

**Carter Center Observation Assessment of the
2001 Zambian Pre-Election Period
*13 December 2001***

On 27 December 2001, Zambian voters will go to the polls in the country's first ever tripartite elections. Voters will be issued with three ballots to elect the president, 150 members of parliament and hundreds of local council representatives. President Chiluba announced the election date on 22 November and candidate nomination for all elections was completed by 2 December, launching the formal campaign period. Civic education efforts and unofficial campaigning began before that date and will continue up to election day. Training of election officials and party agents is also underway, and logistical preparations for the election are in full swing.

In anticipation of the 2001 elections, a small Carter Center (the "Center") team visited Zambia in June of this year and met with a range of stakeholders to discuss the political environment surrounding the electoral process. After a second visit in September, the Center received a letter from the government of Zambia inviting the Center to monitor all phases of the Zambian elections.

In October, the Center opened a field office in Lusaka with a field director and five long-term observers (LTOs) from which it has maintained ongoing observation and contact with Zambian stakeholders. During the past six weeks the LTOs have been deployed to all nine provinces and 47 of the 72 district centers and have met with a diversity of stakeholders, including representatives of political parties, government officials, media, election staff, police, faith-based organizations, and civil society groups at both the provincial and district levels.

The overarching goal of the Center's initiative is to support efforts to strengthen Zambia's democratic process and institutions and to reinforce free and fair elections. The Carter Center acknowledges that it is an invited guest in Zambia and fully respects Zambian national sovereignty in this process. The Center is appreciative of the warm welcome it has received from everyone in this beautiful country.

The Center and its Lusaka-based staff have already shared its observations and findings with the Electoral Commission of Zambia ("ECZ"), which is responsible for managing elections, and other relevant stakeholders in an effort to provide advice in a constructive and timely manner while there is still time to have a positive impact on the actual implementation of the electoral process.

Many of the concerns that the Center has observed are correctable with political will on the part of those in authority to work in a cooperative and transparent manner to ensure full participation of all stakeholders.

With the above stated commitments in mind and in the interest of promoting electoral transparency, the Center issues this statement summarizing information it has gathered to date and the recommendations that flow from the observations.

Summary of Findings

The electorate demonstrates a high level of discontent, mistrust and skepticism toward the government, which is manifested in the equally high level of voter apathy. The lack of decision-making transparency on the part of the ECZ has contributed to these feelings of discontent. Voter apathy is a serious concern and the overall mood of the electorate appears not conducive to ensuring a fully democratic environment. Often the government and the ECZ appear to use the apathy as an excuse to validate limits on stakeholders' participation in the electoral process or their failure to take corrective measures to improve processes.

Although overall preparations for the December 27 balloting are proceeding satisfactorily, especially recently, stakeholders consider that many decisions taken by the government and election authorities have handicapped the opposition, created barriers to civil society participation, and disenfranchised many voters. Examples such as the prolonged uncertainty about the election date, the failure to publish an election calendar, the introduction of new administrative rules for domestic monitors, and exorbitant increases in fees for the voter registry all undermine the spirit of democratic elections and the promotion of a level playing field for all contestants.

However, the Center would like to commend the ECZ for taking the initiative to establish the Conflict Management Committees which, if implemented properly, can contribute to a successful election; ushering through parliament an amendment to the election law to provide for continuous registration; supporting a process to provide media coverage of political candidates; and for taking recent steps to better inform voters regarding the necessary documents needed to vote on December 27. All of these efforts reflect positively upon the process, especially given the fact that the ECZ is inadequately funded to fulfill its mandate.

Political parties, both opposition and ruling, have also contributed to growing apathy among voters as exhibited in the recent nomination process. Stakeholders countrywide complained that parties imposed candidates upon their constituencies. This resulted in the further fragmentation of the opposition as candidates resigned from their parties to run as independents or defected to other parties. Such tactics do not inspire confidence in the electorate.

The disenfranchisement of voters is another important factor that will have an effect on this year's elections and will contribute to low voter turnout. A relatively small fraction of Zambians will be voting in this year's tripartite elections. It is alarming that according to the ECZ only 2.6 million citizens out of an eligible 4.6 million citizens are registered to vote and that only 3.06 million citizens over the age of 16 have a National Registration Card (NRC), which is a prerequisite to vote in Zambia. The fact that no provisions were put in place to address the issue of the NRC as a barrier to registration is equally disturbing. It is common knowledge that the majority of citizens who are of age to vote will not qualify because they do not possess a NRC. In areas where mobile teams were dispatched to issue NRC, voter registration increased up to 50% as compared to the last exercise. Such successful approaches should be duplicated and financially supported countrywide.

More serious efforts on the part of election authorities and government should have been made to identify other provisions for registration. In addition, of those who have the “legal” right to vote, additional barriers now have been placed in their way by the rains and holiday demands. Students, families, military, and others who are registered to vote but travel home to visit family during the holiday season will not have the opportunity to vote as the necessary provisions for them have not been put in place. Furthermore, insufficient provisions have been made for the disabled to vote or for people with physical limitations who may not be able to travel to the registration and polling station.

Although passage of an amendment to the election law to provide for continuous registration was an important step forward, it is unfortunate that stakeholders and election authorities missed the opportunity to amend the law to address a number of other critical issues, namely the issue of the NRC as a prerequisite to register to vote. Additionally, several other items if adopted or amended would have enhanced the electoral process and lessened the distrust and apathy so evident on the part of voters. Issues such as the inclusion of the Code of Conduct in the law, empowering magistrates to review electoral violations in a timely manner, making provisions for voting outside one’s constituency for presidential elections, party funding, media access and addressing impediments to registration all should have been addressed in advance of this year’s elections.

This year’s tripartite elections offer a host of logistical and administrative challenges for all stakeholders. Limited government resources coupled with the selection of 27 December for elections in the middle of the rainy season will hinder, if not stop, elections from taking place in many parts of the country. Valid complaints by election officials at the provincial and district levels regarding lack of resources to meet the logistical challenges to carry out elections during the rainy season appear to have been disregarded by persons in authority.

While it is encouraging to see Zambia’s multi-party democracy active with eleven parties contending the presidential election, it is equally disconcerting to view the excessive fragmentation of political parties. Many stakeholders clearly wish to see a more representative government, but have concerns that the fragmentation will not lead to such an outcome. The fact that most stakeholders perceive the ruling party and the president to be misusing state resources and failing to help create a level playing field make the fragmentation concern especially worrisome in terms of effective electoral contestation. While the ruling party takes full advantage of its position, it aggressively condemns opposition parties from receiving financial assistance from outside the country to help level the playing field.

Transparency with regard to party finances should be a required practice and the voters themselves should be the judge, not the ruling party. The lack of transparency has also exacerbated voter apathy and mistrust in government, which is unfortunate as Zambia moves toward electing its leaders for the next five years.

Communication among all stakeholders is weak and should be addressed immediately. With the breakdown of the Inter-party Dialogue, political parties have failed to come together with election officials to work collaboratively and address common concerns. This has fueled mistrust as the ECZ moves forward without consulting vested stakeholders, which has resulted in growing skepticism and questioning of the ECZ’s independence and commitment to democratic ideals.

The Carter Center believes that steps can be taken by the ECZ, the government, and all political stakeholders to improve the integrity of this process in the weeks leading to election day. The Center offers the following observations and recommendations in the spirit of cooperation and to support the strengthening of open and free elections in Zambia.

1) Use of State Resources: If Zambia is to achieve fully democratic elections, the playing field must be level for all political contestants. Numerous examples of misuse of state resources by government officials and the ruling party have been reported to the Center's observers. In particular, the use of state resources by the incumbent president and his vice president in support of campaigning activities of the MMD candidate unfairly tilts the playing field. Although the law permits the incumbent president and vice president to enjoy certain facilities, the Center has noted significant discontent among political parties and voters who view the ruling party as taking advantage of these privileges in ways that directly support partisan purposes and disadvantage the opposition. Attendees of political rallies in several provincial and district capitals perceived such misuses by the ruling party.

Thinly veiled intimidation by the ruling party also creates a very unfavorable perception among the public and stakeholders and contributes to voter apathy. The MMD leadership's public statements that it will not provide economic development programs to any parts of the country that do not support the ruling party in elections can only be seen as narrow partisanship and a failure to meet its responsibilities for advancing common national interests.

A public perception also exists that many officials at lower ranks take advantage of their official duties to advance their personal political programs. Abuses including the role of the district administrator (DA), use of government vehicles, and government finances to fund special programs are often cited. The High Court's recent ruling that DAs could no longer participate in politics while in the civil service is a positive development helping to ensure neutrality by government employees.

Taken together these observations by stakeholders demonstrate negative perceptions of government and feelings of helplessness on the part of citizens. Such an atmosphere makes for a challenging environment in which to conduct fully free and fair elections. The Center encourages the government and government employees to remain neutral in their roles as civil servants and caretakers of the public interest in Zambia. In their political capacity during the campaign season, the ruling party and their supporters are encouraged to honor the Code of Conduct. Adherence to the Code would greatly improve the political environment leading up to the elections.

2. Electoral Code of Conduct: The Code of Conduct is a good tool. If used properly it may help to maintain elements of a level playing field although it cannot help to ensure equity in the process. It is unfortunate that the government and parliament did not take action to strengthen the Code by incorporating it into the Electoral Act and empowering local magistrates to enforce the Code to address electoral conflicts at the time they arise. This lack of enforcement ability has left a lacunae in the electoral process that could affect the fairness of the elections. Furthermore, recent reports of MMD cadres aggressive campaign activities and the history of violent by-elections, as was the case at Kabwata and Isoka East, further demonstrates the need for an enforceable Code of Conduct.

Steps can be taken to improve adherence to the Code during this campaign period that may help to improve the campaign environment. The ECZ should be encouraged to publicize the content of the Code and inform the public of the new instrument adopted by the ECZ, which requires all candidates and monitors to sign a declaration committing their adherence to the Code during the campaign and voting periods. Furthermore, the ECZ should encourage the public to act as watchdogs and report violations of the Code.

However, the Center recommends that action be taken in the future to incorporate the Code into the Electoral Act to provide a statutory legal basis for the Code, and magistrates should be empowered to enforce it in a timely manner.

3. Public Order Act: The Center has noted that the Public Order Act is widely perceived as an impediment to the opposition in conducting political campaigns as well as NGOs attempting to organize public debates. There is significant evidence that political pressure is being placed upon police by the government not to apply the Act fairly. Additionally, law enforcement officials are concerned that many police officers have never received formal training about the election law and the Public Order Act and how the two interrelate.

While the Act was amended in 1996 with respect to public meetings to delete the word “permit” and replace it with “notify,” the law still serves as a “permit process” due to the many conditions it contains elsewhere. Opposition parties have observed that in practice the police have given themselves the power to determine who may conduct and organize public meetings at the district level. While the Act exempts the president and vice president from informing the police, in practice it has been extended to apply to other MMD candidates.

The Public Order Act could be a good instrument for ensuring law and order during campaign periods; however, there is a perception that it is being abused and this misapplication promotes mistrust in the police whose role it is to enforce the law. The ECZ could help to promote a more equitable and peaceful campaign period by taking immediate steps to publicize the intent and provisions of the Act in the newspaper, television and radio, and to encourage adherence by all political actors. The police should be provided with education about the Act and encouraged to adhere strictly to the provisions of the Act and other related laws. Citizens should be encouraged to report violations of the Act to conflict management committees and the courts.

4. Media Fairness & Access: Based on observations of television and newspaper coverage during the pre-campaign and nomination period, the ruling party has benefited from positive, extensive coverage in the government-owned television and press. While the opposition television and radio programs were labeled “political adverts,” the ruling party used news coverage as an opportunity to campaign.

State media resources belong to the people of Zambia and should be used in a way that benefits all Zambians. The misuse of public assets has a profound negative effect on the general public as it leaves people feeling taken advantage of and thus reinforces voter frustration and apathy.

A particular concern relates to intimidation of some independent media outlets by alleged MMD cadres in Kitwe. A Carter Center observer visited the station to witness the damage caused by MMD cadres in Kitwe breaking into the radio station and disrupting the broadcast of an opposition

presidential candidate. This was the second reported violent incident by MMD cadres at the station. Similar concerns about the government's heavy-handed approach toward independent media were raised by the closure of Radio Phoenix and threatened closer of Radio Maria several months ago, notwithstanding the fact that Radio Phoenix was allowed to resume broadcasting.

As Zambia is now into the formal campaign period, it is encouraging to see that the ECZ and the Zambia National Broadcast Corporation (ZNBC) have been televising one-on-one interviews with presidential candidates. It is also a good sign that the Zambian High Court has ordered Trinity Broadcasting to proceed with its contractual obligations to televise presidential debates. The Center encourages all candidates to participate in broadcast public debates as it is their duty to give voters the necessary information to make an informed choice.

While it is understood that the ECZ does not have a mandate to provide or manage public airtime for political parties or candidates, it is not prohibited from taking a proactive role. ZNBC is a publicly financed institution and as such should be available to all political parties. The independence of the ECZ allows it to take a public stance in support of equitable media access.

The ECZ, ZNBC, and any government-controlled media should continue to proceed with television and radio broadcasts and debates in an effort to better inform the electorate. Any attempts to provide much needed voter information in the weeks to come would reflect positively on the overall political environment.

For future elections, the Electoral Act should be amended to provide for airtime for all registered political parties and independent candidates. Consideration should be given to an independent authority to ensure that a level playing field is maintained. The media Code of Conduct should be monitored and local magistrates empowered to reprimand violators of the Code and require corrective measures be taken immediately during the campaign period.

5. *Voter Information/Education:* The ECZ should be commended for taking the initiative to provide voter education in the absence of a legal mandate for it to do so. Many nongovernmental organizations also have been instrumental in helping to educate voters. However, it is imperative that voter education and the dissemination of information continue to be a priority for all stakeholders during the final weeks of the campaign period.

Because the ECZ is the sole independent body responsible for conducting elections, the public looks to the ECZ to provide voter education and the dissemination of pertinent voter information. While the ECZ rightly looks to political parties to help educate voters, citizens feel that parties are more likely to distort information in their own favor, so they rely upon the ECZ for general information. It is encouraging to see the ECZ dissemination recently of more voter information pertaining to valid forms of documentation for voting. This will help increase participation and mitigate potential voter confusion.

The National Voter Education Committee, organized by the ECZ, is a good approach for reaching more people, but some member organizations have felt that adequate resources were not made available to support the needed coverage. The Committee, if provided with adequate resources, may be able to assist the ECZ in continuing to encourage people to vote on 27 of December as well as to disseminate information on the Code of Conduct, Public Order Act, and other information that will help create a more transparent, participatory environment. Particular attention should be paid to the deep rural areas. Additionally, stakeholders would like to see voter

education materials and the Code of Conduct translated into languages commonly spoken in Zambia so that they can be easily understood by the electorate.

The ECZ should take proactive steps to minimize the disenfranchisement of Zambians through lack of information. All stakeholders should take immediate steps to improve voter education. The ECZ could support parties in this endeavor by making the voter registry available at the district level at minimal or no cost.

6. *Transparency & Openness of the ECZ:* There are a number of issues that can be addressed to help improve the relationship between election authorities and other stakeholders.

Nonpartisan monitors should be viewed as allies as they help to give legitimacy to the process and promote transparency. It is unfortunate, however, that the ECZ has adopted certain procedures that hinder the ability of these groups to support the democratic electoral process in Zambia. It is also unfortunate that the ECZ has taken the position that nonpartisan monitors do not have a right to observe but rather are given the privilege. The new accreditation requirements and the conflicting information pertaining to it significantly hinder the ability of nonpartisan monitoring organizations to do their work. They also create additional financial and logistical burdens without providing adequate time to meet the new guidelines. The Center considers these stringent last minute regulations to be highly prejudicial to open observation of the elections.

The ECZ should work cooperatively and transparently with nonpartisan monitors to help deter fraud and fully legitimize the electoral process. The ECZ should revoke its earlier decision to charge neutral observers an accreditation fee and refrain from instituting new policies without adequate notice. In the future, the Electoral Law should be amended to recognize nonpartisan monitors just as it recognizes party agents.

In addition, opposition parties and NGOs believe that the 100% increase in the cost of the voter registry is exorbitant and unjustified. The ECZ should be more transparent with information about charges for producing copies of the registry. Issuing public information regarding the material costs that necessitated the K55 million fee for the registry would help to alleviate public and stakeholder suspicions that the ECZ is deliberately trying to disadvantage the opposition.

It is a commonly accepted electoral administration principle that the voter registry should be easily available for review by parties and the public. It is therefore critically important that the ECZ find a more cost effective and timely means of providing information about the voter registry to stakeholders. One alternative might be providing electronic copies.

7. *Voting Day Logistical Arrangements:* In every province and district visited by LTOs, electoral staff, opposition parties and citizens have expressed great concern regarding the date of the election as it falls in the middle of the rainy season. In most provinces there are a number of polling stations that will only be reachable by foot and heavy rains will make some polling stations virtually unreachable. A common complaint heard by observers is that the selection of the election date is a deliberate attempt to disenfranchise certain voters.

Election officials in the districts have expressed concerns that their messages regarding specific logistical problems have gone unanswered and that the level of support provided by the ECZ does not adequately address the needs on the ground. Election officials have told Center observers that information regarding provisions to accommodate more than one stream of voters in places where there are more than 1,500 registered voters have not been communicated adequately. Center observers have also heard reports of other potentially serious problems that could impede the conduct of elections, including: lack of shelter for people standing in the queues in the event of rain; polling stations which do not have electricity; lack of reliable communication infrastructure (e.g. district capital Mwinilunga in Northwestern province has been without telephone communication for more than a month); and the shortage of transportation and fuel for movement of personnel and materials.

The ECZ should immediately conduct consultations with the appropriate election officials at the provincial and district levels to develop detailed logistical plans that reflect the reality on the ground. Necessary funding should be made available to the ECZ to provide for appropriate staffing levels needed during the election period. Proceeding in a transparent and realistic manner and working collaboratively to address serious problems will garner more respect from stakeholders than not acknowledging the problems.

About The Carter Center

The Carter Center, based in Atlanta, Georgia, USA, is a non-profit, nongovernmental organization founded in 1982 by former U.S. President Jimmy Carter and Rosalynn Carter to promote peace and health worldwide. The Center has observed more than 30 elections in some 20 countries. The Center, in collaboration with the National Democratic Institute, organized a full-scale international observation mission to the 1991 Zambian elections. The Center decided not to observe the 1996 elections in Zambia because of the constitutional amendment adopted which effectively disqualified the leading opposition candidate and precluded full competition.