



and regulations introduced gaps and inconsistencies in the legal framework, hindered understanding of the legal framework, and undermined the ability of electoral stakeholders to fulfill their respective functions. Enacting such substantial amendments so close to an election is at odds with international good practice.

**Election Administration.** An independent and impartial election management body promotes transparency and facilitates citizen participation in a genuine democratic process. The ECZ is composed of a chairperson, vice chairperson, and three other members appointed by the president and subject to parliamentary ratification; however, the president holds the power to remove fulltime members. As The Carter Center first noted in its 2001 election observation report,





environment of the campaign period; the legal framework; and electoral dispute resolution mechanisms. The Carter Center mission was led by Her Excellency Sylvie Kinigi, former prime minister and acting president of Burundi, and Jordan Ryan, vice president of the Center's peace programs. A core team of four persons were based in Lusaka. The team held meetings with key stakeholders, including political party candidates, civil society organizations, citizen election observers, members of the international community, and representatives of the electoral commission. Four medium-term observers were deployed to the Copperbelt and Southern provinces in advance of election day to assess election preparations. The Center will continue to assess the tabulation of results, and will remain in Zambia to observe the post election environment.

The mission's findings are evaluated against Zambia's national and international obligations for genuine democratic elections, and assessments are made in accordance with international standards for elections. The observation mission was conducted in accordance with the Declaration of Principles for International Election Observation and Code of Conduct that was adopted by the United Nations in 2005 and is currently endorsed by 49 organizations.

The Carter Center has a long history of working in partnership with the people of Zambia. The Center worked extensively on agricultural development in Zambia in late 1980s and President Carter was personally involved in the 1991 elections that saw Zambia peacefully transition from a single party state to a multiparty democracy. The Center also deployed an election observation mission to Zambia in 2001. The current mission launched in July 2016

## Statement of Preliminary Findings and Conclusions

### *BACKGROUND*

Zambia underwent a transition to multiparty politics in 1991 and has held multiparty elections at regular, five

An environment characterized by rapidly shifting institutional terrain, some ambiguity about dispute







While the new Election Commission Act prescribes that the ECZ shall have offices in provinces and districts,<sup>15</sup> the ECZ does not have a permanent structure and relies on existing administrative state bodies to fill its managerial positions at the provincial and district levels. Citizen observer organizations expressed concern that administrative officials, appointed by the Local Government Service Commission, which itself is appointed by the president, could be biased or give the appearance of bias in their work. According to a constitutional amendment passed in January 2016, the chairperson of the ECZ will also serve as the returning officer for the presidential election.<sup>16</sup> In previous elections, the chief justice of the Supreme Court filled this role.<sup>17</sup> Provincial and district level returning officers declare National Assembly and local government results, respectively.

### *ELECTORAL CONSTITUENCIES*

Equal suffrage requires that constituency boundaries are drawn so that voters are represented in the legislature in a roughly equal basis.<sup>18</sup> Moreover, international best practices recommend consistency in population size in defining boundary delimitations and seat allocation. Variance should remain within 15 percent between constituencies.

Since the Patriotic Front gained power in 2011, 31 new administrative districts were established, increasing the total number of districts to 103. The ECZ proposed — and the cabinet approved — electoral boundaries for the 31 new districts. This created six new constituencies, bringing the total number of constituencies to 156. In contravention of the equality principle enshrined in the amended Zambian constitution,<sup>19</sup> as well as internationally accepted criteria for boundary apportionment,<sup>20</sup> variances between the number of voters in constituencies well exceed 100 percent. For instance, the smallest constituency in Lusaka province (Feira) has 13,327 voters, while the largest has 148,889 (Mandevu). The average number of voters per constituency in Lusaka province is more than double the average number of voters per constituency in the newly created Muchinga province.

### *VOTER EDUCATION*

Voter education is an essential part of the electoral cycle and is recognized under international law as an important means of ensuring that an informed electorate is able to effectively exercise their right to vote without obstacles to ensure universal and equal suffrage.<sup>21</sup> The ECZ began voter education on May 29, 2016, including information on the code of conduct, electoral corruption, voting procedures, and the referendum. The ECZ deployed at least two voter

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<sup>15</sup> Electoral Commission of Zambia Section 229. (1).

<sup>16</sup> See No 2 of 2016, *Constitution of Zambia (Amendment)*, Section 99.

<sup>17</sup> This was questioned by international observers as a “potential conflict of interest.” See NDI Pre-Election Delegation to Zambia’s September 2011 Election Report, p. 2.

education facilitators (VEFs) per ward. In every district, the ECZ established a District Voter Education Committee composed of 12 members including the district election officers and civil society representatives whose responsibility is to monitor all activities conducted by VEFs. The ECZ provided radio and television programs on the national broadcasters and private media. In addition, the commission used mobile network service providers and social media outlets to disseminate text messages in different languages regarding the general election and the referendum. The ECZ also recruited persons with disabilities to conduct voter education workshops and cooperated with the network of performance arts organizations in the use of street theater for voter education.







environment, including ensuring that every citizen has the right to be elected and the right of freedom of assembly.<sup>67</sup>

Several factors combined to produce a highly tense atmosphere, even well before the official start of campaigning in May. One element was the ~~secret~~ <sup>secrecy</sup> of the 2015 presidential by

widely circulated online and on social media. The ECZ released a statement the following day condemning the violence and demanding the parties neither instigate violence nor retaliate against such attacks, but otherwise made no use of its conflict management mechanisms;



The media play a critical role during democratic processes by educating voters and political parties about major issues, thus giving them access to information so they can make informed decisions.<sup>48</sup>

As noted in the above campaign environment section, one of the most significant challenges to opposition parties during the pre-election period was the lack of equitable coverage by and



to the electoral process<sup>56</sup>. Voters and other electoral stakeholders must be given, and must perceive that they possess, a voice in the quality of the electoral process if these processes are to retain credible Electoral dispute resolution is primarily governed by the 2016 Constitution, the 2016 Electoral Process Act, the 2016 Code of Conduct, and conflict management committee guidelines. The electoral dispute resolution framework lacks clarity and does not guarantee complainants an effective and timely remedy for violations of their rights. Courts, election commissions, specialized *ad hoc* tribunals, and conflict management committees have jurisdiction to consider electoral disputes, depending on the nature of the complaint.

In accordance with the Electoral Act, the ECZ established conflict management committees (CMCs) at the national and district levels to track the resolution of electoral disputes. CMCs are mandated to mediate electoral conflicts, advise the conflicting parties, and report matters to police for further actions. These committees are composed of a chairperson appointed by the ECZ, a vice chairperson, representatives of registered political parties, a representative from CSOs, and from various governmental institutions. District CMCs are based in council offices and are managed by town clerks or council secretaries on behalf of the ECZ. Their decisions are not legally binding and are not published. CMC proceedings are not public, which contravenes the transparency of the process and is at odds with international standards<sup>57</sup>. Complainants can choose to refer the matter directly to the court, surpassing the CMCs. However, in one case the High Court refused to consider a case as it had not been brought to a CMC<sup>58</sup>.

logistical and operational challenges, and lacks institutional experience, might prove to be problematic during electoral dispute resolution processes.

