

Human Rights and Zimbabwe's Presidential Election: March 2002
Special Report 4

A report compiled by the Research Unit of the Zimbabwe Human Rights NGO Forum
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EXECUTIVE SUMMARY

From 9-11 March 2002 elections were held for Zimbabwe's executive State Presidency.

Five candidates contested this election. Robert Mugabe stood for re-election against Morgan Tsvangirai (Movement for Democratic Change), Shakespeare Maya (National Alliance for Good Governance), and two independents, Wilson Kumbula and Paul Siwela, whose parties (ZANU and ZAPU) refused to endorse their candidacies.

'Public' media coverage of the election campaigns was widely condemned as biased. Two days after he had won the count, on 15 March 2002, Robert Mugabe signed into law the internationally-condemned Access to Information and Protection of Privacy Act.

Polling itself, extended for a third (half-)day, was largely peaceful, despite the dispersal of many long urban voting queues by the riot police. In the usual pattern of trouble-free voting, a tiny fraction (0,3%) of political violations of human rights occurred from 9-11 March.

Heavy political violence in the ten weeks before polling was reflected in 53% of the human rights violations which occurred in the first quarter (Q1) of the year 2002. The rate of violation escalated dramatically in the three weeks after the poll, when 46,6% of all Q1 violations reflected massive political retaliation against those (officially counted at some 46%) who voted for Morgan Tsvangirai.

These Q1 violations are detailed in Table 9.1 (page 95). They were contained in nearly 700 reports covering nearly 26 000 violations of civil, social and economic as well as political rights, including 54 deaths (listed individually in the Appendix to this report) and nearly 1 100 death threats.

The Electoral Code of Conduct for Political Parties and Candidates was signed only on the day before polling. Some of its provisions, outlawing threats of harm, provocative and intimidatory language, false or defamatory allegations against competitors, and racial and other discriminations, had repeatedly been abrogated by one of the candidates.

The legal aspects of this election were especially noteworthy. Justice Rita Makarau, in the High Court, found in favour of a franchise 'qualified' by the necessity to prove a residential address, and explicitly against 'universal suffrage' without proof of address.

Parliament 'passed' the General Laws Amendment Act after it had earlier been defeated on its third reading. The Supreme Court voided this Act, which operated between 4-27 February 2002, including the amendments to the Electoral Act which had been tacked onto it at its second reading, without publication in bill form.

Robert Mugabe used his powers under section 158 of the Electoral Act to reinstate provisions voided by the Supreme Court. These disenfranchised two categories of his perceived political opponents – some 5 000 ex-citizen permanent residents with a constitutional right to vote and an estimated million or more Zimbabweans outside the country who had previously been entitled to postal ballots. Postal votes were restricted to members of the uniformed services and public service on polling duties.

Patrick Chinamasa, appointed by Robert Mugabe both as an unelected, non-constituency Member of Parliament and as Minister of Justice, Legal and Parliamentary Affairs, reinstated as Electoral Regulations other provisions voided by the Supreme Court.

Both men reinstated these provisions within 72, some 24, hours of the start of polling.

The Public Order and Security Act came into effect on 22 January 2002. It was repeatedly used to prevent and disrupt the MDC's rallies and the training and deployment of 6 000 of its electoral and polling agents, 1 400 of whom were unable to conduct their duties normally for the full duration of voting. Six MDC polling agents were killed after the election.

There was an enormous urban voter turnout, but urban polling venues (serving mainly opposition voters) were required to process four times as many voters as rural venues, in slightly-extended time periods. In Harare and Chitungwiza, 15 seconds were allocated to process each potential voter, in Bulawayo 30 seconds. Calculated on the total votes counted, the respective times taken were 55 and 65 seconds, even though some booths processed as few as five per hour.

The ‘guarantees’ against rigging failed in an unacceptably high proportion of polling institutions. The Registrar-General refused to reveal the number of ballot papers printed. The MDC demand that polling agents be allowed to mark all the ballot papers to prevent electoral fraud was refused. The numbers of postal ballots distributed were not made public. None of the legal requirements to prevent double-voting were applied to those who received postal ballots, including UV-inking of voters’ fingers. Some police and army personnel complained that they had been forced to complete their postal ballots in the presence of their commanding officers. Known Zanu-PF activists and ‘war veterans’ manned many check-points to screen UV-inked fingers.

Over half of all polling booths at some stage lacked opposition observers. In four of the 120 constituencies, opposition electoral agents were banned from verifying the counting of votes. In another five, MDC agents were allowed to be present for only part of the time.

For votes cast in **all** 120 constituencies, the figures given by the Electoral Supervisory Commission and the Registrar-General of Elections, Tobaiwa Mudede, differed – by between 12 and 19 141 votes. These discrepancies totalled 475 750 votes. Many results changed even after they had been verified and announced. The total prejudice to Morgan Tsvangirai on these post-verification changes alone was 50 729 votes.

Of 3 062 303 votes accounted for by the ESC, at least 526 479 (17,2%) were directly problematic. These do not include voters deprived of their votes, turned away from the polling booths, or who spoiled their papers. Factoring in these problems yields a problem with one in every three votes ostensibly cast.

Most international and independent Zimbabwean observers regarded the election as failing to meet free and fair requirements, and the outcome as illegitimate. The Movement for Democratic Change, supported among others by the ACP-EU Joint Parliamentary Assembly and Nigerian President Obasanjo, has demanded a new election, under international supervision.

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Abbreviations