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**The Carter Center
Final Statement of the Zambia 2001 Elections**

This is the Carter Center's fourth and final public statement on the Zambian 2001 Tripartite Elections. After an initial pre-election statement on 13 December which reported concerns about an uneven playing field, the Center issued a second statement on 30 December shortly after the elections, which reported strong voter turnout but serious concerns about a lack of transparency in the counting and tabulation of results. A third statement released on 31 January reported continuing concerns about anomalies, unexplained discrepancies, and inaccuracies in the election results, and urged prompt and transparent action to verify results and an expeditious Court review of electoral petitions in order to resolve outstanding disputes.

This statement summarizes the Center's overall observations, which indicate that: (1) there was an uneven playing field in the pre-election period due to problems in voter registration, misuse of state resources, and unbalanced media reporting, which disadvantaged the opposition and created barriers for full participation of all stakeholders in the process; (2) the government and ECZ lacked the political will to take necessary steps to ensure that the elections were administered effectively and transparently; (3) there were inadequate logistical arrangements for the polls and a lack of procedures to ensure transparent vote counting at the polls; (4) there was a lack of transparency in the process of tabulating results at the constituency level and in relaying results to ECZ; (5) the ECZ has failed to release polling station results in a timely manner thus severely restricting the ability of stakeholders and observers to check results independently; and (6) the ECZ has failed to implement a transparent verification process open to parties and observers.

Given these concerns, the Center concludes that the ECZ and government have failed to meet the state burden of responsibility to administer a fair and transparent election and to resolve electoral irregularities that clearly could have affected the outcome of a close race. As a result, the Center concludes that the election results are not credible and cannot be verified as accurately reflecting the will of Zambian voters. Unless and until the ECZ provides clear evidence to dispel doubts about the accuracy of official results, the Center believes the legitimacy of the entire electoral process will remain open to question. A comprehensive election report, including recommendations for electoral reform, is forthcoming.

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Background and Summary

Long-term observation and pre-election assessment

In October 2001 the Center opened a field office and deployed six long-term election observers (LTOs) from Malawi, South Africa, USA, Germany, and Zimbabwe. The LTOs traveled to all of Zambia's nine provinces and 47 of 72 districts during the pre-election period meeting with a range of Zambian stakeholders. The Center issued a pre-election statement on 13 December 2001, which summarized the LTO's observations and recommendations for improvements in the process in advance of the 27 December election. The statement emphasized the Center's concerns regarding the uneven playing field and the failure of the government and election authorities to provide stakeholders with critical information in a timely manner.

Short-term election observation and 1st interim statement

On 22 December, the Center's LTOs were joined by 30 short-term observers led by former Nigerian Head of State Gen. Abdulsalami Abubakar, former Benin President Nicephore Soglo, and former Tanzania Prime Minister Judge Joseph Warioba. Carter Center short-term observers were deployed in all nine provinces visiting 190 polling stations and approximately 20 constituency tabulation centers to assess the voting and counting processes. After the conclusion of voting and counting, the Center issued an interim statement on 30 December which noted the large and peaceful turnout of Zambian voters, but highlighted several areas of concern including a slow and cumbersome voting process, and a worrisome lack of transparency in vote counting, tabulation, and the announcement of results.

According to reports by Carter Center and other observers, about one-quarter of stations opened late and many lacked sufficient supplies to accommodate the number of registered voters. This led to inordinately long-lines, and forced voters to stand in line for hours—in some cases as long as 16 hours—resulting in the disenfranchisement of many voters who could not wait or were turned away.

The Center found that the tabulation of results at the constituency level was chaotic and often occurred in inadequate and insecure premises. Some observers reported instances where the integrity of ballot boxes was compromised during transport to constituency tabulation centers, or after their arrival. In addition, there were unexplained delays in relaying constituency level results to the ECZ in Lusaka, and in the announcement of official results by the ECZ. These problems and delays were a cause for serious concern, especially in light of the closeness of the presidential race.

The Center criticized the Electoral Commission of Zambia (ECZ) for its failure to administer the election effectively and in a transparent manner, and called on the ECZ to ensure timely access to official results at all levels so that results could be verified by party agents and observers.

Post-election observation and 2nd interim statement of January 31

On 31 January, following four weeks of monitoring post-election processes, the Center released a second interim statement. The statement emphasized the Center's continuing concerns about

anomalies, unexplained discrepancies, and inaccuracies in the presidential and parliamentary election results. While noting that the new pluralistic multiparty environment provided an important opportunity for all parties to work together to improve governance, the Center urged the ECZ, the government, and the Court to take steps to ensure the prompt and transparent verification of results and the expeditious review of electoral petitions in order to resolve outstanding disputes about the final results and the legitimacy of the new government.

Unfortunately, to date these exercises have not been completed and the unexplained discrepancies in the tabulation and verification processes have not been addressed. The major problem areas include: large and unexplained variations between the number of votes cast for presidential and parliamentary candidates; an unusually high number of constituencies where no invalid ballots were recorded; and discrepancies between figures obtained from the constituency and national levels.

As the single institution charged with administering the electoral process, the ECZ has the responsibility to act transparently and to provide stakeholders with information necessary to address these and other questions that cast doubt on the accuracy of the final results. Unfortunately, it has failed to do so. Likewise, the Supreme Court has so far failed to provide a thorough and timely review of electoral petitions.

Overview of Electoral Process Observations

Pre-election

In the pre-election period Carter Center LTOs highlighted a variety of problems which impacted negatively on the conduct of the elections and the credibility of the process.

Although many of the problems can be attributed in part to a flawed electoral law, the ECZ has the authority and discretion to formulate and implement regulations to ensure that the elections are administered effectively and transparently. Unfortunately, however, the ECZ leadership displayed a lack of political will, often using the flawed electoral law as an excuse for inactivity. Most of the complaints brought against the ECZ by Zambian stakeholders could have been resolved if the ECZ had engaged stakeholders and conducted activities in a transparent manner.

The Center noted that requiring Zambians to obtain a National Registration Card (NRC) as a prerequisite for receiving a Voter Registration Card was a barrier that disenfranchised approximately one million otherwise-eligible voters. In spite of many appeals from Zambian stakeholders and observers, the ECZ took no action to address this legal barrier.

Similarly, the ECZ performed poorly in the voter registration exercise, which failed to reach more than one million eligible voters in possession of a NRC. As a result, only 55 percent of the legally eligible Zambian population was registered to vote in the election. Further, only 1.737 million persons voted, so that only 37% of the eligible persons participated. The passage of legislation to provide for continuous voter registration is a positive development. However, the issue of the NRC must also be addressed in order to ensure greater participation in future elections.

Arguing that it did not have a legal mandate, the ECZ took only limited and often counter-productive steps in regard to voter education, accreditation of domestic observers, the establishment of conflict management committees, and the creation of a legally enforceable Code of Conduct. The ECZ did make some efforts to inform voters about documents that would be needed to vote, and encouraged increased television coverage of political candidates. In the view of Carter Center observers and others, however, these actions were too few to establish confidence among Zambian stakeholders.

On the other hand, the ECZ's imposition of last-minute regulations, which required domestic monitors to pay accreditation fees and to complete new affidavits, appeared to the Center and others to be an intentional effort to restrict the ability of civil society groups to observe the elections. Similarly, the ECZ's decision to charge high fees for copies of the voter registry and to double nomination fees for candidates seemed designed to hinder the ability of opposition parties to contest the elections.

Carter Center observers reported several actions by the government which contributed significantly to the creation of an uneven playing field. Among the most important were the delayed announcement of the election date, abuse of state resources, involvement of civil servants in political activities, biased media coverage by state-owned media, and biased application of the public order act. These problems served to disadvantage the opposition throughout the pre-election period.

Voting Day Logistics

Given the enormity of logistical problems that surfaced on election day, there were several positive aspects of the election that are important to highlight. The peaceful and high level of voter turnout was exceptional, as was the persistence exhibited by voters who waited for hours in long queues in order to vote. Additionally, the determination of polling officials and monitors to withstand fatigue and execute their duties professionally was impressive.

Many of the problems that occurred on voting day had been anticipated to some extent by local ECZ officials, political party representatives, and observers. ECZ officials at the provincial and district levels complained that the ECZ did not respond to their concerns about inadequate resources and facilities and failing communication systems. The Center communicated to the ECZ in Lusaka a number of the concerns that local ECZ officials and stakeholders had reported to the Center's LTOs, but there was little evidence of action to address the problems.

Problems such as delays in opening polling stations, late delivery and/or insufficient materials, inadequate time allocated to process voters—all of which contributed to the extension of the voting period and to long delays in the counting, tabulation, and release of results—should have been anticipated and could have been communicated to the public in advance. The government's inadequate funding of the ECZ was partly to blame, but the problems were exacerbated unnecessarily by the ECZ's poor administration and lack of transparency.

Counting, Tabulation & Announcement of Results

Carter Center and other observers reported that party agents and monitors were generally present during counting, but that they were not always able to adequately inspect the ballot paper to verify the count and spoiled ballots. In addition, the transparency of the process was hindered by

the fact that Zambian law does not provide for party agents to sign and receive copies of polling station result forms, nor for the results to be posted for public review at the polling station. As a result, the polling station results were vulnerable to manipulation. This, plus the fact that there was a wide variation of procedures used during the counting process at the polls, reduced public confidence in the results.

Similar and even more serious concerns were registered by Carter Center observers during the tabulation process. In many instances, party agents and observers were not able to clearly view the tabulation process, and the methods and procedures followed varied widely. In some tabulation centers, officials waited for all polling station boxes to arrive before counting, while in others counting began as soon as boxes began to arrive. The security of ballot boxes during their transport to and after their arrival in constituency tabulation centers was an especially serious concern in light of the extended period required to complete tabulation. Carter Center observers noted several instances of ballot boxes in unauthorized and/or insecure locations, which opened the door to manipulation.

Carter Center observers noted a pro-MMD bias in the presentation of results announced by the ECZ and the state-owned ZNBC during the first 24 hours after the closing of polls. There also were unexplained delays in the announcement of constituency level results, which the ECZ should have released immediately, since it insisted that its role was limited to serving as a clearinghouse to relay and publicize official results from the constituency level.

In addition, Carter Center observers and others reported evidence suggesting attempts to manipulate and rig election results in some areas in the Copperbelt, in particular in Ndola Central constituency where observers reported that extra ballot boxes arrived after the counting of all ballot boxes in the constituency had already been completed. Without additional information from the ECZ, it is impossible to estimate the scope and impact of these efforts. Given these and related problems, the Center is very concerned about the ECZ's continued failure to provide stakeholders with timely access to official polling station results, which would allow observers and party agents to cross-check results.

Verification of Results

Given unresolved concerns about the process, the Center continued to monitor the post-election environment including the verification process, the petition process, and the release of final results.

Regrettably, the Center has found that there are serious unanswered questions about the accuracy of the results, and a lack of transparency in the ECZ's verification exercise. Although it is now more than two months after the elections, the ECZ says that final results can not be announced until the verification of results at the district level has been completed. Carter Center observers report that the verification exercise is still underway in some areas across the country. In Lusaka province, for example, only two of the seven constituencies have completed verification.

The legal regulations outlining the verification process are weak, and do not provide sufficient opportunities for stakeholders to check the results. District level returning officers are responsible for determining when and where verification should take place, but they have not

been given any guidelines nor direction from the ECZ. Returning officers are also responsible for informing the various stakeholders about the schedule for the verification exercise. However, Carter Center observers have reported that in most cases political parties and domestic observers were not informed or invited to monitor the verification process, and in some instances were barred from participating, as in Solwezi. The Center has found that the process is uncoordinated and random, and therefore almost impossible to monitor.

The Center has attempted to observe and assess as much of the verification process as possible, but has been hindered by a lack of cooperation on the part of the ECZ. The Center contacted all nine provinces and dozens of district offices, but has found it virtually impossible to obtain solid information about the verification process, in some cases due to poor communication, and in most cases the outright refusal of election officers to release information. Some district level election officials told the Center that the ECZ instructed them NOT to supply information about the verification exercise to anyone. The Center also made direct inquiries to the ECZ in Lusaka. After receiving a variety of inaccurate responses, the Center received a letter from the ECZ on 4 March indicating that the ECZ cannot release any such documentation, because it will be presented as evidence in court.

In addition to the obvious concerns about transparency, the ECZ's response raises important questions about the prospects for electoral petitions, since the verification documents are supposed to be public documents available to the petitioners to support their claims.

Also alarming, although somewhat understandable given the problems cited above, is the lack of interest displayed by political parties and civil society in participating in the verification exercise. Given the closeness of the presidential race and many parliamentary contests and in light of controversies surrounding the ECZ's release of the results, stakeholders should be more proactive in participating in this exercise and demanding that it be done transparently.

Petitions

The Center has found that public information concerning the electoral petitions is not easily accessible. The Center has made numerous requests and held numerous discussions with Supreme Court officials and the Registrar's office to secure copies of the petitions filed by the opposition. To date the Court has denied the Center access to these public documents citing fears of misrepresentation.

Also of concern are the barriers presented by the high security fees, which must be paid to the Court in order to file electoral petitions. The government has recently filed a motion to dismiss the opposition's petitions on the grounds that the 5,000,000 Kwacha (\$1,120 USD) security fee has not been paid. Such barriers mean that most citizens do not have effective access to the courts to resolve election disputes. Potentially more troublesome is the possibility that the Court's reviews of petitions will drag on for months or longer.

Conclusions

In summary, the Center's observations indicate that: (1) there was an uneven playing field in the pre-election period due to problems in voter registration, misuse of state resources, and

unbalanced media reporting, which disadvantaged the opposition and created barriers for full participation of all stakeholders in the process; (2) the government and ECZ lacked the political will to take necessary steps to ensure that the elections were administered effectively and transparently; (3) there were inadequate logistical arrangements for the polls and a lack of procedures to ensure transparent vote counting at the polls; (4) there was a lack of transparency in the process of tabulating results at the constituency level and in relaying results to ECZ; (5) the ECZ has failed to release polling station results in a timely manner thus severely restricting the ability of stakeholders and observers to check results independently; and (6) the ECZ has failed to implement a transparent verification process open to parties and observers.

Given the above cited concerns, and especially the ECZ's failure to provide polling station results and explain reported discrepancies, the Center concludes that the ECZ and government have failed to meet the state burden of responsibility to administer a fair and transparent election and to resolve electoral irregularities that clearly could have affected the outcome of a close race. As a result, the Center concludes that the election results are not credible and cannot be verified as accurately reflecting the will of Zambian voters. Unless and until the ECZ provides clear evidence to dispel doubts about the accuracy of official results, the Center believes the legitimacy of the entire electoral process will remain open to question.

According to Zambian law, the Supreme Court is the final arbiter in the resolution of electoral petitions. If the ECZ provides all necessary electoral information and if the Court acts expeditiously to review the petitions thoroughly and in a manner that is publicly transparent, its decisions might help to dispel existing doubts. However, the government's support for moves to dismiss opposition petitions and the Court's consideration of these and other attempts to postpone or dismiss the petitions are worrisome.

Zambia is at a critical point in its democratic development. It is clear that in the December 2001 elections, the people of Zambia voted for change and expressed their support for a multitude of political parties. Leadership that embraces multiparty cooperation and broad participation by civil society could provide a foundation for improved governance. The Center hopes that Zambian political institutions will take steps to ensure that the people of Zambia feel confident that the popular will is accurately reflected in the election results.

The Center makes these observations with no authority and no intention of intervening in Zambia's affairs, but in the spirit of supporting democratic development in Zambia and throughout the region. Ultimately, it is the Zambian people who will judge the legitimacy of the election and will hold government and officials accountable.