in voting. The period allocated for such an exercise was very short to have any meaningful positive impact especially in rural areas.

Given the prevailing factors, it is also our view that on Election Day, the ECZ did perform well amidst difficult and unforeseen adverse weather conditions.

2.3 Civic and Voter Education

Zambia's electoral process continues to suffer from inadequate voter education activities. This year's election is no different as the voter education undertaken by the ECZ was not vigorous, was limited in outreach and failed to produce any desired results as evidenced from the poor voter turnout at 32.36% and the high number of rejected votes at 17,313 ballots.

The voter education exercise was compacted and time was short even to review its impact on the voters. Further, although ECZ did their best in undertaking Voter Education activities that were marred by the rains which continuously disrupted the exercise.

2.4 Political Parties and Candidates selection

While the period prior to the official campaigns in pre-election period was largely devoid of much activity, we noted with concern the disturbing intraparty wrangles that characterised the candidate adoption process in the major political parties - (the PF and MMD). Whereas these were internal party matters, it is our view that whatever happens within political parties during an election time will have potential spill-over effect on the electoral process. As observed about the poor levels of voter turnout on Election Day, one could argue that some voters could have been discouraged by the high levels of differences and infighting within some major political parties and could have chosen to express that by keeping away from casting their votes as a way to express their protest.

It is however gratifying that the nominations process proceeded very smoothly, peacefully and we wish to commend ECZ for having scheduled the nominations well, hence no complaints were noted. Political parties were given ample time to within which to mobilize supporters and other requirements for the nominations.

Out of several candidates that expressed intention to contest, only one prospective candidate for the United Poor People's Party, President Alex Muliokela failed to meet the requirements and was therefore not nominated. Other candidates decided to withdraw for various reasons among them National Revolution Party (NRP) President Dr. Cosmo Mumba among others.

2.5 Election Campaigns

The three organisations had monitors in each of the programme designated districts who monitored the campaigns within their districts.

It is our assessment, the campaigns ahead of the 20 January 2015 Presidential by-election were fairly peaceful, although they were characterised by some incidents of clashes and some violence. We also noted that the campaigning by contending political parties was relatively more focussed, issue-based and disciplined in comparison to past elections. This may have contributed to the peace of electoral environment that prevailed throughout the electoral process.

Despite the unprecedented high level of competitive electoral contest, political parties generally showed maturity and showed commitment to conduct clean campaigns for the presidential elections.

However, we wish to express our great concern with the sporadic occurrence of clashes and incidents of violence in some places during the campaigns, particularly involving political party supporters of UPND and the PF. Among the most notable ones of such include:

- The attack on one UPND member at Mongu Airport on 7th January 2015 in which the victim was rendered unconscious;
- The physical attack on senior party campaign officials of UPND in Shiwang'andu in Muchinga province by PF cadres on 3rd January 2015;
- The burning of the PF campaign boat by suspected UPND supporters in Lusaka's crossroads shopping mall in the night of 12th January 2015;
- the attack and damage to several cars belonging to PF members by UPND cadres in Lusaka's Chris corner during UPND's rally held at Woodlands stadium on 18 January 2015;

The CSOs were also concerned to note reports of covert malpractices such as vote buying, treating of voters and electoral blackmail by threats of disruption of ongoing infrastructure development if any candidate other than the ruling party is voted into office. We also witnessed an increased frequency of launch and inspections on government developmental projects around the country by the Acting President, Dr. Guy Scott which could have been misconstrued by stakeholders as campaigning for the ruling party- PF.

- Further, the ruling PF candidate, also continued holding on to several government portfolios including Minister of Justice, Minister of Defence and Party Secretary General, and enjoyed certain advantages and privileges that set him apart from the other contenders, such as being in the entourage of the Acting President during the campaign. Though legally permissible this situation made the playing ground for all contenders uneven.

Our further observations during the campaigns include:

- **Plush campaigns:** We noted that the leading contenders in the 20 January, 2015 presidential election displayed a very expensive campaign. In the absence of a Political Party Financing law to guide the sourcing and disclosure of campaign funds, the financing of such unprecedented expensive campaigns by political parties will go unchecked. It is for this reason that we call on the enactment of the law to regulate funding of political parties;
- **Apprehension over Rigging:** We observed an increased sensitivity among political stakeholders about electoral rigging, with some stakeholders, particularly one of the main opposition parties (UPND) raising concerns about the possible tampering with results of the January 2015 election. The impounding of trucks carrying ECZ materials and reliability of ballot papers; the decision by the ECZ to use Zambia Air force helicopters with PF presidential candidate Edgar Lungu remaining Minister of Defence and Minister of Justice are cases in point. We noted that this was not the first time such suspicions and apprehending of electoral materials in transit as a similar incident happened in 2008 when the trucks transporting ECZ materials were impounded by the then opposition PF supporters in Livingstone. In this vein, it is our view that ECZ should communicate the transportation of all electoral materials whether by road or by air to avoid such incidents from recurring in future. Further, we recommend that ECZ should procure such simple materials as lamps and chairs locally which may be used in subsequent elections instead of buying such things every time there are elections which unnecessarily raise the cost of conducting elections unnecessarily.
- **Use of Defamatory statements** such as "*Kabotolo or Vodka*" in reference to PF President Edgar Lungu and "*Satanist or Freemason*" for UPND presidential candidates respectively became a source of concern. This was in disregard of the provisions of regulation 21 of the electoral Code of Conduct No. 52 of 2011, which forbids the use of defamatory language during campaigns;

- **Electoral Blackmail:** The price of fuel which was costing K10.63 per litre of petrol before election was reduced twice during the campaign period and with haste the government released the constitution road map which was stashed in government shelves since the 2013.

2.6 *The Media Environment*

We noted with concern that equitable media coverage continued to be a thorny issue in the electoral process. Media coverage of political events continued to be skewed towards the party in power contesting the elections while major contending political parties had a share of fairly dry coverage and the so called small parties rarely got any coverage except President of the United Party for National Development (UPND). Other parties were given a raw deal on news coverage throughout the entire campaign period which plays negatively for the growth of our flourishing democracy. Our appeal is that the media should adhere to the provisions of the electoral code of conduct which dictates for equal coverage of all political parties in contest.

- Our further observation was that the Media was polarised: State media was more inclined towards the ruling party candidate whereas at some point both the print media from private and public supported the ruling party candidate. With regard to print media, the Daily Mail covered the just ended election relatively more fairly than other public media going by the balanced nature of their news headlines. Electronic media such as Zambia National Broadcasting Corporation (ZNBC) and Muvi TV were perceived to have taken partisan positions in their news coverage particularly ZNBC which is supposed to be public broadcaster appeared to have taken a partisan stance following the appointment of a new Permanent secretary and change of management staff at the institution which made the coverage of the opposition political parties worse off. It is our considered view that this instilled fear in the new office-bearers who had no option but to favourably increase coverage of government and PF in their reporting. The PF candidate hence had all his big rallies broadcast live and subsequent campaign rallies were also covered on ZNBC while other candidates only had statements being read in some instances.
- There was airtime space provided for Economics Association of Zambia (EAZ) for aspiring Presidential candidates that helped provide a neutral platform for candidates to sell themselves to the electorate. However, this event failed to take off.
- Muvi TV also provided a platform for all the candidates debates which were beamed live on the station.

2.7 *Election Security*

We acknowledge that the police mobilised over 8,000 security personnel and deployed them adequately to all the polling stations in the country.

Our monitors reported the presence and visibility of security personnel at all polling stations monitored, and that they performed well in providing security to all stakeholders prior to and during the polls. In this vein, we were happy to note a relative improvement in the conduct of the police towards opposition political parties, and that the administration of the Public Order Act – (“permits”) for holding political rallies during the pre-election period was satisfactorily well managed as all political contenders were accorded the opportunity to campaign freely.

We however, noted a few cases in which ruling party cadres who perpetrated violence were left loose, the Police failed to act with the same speed as when opposition cadres were involved. For instance, in one case where two (2) UPND member were beaten up for wearing party T-shirts in Lusaka, it took the intervention of the Acting President for the Police to effect investigations and arrest the suspects.

3 ELECTION DAY OBSERVATIONS

In all the polling stations covered, our monitors closely watched the opening process, voting, closing and counting of the results at polling stations as well as the results tabulation at constituency collation centres. Below are some of the observations noted by the monitors on Polling day:

3.1 *Opening and Voting Process*

Our monitors were present in all the polling stations they were deployed to monitor, and a significant majority of them were able to witness the opening procedures. In a number of polling stations in Lusaka, Chinsali, Kasama and Masaiti districts among others,² our monitors were denied access and did not witness the opening process on account of lacking either the Accreditation Badge or Letters of Oath or both by the Presiding Officers. However, the monitors were later allowed to monitor after the intervention of the ECZ national officials.

We also noted with concern that a significant number of polling stations did not open in time on account of lacking the requisite materials which had been delayed by the impassable roads posed by adverse rainy weather conditions. Further, in some parts of Central, Lusaka, Western, Northern, North-western, Southern, Eastern and Muchinga provinces, the polling stations voting did not start at all as the materials had not been delivered at all, prompting the ECZ to postpone polling to the following day.

In the polling stations where voting took place on election day, a significant number of the polling stations opened on time and voting proceeded as per schedule. Monitors reported long queues at start but this eventually fizzled out in many areas as a result of the rains.

In some polling stations, our monitors reported a considerable prevalence of errors on particulars of voters on the registers, with some voters being allowed to vote while others were denied, for instance in Kachinda polling district in Serenje district.

We noted that the electoral staff conducted their work in a professional and orderly manner and were well versed with the required procedures.

We noted with concern the failure by ECZ to put in place measures to allow for the Implementation of *Special Vote provision* and that monitors and some of the Polling staff engaged by ECZ did not participate due to the refusal by the ECZ to allow them to vote in areas where they had been posted to conduct the elections. This is despite Section 24 of the 2006 Electoral Act providing for such personnel to vote using the *special vote*. As a result, some potential voters were unfairly disenfranchised by such lack of implementation of the provision.

3.2 *Closing and Counting Process*

All our monitors witnessed the closing of polling and the counting process at each of the polling stations monitored. Nearly all the polling stations that started voting on time also commenced the counting immediately upon completing the voting. No anomalies or irregularities were noted by our monitors.

3.3 *Election Day Critical Incidents:*

We noted a relative low level of critical incidents on election day in comparison to the last elections in 2011. Some of the isolated incidents noted include:

² Including Manchinchi Polling District (Ngwerere Poling Station), Lilayi in Lusaka; Mahatma Gandhi Polling Station of Mtendere, in Lusaka, Mauzu Polling district in Kabanana, in Lusaka Province, 3 Polling stations in Kafulafuta constituency of Masaiti district in Copperbelt province; Chinsali district in Muchinga Province, some polling stations Kasama of Northern Province

- A few incidents of campaigning on election day, including one reported ‘unregistered vehicle’ with campaign materials going round residential areas in Kapiri mposhi district; and also one case in which one UPND Poling agent was chased from Kaunda-square Basic school in Munali constituency of Lusaka for flashing his party symbol to the electorate at the polling station;
- One case where a Presiding Officer for Lumbuka Polling Station in Petauke district had not reported for work as late as 08:30hrs, causing the polling station to remain inactive as late as 08:30hrs;
- Several cases where monitors were either denied access to polling stations as Presiding officers insisted on some monitors having both the accreditation badges and letters of oath; whereas others were restricted to operate only from one Stream and not allowed to cover other voting places, while others were initially denied access to witness the opening procedures but later allowed;
- One case in which a voter was allowed to vote on behalf of his late father at Miloso Polling Station, Matuku Ward of Mkushi district;
- Late receipt of materials which resulted in affected polling stations opening very late – for instance Icumvwe and Musungashi Polling Stations, including several others in Keembe and Katuba constituencies received election materials between 07:50 and 10:30 due to poor road accessibility posed by the rains.
- Some electorate in some parts of the country, including Mwinilunga in Northwestern province, were reported to have shunned taking part in the elections due to the shift in voting locations without ample prior notice and publicity by ECZ;

3.4 Results Tabulation:

We closely monitored and followed the results tabulation and announcement by the ECZ at national level. In spite of some hitches noted in the process, we were generally satisfied with the due diligence exercised by the ECZ in disseminating the results and for allowing contesting parties a chance to air their grievances.

We however, noted with concern that the Commission started announcing results when over 140 polling stations had not yet been served with voting materials. Despite the Commission knowing the closeness of the contest and the narrow margin envisaged, the Commission after suspending the announcement of the results on 21 January, 2015, resumed the exercise. This in our view did cause some apprehensions among some contenders, the electorate and other stakeholders. We are of the view that the delay could have influenced the voting choices of the electorate in the polling stations that were still voting. As was later noted, the final winning votes came from areas that had delayed casting the votes. This is more so that most of these areas were dotted in areas where one candidate was more popular than the other.

Notwithstanding the above, we wish to commend all political parties for heeding to the call for calmness and restraint and for having prevailed on their members to maintain a peaceful atmosphere throughout the results announcement process. We further wish to implore all who contested to acknowledge and respect the outcome of the elections and that in case of any grievances to exploit the available channels of electoral dispute resolution.

4 CONCLUSION AND RECOMMENDATIONS:

Our principal basis for making our conclusion of the 2015 Presidential elections are the International and Regional Standards for holding democratic elections, as well as the domestic Electoral Laws, including the 2006 Electoral Act and the 2011 Electoral Code of Conduct.

International standards for democratic elections conclude that an election is credible if among others - all pre-election processes are done transparently; equal and universal suffrage is guaranteed; electoral laws are applied and enforced impartially; the political environment during campaigns is generally leveled and free of intimidation, bribery and manipulation; and clear procedures that guarantee the accuracy of the results, and if such procedure are followed in an open and verifiable way.

The regional standards, such as the SADC Principles Governing Democratic Elections and Domestic standards as enshrined in the various pieces of electoral legislations including the Electoral Act and Code of Conduct also contain similar provisions.

In respect of the foregoing, FODEP, Zambia National Women's Lobby (ZNWL) and Chikondi Foundation recognize, with commendation, that the ECZ endeavoured to put in place several measures to ensure compliance with both the international and domestic standards by ensuring transparency at every stage of the electoral process ahead of the 20 January 2015 presidential elections. However, as alluded in the foregoing sections, a few concerns were noted during the pre-election period which to some considerable degree marred what could have been a perfectly open and leveled playing field for a truly democratic election:-

Among some of the main concerns we noted about the just ended elections were:

- ***Violence:***

We noted some incidents of violence as we have presented above – (in *Shiwang'andu, Mongu, and Lusaka*), though localized and not widespread, did to some extent affect the free nature of the electoral process. Such acts are not in line with the provisions of International and Regional standards for democratic elections, and are also a violation of Section 21 of the 2011 Electoral Code of Conduct.

- ***Use of Defamatory language (Character Assassination):***

As noted above, although there was a notable relative improvement during the campaigns, we were concerned to note that the use of defamatory language during campaigns was still prevalent. International Standards and Section 21 of the Electoral Code of Conduct of 2011 forbids the use of defamatory language;

- ***Media Coverage:***

The Principles for Election Management Monitoring and Observation provides for adequate time to be accorded to all political parties to fully conduct their campaigns in an environment that is equal and that all contesting parties should have equal access to the public media and enjoy fair coverage. We have noted above the fact that Media coverage during the 2015 Presidential elections was uneven, biased and polarized. This clearly is a violation of not only the international standards but also Section 13 of the Zambian Electoral Code of Conduct of 2011 which requires that all media to provide a balanced reporting of the campaigns, meetings and rallies for all contesting political parties.

4.1 *Opinion*

In view of the foregoing observations, FODEP, Zambia National Women's Lobby (ZNWL) and Chikondi Foundation hereby asserts that although the 2015 Presidential elections were held in a generally peaceful environment and the Public Order Act was relatively better managed, the overt and covert acts of intimidation during the campaigns, violence and uneven media coverage meant that the environment, though slightly better than in 2011 elections, did not sufficiently provide a level playing field and marred what could have otherwise been a perfectly clean and truly open election contest.

FODEP, Zambia National Women's Lobby (ZNWL) is cognizant of the fact that the negative elements that tainted part of the electoral process could have had some effect on the electorate's ability to freely participate and that the results management process by ECZ was not handled in a manner that could inspire the full confidence of all electoral contenders and stakeholders.

We would however like to implore all contesting parties to accept the outcome and devote their focus to continuing to play their vital democratic role of providing checks and balances to the new government while mobilising for the next general elections in September 2016.

We wish to take the opportunity to congratulate the President-elect, Mr Edgar Chagwa Lungu of PF for emerging victorious in the highly contested election.

We also thank all the contenders, and particularly the runner-up UPND presidential candidate Mr Hakainde Hichilema for having provided such a competitive challenge. This is how it should be in a democracy.

4.2 *Recommendations*

Based on our observations, we would like to offer the following as our interim³ recommendations:

- ECZ should draw lessons from the occurrences during the pre-election period particularly transparency in the procurement and transportation of all electoral materials by ensuring prior communication and publicity to all stakeholders about procurement and transportation of all electoral materials;
- ECZ should make provision to allow electoral personnel to vote using the *special vote* provision as provided under section 24 of the Electoral Act No. 12 of 2006 as not doing so would continue to unfairly disenfranchise the affected citizens;
- The ECZ should review its strategies for provision Voter Education with a view to improving its impact. In this regard, voter education should be continuous, more widespread and should allow for other stakeholders such as Civil society groups to effectively participate in exploiting their outreach capacity in delivery of voter education if voter turnout is to improve;
- Parliament should explore the need for a provision in the legal framework to allow for the resolution of disputes before swearing in of a President-elect. In this vein, there should be provisions for strict timelines within which electoral disputes ought to be dispensed with by the courts of law;
- Political parties should invest in ensuring full coverage by deploying their party agents in all polling stations to increase transparency and minimize allegations of vote tampering;

³ Detailed recommendations will be outlined in the Final report to be compiled and disseminated in due time

- Intra party rules of selecting candidates in PF and MMD are not clear and need reviewing to be made explicit;
- ECZ should explore ways of implementing continuous voter registration in a cost-effective way to ensure that no eligible voter is structurally disenfranchised;
- There is need for ECZ to enhance transparency in the results management especially the results intake stage at the Tabulation Centre

Jointly issued by:

Foundation for Democratic Process (FODEP)
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Signature: _____
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