



INTERIM MISSION STATEMENT

**BY THE
SADC PARLIAMENTARY FORUM REFERENDUM OBSERVATION
MISSION TO THE 2013 ZIMBABWE CONSTITUTION
REFERENDUM**

HELD ON 16TH MARCH 2013

**DELIVERED BY
HIS ROYAL HIGHNESS HONOURABLE PRINCE GUDUZA
DLAMINI, MISSION LEADER AND SPEAKER OF THE NATIONAL
ASSEMBLY OF THE KINGDOM OF SWAZILAND**

SALUTATIONS

- The Zimbabwe Electoral Commission(ZEC);
- Esteemed Leaders of the Political Parties;
- The Select Committee of Parliament on the New Constitution(COPAC);
- Honourable Members of Parliament;
- Members of the Diplomatic Corps;
- Members of Civil Society;
- Esteemed Members of various Election Observation Missions;
- Members of the Media;
- Distinguished Guests;
- Ladies and Gentlemen

I am deeply honoured to welcome you all to this important event, the presentation of the SADC Parliamentary Forum Referendum Observation Mission Interim Statement on the Constitution Referendum of the Republic of Zimbabwe.

1. INTRODUCTION

Following an invitation by the Zimbabwe Electoral Commission (ZEC), the Southern Africa Development Community Parliamentary Forum (SADC PF),¹ constituted a Referendum Observation Mission to observe the 16th March 2013 Constitution Referendum in Zimbabwe. The 40-Member Mission was in the country from 11th to 19th March 2013. It was composed of Members of Parliament, staff from SADC Parliaments and officials from SADC PF's Secretariat. The Mission was comprised of male and female Members of Parliament from both the ruling and opposition political parties from Botswana, Lesotho, Namibia, Malawi, South Africa, Swaziland, Tanzania and Zambia, and was led by His Royal Highness, Honourable Prince Guduza Dlamini, the Speaker of the National Assembly of the Kingdom of Swaziland.

The 16th March Zimbabwe Constitution Referendum was historic as it marked the first Referendum ever to be observed by SADC PF since its formation and therefore presented opportunities for learning for the SADC PF Mission. The 2013 Zimbabwe Constitution Referendum Observation Mission is the 29th Observation Mission to be deployed by SADC PF since 1999 when the Forum started observing elections in SADC Member States. Previously, the

¹ The SADC Parliamentary Forum is a Regional inter-parliamentary forum that was established in 1996 and was approved by the SADC Summit as a consultative and deliberative body in accordance with Article 9 (2) of the SADC Treaty. It is composed of 14 National Parliaments, namely Angola, Botswana, Democratic Republic of Congo (DRC), Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.

SADC PF observed the following elections: Mozambique and Namibia (1999); Mauritius, Zimbabwe and Tanzania (2000); Zambia (2001); Zimbabwe and Lesotho (2002); Malawi, South Africa, Botswana, Namibia and Mozambique (2004); Mauritius and Tanzania (2005); Zambia, DRC and Madagascar (2006); Lesotho (2007); Malawi, South Africa, Botswana, Mozambique and Namibia (2009), Mauritius (2010), Zambia (2011), Lesotho (2012) and Angola (2012).

The purpose of this Interim Statement is to share with various electoral stakeholders within and outside Zimbabwe, the Mission's Observations, Findings and Recommendations, which are aimed at strengthening the credibility, professionalism and integrity of the electoral processes in the country and the entire Region. These stakeholders include the public, the Zimbabwe Electoral Commission, the Constitution Parliamentary Select Committee (COPAC), political parties, civil society organisations as well as the Governments and National Parliaments of the SADC Region and the international community. A more detailed Final Report will be compiled and published within 60 days from the date of this Interim Statement.

2. TERMS OF REFERENCE

In undertaking its Referendum observation work, the SADC PF's Referendum Observation Mission to the 2013 Zimbabwe Constitution Referendum was guided by the following terms of reference which are premised on the Forum's *Norms and Standards for Elections in the SADC Region* and the *SADC Principles and Guidelines for Democratic Elections*:

- i) Assess the extent to which the Referendum was conducted in line with Zimbabwe's constitutional and legal framework and whether the framework is consistent with the *Norms and Standards for Elections in the SADC Region* and the *SADC Principles and Guidelines for Democratic Elections*;
- ii) Assess the contextual factors, that is, historical, political, economic, social and human rights, that are likely to impinge upon the integrity, transparency, freeness and fairness as well as the overall credibility and legitimacy of the Referendum;
- iii) Assess the impartiality, efficiency and effectiveness of the Zimbabwe Electoral Commission in the management of all aspects of the Referendum;
- iv) Make an honest, independent, impartial and objective assessment of the extent to which conditions existed for Zimbabweans to freely express their will regarding the Constitution Referendum;
- v) Assess special provisions and facilities put in place to enable voting by the disabled, sick, expecting mothers, citizens living abroad and public servants on duty;
- vi) Identify and document some good practices on the Referendum process and make recommendations on areas that require improvement in order to enhance the management of Referendums and elections, thereby strengthening democracy in Zimbabwe and the Region; and
- vii) Produce a comprehensive final report detailing the entire Referendum process including strengths and areas of improvement for sharing with stakeholders within and outside the Republic of Zimbabwe and for informing relevant reforms to address the identified shortcomings.

3. DEPLOYMENT PLAN

The Mission deployed a total of 10 Teams, with a Team in each of the country's 10 Provinces, from 13th to 17th March 2013. The SADC PF Referendum Observation Teams were deployed to the Provinces of Bulawayo, Harare, Manicaland, Mashonaland Central, Mashonaland East, Mashonaland West, Masvingo, Matebeleland North, Matebeleland South and Midlands. The Mission's deployment plan is as shown in the table below:

Deployment Plan

Province Covered	Team Members	Country
Harare	Team 01 1. Hon. Prince Guduza Dlamini (Mission Leader) 2. Hon. Connie September 3. Mr Harold KwalimbaStaff	Swaziland South Africa Malawi
Bulawayo	Team 02 1. Hon. Dr Situmbeko Musokotwane-Team Leader 2. Hon. Mamothibe Chaule 3. Ms Ndahafa Kaukungwa.....Staff	Zambia Lesotho Namibia
Manicaland	Team 08 1. Hon. Elifas Dingara -Team Leader 2. Hon. Macaefa Billy 3. Ms. Clare Musonda.....Staff	Namibia Lesotho Zambia
Mashonaland Central	Team 06 1. Hon. Smut Ngonyama- Team Leader 2. Hon. Christina Mughwai 3. Ms Chitalu Kasote MumbaStaff	South Africa Tanzania Zambia
Mashonaland East	Team 07 1. Hon. Mwambwa G.M Imenda-Team Leader 2. Hon. Henry Dlamini 3. Mr Titus Motlhabane Lengwadibe.....Staff	Zambia Swaziland Botswana
Mashonaland West	Team 05 1. Hon. Otria Moyo Jere -Team Leader 2. Hon. Bafunani Mnguni 3. Mr. Allen MutyambiziStaff	Malawi South Africa Zimbabwe
Masvingo	Team 04 1. Hon. Eugen E Mwaiposa -Team Leader 2. Hon. Mmoloki E Raletobana 3. Mr. Lubabalo Sigwela.....Staff	Tanzania Botswana South Africa
Matebeleland North	Team 10 1. Hon. Dr Salomon Martz Van Dyk-Team Leader 2. Hon. Rashid Ali Abdallah 3. Mr Mpendulo Ngcamphalala.....Staff	South Africa Tanzania Swaziland
Matebeleland South	Team 09 1. Hon. Bagalatia Arone -Team Leader 2. Hon. Maxas Joel Bweupe Ngonga 4. Ms. Asia Paul Minja.....Staff	Botswana Zambia Tanzania
Midlands	Team 03 1. Hon. Agnes Limbo -Team Leader 2. Hon. Abdalla Shabani Makumba 3. Mrs. Mamakosane Lelimo.....Staff	Namibia Malawi Lesotho

4. OBSERVATION METHODOLOGY

The Mission Teams employed a multi-pronged information gathering strategy which included review of the constitutional and legal framework governing Referendums in Zimbabwe, consultative discussions with key referendum stakeholders such as ZEC, COPAC, political parties, Civil Society Organisations, and members of the public in the country's provinces, attending constitution campaign meetings, witnessing door-to-door campaigns by stakeholders and regular perusal of the mass media. The Mission also interacted with other Referendum Observation Missions such as the SADC Observer Mission and the SADC Electoral Commissioners Forum (ECF), in order to exchange information and observations. The Mission also met with the SADC Ambassadors based in Harare. Furthermore, the Mission consulted with representatives of such political parties as ZANU (PF) and MDC T. These various methods enabled the Mission to gather comprehensive information and to critically assess the manner in which the 2013 Zimbabwe Constitution Referendum was managed. During their deployment in the country's 10 Provinces, the Mission's Teams visited a total of 41 Districts, 106 Constituencies and 83 Polling Stations during their tenure of duty in the provinces.

The Mission's observation process was anchored on the constitution and legal framework of Zimbabwe governing Referendums as well as various Regional and international electoral instruments notably the *Norms and Standards for Elections in the SADC Region*, the *SADC Principles and Guidelines for Democratic Elections*, the *SADC Protocol on Gender and Development*, and the *Benchmarks for Democratic Legislatures in Southern Africa*. The global *Declaration of Principles for International Election Observation* and the *Code of Conduct for International Election Observers*, to which SADC PF is party, were also useful references for the Mission.

5. GUIDING PRINCIPLES AND POINTS OF ENQUIRY

In carrying out its observation work, the Mission was guided by the following principles: impartiality, neutrality, comprehensiveness, transparency, inclusiveness, and objectivity.

The specific points of enquiry for the Mission focused on the following:

- i) Political Background
- ii) Constitutional and legal framework;
- iii) Civic and voter education;
- iv) Participation of women and youths as voters and referendum officials;
- v) Preparation and distribution of voting materials;
- vi) Adequacy and location of polling stations;
- vii) Polling arrangements;
- viii) Counting of ballot papers, tabulation and verification of results;
- ix) Use of information and communication technologies (ICTs);
- x) Conflict resolution mechanisms;
- xi) Media coverage of the entire Referendum process and related events;

- xii) Conduct of the campaign process;
- xiii) Conduct of stakeholders;
- xiv) Good practices from the 2013 Zimbabwe Constitution Referendum ;
- xv) Areas of improvement; and
- xvi) Overall Mission Assessment of the entire Referendum process.

6. MISSION FINDINGS

6.1 Political Background

The Mission noted that at independence, Zimbabwe adopted a basically ceasefire Constitution drawn-out during negotiations held at Lancaster House in London in 1979, which Constitution has been amended 19 times since the country's independence. In addition, the SADC PF Referendum Observation Mission noted that the Referendum held on the 16th March 2013 was the second Constitution Referendum in post-independence Zimbabwe following the first such Referendum which was held from 12th to 13th February 2000, during which Zimbabweans rejected the then draft Constitution with 54% of the voters voting "No" against 45.3% who voted "Yes".

The Mission further noted that Article VI of the Global Political Agreement (GPA) signed on 15th September 2008, among Zimbabwean Political Parties with representation in Parliament, mandated the resultant Government of National Unity (GNU), to spearhead the drafting of a new and people driven Zimbabwean Constitution to replace the Lancaster House Charter.

Furthermore, the SADC PF Referendum Observation Mission noted the long and arduous road travelled by the people of Zimbabwe starting with the signing of the Global Political Agreement, including the formation of the Constitution Parliamentary Select Committee (COPAC), to spearhead the Constitution making process, the first stakeholder conference, the outreach programme, constitution drafting, the second stakeholder conference, and protracted negotiations and consultations leading to the final Draft Constitution formally adopted by COPAC on the 31st January 2013, paving the way for the 16th March 2013 Zimbabwe Constitutional Referendum.

The Mission also noted the role played by cooperating partners led by the UNDP who contributed a cumulative USD 21 million towards the funding of COPAC processes, leading to the finalisation of Zimbabwe's Draft Constitution.

Furthermore, the Mission noted the crucial role played by SADC in helping the people of Zimbabwe find common political ground through the facilitation of negotiations led by South Africa, resulting in the historic signing of the Global Political Agreement and the consequent formation of the Government of National Unity, which, through COPAC, spearheaded the constitution making process, culminating in the final draft constitution presented before a National Referendum on the 16th March 2013.

In view of the above, the SADC PF Constitution Referendum Observation Mission recognises the significance of the Referendum as a milestone towards the holding of Harmonised Elections in the near future within the context of the Global Political Agreement.

6.2 The Constitutional and Legal Framework

The Mission found out that the constitutional and legal framework governing Referendums in the Republic of Zimbabwe is based on the following legal instruments:

- i) The Constitution of Zimbabwe as last amended on 13 February 2009;
- ii) The Referendum Act [Chapter 2:10];
- iii) Electoral Act [Chapter 2:13] as amended by the Electoral Amendment Act (2012); and
- iv) Referendum Regulations, 2013 Statutory Instrument 26 of 2013.

The Constitution of the Republic of Zimbabwe provides for the protection of citizens' fundamental rights and liberties which include freedom of expression, freedom of assembly and association, freedom of movement, freedom of conscience and religious belief, as well as freedom to participate in referendums and elections. Article 23A, subsection (c) of the Constitution of Zimbabwe expressly provides for citizens' right to free and fair referendums whenever they are called in terms of the Constitution or an Act of Parliament.

The Mission is of the view that the afore-described rights and freedoms were generally respected and exercised without undue hindrance prior, during and post the Zimbabwe 16th March 2013 Constitution Referendum.

Article 100C of the Constitution of the Republic of Zimbabwe provides for the functions of the Zimbabwe Electoral Commission which includes preparation for, conducting and supervision of elections and referendums in Zimbabwe as well as to ensure that elections and referendums in Zimbabwe are conducted efficiently, freely, fairly, transparently and in accordance with the law.

Section 3 of the Referendums Act [Chapter 2:10] provides for the proclamation by the President of the Republic, of a referendum question, the day the Referendum should be held, polling station opening and closing times for the Referendum and appointment of officials to be returning officers during the referendum.

Section 5 of the Referendums Act [Chapter 2:10] stipulates that all ballot papers used in a Referendum should state the question or issue to be determined at the Referendum. Regarding eligibility to vote in a Referendum, the Mission noted that Section 6 of the Referendum Act [Chapter 2:10] entitles all Zimbabweans aged 18 years and above and who are eligible to be registered as voters on the Voters' Roll to vote in a Referendum irrespective of whether they are registered voters or not.

The SADC PF Referendum Observation Mission also noted that Section 10 of the Referendums Act [Chapter 2:10] provides for, subject to the Referendum Act, the application of the Electoral

Act [Chapter 2:13] and regulations made thereunder, to any Referendum in so far as they can appropriately be applied to it, while Section 11 of the Referendum Act empowers the responsible Government Minister to come up with legally enforceable regulations to give effect to the Referendum Act.

In addition, the Mission noted that the majority of votes cast in a Referendum determine the outcome. Furthermore, the Mission noted that in accordance with section 18 of the Referendum Regulations 2013, the Chief Elections Officer is obliged to publicly declare the results of the Referendum in terms of tally of votes and outcome of the question or issue that was decided by voters to the Referendum within five days from the day of polling. The Regulations further obliges the Chief Elections Officer to immediately transmit the same Referendum results to the Minister responsible for Constitutional and Parliamentary Affairs who, through the Government Gazette and the mass media, is mandated to officially notify the public of the votes tally as ascertained by the Chief Elections Officer and the outcome of the Referendum as determined thereby.

In addition, the Mission noted that Articles 133A to 160 of the Electoral Act [Chapter 2:13], which in accordance with Section 10 of the Referendum Act [Chapter 2:10] also applies to Referendums, deals extensively with a number of electoral offences and malpractices and stipulates the respective penalties for such offences and malpractices in line with good electoral practice.

The Mission is, therefore, of the view that the constitutional and legal framework governing Referendums in Zimbabwe augurs well for the conduct of free, fair, transparent and credible Referendums.

6.3 The Zimbabwe Electoral Commission (ZEC) and Referendum Administration

The Zimbabwe Electoral Commission (ZEC) was established in terms of Article 100B of the Constitution of the Republic and the Electoral Act [Chapter 2:13], as the sole body responsible for the preparation, conducting and supervision of Elections and Referendums in Zimbabwe. The Zimbabwean Constitution expressly charges the Zimbabwe Electoral Commission with the responsibility to ensure that Elections and Referendums in Zimbabwe are conducted efficiently, freely, fairly, transparently and in accordance with the law.

As is stipulated by Article 100B of the Constitution of Zimbabwe, the Zimbabwe Electoral Commission comprises a Chairperson appointed by the President of the Republic after consultation with the Judicial Service Commission and the Committee on Standing Rules and Orders of the Parliament of Zimbabwe and eight other members appointed by the President from a list of not fewer than 12 nominees submitted by the Committee on Standing Rules and Orders. The Constitution stipulates that at least four members of the Zimbabwe Electoral Commission, apart from the Chairperson, must be women.

The Constitution further stipulates that the Chairperson of the Zimbabwe Electoral Commission must be judge or former judge of the Supreme Court or the High Court or a person qualified for appointment as a judge. Members of the Commission are appointed for a term of six years renewable only once and are appointed on the basis of their integrity, experience and competence in the conduct of affairs in the public or private sector.

The Mission observed that the ZEC operates on a decentralised organisational structure with representation at National, Provincial and District levels in order to ensure that the Commission effectively discharges its mandate.

The Mission further observed that Article 100H of the Constitution of Zimbabwe obliges the State to make adequate and suitable provisions through legislation and other appropriate means, to ensure that the Zimbabwe Electoral Commission is able to exercise its functions under the Constitution efficiently and independently and that the Commission's staff carry out their duties conscientiously, fairly and impartially. In addition, the Mission noted the extensive provisions of sections 10A and 11 of the Electoral Act Chapter [2:13] meant to guarantee the independence of the Zimbabwe Electoral Commission and ensure the independence, impartiality and professionalism of Commissioners, staff and agents of the Commission.

Most of electoral stakeholders who interacted with the Mission's Observation Teams expressed confidence in the independence, impartiality, openness, transparency and capacity of the ZEC to organise and conduct a credible Referendum. However, the Mission noted the concerns raised by some civil society stakeholders regarding refusal by the Zimbabwe Electoral Commission to accredit local observers from some civic society organisations which had been charged with election-related crimes.

Overall, the Mission is of the view that the legal framework within which the ZEC is established and operates generally augurs well for the independence and autonomous functioning of the Commission in line with the *Norms and Standards for Elections in the SADC Region*, the *SADC Principles and Guidelines for Democratic Elections*, and other continental and International instruments.

The Mission observed that notwithstanding the limited timeframe and budget related constraints, the ZEC was evidently prepared for the 16th March 2013 Constitution Referendum. The ZEC ensured the printing of 12 million ballot papers and procured election materials in time, carried out voter education programmes in collaboration with civil society organisations, and distributed both sensitive and non-sensitive voting materials to Constituency Centres and polling stations in the 10 Provinces of Zimbabwe. The ZEC also trained electoral staff in time and was constantly consulting and communicating with electoral stakeholders throughout the process.

The Mission further observed that for the 2013 Zimbabwe Constitutional Referendum, the Zimbabwe Electoral Commission established 9456 polling stations throughout the 10 Provinces

of Zimbabwe and trained more than 70, 000 polling and other staff needed in the Referendum. The staff was mainly drawn from the civil service, local and other statutory bodies. Most of the polling stations were housed in schools, clinics and business centres and other neutral public buildings.

On the whole, the Mission commends the ZEC for the professional and efficient manner in which it prepared for and conducted the 2013 Zimbabwe Constitution Referendum.

6.4 The Role of Security Forces

The Mission noted the role played by the Zimbabwe Republic Police in providing security to the electoral process prior, during and after the referendum day. The Mission is of the view that the security forces carried out their Referendum related duties without interfering with the Referendum processes. The Mission further observed that the Police were adequately prepared to perform their duties during the 2013 Zimbabwe Constitution Referendum as evidenced by the presence of police officers at all the polling stations visited by the Mission's referendum Observation Teams. This also contributed to the general calm and peaceful environment that existed in the country during the Referendum process.

In addition, the Mission noted the role played by the Zimbabwe Defence Forces who provided military helicopters to transport voting materials to remote areas that could not be reached by road.

The Mission, however, noted the complaints by some stakeholders who felt that the Police discretionary powers relating to sanctioning of political gatherings in Zimbabwe had the potential to affect the credibility of electoral processes through restricting freedom of assembly.

6.5 Civic and Voter Education

The Mission found out that for the 2013 Zimbabwe Constitution Referendum, the Zimbabwe Electoral Commission deployed two voter educators per ward from 6th to 13th March 2013 to inform the electorate on their constitutional right to vote, the nature of identity documents acceptable at polling stations, the voting process and general issues regarding ZEC's management of the Referendum. In addition, the Mission noted that ZEC was also reported to have accredited approximately 15 civic society organisations which were trained to assist in voter education. The Mission, furthermore, witnessed ZEC's voter education initiatives in the form of advertisements and public notices in the local mainstream public media.

The Mission's Teams, while in the field, found out that political parties, especially those which are signatories to the Global Political Agreement, conducted voter education through meetings and the mass media, targeting their party supporters. Furthermore, the Mission noted the role played by traditional leaders in voter awareness, especially in remote areas where both print media and electronic media sources are difficult to access.

Some members of the public who interacted with the Mission's Teams in remote areas throughout the country confirmed having received voter education on the Referendum through voter educators from either ZEC and its civil society partners or political parties representatives but, however, decried not having had access to the actual COPAC Draft Constitution on which they were supposed to decide during the Referendum.

6.6 Referendum Campaign

The Mission noted that campaigns relating to the 16th March Zimbabwe Constitution Referendum assumed the form of public meetings, door to door campaigns, and print advertisements in the mainstream media and interactive programmes in the electronic media.

The Mission further noted that the Parliamentary Constitution Select Committee (COPAC), and political parties that are signatories to the Global Political Agreement were the major proponents for the "Yes" vote during the Referendum while the National Constitutional Assembly, other civil society players and some political parties outside the Global Political Agreement campaigned for a "No" vote.

The Mission noted that the Constitution Select Committee (COPAC) printed and distributed approximately 70 000 copies of the Draft Constitution which was the subject of the Referendum against Zimbabwe's voter population estimated at close to six million voters. The Mission further noted that some of the members of the public who were interviewed by the Mission's teams complained that they had not had a chance to peruse the Draft Constitution while some, especially in rural areas complained that most of the information on the Draft Constitution had not been translated to their vernacular languages which they are conversant with.

The Mission also found out that the Referendum campaigns were generally conducted in a calm, peaceful and electorally conducive atmosphere which enabled most stakeholders to freely express themselves on the Referendum issue without undue hindrance. Stakeholders interviewed by the Mission's Teams attributed the general tranquillity to the unanimity of the main political parties on the Draft Constitution and were therefore, campaigning for a "Yes" vote.

In view of the above, The SADC PF Observation Mission to the Zimbabwe 2013 Constitution Referendum commends the Zimbabweans for the generally peaceful and friendly manner in which they conducted themselves during the campaign, voting and counting of ballots.

6.7 Media Coverage of the Referendum

The Mission noted that for the 16th March 2013 Zimbabwe Constitution Referendum, in accordance with Article 160K of the Electoral Act [Chapter 2:13], the Zimbabwe Electoral Commission set up a Media Committee to monitor media reporting on the Referendum and ensure that the media complies with the requirements of the Electoral Act regarding the media houses' obligation to:

- i) Give equitable and fair coverage to all sides in the Referendum;
- ii) Be accurate, factual and fair in all Referendum related reporting; and
- iii) Avoid promotion of stakeholders encouraging violence, discrimination and hatred.

The Mission further noted the extensive coverage of Referendum issues by both the privately owned and publicly owned print and electronic media, thereby increasing public awareness of the Referendum.

The Mission, however, noted that circulation for most print media is largely restricted to urban areas and similarly, the Zimbabwe Broadcasting Corporation as well as the privately owned electronic media has constrained broadcasting reach, leaving most of the remote rural areas without access to the media.

6.8 Participation of Women and Youths in the Referendum

The Mission noted the involvement of women and youths in conducting voter education and referendum campaigns. The Mission further noted the involvement of women and youths as voters and polling officials during the Referendum. The Mission observed that there were generally more women officials at polling stations than men.

In addition, the Mission was heartened to note the appointment of a woman, Justice Rita Makarau, as the substantive Chairperson of the Zimbabwe Electoral Commission, a development which brought the total number of women in the Commission to five, thereby uplifting women in accordance with the letter and spirit of the SADC Protocol on Gender and Development.

6.9 Conflict Resolution Mechanisms in Place

The Mission noted that Article 160B of the Electoral Act [Chapter 2:13] provides for the establishment of Multiparty Liaison Committees at local authority, constituency, district, provincial and national levels to hear and attempt to resolve any disputes, concerns and matters of grievances relating to the electoral process.

The Mission however, noted with concern that these committees could not legally be constituted to deal with possible Referendum related conflicts among stakeholders since the Act expressly states that such committees are only formed after nomination of candidates contesting an election and limits the composition of the multi-party liaison committees to the Zimbabwe Electoral Commission and representatives of political parties contesting in an election.

The Mission is of the view that the effectiveness of the Multiparty Liaison Committees could be strengthened by broadening the membership to include other stakeholders such as the police and civil society representatives and also making the committees a permanent inter-electoral stakeholder conflict resolution framework as opposed to constituting them just before elections.

6.10 Appeal Mechanisms in Place for the Referendum

The Mission noted that Part XXII of the Electoral Act [Chapter 2:13] provides for the establishment of an Electoral Court which also, in terms of Section 9 of the Referendum Act, has Jurisdiction over appeals relating to Referendums in Zimbabwe.

According to Law, a Referendum petition may be presented within 14 days after the end of the period of the Referendum to which it relates and such a petition is lodged with the Registrar of the Electoral Court and should be signed by the respective petitioner(s).

Furthermore, the Mission noted that the law obliges the Electoral Court to deal with appeals within a period of six months and in the event of the petitioner not being satisfied with the ruling of the Electoral Court, the law provides for a channel to further appeal to the Supreme Court of Zimbabwe, which again has to resolve such an appeal within six months of registration.

6.11 Referendum Day, Voting and Counting

The Mission observed that most polling stations opened and closed at legislated times of 0700 hours and 1900 hours respectively, although some cases of late opening of some polling stations were noted by the Mission's Teams. At all polling stations observed by the Mission's Teams, voters that were still in the voting queue by 1900 hours were allowed to cast their votes in line with the law. In spite of the logistical challenges potentially posed by allowing all citizens above 18 years to vote anywhere in the country as opposed to only registered voters voting in their respective wards, voting materials including ballot papers and indelible ink were generally available in adequate quantities and this allowed voting to proceed smoothly throughout the day at most polling stations. The Mission also noted the presence of Local Observers and the police at most polling stations visited by the Mission's Teams.

The Mission noted that since the right to vote during the 2013 Zimbabwe Constitution Referendum was based on legal eligibility to register as a voter contrary to the usual practice that only registered voters are allowed to cast their vote, the use of indelible ink to avoid multiple voting and the allocation of ballot papers to polling stations by serial numbers emerged as the two cardinal basis for the legitimacy and transparency of the voting process.

The Mission further observed that the voting process was conducted peacefully across the country with no significant cases of disturbances. Furthermore, the Mission observed that the counting of ballot papers took place at the respective polling stations at the end of the voting process and was conducted in a peaceful and transparent manner, in some cases in the presence of observers and monitors.

The Mission also observed that all polling stations visited by Mission's Teams in the 10 provinces of Zimbabwe were located in places readily accessible to the public, including persons living with disabilities as is stipulated in Section 6 of the Referendum Regulations, 2013.

At the close of voting, the Returning Officers at polling stations observed by the Mission's Teams transparently showed the completed polling station returns to fellow polling staff and observers present at the polling stations and also allowed each of the observers present to subscribe their signatures to it before posting copies of the returns on the outside of the respective polling stations and delivering the original copies to the respective Ward Returning Officers for onward collation and transmission to the respective Constituency, Provincial and National Returning Officers as is stipulated in Referendum regulations, 2013.

7. GOOD PRACTICES FROM THE 2013 ZIMBABWE CONSTITUTION REFERENDUM

The Mission observed the following as good practices from the 2013 Zimbabwe Constitution Referendum:

- i) A draft Constitution that is easy to read and understand without the help of lawyers.
- ii) A comprehensive array of laws governing all aspects of the Referendum which left no room for guesswork by the ZEC and the Referendum officials.
- iii) The procedure for the appointment of ZEC Chairperson and other Commissioners which give the Parliament an extensive role, as the supreme representative institution, thereby ensuring inclusivity and transparency in the appointment Electoral Commissioners.
- iv) Decentralised structure of the Zimbabwe Electoral Commission (ZEC) which allowed the Commission to effectively discharge its mandate working hand in hand with stakeholders at Constituency, District, Provincial and National levels.
- v) Assistance given to the special groups such as those with disabilities and pregnant mothers during voting in order to ensure they exercise their right to vote.
- vi) The high number of polling stations to ensure that all voters have easy access to the polling stations.
- vii) Nationwide civic and voter education by ZEC assisted by CSOs and political parties to generate interest in and knowledge on the voting process.
- viii) Professionalism and commitment to duty demonstrated by the electoral staff who worked under pressure for long hours in view of the limited time given to ZEC to manage the Referendum.
- ix) The provision within electoral legislation for the establishment of an Electoral Court to ensure speedy resolution of electoral and referendum appeals in line with good practice.
- x) The use of translucent ballot boxes to aid transparency and credibility of the voting process.
- xi) Counting of ballots at each of the polling stations in the presence of monitors and in some cases observers, the signing of polling station returns by electoral officials, monitors and observers and the availing of such signed copies to observers on request in order to increase transparency.
- xii) The legal requirement for the announcing of the Referendum outcome within five days to avoid suspicion and anxiety among stakeholders which may lead to conflict.
- xiii) The Gazetting of the polling day, 16th March 2013 as a public holiday to enable as many Zimbabweans as possible to exercise their democratic right to vote.

- xiv) ZEC's general logistical preparedness and openness to engage stakeholders prior, during and post the 16th March 2013 Zimbabwe Constitution Referendum.
- xv) Number of women in the Zimbabwe Electoral Commission including the Chairperson.
- xvi) Public denouncing of political violence by the principals to the Global Political Agreement and their respective political parties.

8. AREAS FOR IMPROVEMENT

- i) Need to broaden the composition of Multi-Party Liaison Committees to include other critical stakeholders such as the Police, the Media and Civil Society in order to strengthen the liaison committees' ability to resolve conflicts.
- ii) Need to amend electoral legislation to provide for the establishment of permanent stakeholder liaison committees capable of resolving political conflicts at any time rather than only during Election and Referendum periods.
- iii) Need for ZEC to institute measures to protect ZEC employees, agents and voters from possible voter disenfranchisement due to accidental contact with the indelible ink either during handling of electoral materials or through normal contact with those who would have already voted.
- iv) Need to take into account citizens' religious and other concerns in determining the polling date so as to minimise possible voter disenfranchisement.
- v) Need to ensure that ZEC receives adequate funding for its electoral activities at least three months before any election or referendum in order to allow the Commission enough time to prepare and put logistics in place for flawless and credible elections and referendums.
- vi) The need for open air polling stations to be erected out of tents and not polythene paper to avoid serious calamities in the event of heavy rains falling during voting.

9. MISSION'S OVERALL ASSESSMENT OF THE 2013 ZIMBABWE CONSTITUTION REFERENDUM

Based on its overall findings, the Mission is of the view that there existed a substantially conducive and peaceful environment in which the Referendum was conducted. The Zimbabweans were accorded the opportunity to freely express their will in voting for a Referendum outcome of their choice.

The SADC PF Election Observation Mission to the 2013 Zimbabwe Constitution Referendum is therefore of the view that the 2013 Zimbabwe Constitution Referendum was, on the whole, a credible reflection of the will of the people of Zimbabwe.

In Conclusion, the SADC PF Referendum Observation Mission to the Zimbabwe 2013 Constitution Referendum heartily salutes Zimbabwe's Political Leadership, the Zimbabwe Electoral Commission (ZEC), the People of Zimbabwe and other critical stakeholders for the mature and, indeed, progressive way they conducted themselves prior, during and post the 2013 Zimbabwe Constitution Referendum.

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