Introduction

To the ancient question, 'Who will guard the guardians?' there is only one answer: those who choose the guardians.

On 29 March and 27 June 2008, Zimbabwe held two historic elections. Both were 'critical' in the sense of defining or redefining the strategic direction of the country and ensuring that it would never be the same again. Though they were different in every fundamental way, both had a profound effect on the tenor of national politics and firmly put the country on what appears to be an irreversible though bumpy journey towards democratic transition and away from resilient authoritarianism.

The 29 March elections were the first ever 'harmonized' elections, for the presidency, the Senate, the House of Assembly, and local government councils; they were held on one day, and results were posted at the polling stations for all to see. The 27 June election was the first presidential runoff in the country's history and, as some of the contributions in this book will demonstrate, was also the most controversial and violent election since Independence in 1980.

Elections and democracy

A country's people are the ultimate source of political legitimacy, and this is most often expressed through free elections. In the contemporary world, elections are and remain the best known and most effective device for connecting citizens to policy makers. They are a formal expression of democratic sovereignty.

Paul Clarke and Joe Foweraker make a distinction between 'thin' and 'fat' conceptions of democracy and argue that the former centres on electoral democracy.[1] Most such conceptions borrow from Joseph Schumpeter's now

1 See Paul A.B. Clarke and Joe Foweraker (2001) *Encyclopedia of Democratic Thought*, Taylor and Francis, Portland.

classic definition of democracy as 'an institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by a competitive struggle for the people's vote'.[2] Adam Przeworski and colleagues adopt and extend this notion by insisting that elections encompass: (1) *ex ante* uncertainty; (2) *ex post* irreversibility; and (3) repeatability.[3] For these writers, if a system regularly holds elections to choose its chief executive officer and the seats in its effective legislative body; if there is some chance that one or more ruling parties can lose office in a particular election; if any winner of a free and fair election can assume office; and if the winner of one election cannot prevent the same competitive uncertainty from prevailing in the next election, then the system is a democracy.[4]

It is immediately apparent from this 'thin' conception of democracy that elections are not only central but are an indispensable part of democracy. Few would fault this approach, but many would dispute establishing equivalence between elections and democracy. It is truer to posit that while elections are held even in non-democracies, no modern democracy exists without elections. In other words, elections are a necessary though not sufficient condition for democracy.

While the 'thin' or minimalist conception is limited to one necessary institutional characteristic of democracy – namely electoral competition and its uncertainty – the 'fat' or 'maximalist' notion requires other extra-electoral imperatives for democracy to fully flourish. Thus Clarke and Foweraker write that: 'Fat, or more fully articulated, conceptions identify a wide range of other types of institutions, processes and conditions that must also be present for a regime to be called a democracy.'[5]

Further, the minimalist conceptions are accused of committing what Terry Karl calls the 'fallacy of electoralism'. Larry Diamond explains that this fallacy:

> … consists of privileging electoral contestation over other dimensions of democracy and ignoring the degree to which multiparty elections, even if genuinely competitive, may effectively deny significant sections of the population the opportunity to contest for power or advance and defend their interests, or may leave significant arenas of decision-making power beyond the reach or control of elected officials.[6]

In short, the fallacy is committed when one assumes that elections are a sufficient measure of democracy and ignores other essential attributes. The bottom line though is that elections are a required condition for democracy. As Michael Bratton and his colleagues argue, '… elections are the

2 Joseph Schumpeter (1976) *Capitalism, Socialism, and Democracy*, Allen and Unwin, London. p. 260.
3 In Clarke and Foweraker (2001) p. 149.
4 Ibid.
5 Ibid.
6 Larry Diamond (1996) 'Is the Third Wave Over?' *Journal of Democracy*, vol. 7, no. 3. p. 22.

most fundamental democratic institution';[7] they are also the most visible form of mass political participation.

Defying the Winds of Change does not seek to join the debate about the 'thinness' or 'fatness' of democracy in Zimbabwe. It has no theoretical ambitions beyond engaging in descriptive analysis of the landmark 2008 elections. Nonetheless, and as the various contributions demonstrate, Zimbabwe is struggling to fulfil the requirements of democracy even in its 'thin' sense. It falls short of being what Diamond prefers to call 'electoral democracy'.[8] Instead, Zimbabwe seems to falls squarely into that category of regimes that he calls 'pseudodemocracies', that is, regimes that 'have legal opposition parties and perhaps many other constitutional features of electoral democracy, but fail to meet one of its crucial requirements: a sufficiently fair arena of contestation to allow the ruling party to be turned out of power'.[9]

Elections in Zimbabwe

Zimbabwe has a chequered electoral history. The first comprehensive study of Zimbabwe's post-independence experiment with elections was by Jonathan Moyo in 1990. At the design stage of his study, Moyo reveals that many wondered why he was wasting his time and resources 'setting out to study the obvious', in that it was almost preordained that ZANU(PF) would win.[10]

Ten years later, no analyst would have dared categorically to predict a ZANU(PF) win, not after the February 2000 referendum defeat of the Government-sponsored draft constitution and the near-defeat of the long-ruling party in parliamentary elections four months later. In fact, what made the post-2000 elections interesting (and dangerous too) was their cliff-hanger quality. Elections in post-2000 Zimbabwe no longer produced 'obvious' results, notwithstanding concerted efforts and huge investments allegedly made by the incumbent regime to transform them into a contest that produced predetermined outcomes.

In fact, the contestation for power and the attendant bitter and often violent conflict between the major political gladiators – notably Robert Mugabe and ZANU(PF) on one hand and Morgan Tsvangirai and his Movement for Democratic Change (MDC) on the other – was at root about whether the outcome of elections would be certain – even predetermined – or uncertain. Democratic elections are inherently uncertain and it is this uncertainty that

7 Michael Bratton, Robert Mattes and E. Gyimah-Boadi (2005) *Public Opinion, Democracy, and Market Reform in Africa*, Cambridge University Press, Cambridge. p. 144.

8 See Diamond (1996) 'Is the Third Wave Over?'.

9 Ibid.

10 Jonathan N. Moyo (1992) *Voting for Democracy: A Study of Electoral Politics in Zimbabwe*, UZ Publications, Harare. p. 6.

Table 1: Importance of Elections in Choosing Political Leaders, 2004-2009

Method	2004	2005	2009
A: Choosing leaders through regular, open and honest elections	75	74	80
B: Use other methods for choosing leaders	21	26	18
Agree with neither	1	0	1
Don't know	2	0	2

Question: Which of these statements is closest to your own opinion? Choose statement A or Statement B.
Statement A: 'We should choose our leaders in this country through regular, open and honest elections'.
Statement B: 'Since elections sometimes produce bad results we should adopt other methods for choosing country's leaders'.

makes the study of elections interesting, salient, and even imperative.

Richard Joseph, a seasoned analyst of African politics, recently observed that African citizens face two 'daunting challenges: securing the right to elect those who will govern them in fair and honest elections, and ensuring that elected officials do not continue to treat state treasuries as their personal bank accounts'.[11] Zimbabwe has been confronted with both 'daunting challenges', but this book is about the first. The county has had extreme difficulties conducting even remotely free and fair elections since 2000. The road to democratic development was incrementally narrowed via questionable and highly contestable elections organized by the incumbent regime. The narrowest road was one leading to the June presidential run-off election. And the public agrees with this assessment.

Public perceptions of Zimbabwe's elections and democratic status

Empirical data on the attitudes of Zimbabweans on a wide range of issues has been collected under the auspices of the Afrobarometer, a comparative series of national mass attitude surveys on democracy, markets, and civil society. Four rounds of surveys have been conducted in Zimbabwe and several other African countries. For our purposes, we focus on Zimbabweans' perceptions of elections and democracy in the country. Questions on these matters have consistently been asked from Round 2 in 2004 to Round 4 in May 2009.

11 Richard Joseph (2008) 'Progress and Retreat in Africa' *Journal of Democracy*, vol. 19 no. 2. p. 104.

Table 2: Reactions to Abolition of Elections and One-Person Rule

	1999	2004	2005	2009
Strongly disapprove	64	55	66	51
Disapprove	13	24	24	26
Neither approve nor disapprove	6	5	5	2
Approve	5	6	3	6
Strongly approve	6	4	1	3
Don't know	5	5	2	4

Question: There are many ways to govern a country. Would you disapprove or approve the following alternative: 'Elections and the Parliament are abolished so that the president can decide everything.'

Table 3: Freeness and Fairness of Elections, 1999-2009

	1999	2004	2005	2009 March	2009 June
Completely free and fair	16		19	30	6
Free and fair, with minor problems	15		16	15	7
Free and fair, with major problems	21	14	13	9	

Table 1 demonstrates beyond reasonable doubt that Zimbabweans invariably prefer elections as a mechanism for choosing their leaders. Three-quarters said they preferred this method in 2004 and 2005, increasing to eight out of ten in 2009. The importance of elections has therefore increased since 2004 and the attractiveness of alternatives has diminished in the same period from 21% to 18%.

Answers to another question reinforce Zimbabweans' deep predilection towards elections. From 1999, Afrobarometer has been asking respondents whether they would approve or disapprove if: 'Elections and the Parliament are abolished so that the president can decide everything' and the results are shown in Table 2. Again, not less than three-quarters disapprove of one-person rule attendant on the abolition of elections and parliament. The proportion that disapproves has in fact risen by 9% in ten years, meaning the inclination towards elections is increasing rather than diminishing.

Despite the strong desire for open and honest elections, adult Zimbab-

Table 4: Perceived Supply of Democracy in Zimbabwe, 2004-2009

	2004	2005	2009
Not a democracy	15	35	29
A democracy, with major problems	22	21	29
A democracy, with minor problems	27	10	22
A full democracy	9	4	6
Don't understand the question	21	22	5

Question: 'In your opinion, how much of a democracy is Zimbabwe today?'

weans are unhappy with the manner in which elections are conducted in the country, a fact demonstrably confirmed in Table 3.

If the first two responses are combined, we find that about a third assessed the previous elections as free and fair in the 1999 and 2005 surveys. Nearly half (47%) in 1999 and more than half (58%) in 2005 judged the previous elections as either not free or fair or just marginally free and fair. And voters can recognize traits of fairness when they see them. As the various chapters in this book illustrate, the March 2008 harmonized elections were the 'fairest' for a long time, and survey evidence in Table 3 confirms this. But still a full half lambasted the elections. As for what Masunungure calls a 'militarized election' i.e. the June 2008 presidential run-off, adult Zimbabweans are unambiguous: 81% condemn the election as 'not free and fair', and only 13% regard the violence-drenched elections as free and fair.

It is probably because of the perceived dirty elections that the citizens of Zimbabwe dismiss their polity as 'not a democracy'. There is a clear disequilibrium between demand for and the supply of democracy. To the question, 'In your opinion, how much of a democracy is Zimbabwe today?', 36% said the country was a democracy (see Table 4). This proportion declined to only 14% in 2005 before recovering to 25% in 2009. The recovery was probably due to the euphoria accompanying the formation of the transitional government in February 2009, three months before the survey. Even then, the proportion of Zimbabweans who said the country is not a democracy was at its highest at 58% in the latest survey.

We can conclude with a high degree of confidence that Zimbabweans want free, fair and honest elections but so far have not got them. Further, the evidence supports the proposition that Zimbabweans do not even regard their political system as an electoral democracy, i.e. as fulfilling even the 'thin' sense of the words.

Zimbabwe's pseudo-democratic status is in contrast its almost 'perfect' juridical framework, particularly the Electoral Act itself (see Chapter 6). This Act, as amended in February 2008, explicitly states the general principles undergirding democratic elections in the country. Section 3 of the Act states:

> Subject to the Constitution and this Act, every election shall be conducted in way that is consistent with the following principles:
>
> (a) the authority to govern derives from the will of the people demonstrated through elections that are conducted efficiently, freely, fairly, transparently and properly on the basis of universal and equal suffrage exercised through a secret ballot; and
>
> (b) every citizen has the right:
>
> (i) to participate in government directly or through freely chosen representatives, and is entitled, without distinction on the ground of race, ethnicity, gender, language, political or religious belief, education, physical appearance or disability or economic or social condition, to stand for office and cast a vote freely;
>
> (ii) to join or participate in the activities of and to recruit members of a political party of his or her choice;
>
> (iii) to participate in peaceful political activity intended to influence the composition and policies of Government;
>
> (iv) to participate, through civic organizations, in peaceful activities to influence and challenge the policies of Government;
>
> (c) every political party has the right:
>
> (i) to operate freely within the law;
>
> (ii) to put up or sponsor one or more candidates in every election;
>
> (iii) to campaign freely within the law;
>
> (iv) to have reasonable access to the media.[12]

When these provisions are read in conjunction with the fundamental civil and political freedoms, rights and liberties guaranteed in the Declaration of Rights (Chapter 3 of the Constitution of Zimbabwe) – freedom of assembly, freedom of expression, freedom of movement, protection from torture, inhuman or degrading treatment, the protection of the law, freedom of conscience, etc. – it is clear that the juridical framework supports the general principles of democratic elections. However, it is at the empirical level where serious deficits arise.

The manner in which elections are conducted in Zimbabwe has been to vitiate even the 'thin' conception of democracy. This is in part what prompted this study. This book is about those who choose the guardians, and how that choice was partly fulfilled in the March 2008 harmonized elections but frustrated in the presidential run-off that followed.

12 The term 'reasonable access' though not defined in the Electoral Act, is presumably defined in the ZEC Act, Part 1VA, especially Section 16C (1) which covers access to public broadcasting media which states that 'Public broadcasters shall afford all political parties and independent candidates contesting an election such free access to their broadcasting services as may be prescribed in regulations, made by the Commission, with the approval of the Minister …'

Overview of the book

Each chapter covers a different aspect of the elections and each adopts a descriptive, analytical approach rather than a theoretical one.

Eustinah Tarisayi's chapter sets out the socio-economic contexts which, she argues, 'define the electoral playing field and determine the process and outcome of an election'. She describes the extent to which Zimbabwe stood on the edge of a precipice that threw many voters into a state of despair in an economy characterized by the highest inflation in the world, shortages of virtually every basic commodity, high levels of skills drain, and over 80 per cent unemployment and poverty levels. It was in this context that voters effectively passed a 'vote of no confidence' in the ruling ZANU(PF) party.

In Chapter 2, Anyway Chingwete Ndapwadza and Ethel Muchena focus on public opinion and the challenges of conducting political research in a fragile state like Zimbabwe, and trace the shift in political support and public mood. They demonstrate how public opinion studies were used to predict the outcome of the March elections, and conclude that 'in predicting political developments, people can sincerely rely on public opinion'. Unfortunately, public opinion surveys are a new phenomenon in Zimbabwe, and Bratton and his colleagues note that they are 'an unfamiliar tool in Africa, rarely encountered in everyday life'.[13]

In Chapter 3, journalist Andrew Moyse examines the media environment in which the elections took place, but dates the poisoned environment back to the referendum defeat in February 2000s: 'Apart from the country's pending total economic collapse that crippled the operations of most domestic media institutions and the capacity of the public to access them, a host of blatantly unconstitutional and repressive laws were enacted that effectively emasculated the independent media and deprived the nation of its rights to freedom of expression, including the right to be informed.' Given such an unpropitious environment, Moyse is emphatic that 'there could not have been free and fair elections of any sort in March 2008.'

Eldred Masunungure covers the 29 March and 27 June 2008 elections in Chapters 4 and 5 respectively. He describes them as 'critical but sharply contrasting', in that while the March elections 'were the most peaceful (and even enjoyable) since the genesis of Zimbabwe's mega-crisis in 2000', the June run-off 'will go down in history as the bloodiest since independence.' Chapter 4 looks at the political party and presidential contestants, dissects their platforms and examines the pre-poll arena for the harmonized elections, especially the use of state-financed patronage, poor voter education, the decrepit state of the voters' roll and the pronouncements by members of the military-security sector, all of which skewed the playing

13 Bratton et. al. (2005) p. 57.

field in favour of the incumbent regime. Nonetheless, he concludes that: 'On balance, it is fair to say the pre-election environment was relatively peaceful and sufficiently conducive to the free expression of the people's will in the ballot box.'

Chapter 5 describes and analyses 'a militarized election', one with an unprecedented role for the military/security complex – and the attendant systemic violence and intimidation – which made the presidential run-off an election without a choice. It argues that this election lost its political quality and took on a military character and as such, 'the resultant ballot was more a barometer of people's fears than of people's choices',

In Chapter 6, constitutional lawyer Greg Linington largely confines himself to the presidential elections in March and June. He exposes the wide divergence between what the law (domestic law and the SADC Principles and Guidelines Governing Democratic Elections) says and what happened in practice in respect of the conduct of the elections. He interrogates the actions and inaction of various electoral institutions, notably the Zimbabwe Electoral Commission and the Electoral Court, reviews the complex legal issues surrounding the run-off, and concludes that 'the 27 June election was invalid' and that 'Morgan Tsvangirai ought to have been declared President after the 'first' election'.

John Makumbe, in Chapter 7, looks at one of the key electoral institutions, the Zimbabwe Electoral Commission (ZEC), from the perspective of a political scientist rather than a lawyer. He outlines its characteristics and functions, examines its role in the harmonized elections and finds fault with the manner in which it conducted itself, particularly regarding its partisanship. Makumbe concludes that 'ZEC is not an effective and autonomous electoral body' but an instrument 'defying the winds of change in Zimbabwe.'

The role of civil society in the elections is covered by Derek Matyszak in Chapter 8. He traces the birth of an activist civil society in the late 1990s that focused on the civil and human rights of Zimbabweans and describes the brutal response of the party-state with the military and police taking leading roles. He argues that the state's *modus operandi* explains 'why an "orange" or "popular" revolution has not taken place in Zimbabwe', and highlights the role of civil society organizations, notably the Zimbabwe Human Rights NGO Forum, the Zimbabwe Election Support Network and the Zimbabwe Peace Project, in monitoring, documenting and exposing human rights violations and providing assistance to victims. Matyszak concludes that the March elections 'conformed more closely with democratic requirements for free and fair elections than any other in Zimbabwe's history', while the June presidential run-off was a 'bloody electoral farce'.

In Chapter 9, Simon Badza considers the regional and international responses to the elections. He traces the evolution of worsening relations with the West and argues that 'regional and international reaction has been

marked by continuities rather than discontinuities of the policies governing the world's diplomatic interactions with the government of Zimbabwe', and faults the manner in which SADC brokered the 15 September 2008 pact between the three parties, regarding it as an inadequate solution to Zimbabwe's post-election crisis. He concludes that 'the only lasting solution to any election crisis can be one that affords primacy to the freely expressed democratic will of the people'.

Defying the Winds of Change demonstrates that the 2008 elections, like previous elections before them, failed as a mechanism for ushering in political change. It is in that sense that the winds of change were systematically defied.