



The Commonwealth

ZAMBIA GENERAL ELECTIONS - 12 AUGUST 2021

PRELIMINARY STATEMENT BY HE DR JAKAYA KIKWETE FORMER PRESIDENT OF THE UNITED REPUBLIC OF TANZANIA CHAIR OF THE COMMONWEALTH OBSERVER GROUP

You will recall that on 8th August, 2021 we issued a statement announcing the arrival of the Commonwealth Observer Group to the 2021 Zambia General Election. In the arrival statement, among others it was reported that Preliminary Statement of our Group will be issued on the 14th August, 2021. It is my singular honour and pleasure to issue that statement on behalf of the Commonwealth Observer Group.

The Secretary General of the Commonwealth Rt. Patricia Scotland convened the 2021 Commonwealth Observer Group at the invitation of the Government of Zambia to observe the 2021 General Election.

We are a group of 13 observers from across the Commonwealth, with backgrounds ranging from the political, electoral, gender, civil society and legal fields. We are being supported by 11

Commonwealth Secretariat staff members. An advance team of observers arrived in Zambia on 25 July and travelled through Lusaka, Southern and Copper Belt Provinces. The remainder of team arrived on 6 August.

Members of our Group observed the elections in Lusaka, Ndola, Kitwe, Chipata, Kasama, Mansa, Kabwe, Solwezi and parts of Southern Province.

Since our arrival, we have received briefings from a wide range of relevant stakeholders including the Electoral Commission of Zambia, political parties, candidates, government officials from the Ministries of Health, Justice, Home Affairs and Foreign Affairs as well as the Zambia Police Service, the Coalition for Peaceful Elections in Zambia, media editors, civil society groups, and members of the international community. We paid a courtesy call on HE President Edgar Chagwa Lungu , President of the Republic of Zambia, who was generous enough to receive us despite his busy schedule.

It is important to highlight that this statement does not cover aspects related to the results transmission and tallying, which will be covered in our final report.

In consultations with the various stakeholders we learnt a lot about the pre election environment as well as expectations, fears and concerns.

1. Security and Peace

A number of stakeholders we met expressed concerns about incidents of politically-motivated violence being perpetuated by cadres affiliated to the two major political parties, the PF and UPND. The incidents were isolated but they expressed the fear that they could become a generalised problem in the future. Some stakeholders questioned police impartiality, alleging bias in favour of governing party cadres.

It was against the background that, for the first time in Zambia's electoral history, the military was deployed in some areas to complement the effort of the police in combatting election-related violence. The deployment of army personnel was received with mixed feelings. Some stakeholders welcomed it but some were apprehensive that it was meant to intimidate voters in favour of the governing party. We received no reports from our observers of

intimidation by military personnel on election day. Regrettably, we received reports of incidents of violence in a few places. Before the elections, there were politically motivated confrontations which resulted in regrettable deaths. We extend our deepest condolences to the families of all the deceased. We commend all leaders who called for peace and calm. It is the view of the Commonwealth Observer Group that the parties concerned should disband these violent cadres. If need be, they should be prosecuted by law.

Additionally, they commended the initiative of the Commonwealth Secretariat, supported by the United Nations, in bringing together the Coalition for Peaceful Elections in Zambia, which facilitated the signing of the peace pledge on 14 July.

2. Legal and Judicial Challenges

Several stakeholders we met spoke of their lack of confidence in some key state and electoral institutions. There were allegations particularly of lack of trust in the

independence of the Constitutional Court, stemming from the handling of the 2016 presidential election petition. Concerns were also raised about the selection and appointment of the Constitutional Court judges. It was quite concerning that Zambia was going into the 2021 General Elections with these kinds of perceptions. It is the view of the Commonwealth Observer Group that much more needs to be done to allay the fears of citizens.

Additionally, the enactment of cyber legislation late in the electoral cycle gave rise to apprehension among some stakeholders, that it could have an adverse impact on the electoral process as it relates to privacy, data protection and certain freedoms in cyber space, which underpin the conduct of credible elections. It was a recommendation of the 2016 Commonwealth Observer Group that “there should not be substantive changes to the legal and electoral framework six to twelve months prior to an election.” The 2021 Commonwealth Observer Group is recommending the same.

Some actors also complained that the Public Order Act was being applied in such a manner that gave way to abuse of power and prevented some parties from campaigning. There were allegations of lack of impartiality against the police in the application of the Public Order Act, making it difficult for the opposition parties to campaign. They expressed fear that the police would do the same on election day. It is the view of the Commonwealth Observer Group that the Police conducted themselves professionally at polling stations and elsewhere. They played a commendable facilitative role on election day.

3. Participation and Inclusion

It was commendable to witness the prisoners voting for the first time in Zambia's history. While there was apprehension about how this was going to be implemented, the process was well managed.

There was an impressive turn out of women on election day. However, the political parties did not nominate many women as candidates at all levels of the elections. While only one

woman featured out of the sixteen Presidential candidates, the PF and the UPND presented women Vice Presidential candidates. The Commonwealth Observer Group believes that there is room for improvement in the participation of women as candidates in the electoral process. Zambia can do better.

4. Electoral Preparations

The Electoral Commission informed our Group that it was sufficiently prepared and ready to deliver credible elections. We were briefed on registration of voters, recruitment and training of election officials, delimitation of polling stations, procurement and distribution of election materials as well as the casting of ballots, and the tallying of results.

However, several stakeholders including opposition political parties expressed concerns on the ability of the ECZ to conduct credible elections in an inclusive and transparent manner. Specifically, concerns were expressed about the registration process which was allegedly skewed in favour of the governing party.

5. COVID-19

Zambia conducted its seventh multi-party general elections against the backdrop of the COVID-19 pandemic which has had devastating effects across the globe. We noted that Public Health legislation and guidelines such as standard operation procedures were introduced to mitigate the spread of COVID-19 during the elections.

However, there were allegations of inconsistent application of COVID restrictions during the campaigns.

On election day while we observed the wearing of face masks at all polling stations and the provision of hand sanitizers in many of these polling stations we noted that social distancing was not observed.

6. Media environment

In relation to the campaign, the Group noted that the allocation of airtime and coverage by the state media was skewed in favour of the governing party. Whereas the directive by the ECZ was to allocate 30 seconds to each party,

we observed the governing party was allocated more airtime than the other contesting parties.

In future elections, ECZ should make sure that the public media complies with directives in allocating airtime to all political parties to ensure equitable and fair access. We also encourage stakeholders to consider putting in place key parameters and guidelines for the use of social media during and after campaign/election time. It will help curb fake news and distortions.

Additionally, the Cyber Crimes legislation led to uncertainty due to the perception that journalists and media houses could be intercepted and penalised by authorities for carrying out their professional duties.

We welcome the Electoral Commission's partnership with Facebook in removing fake pages, thereby reducing fake news and misinformation. We also noted and welcome the initiative with PANOS partnership with Zambia bloggers' fact-checking efforts, to mitigate disinformation with *iVerify Zambia*.

ELECTION DAY OBSERVATIONS

Eve of Polls

During their deployment, we witnessed preparations by ECZ ahead of the poll including the distribution of sensitive materials and setting up of polling stations. We visited a number of polling stations and met with a wide range of stakeholders.

Opening of Polls

Our observers noted that pre-polling procedures were generally followed and that they opened on time, with long queues of voters already present at 06:00 hours. Some stations experienced minor delays in opening. For the most part, they were equipped with requisite polling staff and materials. We were impressed to see so many young people, particularly women to be among the polling staff.

Turn out

Election Day was generally peaceful and orderly in most of the areas observed, except for the aforementioned very few and isolated incidents. They were more pronounced in Solwezi, where there were reports of intimidation, violent clashes and the destruction of property. In the other observed areas, such situations were not recorded.

Observations of polling

We observed the voting process to be slow due to delays in voter verification. In turn, it led to long queues but voters remained patient and peaceful for which they deserve to be commended. It was noteworthy that in some polling stations voters were segregated into separate male and female lines outside. In most polling stations priority was given to the elderly, persons with disabilities, pregnant women and women with babies.

Delays in the process made social distancing an almost unsurmountable challenge. Moreover, some COVID measures were not adhered to; for example, lack of face masks in some poorer areas, lack of hand sanitisers, shared use of pens when casting ballots without sanitisation, and use of small rooms as polling stations.

Observers noted that the ECZ adhered to the recommendation proposed in 2016 regarding the upgrading of streams to independent polling stations. However, 950 voters as the maximum number of voters per polling station, is still quite high. The ECZ may consider reducing this number to ease congestion.

We were impressed by the confidence and professionalism of polling officials, a significant number of whom were women. Polling procedures were generally followed transparently and efficiently by polling officials, although in isolated instances they were cumbersome and inconsistent. One example is the slowing down of the voting process due to one election officer issuing three ballots, as compared to the presidential ballot which was issued by a separate, dedicated officer.

The Voter Verification System was deployed to selected areas, some experiencing delays and technical glitches on arrival from Lusaka. However, on election day, we observed manual verification of voters.

Members of the Group were also able to observe prisoners voting at correctional facilities at various locations. Voting in prisons was generally well managed.

Secrecy of the ballot

Observers were deeply concerned with the secrecy of the ballot. The process required the recording of the ID number on the counter-foil which contained a serial number also repeated on the ballot paper. There is a danger that this practice may be misused against certain voters. The ECZ could revisit the merit of doing this.

Presence of security, party agents and observers

Police presence at polling stations was generally non-threatening, and they carried out their duties with professionalism. We noted the deployment of police at all polling stations.

Party agents, mainly from the two largest political parties, as well as other observers, were visible. The absence of party agents from most political parties was noticeable across provinces.

Closing and Counting

Polling generally closed at 18:00. However, in some cases, polling was extended to either accommodate persons who were

already in queues or to equally compensate for situations where opening of polls had been delayed in the morning.

The vote counting process at the polling stations was generally peaceful, procedural, orderly and free from interference. The voters were afforded the opportunity to choose their leaders freely and fairly.

Parallel vote tabulation initiatives (PVT)

We commend the efforts to undertake parallel vote tabulation (PVT) exercises. This is an important initiative that contributes to transparency in the electoral process, and we would encourage that civil society and citizen observer missions continue to be provided the support to continue to do so in the future.

Social media restrictions

The shutting down of social media applications on election day was noted with concern. It restricts freedom of speech and contradicts Zambia's commitment to the values enshrined in the Commonwealth Charter.

On 13 August, the High Court ordered the Zambia Information Communication Technology Authority (ZICTA) to stay such

decision pending final determination. At the time of issuing this statement, ZICTA has not complied with the court order.

CONCLUSION OF RESULTS COLLATION PROCESSES AND POST-ELECTION ENVIRONMENT

We urge all Zambians, regardless of party affiliation, to exercise patience, tolerance and restraint while the Electoral Commission of Zambia concludes the results processes. We also call upon the Electoral Commission of Zambia to expedite the announcement of all verified election results. It is our prayer that all political and electoral actors continue to act with diligence, transparency, inclusivity, and fairness as they handle the results processes and that the will of the Zambian people is preserved. Leaders should be magnanimous in victory and gracious in defeat.

We call upon the Coalition for Peaceful Elections in Zambia, the Electoral Commission of Zambia, civil society, the media, and all valued stakeholders to play their role in fulfilling the expectations of the people for credible and peaceful elections.

As we continue to await the results, it is our hope that peace will prevail throughout the process and that, where expectations are

not met at any level of the process, peaceful and legal channels will be sought, and fairness guaranteed by relevant institutions.

Our full assessment of the entire process, including any recommendations for improvement, will be contained in our final report, which will be made available to the public. We will continue to observe the results collation process.

Finally, we wish to congratulate the citizens of this beautiful country for turning out in significant numbers to exercise their democratic right to choose their leaders.

I thank you.

Ends.