

The Judiciary and Electoral Disputes in Zimbabwe's Contemporary Politics

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Abstract

Elections are a transparent way of expressing the people's will in selecting leaders. However, perceived irregularities in the electoral system can result in disputes that spill over into the courts or escalate into protracted conflicts. The courts therefore provide a peaceful resolution platform for contested electoral outcomes. In contemporary democratic thought, the functional separation of powers prevents excessive concentration of power and absolutism. The system divides political authority amongst the three branches of government, the executive, legislature and judiciary for the provision of checks and balances. However, the intervention of an arm of government which is itself not democratically elected, into a dispute for the legitimacy of a democratic process is debatable. But the very existence of an independent judiciary as a mediator of disputes and an arm that upholds the fairness of the law with impartiality, makes the judiciary the most suitable arbitrator for electoral disputes. Using qualitative desk-based research methodology, this chapter connects with the theoretical framework of the separation of powers. It analyses the centrality of the judiciary in public disputes especially those affecting the very concept of democracy and separation of powers. Ultimately, the judiciary upholds the law, preventing self-help in electoral disputes which can deteriorate into protracted disputes or civil war. From our analysis of the Zimbabwean electoral disputes, we recommend the simplification of the election petition process, the alignment of electoral laws with the Constitution, the total independence of the judiciary and the non-partisan approach to electoral dispute resolution.

Keywords: Electoral irregularities, Independent judiciary, Separation of powers, Electoral disputes, Democracy.

