

by Michael Meadowcroft

In the course of eleven years of working in developing democracies around the world I have never had such a frustrating experience as in Zambia for the 2001 tripartite elections. Never before have I had to work in such an atmosphere of suspicion, coupled with insinuations of colonialism and threats of fines and imprisonment for observers who break the Code of Conduct - though not for parties, civil servants or media who break it.

Quite apart from the observable fact that the type of person who comes on observer missions from Europe is dedicated to the work and is committed to it and to the countries in which they work, none of us see it as implying that the democracies from which we come are in some way superior. Most of us have spent time criticising our own electoral processes and seeking to improve them, but the idea appeared to be embedded like shrapnel in the mind of the Electoral Commission of Zambia (ECZ). Nothing would shift it, neither evidence to the contrary in our work here in Zambia nor our individual track records over decades. It is, of course, convenient to be able to discredit unpalatable opinions, even though backed by evidence, on the ground of prejudice. "You're not African, so you don't know. You are lied to, and you can't tell" was the refrain from the ECZ.

Unsurprisingly, given that it had observers everywhere, the judgement on the election by the highly respected local monitoring organisation, FODEP, was even more trenchant than that of EU Election Observer Mission (EUEOM), which confirmed the accuracy and professionalism of the EU observers. By then the curiously similar attacks on the EU by the Government and the ECZ had served their purpose.

The EU Electoral Unit (EUEU) arrived in Lusaka last June and, as usual with such missions, all the core team members spent time trying to get to know the ECZ, who were theoretically our partners. All of us have experience of good relationships with electoral commissions elsewhere and reckon to be reasonably convivial, but nothing managed to get us beyond being more than tolerated. There was never a sense of being partners in the noble enterprise of wanting the best possible election for the people of Zambia.

Why do I stress the issue of the relationship between the EUEOM and the ECZ? Because this background is, alas, important in the understanding of the key reason for the unsatisfactory and ultimately unsustainable elections of 27 December 2001. In most other democracies, the electoral commission is the solution but in Zambia it is the problem. Never blame the ruling party for taking advantage of its position - they all do it; instead blame the ECZ for letting it get away with it. And it would have made it more difficult for the ECZ to take the "hands off" role if it had developed a relationship with the EUEOM, particularly if it had resulted in the latter becoming an "insider".

So, from the outside, we observed that the more the allegations - circumstantial, but with increasing detail - of potential vote rigging increased, the more were the pressures from the ECZ on observers. First was the frontal attack on Coalition 2001 as being an illegal organisation because it was not registered. As an umbrella organisation for other NGOs it clearly exists, as the High Court held on when it ruled that another organisation seeking to register as Coalition 2001 could not do so as an organisation carrying that name already existed. If that Court decision were ever successfully appealed then everyone would have to reassess their position, but right through the election period the original decision stood, but still the ECZ refused not only to recognise Coalition 2001 but also to acknowledge even its media monitoring, carried out for the EUEU.

Inhibiting FODEP was more difficult. It could not be dealt with in the same direct way, so a late double pronged method was used. First, to price it out by imposing a tax on observing which would require FODEP to pay around US\$18,000 for the privilege of assisting in the guaranteeing of a good election. Second, to make it jump through new and interminable bureaucratic hoops, such as requiring applications in advance from all 6,500 observers in every far flung corner of this big country. Then after this task was successfully accomplished, the ECZ produced a second form which it demanded should also be signed and returned. Eventually, although this new form was retained, it was agreed that it could be produced at

the polling station on the day.

Then came the final attempt to prevent FODEP's involvement. Just days before the poll, after FODEP had paid for its observers, the box purporting to contain 6,500 FODEP accreditation cards was found to contain only 41 for FODEP and the rest for other organisations. True to form the ECZ said that FODEP was to blame and would not be able to go into polling stations. It took a massive last minute effort, with a series of interventions from the diplomatic community and others, to persuade the ECZ to issue instructions to Presiding Officers to allow FODEP observers in if their names were on the list and they had their NRCs.

Why all these efforts to obstruct observation rather than to encourage it? And why also make it difficult for political parties and NGOs to have copies of the voters' register by pricing a full copy at US\$15,000 rather than the US\$3,000 it cost to produce each additional copy? The voters' register is a valuable campaigning and checking tool and the best way to provide it is on CD-ROM so that, for instance, a party can change it from alphabetical by name to alphabetical by street, to assist personal canvassing. The ECZ had the capacity to produce such a CD-ROM but refused to do so and, worse, forbade the EUEU to produce it on CD.

All this is in a consistent pattern, but I fought against the implications of it for many months. Two incidents changed my view. First, on the day the election was announced, 22nd November 2001, the ECZ Chairperson, Justice B M Bwalya, announced to the EC Delegation Head, Dr Jochen Krebs, and to me that "the Government will not allow debates between candidates on television." Dr Krebs asked him what his, independent, view was but he refused to give it but just reiterated the Government's view. Then he added, "and the Government will not be happy with observers who do more than observe." Quoting the Government fitted in with a later incident when an NGO, the Zambian Reconstruction Organisation (ZAMRO) took the ECZ to court claiming that the ECZ was not entitled to charge a fee for observing. Rather than proclaiming its independence and neutrality, the ECZ chose to argue the opposite: that it couldn't be sued as it was an arm of the state, a view which the judge accepted and even extended. ZAMRO was then forthwith "excommunicated" from the ECZ National Committee for Voter Education of which it was a founder member. Pluralism and the right of opposition were not immediately in evidence within an ECZ which saw itself as a state organisation, and the Court decision was never appealed.

The Long Term Observers (LTOs) arrived at this point and were deployed into every province. Their observation of government vehicles being used by MMD, the ruling party, and of District Administrators openly campaigning for the MMD, despite another Court ruling against it, added to the other detailed evidence of heavily biased state media. However, rather than exposing these breaches of the Code of Conduct and taking action, the ECZ announced publicly that it was unable to enforce the Code. Later a senior police officer stated that the police would not deal with election offences which would have to be referred to the ECZ. Small wonder that the breaches continued with impunity. At least it all had the hallmark of consistency. And it was set out in the statements of the EUEOM.

When an electoral commission boasts that ballot rigging is impossible and insists that it cannot occur in Zambia, there is thereafter a big problem. When evidence of rigging is produced, or of errors in reporting and publishing of voting figures, it is forced to ignore or deny them to avoid losing face. This brings us conveniently to polling day.

The average number of voters registered at a polling station is 500; it was estimated that thirty voters per hour was the average rate of passage through the three vote process. It can be seen that, on a 70% turnout and with polling stations open for eleven hours, any polling station with more than the average would have to open beyond the five o'clock deadline in order to finish. Polling stations with over one thousand voters registered would have to be open until 02.00 the following morning and so on pro rata. Given that in Africa anything up to 40% of the voters are in the queue before the poll opens it would have been evident that most voters were in for an inordinately long wait. The planning and preparations nationally were grossly inadequate.

But even worse, in many areas some or all aspects of the polling equipment were not at the polling stations before the opening time. The worst case of all was in Lusaka where the ballot boxes for sixty-four polling stations - all of them

servicing the compounds in Matero, Mandevu and Central constituencies - were piled up in the Lusaka Civic Centre the night before and only began to be delivered, initially by a single lorry, at 06.30 on election day. The last boxes arrived at around 14.00 - eight hours after the scheduled opening of the poll. This is intolerable and inexcusable and is an insult to the voters.

The queues were enormous by this time and there were many electors who waited for twelve hours and even up to eighteen hours, without food or shelter in order to vote. Amazingly, some didn't even get to vote at all after waiting until 05.00 because the weary polling staff closed the doors on those still outside. Many others, in the thousands I estimate, could not wait because they had to go to work, to look after children, or simply could not cope with the strain. I hope that someone or some organisation is articulating the sadness and frustration of these citizens. I am convinced that, around the country, the number of those prevented from voting by failings of the ECZ is much higher than the declared majority for the MMD candidate.

Finally there was the count and the vote tabulations. How anyone involved could be expected to carry out, or to monitor, the detailed counting and tabulation processes, usually in the small hours and sometimes after twenty-four hours of continuous work, is a mystery. Not surprisingly, mistakes were made and their correction greatly resisted by the ECZ. Simple inputting errors stayed on the ECZ results sheets up to the end. Mkushi South, for instance, was shown as having only a 14% turnout! Constituency 62, Chipili, disappeared completely for some days. In Kamfinsa the published Parliamentary figures showed only 4,612 votes cast, whereas almost 13,000 voted in the Presidential. The question arose but was never answered: if these errors are detected how many are undetected? But the drive towards the inauguration went on inexorably so that it was held before even the final results were received. No matter that they would not have changed the order of candidates according to the ECZ figures, an electoral commission cannot "sign off" the figures until all results have been received.

Despite the extreme narrowness of the race - 35,000 votes out of 1.75 million cast - there was no time to check the figures nor to address the obvious anomalies. For instance, in over one fifth of the constituencies, most of them rural, with some 325,000 votes cast, there were no spoilt ballots at all! This is simply impossible. But it was not investigated before the result was declared. In twenty-eight constituencies there is a difference of over one thousand in the votes cast at the Presidential and the Parliamentary elections. Again, given the narrowness of the MMD majority, this is significant and highly worrying, but it was not investigated before the declaration. These and other continuing matters make the officially declared result of the 2001 Presidential election unsafe. The ECZ failed the Zambian voters.

Michael Meadowcroft was first the Team Leader of the EU Election Unit and was later appointed as the Chief Observer of the EU Election Observation Mission. He has been active in UK politics since 1958, and has held elected office at local, regional and Parliamentary levels. In recent years, he has led or been part of 35 missions in 26 countries. The views expressed in this article are personal and do not necessarily reflect those of the EU or the EUEOM.

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