

THE
CARTER CENTER



Republic of Zimbabwe
2018 Presidential, Parliamentary, and Local Council
(Harmonized) Elections

Election Expert Mission
Final Report

The Carter Center
July 2020



Table of Contents

Map of the Republic of Zimbabwe	4
Executive Summary	5
The Carter Center in Zimbabwe.....	10
Historical and Political Background	11
Table 1. Zimbabwe Facts and Figures	12
Legal Framework	13
Domestic Laws.....	14
The Constitution.....	14
The Electoral Act	15
Electoral System	18
Boundary Delimitation.....	19
Election Administration	20
Voter Education	25
Voter Registration.....	25
Candidates, Parties and Campaigns	28
The Campaign Environment	29
Campaign-Related Violence	30
The Role of Social Media and Information and Communication Technology (ICT).....	33
Civil Society Engagement.....	34
Election Day.....	37
Tallying, Transmission of Results	38
Announcement of Results	38
Election Results	39
Post-Election Political Environment.....	40
Electoral Dispute Resolution	42
Postelection Petition and Constitutional Court Decision	44
Recommendations.....	46
Voter Registration.....	46
Campaign Environment	46
Campaign-Related Violence and Intimidation.....	46
Civil Society Engagement.....	47
Voter Education	47
Announcement Of Results	47



2018 Presidential, Parliamentary, and Local Council Elections in Zimbabwe

Election Administration	47
Women’s Participation In Elections	48
Electoral Dispute Resolution	48
Complaints and Appeals (On Election Day):.....	48
Postelection Political Environment:.....	49
Annexes	49



Map of the Republic of Zimbabwe





Executive Summary

Mission Background

The Carter Center deployed a mission to Zimbabwe from March 24-28, 2018, to assess the pre-election environment and preparations for the July 30, 2018, presidential, parliamentary, and local council elections (collectively called the harmonized elections). The mission met with key political and electoral stakeholders as well as civil society organizations and international technical assistance providers. The Center subsequently received an invitation from the Ministry of Foreign Affairs and International Trade to observe the harmonized elections. Because of a lack of funds, the Center deployed only a small expert mission. The team arrived on July 10 and conducted assessment activities for seven weeks. The Carter Center's election expert team was based in Harare and consisted of a field office director, senior political analyst, legal and election analyst, civil society and technology analyst, and an IT analyst and data-verification specialist.

The Center's mission was limited in scope and did not conduct a comprehensive assessment of the electoral process. The mission focused on several key issues, including the legal and electoral framework, election administration, use of technology in the elections, political and electoral environment, campaign period, women's participation, civil society engagement, and electoral dispute resolution in the postelection period. The team did not observe election-day proceedings in a systematic manner and visited only a limited number of polling stations and tally centers in and around Harare. The team closely monitored postelection developments, including the dispute-resolution process and the legal challenge of the presidential election results. Throughout its deployment, the team met with various stakeholders, including election administration authorities, political parties, candidates, citizen observers, human rights organizations, media organizations, government officials, and other international observers and stakeholders.

In addition to analyzing key parts of the election process, Carter Center experts provided limited technical assistance to the Zimbabwe Election Support Network (ZESN), a leading civil society organization, to support its data-collection efforts for long-term observers using the Center's ELMO open-source data collection tool. The Center also collaborated with the nonprofit organization Meedan.org to work with targeted civil society organizations, including ZimFACT in Harare and the Center for Innovation and Technology (CITE) in Bulawayo, to use a collaborative fact-checking tool, CHECK, developed by Meedan.

Following the Aug. 1 clashes between armed security forces and protestors in Harare that resulted in six deaths and multiple casualties, The Carter Center immediately issued a postelection statement urging responsible leadership, peaceful demonstration, and the transparent and timely finalization of results.¹ The Center also joined eight other international election observation

¹ See Annex 1 for the statement. Copies of the Center's statement were shared with the media, the ZEC, Zimbabwe African National Union - Patriotic Front (ZANU PF), the Movement for Democratic Change Alliance (MDC A), civil society, and international organizations.



missions in issuing a joint statement on Aug. 2 about the incident.² Representatives of the organizations that signed the joint statement met with the presidential candidates of the Zimbabwe African National Union – Patriotic Front (ZANU-PF) and the Movement for Democratic Change Alliance (MDC-A), as well as the Zimbabwe Electoral Commission (ZEC) chairperson and other ZEC members to deliver this message and underscore the importance of the public and timely announcement of results as well as the sharing of election results in a format that would allow for independent verification and analysis of the results tabulation.

Zimbabwe Electoral Context

The 2018 harmonized elections were Zimbabwe’s first after President Robert Mugabe’s 37-year-rule was ended by military coup. On Nov. 22, 2017, the military-backed ruling party ZANU-PF installed Emmerson Mnangagwa as interim president, and, in March 2018, elections were announced for July 30. As part of his efforts to move isolated Zimbabwe back into the international community, Mnangagwa publicly committed to holding credible elections and invited international observers to assess the process.

Although Zimbabwe has held elections regularly since its independence in 1980, the ruling party often drew on the substantial resources of the incumbency to remain in power. Political competitiveness and a deepening economic crisis contributed to election cycles that were marked by violent partisan clashes, and, in particular, sharp increases in state-led violence.

The 2018 pre-election period was not marked by the violence that characterized past elections, and state-sponsored violence was nearly absent through election day. Nevertheless, there were reports of widespread abuse of state resources to reward ZANU-PF supporters, and of intimidation of voters through village chiefs. In addition, questions about the ZEC’s transparency, independence, and impartiality, and a lack of effective legal remedy for electoral challenges from the opposition, undermined the integrity of the elections.

Reduced barriers to party registration resulted in a substantial rise in contesting parties and candidates. The right to stand as a candidate was respected and the elections were competitive – 23 candidates ran for president, 1,631 candidates contested the National Assembly elections, and 6,576 candidates ran for local councils. Electoral reforms and the introduction of biometric voter registration (BVR) also helped to build confidence in the electoral process.

Election day was peaceful; reportedly more than 85 percent of registered voters cast ballots in a generally orderly and problem-free process. The high turnout – despite low levels of trust in the democratic process and in government institutions – underscored public interest in electing and holding leaders accountable.

² The eight organizations were: African Union, the Commonwealth, the Southern African Development Community (SADC), the SADC Parliamentary Forum, the Electoral Commissions Forum of SADC countries (ECF – SADC), the Common Market for Eastern and Southern Africa (COMESA), the European Union (EU), and the joint International Republican Institute – National Democratic Institute (IRI – NDI) delegation.



State violence marked the postelection period, and intimidation eroded the limited gains made in the pre-election period. On Aug. 1, Zimbabwean soldiers and anti-riot police fired on demonstrators marching near ZEC's Election Results Center, killing six and injuring more than a dozen. On the same day, security forces raided the headquarters of the opposition MDC-A, arrested several members, and seized its equipment. The events and acts of violence and intimidation directed at opposition supporters and others created an environment of fear and uncertainty.

Election results were released by the legal deadline, but the results-management process was undermined by problems with the ZEC's website and inaccuracies in the official results tables provided to the public. According to official ZEC results, ZANU-PF attained a two-thirds majority in the parliament, and Emmerson Mnangagwa was declared winner of the presidential race with 50.8 percent of votes. The MDC-A challenged the results of the presidential race in the Constitutional Court, which dismissed the charges on grounds of insufficient evidence.

While there were notable improvements in the pre-election environment over past polls, some aspects of the electoral process were not consistent with international standards for democratic elections. More than 18 months after the election, the Zimbabwean government has failed to take concrete action to increase protections for the fundamental rights of its citizens and to strengthen the country's rule of law. The government should make efforts to build confidence in Zimbabwe's commitment to democracy and to building credible democratic institutions before the 2023 elections. The international community should continue to support improved elections and honest efforts to support a democratic transition in Zimbabwe.

Overview of Key Findings

Legal Framework

Zimbabwe's legal electoral framework provides for the fundamental freedoms of assembly, association, expression and movement, equality and non-discrimination, and access to justice and information. Specifically, the 2013 Constitution and 2004 Electoral Act (amended) provide for civil and political rights, as well as establish the operational capacity for the state to carry out competitive elections. Protection of civil and political rights is undermined, however, by laws and regulations that limit voters' freedoms. In particular, the Public Security Act (POSA) and Access to Information and Protection of Privacy Act (AIPPA) limit the ability of political parties to campaign freely.

The near absence of campaign-finance regulations undermines the transparency and accountability of political financing. While the legal framework provides for public funding of political activities, there are numerous gaps in the campaign-finance regulation framework. There is no ban on corporate or trade union donations to political parties or candidates. This is particularly damaging because corporations with government contracts face no limitations on their ability to donate to candidates and parties. Furthermore, there are no limitations on using state resources to promote or suppress parties or candidates. The campaign-finance system also lacks a reporting and oversight mechanism. Further reform of the Electoral Act is required to address the existing



shortcomings, bring the law into alignment with the constitution, and ensure the right of effective legal remedy throughout the electoral process. Enforcement of the electoral code of conduct should be strengthened, including by introducing sanctions for parties and candidates that violate its principles.

Election Administration

The Zimbabwe Electoral Commission (ZEC) prepares, conducts, and supervises the presidential and parliamentary elections, as well as other referenda and other elective offices in Zimbabwe. Its members are appointed by the president, after consultation with the Standing Rules and Orders Committee in parliament and, for the chairperson, the Judicial Service Commission.

Several amendments to the Electoral Act introduced changes that positively impacted the administration of the 2018 elections, including an increase in the number of polling stations countrywide; the assignment of each voter to a specific polling station; a cap on the number of extra ballot papers printed for each election; and the creation of multiparty liaison committees (MPLC) at the national, district, constituency, and local levels.

The ZEC administered the technical preparations for the elections within the established legal deadlines. However, electoral preparations were hampered by a general lack of inclusiveness and transparency in the ZEC's work. The ZEC exercised its discretionary powers to reach decisions on contentious issues, e.g., design of the presidential ballot, positioning of polling booths, but failed to provide adequate information about some key decisions, e.g., ballot security features. In addition, it placed restrictions on access to important parts of the electoral process, e.g., the printing of ballot papers, storage and transportation of materials, that limited meaningful observation. The multiparty liaison committees did not adequately provide for constructive discussion or address contentious issues raised by the parties or election administration.

Boundary Delimitation

While periodic boundary delimitation is a necessary step to assure the even distribution of voters among constituencies, Zimbabwe's last delimitation exercise was conducted before 2008, exceeding the constitutionally mandated limit of 10 years to redraw constituencies. The ZEC's failure to redraw constituencies negatively affected the principle of equal suffrage, political competitiveness, and Zimbabwe's attempts to consolidate democracy.

Voter Registration

Stakeholders welcomed biometric voter registration (BVR) in light of the problems that were encountered in the voter roll in 2013. Biometric registration helped to build trust in the voter registration system. The ZEC made considerable efforts to implement a technically demanding BVR process within a limited timeframe. While the ZEC provided political parties and interested entities with a copy of the voter roll, opposition parties and civil society organizations criticized the ZEC because the copies did not include the photographs of registered voters used on election day to verify identity. The final voter roll was released close to election day, limiting the ability of parties and civil society to conduct a robust verification of the roll. An audit conducted by the



Zimbabwe Election Support Network (ZESN) concluded that, despite noncritical problems and mistakes, the 2018 voter roll was an improvement over that of 2013.

Campaign Environment

Despite a limited number of high-profile incidents, including the bombing of a Mnangagwa rally on June 23 in Bulawayo, the 2018 campaign was most notable for being less violent than previous elections. However, freedom of assembly was undermined by widespread reports of the ruling party's use of state resources as well as actions by village chiefs to exert pressure on voters to support the ruling party and to dissuade them from attending opposition rallies. This demonstrated the absence of a clear distinction between the state and the ruling party, and negatively affected the ability of candidates to compete under equal conditions. While the campaign period was more competitive and peaceful than in previous elections, these factors, coupled with a lack of campaign-finance regulations, negatively affected the electoral process.

Election Day

The Carter Center observers did not assess election day procedures systematically. Other international and national citizen observer organizations, however, assessed election day positively, noting that voters enjoyed the right to vote and that the day was generally orderly, peaceful, and well-organized.

Announcement of Results

The ZEC announced elections results between July 31 and Aug. 3, within the established legal deadline. The results of the presidential polls were announced in the wee hours of the morning on Aug. 3. According to the ZEC, its website was hacked, hindering its work during a critical time in the postelection period when challenges to results could be filed. These issues prevented the public and observers from freely accessing the results data in the immediate postelection period. The 2004 Electoral Act does not oblige the ZEC to publish election results at the polling-station level; however, the ZEC provided presidential results at the polling-station level to stakeholders upon request, within 24 hours following the announcement of results, via CD-ROM. The Center noted some data errors and technical mistakes in results tables and in the contents of the CD-ROM, but none of these errors appeared to impact the final result of the presidential election. However, these mistakes indicate that the data-entry system and Excel software used for tallying the results is vulnerable to human error. ZEC members corrected mistakes after the MDC Alliance filed electoral challenges to the results with the Constitutional Court.

Electoral Dispute Resolution

The judiciary is responsible for implementing electoral dispute-resolution processes and providing petitioners with an effective and timely legal remedy. Several factors inhibited petitioners from exercising their rights for effective remedy, including the imposition of high fees for filing legal petitions, the absence of an appropriate timeframe for hearing cases and delivering judgments in court challenges, the dismissal of cases on technical grounds, and a number of controversial court judgments.



Civil Society Engagement

The opening of political space for participation in public affairs after the November 2017 coup was a positive step that allowed civil society organizations (CSOs) to conduct meaningful activities throughout the pre-election period and on election day. CSOs said the pre-election and election-day environment was more open than during the past elections and that the ZEC largely helped to facilitate observation. The accreditation process was inclusive and free from the difficulties experienced in the past. Regrettably, postelection intimidation and state-sponsored violence reduced trust built during the pre-election period and raised concerns among civil society leaders that the space opened around the elections had closed and that they could be targeted for their activities.

Social Media and Information Communication Technologies (ICT)

Various stakeholders embraced information and communication technologies (ICTs) and social media platforms to campaign and organize. These platforms provided alternatives in a media landscape largely dominated by the state. Candidates, political parties, and opinion leaders used social media to campaign and convey messages in real time. Government agencies and NGOs also utilized social media to inform and organize. However, it was frequently difficult to discern the source and accuracy of information available through social media. The spread of misinformation and “fake news” was also a key concern of many stakeholders throughout the elections. Steps taken by the government to gain greater control over the ICT market, and to regulate social media and those using it, raise concerns about the future of internet freedom in Zimbabwe. Any steps taken to further regulate ICTs and social media in Zimbabwe should be given careful consideration, and solutions should ensure that the internet remains open and accessible for all citizens, which is essential to maintaining a democratic society.

The Carter Center in Zimbabwe

Former U.S. President Jimmy Carter and The Carter Center have had a long-standing interest in the development of democracy in Zimbabwe. In 1980, President Carter recognized the newly independent state of Zimbabwe and advocated for the development of robust and durable democratic institutions in the formation of the new government.

The Carter Center began working in Zimbabwe in 1989 with the “Project Africa” initiative, designed to improve food security by increasing food production in rural villages. The initial success of this program made Zimbabwe a breadbasket for the region prior to the onset of the country’s economic crisis and hyperinflation.

Over time, as the prospects for democratic strengthening worsened, the Center explored several potential governance projects. In 2002, the Democracy Program expressed interest in observing the general election, and a team traveled to Harare to meet key stakeholders to discuss preparations for the polls and the prospects for a credible, democratic election. Ultimately, the Zimbabwean government decided it would not extend an invitation to The Carter Center to observe the election.



The Center issued a short statement indicating that the pre-election period fell short of international standards and was “seriously flawed.”

In 2013, The Carter Center carried out a pre-election visit to Zimbabwe in advance of the polls to assess whether Carter Center engagement in the elections would be welcomed by stakeholders. During the visit, key stakeholders, including representatives of the three major political parties, indicated they would welcome a Carter Center observation presence in Zimbabwe. However, the Zimbabwe Electoral Commission later declined the Center’s application for observer accreditation, and The Carter Center was unable to deploy an observer mission.

Historical and Political Background

Zimbabwe has held regular elections since its independence in 1980. Although the ruling party, ZANU-PF, briefly considered the idea of a de jure one-party state, Zimbabwe has maintained a multiparty system. Elections in the 1980s and 1990s saw the steady consolidation of the ruling party’s power, as it drew on the substantial resources of incumbency. These include virtually exclusive access to the state-owned media, the ability to dispense food aid in poor rural areas – typically in the form of maize or seed – and control over political and electoral institutions. In the elections of the 1990s, ZANU-PF also enjoyed sole access to an electoral fund, amounting to about US\$4 million mid-decade, which was not subject to public audit.

The formation of the Movement for Democratic Change (MDC) in September 1999 and its participation in the June 2000 parliamentary elections ushered in an era of political competition. Despite facing ZANU-PF’s entrenched advantages, as well as serious intimidation and violence, the MDC performed well in national elections in 2000, 2002, and 2008.³ ZANU-PF’s determination to maintain power, coupled with a deepening economic crisis, contributed to election cycles that were marked by violent partisan clashes and sharp increases in state-led violence.⁴ ZANU-PF regularly used the state security apparatus and quasi-state actors to intimidate and often brutalize the opposition and its supporters.

In 2008, Movement for Democratic Change – Tsvangirai (MDC-T) presidential candidate Morgan Tsvangirai is widely believed to have won the first round on March 29. However, when results were finally released six weeks later, neither Tsvangirai nor the incumbent president, Robert Mugabe, had received the necessary majority for a first-round victory (Tsvangirai and Mugabe received 47.87 percent and 43.24 percent of the vote, respectively), precipitating a runoff. State-sponsored violence escalated between the two rounds, resulting in some 50 deaths, over 2,000 beatings and cases of torture, and tens of thousands of internally displaced people. Facing electoral

³ MDC garnered approximately 47 percent (57 seats) in the 2000 parliament to ZANU-PF’s 48.6 percent (62 seats). Until 2008 and the creation of harmonized national elections, parliamentary and presidential elections were staggered, with five and six-year terms, respectively. The 2013 constitution established five-year terms for the presidency, limited to two terms. The senate was reintroduced in 2005.

⁴ For example, in 2000, over 30 people were killed and many were beaten and tortured, while thousands were displaced; 100 died as a result of violence in the presidential election of 2002.



manipulation and new waves of violence directed against the MDC and its supporters, Tsvangirai withdrew as a candidate and boycotted the runoff.

In the wake of the 2008 crisis, international pressure, especially from the Southern African Development Community (SADC) and South Africa, helped bring about the Global Political Agreement, which created a government of national unity (GNU).⁵ The power-sharing agreement was discontinued after the 2013 elections, when ZANU-PF won two-thirds of the vote in both the presidential and parliamentary contests.

Unlike in other elections since 2000, there was relatively little violence during the 2013 polls. The Zimbabwe Research Advocacy Unit reported that ZANU-PF's increased vote was a result of manipulations of the voter roll, assisted voting, voters being turned away, and illicit voting, including by security forces.⁶

The ruling party has traditionally received its strongest support in rural areas, where over half of the population resides. ZANU-PF has used public resources effectively, particularly in targeting rural voters to harness support. Some of the party's support can be attributed to its liberation war credentials and post-1980 land and agricultural policies.

The harmonized national elections of 2018 pitted a reinvigorated, competitive, and substantially unified MDC, under the banner of the MDC Alliance (MDC-A), against the ruling ZANU-PF. Public opinion polling by the Afrobarometer in the lead-up to election day indicated that the presidential race would be extremely close. Given historical patterns, considerable violence throughout the campaign period might have been expected. Despite a limited number of high-profile incidents, including the bombing of a Mnangagwa rally, the 2018 pre-election campaign period was notable for being less violent than past elections.⁷

Table 1. Zimbabwe Facts and Figures

Population (census 2012)	Estimated at 13.061 million; two-thirds of the population are below the age of 25.
Population by sex (census 2012)	Females - 6,780,700 (51.9 percent) Males - 6,280,539 (48.1 percent)
Ethnic groups (2012 est.)	African - 99.4 percent (predominantly Shona; Ndebele is the second largest ethnic group), other 0.4 percent, unspecified 0.2 percent.
Languages	Shona (official, most widely spoken), Ndebele (official, second most widely spoken), English (official; traditionally used

⁵ MDC leaders served in several key, if usually subordinate, ministerial posts in the GNU. Tsvangirai was named to a new post of prime minister, and Tendai Biti was made finance minister.

⁶ <https://www.theindependent.co.zw/2016/06/10/violence-dominates-zim-political-history/>.

⁷ See Election Situation Room (ESR) website for documented incidents during pre-election and election period: <https://zimelectionsituationroom.org/>. See, e.g., <https://www.bbc.com/news/world-africa-44600373>.



2018 Presidential, Parliamentary, and Local Council Elections in Zimbabwe

	for official business), 13 minority languages (official includes Chewa, Chibarwe, Kalanga, Koisan, Nambya, Ndau, Shangani, sign language, Sotho, Tonga, Tswana, Venda, and Xhosa).
Religions (2015 est.)	Protestant - 74.8 percent (includes Apostolic - 37.5 percent, Pentecostal - 21.8 percent, other - 15.5 percent), Roman Catholic 7.3 percent, other Christian - 5.3 percent, traditional - 1.5 percent, Muslim - 0.5 percent, other - 0.1 percent, none - 10.5 percent.
Life expectancy at birth	59.2 [UNDP HDR 2016]
GDP per capita (2013)	\$1, 688 (2011 PPP) [UNDP HDR 2016]
System of government	Full presidential republic; the chief of state and head of government is the president. (The post of the prime minister was abolished in 2013 under the revised constitution).
Legal system	Mixed legal system of English common law, Roman-Dutch civil law, and customary law.

Legal Framework

The Republic of Zimbabwe is a member of the United Nations, the African Union, and the Southern African Development Community (SADC). It has ratified many U.N. human rights conventions as well as regional political commitments and thereby has accepted binding international commitments to adhere to the standards laid down in these documents.⁸

Treaty/Declaration	Status	Date
African Charter on Human and Peoples' Rights	Ratified/Acceded	May 30, 1986
African Union Convention on Preventing and Combating Corruption	Ratified/Acceded	Dec. 17, 2006
African Union Declaration on the Principles Governing Democratic Elections in Africa	Signed	July 8, 2002
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa	Ratified/Acceded	April 15, 2008
SADC Principles and Guidelines Governing Democratic Elections	Signed	Aug. 17, 2004
Protocol on Culture, Information, and Sport (SADC)	Signed	Aug. 14, 2001
SADC Protocol Against Corruption	Ratified/Acceded	Oct. 8, 2004

⁸ The Carter Center Obligations & Standards Database, <https://eos.cartercenter.org>.



2018 Presidential, Parliamentary, and Local Council Elections in Zimbabwe

Convention on the Political Rights of Women	Ratified/Acceded	June 5, 1995
Convention on the Rights of Persons with Disabilities	Ratified/Acceded	Sept. 23, 2013
Convention on the Rights of the Child	Ratified/Acceded	Sept. 11, 1990
International Convention on the Elimination of All Forms of Racial Discrimination	Ratified/Acceded	May 13, 1991
United Nations Convention against Corruption	Ratified/Acceded	March 8, 2007
Convention on the Elimination of All Forms of Discrimination against Women	Ratified/Acceded	May 13, 1991
International Covenant on Civil and Political Rights	Ratified/Acceded	May 13, 1991
International Covenant on Economic, Social and Cultural Rights	Ratified/Acceded	May 13, 1991

Domestic Laws

A sound legal and electoral framework, including domestic laws that regulate the electoral process, is essential to the effective administration of genuine democratic elections. The constitutional and legal frameworks are fundamental documents that shape the legal environment in which elections take place.

The 2013 Constitution and the 2004 Electoral Act (amended) provide the fundamental basis for the conduct of democratic elections. While the constitution provides for fundamental freedoms of assembly, association, expression, movement, equality, and non-discrimination, as well as access to justice and to information, further reform of the Electoral Act is required to bring the law into alignment with the constitution, and to ensure the right of effective legal remedy throughout the electoral process.¹¹

A Zimbabwean NGO found numerous areas in the Electoral Amendment Act of 2018 that were inconsistent with the constitution. For example, while the constitution calls for full government transparency, including transparency of the Zimbabwean Electoral Commission, the amended Electoral Act does not mandate the publishing of ZEC procedures or disclosure of ZEC's private contracts. Further, the constitution requires government bodies to swiftly resolve electoral disputes, but the Electoral Act does not have adequate mechanisms in place to address preelection disputes, and post-election disputes are often thrown out on technical grounds.⁹ In addition, the Electoral Act does not protect the right to secret ballot for illiterate or handicapped voters, who according to the law must be assisted by electoral officers and police officers.

The Constitution

In March 2013, Zimbabweans approved a new constitution by referendum. The text was ratified by parliament in May 2013. The 2013 Constitution strengthened the role of the ZEC and made it solely responsible for the registration of voters. It also introduced new institutional mechanisms to promote democracy and good governance, which had to be incorporated into

⁹ Veritas. "The Electoral Act as Amended: Is it Now Constitutional?" 2018. Online.



existing or new legislation in order for the laws of the country to be aligned with the constitution. The constitution expanded civil and political rights, and rights of the press, and increased government transparency. It also introduced public funding of political parties in order to support multiparty democracy and changed the electoral system from a first-past-the-post system to a mixed electoral system.

The constitution promotes key principles for conducting democratic elections, including the right of all political parties to function and campaign freely within the law the will of the people to be demonstrated through elections that are conducted in a free, fair, transparent, and efficient manner, and state-owned media to be impartial and to afford fair opportunity for the presentation of divergent views and opinions.

While the 2013 Constitution improved some aspects of the legal framework, certain drawbacks are apparent. For example, the Constitution of Zimbabwe Amendment (No. 1) Act of 2017 enhanced presidential powers at the expense of judicial autonomy by granting the president the power to appoint the chief justice, deputy chief justice, and judge president of the high court after consultation with the Judicial Service Commission. Also, while it provides public funding for political parties, it does not regulate campaign finance sufficiently to ensure integrity and transparency.

Generally speaking, the 2013 Constitution provides some improvements over the previous constitution, particularly through its expansion of personal, civil, and political rights and freedoms. However, because so many laws critical to electoral administration (i.e. the Electoral Act, Public Order and Security Act, and Access to Information and Protection of Privacy Act) are not aligned with the principles declared in the constitution, its effectiveness in ensuring genuinely democratic elections is limited. Some of these paradoxes and weaknesses are detailed in the sections below.

The Electoral Act

The 2018 Zimbabwe harmonized elections were held under the Electoral Act of 2004, which entered into force on Feb. 1, 2005. The law was amended seven times between 2007 and 2018. The act was first amended through the Electoral Laws Amendment Act of 2007, which took effect in January of 2008, mere months before the March 2008 elections. This amendment sought to broaden the mandate of the electoral commission with respect to delimiting wards and constituencies, managing the voter roll, and authorizing observers. It was further amended with the 2008 Local Government Laws Amendment Act. The Electoral Amendment Act was passed in 2012 and reauthorized in 2014.

The parliament's modifications of the Electoral Amendment Act of 2014 enhanced the principle of transparency in election results management. The measures required that copies of polling station results be displayed to those present; that each candidate or his or her election agent be provided an opportunity to subscribe their signatures; that each candidate or his or her election agent be provided a copy of the completed polling-station results; and that a copy of the polling-



station results be displayed outside the polling station so that it is visible to the public.¹⁰ In addition, the 2014 Amendment to the Electoral Act provided for the creation of multiparty liaison committees on the national, district, constituency, and local levels. These forums provided political parties and the electoral commission an opportunity for dialogue as well as a mechanism for conflict management. The National Prosecuting Authority Act further amended the Electoral Act in 2015, as did the General Laws Amendment Act in 2016.

The Electoral Amendment Act was amended and reauthorized on May 28, 2018. The latest amendments, introduced only two months before election day, failed to establish the stability of the legal framework for the elections in advance of the polls. This is contrary to international good practice, which stipulates that fundamental elements of the electoral framework should not be open to amendment in the year before an election.¹¹ While the reforms helped to bring the law into greater alignment with the constitution and also provided a firm basis to protect the credibility and integrity of the elections, further reforms to the amendments also have in some ways weakened the Electoral Act by making procedures and definitions inconsistent and ambiguous. As such, measures should be taken not only to align the Electoral Act with the 2013 Constitution, but also to ensure that the various amendments are in alignment with one another.

Despite the short timeframe, a number of the May 2018 amendments introduced positive changes to bring the Electoral Act in line with the constitution and international standards. The amended law improved the legal framework to enhance the credibility and integrity of the elections, including by assigning voters to specific polling stations.¹² Previous elections in Zimbabwe used ward-based voting, which resulted in long queues as one could vote at any polling station in the ward, and caused concerns about the opportunity for multiple voting. Further, the amendment called for the allocation of additional polling stations in highly populated areas to alleviate pressure on poll workers and lessen waiting times. The law also established a biometric voter registration system.

The amendments required the ZEC to ensure that the number of extra ballot papers printed for any election does not exceed 10 percent of the number of registered voters eligible to vote in the election.¹³ Overall, these reforms introduced some important safeguards against possible multiple voting. The amendments also repealed a section of the Electoral Act that prohibited foreign contributions or donations in support of voter education.¹⁴

While these reforms are positive, certain provisions of the Electoral Act are not in alignment with the constitution, nor with international standards. Although the constitution provides for the right

¹⁰ Amended Electoral Act of 2014, Section 62-64.

¹¹ Venice Commission, Section II.2.b of the Code of Good Practice in Electoral Matters. “The fundamental elements of electoral law, in particular the electoral system proper, membership of electoral commissions and the drawing of constituency boundaries, should not be open to amendment less than one year before an election, or should be written in the constitution or at a level higher than ordinary law.”

¹² Electoral Amendment Act of May 28, 2018, Section 2B (4).

¹³ Electoral Amendment Act of May 28, 2018, Section 52A.

¹⁴ Section 40F was repealed however, Sections C–H still refer to the prohibition, which may cause confusion.



to vote for every citizen, voting is not available to people in the diaspora, with the exception of diplomatic staff and their spouses, nor to homebound voters and voters in hospitals and penitentiary institutions.¹⁵ In addition, the Electoral Act does not provide for the use of Braille ballot papers for visually impaired voters, but it does permit illiterate or physically disabled voters to choose a person to assist them. This is an improvement over previous elections, in which polling staff provided assistance to illiterate or physically disabled voters. In the 2013 elections, there were reports of a large number of assisted voters, and stakeholders raised questions not only about voting secrecy but also the undue influence on voters.¹⁶ But the current measures are insufficient to ensure civil rights and political participation and are vulnerable to potential abuse and/or coercion.

POSA and AIPPA

The Public Order and Security Act (POSA) and Access to Information and Protection of Privacy Act (AIPPA) are existing laws that undermine both the constitution and the Electoral Act. The 2013 Constitution calls for freedom of expression and freedom of the press.¹⁷ However, these two laws curtail freedom of the press by allowing for the sanction and detainment of journalists. POSA's mandate grants Zimbabwe Republic Police a wide range of powers, from the power to ban public demonstrations to the power to use force against citizens. The latter was invoked in the aftermath of the 2018 election and culminated in the fatal shooting of protestors. AIPAA, on the other hand, grants citizens and permanent residents' access to government information, but it has countless exemptions made in the name of national security. Advocates have suggested that these deceptive exemptions undermine access to information. Moreover, the AIPAA law mandated a Media and Information Commission, whose autonomous status is undermined by its close ties to the government and partisan actors. The law also allows for the jailing of journalists whose actions are deemed a threat to national security. This fosters an environment where state media, which favors incumbents, is privileged. The POSA and AIPPA should be either repealed or reformed to align it with the Zimbabwe's constitution.

Recommendations

Steps should be taken to further amend the Electoral Act to bring the law into greater alignment with Zimbabwe's 2013 Constitution, so as to ensure the constitutional right of all citizens to vote in elections, including those in the diaspora. The electoral law should also strengthen the independence of the ZEC and recognize its constitutional authority to accredit interested parties to observe the electoral process, among others. Repressive laws, including the POSA and AIPPA, should be lifted to allow for full participation of citizens in public affairs, including respect for the freedoms of assembly, speech, and the press.

¹⁵ Electoral Act of 2014, Section 67.

¹⁶ Article 29 of the Convention of the Rights of Persons with Disabilities prescribes that states should ensure that persons with disabilities have the right to participate in political life on an equal basis and that voting procedures, facilities, and materials are appropriate, accessible, and easy to understand and use.

¹⁷ Section 64 of the Constitution.



Electoral System

Electoral systems determine the manner in which the will of the people is translated into a representative government. Although international standards do not prescribe any specific electoral system, because electoral systems promote different types of representation and political behavior, an informed and broad debate should accompany decisions on the electoral system to ensure genuine elections that reflect the will of the people.¹⁸

The Republic of Zimbabwe has a bicameral parliament, with a president and two vice presidents directly elected to office. The country is broken down into 10 administrative provinces, two of which are cities with provincial status – Bulawayo and the capital, Harare, which are divided into 59 districts and 1,200 municipal wards, in which counselors are elected through the first-past-the-post (FPTP) majoritarian system. Seats are reserved for women in both the National Assembly and the Senate.

According to Section 92 of the constitution, the president is elected through a two-round majoritarian electoral system whereby the candidate receiving a majority of the valid votes cast (50 percent + 1) will be elected. If no candidate receives an absolute majority, the two candidates receiving the most votes in the first round will compete in a runoff. Every presidential candidate must nominate two vice presidential candidates: a first vice president and a second vice president. The president and vice presidents are jointly elected. According to Section 124 of the constitution, the National Assembly consists of 210 members elected through first-past-the-post (FPTP) majoritarian system in an equal number of constituencies.

The 2013 Constitution includes measures to increase women's representation in elected bodies, including a temporary quota for two parliamentary terms (through 2023) to ensure a minimum of 30 percent women's representation in parliament. The quota reserves seats for an additional 60 women to be elected through a system of proportional representation based on the votes cast for political party candidates in the National Assembly. Although the population of the 10 provinces varies considerably, the number of seats allocated to women in each province is fixed at six.

The Senate is composed of 80 members, including 60 elected from Zimbabwe's 10 provinces on the basis of proportional representation (PR) using party lists. According to the constitution, the party lists must have a woman at the top and alternate between men and women.¹⁹ Of the remaining 20 seats, two are reserved for people with disabilities and 18 for traditional chiefs. The proportion of votes each party receives on a provincial basis in the National Assembly election determines the number of seats that it receives from the PR lists for the Senate and provincial councils.

¹⁸ U.N., United Nations Human Rights Committee, general comment no. 25, para. 21 (stating that “any system operating in a state party must be compatible with the rights protected by art. 25 and must guarantee and give effect to the free expression of the will of the electors”); U.N. ICCPR, art. 25(b). International IDEA Electoral Standards: Guidelines for Reviewing the Legal Framework of Elections, p. 28.

¹⁹ 2013 Constitution, Section 120 (2)(B).



Boundary Delimitation

Equal suffrage is generally interpreted to mean that constituency boundaries should be drawn so that voters are represented in the legislature on a roughly equal basis.²⁰ According to international standards, boundary delimitation should be managed by an independent and impartial body representative of society as a whole to ensure that electoral boundaries do not favor any particular social group or political interest.²¹

The 2013 Constitution establishes the ZEC's responsibility for boundary delimitation. All constituencies and wards, so far as possible, should have an equal number of voters and requires that no constituency or ward has "...more than twenty percent more or fewer registered voters than the other such constituencies or wards."²²

The Constitution requires that the ZEC conduct boundary delimitation delineation once every 10 years after a population census has been performed.²³ The last boundary delimitation occurred in 2008, and the next is anticipated by 2020, prior to the 2023 elections.²⁴

Other election observation organizations reported concerns that demographic changes across Zimbabwe in the years since the 2008 boundary exercise resulted in significant variations in populations between wards and constituencies. More than half of the current constituencies deviate from the constitutional limit of 20 percent more or fewer registered voters than in other constituencies.²⁵ In extreme cases, the number of voters in certain constituencies exceeds that of other constituencies by fivefold. Good practice suggests that the number of registered voters should not deviate by more than 10-15 percent between constituencies.²⁶

Recommendation

Boundary delimitation exercises should be carried out in line with constitutional requirements in order to uphold the principle of equality of the vote.

²⁰ U.N. (CCPR), General Comment 25, para. 21; U.N. (CCPR), *Istvan Matyas v Slovakia*, (2002), 2.2.

²¹ EISA and Electoral Commission Forum of SADC Countries, *Principles for Election Management, Monitoring, and Observation in the SADC Region*, p. 13. CoE (Venice Commission), *Code of Good Practice*, sec. I.2.2.15.: "While true equality in delimitation may not always be possible, the 2002 Venice Commission Code of Good Practice in Electoral Matters (Code of Good Practice) states that seats be evenly distributed among constituencies with the permissible departure of not more than 10 to 15 percent, except in special circumstances."

²² Article 161 (3) (4) & (6)(f) of the 2013 Constitution.

²³ Article 161(1) of the 2013 Constitution.

²⁴ The transition provisions of the 2013 Constitution included that the next delimitation occur after the first elections under the new constitution. The last delineation occurred early in 2008, which was followed by the census in 2012; thus, the expectation is that the next delineation should happen by 2020, prior to the 2023 elections. See ZESN's 2017 report "Argument for Delimitation of Boundaries in Zimbabwe in 2022" for more details about the history and current discussions about boundary delineation: <http://www.zesn.org.zw/wpcontent/uploads/2017/02/DELIMITATION-OF-BOUNDARIES-IN-ZIMBABWE-IN-2022.pdf>

²⁵ IRI/NDI Zimbabwe International Election Observation Mission Final Report, Page 8. Accessed on Feb. 19, 2020; <https://www.ndi.org/sites/default/files/2018-10-29%20Final%20ZIEOM%20Report%20%288MB%29.pdf>

²⁶ Code of Good Practice in Electoral Matters, Venice Commission report, October 2002.



Election Administration

An independent and impartial electoral authority that functions transparently and professionally is recognized internationally as an effective means of ensuring that citizens are able to participate in genuine democratic elections and that other international obligations related to the electoral process can be met.²⁷ The election management body is responsible for ensuring that the electoral process is in compliance with Zimbabwe's obligations for democratic elections and human rights. The body also should ensure accountable, efficient, and effective public administration as it relates to elections.²⁸

The 2013 Constitution provides that the ZEC be an independent institution mandated to prepare for and ensure efficient, free, fair, and transparent conduct of the elections in accordance with the law; to supervise the process; to register voters; delimit constituencies; design, print, and distribute ballot papers; approve the form of and procure ballot boxes; establish and operate polling centers and stations; and accredit both citizen and international observers, media, and party agents. All elections administration decisions are subject to judicial oversight, in line with international standards and best practices.²⁹ However, the Electoral Act provides that the regulations and statutory instruments issued by the ZEC shall not have effect until they have been approved by the minister of justice, legal and parliamentary affairs and published in the gazette. To a certain extent, this provision impedes the independence of the commission.³⁰

The Zimbabwe Electoral Commission comprises a chairperson appointed by the president after consultation with the Judicial Services Commission (JSC) and the Parliamentary Committee on Standing Rules and Orders, and eight other members appointed by the president from a list of no less than 12 nominees submitted by the committee. The appointment of the commissioners is based on stakeholders' consultations, public nomination processes, and public interviews in parliament. The ZEC Secretariat, headed by a chief elections officer (CEO), includes these divisions: Administration and Finance, Operations, and Inspectorate. It has 10 permanent provincial offices, each headed by a provincial elections officer through which the secretariat maintains a presence in all provinces. The ZEC has also established 60 electoral districts, each headed by a district elections officer.

Since the president has ultimate discretion to appoint the election commissioners, some electoral stakeholders expressed skepticism about the independence of appointed commissioners. Furthermore, the opposition parties raised concerns about the fact that approximately 15 percent of the ZEC staff were former military personnel. Although the ZEC stated that its policy does not

²⁷ U.N. Human Rights Committee, General Comment 25, para. 20.

²⁸ AU, ACDEG, Art. 32(1).

²⁹ Sections 27-30 of the Electoral Act regulate the appeals against ZEC's decisions regarding voter registration. Section 45G regulates appeals against nomination of party lists candidates, and Section 46 (19) deals with appeals against ZEC's decisions regarding nomination for parliament. Section 104 (3) of the Electoral Act deals with appeals concerning nominations of candidates for the presidential elections. Section 161 (2) of the Electoral Act states: "The Electoral Court shall have exclusive jurisdiction to hear appeals, applications and petitions in terms of the Act and to review any decision of the ZEC or any other person made or purporting to have been made under the Act".

³⁰ Electoral Act, Section 192.



forbid employment of former military members, provided that they are not in active service, there were still concerns about public perceptions of the independence of the institution.

The ZEC's resources were strengthened by recruitment of additional temporary administration and logistical personnel. Approximately 131,000 polling officials were recruited to staff 10,985 polling stations. Some opposition contestants questioned the transparency and impartiality of the screening and recruitment of election officials by the Public Service Commission and the Health Service Board and noted that the criteria for selection of the candidates was not made clear. The ZEC partially addressed the issue and published the names of presiding officers in the official gazette.

Contrary to the 2013 Constitution, the 2004 Electoral Act does not grant full authority to the ZEC to accredit observers. Under the 2004 Electoral Act and its 2018 amendments, the ZEC chairperson, deputy chairperson, and three commissioners, as well as representatives of the Office of the President of the Republic, the ministries of foreign affairs, immigration, women's affairs, and justice form an Observer Accreditation Committee to consider applications for accreditation. The involvement of such cross-government institutions in the work performed by an election management body undermines the autonomy of the election management body.

The electoral law amendments introduced in 2018 also provide for observation of the elections by the Zimbabwe Human Rights Commission (ZHRC).³¹ The law, however, requires the ZHRC to provide the ZEC with a draft of the report and "pay due regard" to any comments from the ZEC on the draft before issuing any report on its observations. The ZEC's role in reviewing and commenting on the ZHRC's reports could impact the latter's ability to provide an independent assessment.

Recommendations

Authorities should consider measures to address the lack of public confidence in the impartiality and inclusivity of the appointment mechanisms of the ZEC, including in the recruitment of lower-level election commission members. In addition to publishing the names of presiding officers in the official gazette, consideration could be given to publishing clear selection criteria (e.g. prior experience in administering elections, participation in trainings, etc.) prior to the recruitment process. As an independent commission, the ZEC should have full authority under the Electoral Act to accredit observers.

International Support for the Elections

Support provided by the international community, in particular the Electoral Institute for Sustainable Democracy in Africa (EISA), the International Foundation for Electoral Systems (IFES), and the United Nations Development Program (UNDP), significantly helped the ZEC prepare for the 2018 harmonized elections. They provided technical advice and assistance, developed strategies and plans, purchased equipment and software, developed materials for the training of electoral official, conducted various trainings at different phases of the process, helped prepare for and conduct voter education activities, and engaged with stakeholders, improving

³¹ Ibid, Article 243(c).



election operations and media monitoring. They also provided financial support to supplement funding provided by the Zimbabwean government. The African Union (AU) supported the training of election administration officials and production of some training materials.

A number of legal reforms were enacted in 2013 and 2018, which improved the electoral process substantially. Following the disagreements between contesting political parties in 2013 over transparency and management of the voter roll, the implementation of biometric voter registration (BVR) was accepted by the majority of stakeholders as a welcome development to improve the electoral process, building trust in the system and confidence in the voter roll. The ZEC undertook considerable efforts to implement a technically demanding process within a limited time.³²

For the first time since 2002, international election observers from beyond the region were accredited to observe, and the ZEC engaged with civil society organizations, particularly in the context of civic and voter education. The ZEC published an electoral calendar, which allowed stakeholders to plan their respective activities in the electoral process and observers to assess each phase of the process. In addition, the ZEC made public the full list of polling stations, the list of nominated candidates, the election officers manual, the list of constituency elections officers, and a list of presiding officers at the polling-station level.

Multiparty Liaison Committees

The ZEC established multiparty liaison committees (MPLCs) to serve as a forum for interaction between the ZEC and political parties, as well as to discuss and address any contentious issues. According to the international election observation missions and citizen observers with a long-term observation component, such MPLCs were effective at the regional level. However, the Center observed that MPLCs convened only four meetings at the national level, which did not adequately provide for constructive discussions or address contentious issues relating to parties' or election administration's concerns. Two meetings were reportedly cancelled by the ZEC because of the absence of mechanisms to maintain the MPLCs' purpose and order during the meetings. The ZEC was criticized by a majority of stakeholders for not fulfilling its legal responsibilities.

ZEC Communications

The ZEC's preparations for the elections were hampered by insufficient public outreach. While the ZEC responded to some requests for briefings from the diplomatic community and international organizations, including international election observation missions, this practice dropped off closer to the election day. With the exception of one comprehensive briefing that the ZEC organized for observers, candidate agents, and other interested parties, the ZEC generally opted to respond to public interest and requests from political parties through press statements and briefing papers posted on its website, and not always in a timely or comprehensive manner. The ZEC website was updated with information on the activities of the commission. However, most of the ZEC's administrative decisions were not made public, and ZEC officials indicated such

³² Registration, inspection, and examination of the voter roll commenced on Sept. 18, 2017, and was completed on June 1, 2018.



information would be published after the elections, which contributed to the image of the ZEC as lacking openness.

Stakeholder Outreach Efforts

The ZEC used its discretionary powers to decide, without consulting contestants, to design the presidential ballot in a way that divided candidates into two columns and placed the incumbent on the top of the second column. A number of stakeholders perceived this as a political decision that favored the incumbent and discriminated against other contestants. In the same manner, some 15 days prior to the elections, the ZEC decided to change the positioning of polling booths such that the voters' backs would be visible to everyone present at a polling station, which would compromise the secrecy of the vote. The ZEC defended this decision by noting their lack of alternative mechanisms to detect potential attempts by voters to photograph the ballot paper, which is a criminal offense. In response to requests from the majority of contestants put forward at the MPLC meeting, the ZEC reversed its decision and conveyed the message to all polling station officials in a timely manner.

In addition, opposition stakeholders requested that the ZEC to allow them to meaningfully observe the printing of ballot papers as well as the storage and transportation processes. The absence of public information about security features of the ballot paper led from a number of contestants to ask these features. The interested parties indicated the ZEC did not provide for meaningful observation. The ZEC distributed copies of sample ballot papers and a hard copy of the election officials' manual (and also posted them on the ZEC's website) to all political parties and citizen and international observers and assured the public that the security features of the ballot paper met the highest standards. It refused the request to randomly audit the security features of the ballot papers. The ZEC also refused the opposition contestants' request to test the quality of the indelible ink used on election day to mark voters' fingers.

Recommendation

In order to increase and maintain transparency and enhance its credibility, the ZEC should provide information on a regular basis and allow for meaningful observation of its activities. Information on its decision-making and all other activities should be made available to the public through briefing papers posted on its website and regular briefings for candidate representatives and observers in a timely and consistent manner.

Consideration should be given to developing a more proactive communication strategy for the public in general and for political parties in particular. Even though the Electoral Act provides for MPLC meetings not sooner than six months prior to the elections, consideration could be given to extend or establish permanent MPLCs in order to have a continuous forum for intraparty dialogue before the beginning and during the electoral process.

ZEC Training

The ZEC conducted a cascade training for staff on the different phases of polling and counting and distributed the electoral officers' manual to presiding officers at all polling stations. According to



some interlocutors, the cascade training did not adequately cover the counting process, which resulted in presiding officers following inconsistent practices while counting the ballot papers at polling stations.

The ZEC's training provided inconsistent clarifications of some procedures. For example, the electoral officers' manual distributed during trainings included information that indicated that copies of the voter roll should be placed outside polling stations. However, the ZEC later decided that copies of the voter roll would not be placed outside the polling stations on election day and informed the polling station officials accordingly. Moreover, the manual did not always align with the procedures laid out in the Electoral Act and sub-acts. For example, Article 65—6-A of the Electoral Act states that the ward elections officer shall provide a copy of the completed ward return to every candidate, election agent, and observer who requests one, but the electoral officers' manual did not reflect this. Some of the forms, such as the polling station return form (V11), lacked detail, causing confusion during the tallying process. Also, the V11 form itself does not include a space to record the total number of registered voters at the polling station, which is necessary to check that the total number of votes is less than or equal to the number of registered voters.

Recommendation

The ZEC should consider enhancing the effectiveness of its training on election-day procedures, with a particular focus on vote counting and how to complete summary result forms, by dedicating more time and attention to practical exercises on these issues.

Ballot Design

According to the Electoral Act and the electoral officers' manual, ballot papers for presidential, parliamentary, and local council elections have serial numbers on the back for the purpose of preventing fraud. This practice is contrary to international best practices, which indicate that the presence of a serial numbers on ballot papers could compromise the secrecy of the vote.³³

Recommendation

Authorities should consider removing the serial number on the back of ballots, which allows for vote tracing and therefore challenges the principle of secrecy of the vote.

Postal Voting

The Electoral Act provides for postal voting to facilitate the participation of police, diplomats and their spouses abroad, and others on official duty. The ZEC confirmed receipt of 7,200 postal voting applications. Of those approved, a majority – 4,500 applications – were submitted by members of the police. Postal voters were provided with voting material and required to send their votes in sealed envelopes to their constituency's chief elections officer at least 14 days before election day, July 30. The chief elections officers distributed the postal votes to their respective constituencies' polling stations before election day. Opposition contestants stated that the postal voting process is vulnerable to abuse and expressed concerns about the conduct of postal voting, particularly by police forces at the Bulawayo Ros Camp. Some international election observation missions and

³³ ACE – The Electoral Knowledge Network.



citizen observers reported that the practices during postal voting in some locations were not always consistent with the law.

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 the right to vote without obstacles to ensure universal and equal suffrage.³⁴

Two weeks in advance of the elections, the ZEC conducted a general voter-education campaign to encourage inclusive elections. The outreach included materials and messages targeting women, youth, and disabled persons to raise electoral awareness among these groups and encourage their participation. The ZEC developed voter-education materials that were broadcast on national television and radio as well as advertisements published in print media and on the ZEC's website. Posters and leaflets were produced, and billboards were put up in urban areas. The materials were translated into 13 local languages. While stakeholders generally emphasized the importance of increased public awareness about the elections and welcomed the voter education, concerns were raised about the ZEC's ability to provide sufficient information about voting procedures, particularly about the secrecy of the vote.

The Electoral Act allows political parties and CSOs – with the permission of the ZEC, to participate in voter education. However, only a limited number of CSOs used the ZEC's materials to conduct outreach. In isolated cases, some CSOs used their own materials and means previously approved by the ZEC.³⁵ A number of stakeholders said they considered the existing provisions of the Electoral Act on voter education overly restrictive, which discouraged them from participating. Increased CSO engagement in voter education would have strengthened the ZEC's capacity to conduct comprehensive voter education.

Recommendation

The Carter Center encourages the ZEC to conduct greater and more comprehensive voter education over a longer period of time. Its efforts should also include an increased focus on reaching women, youth, and disabled voters to better encourage the participation of these marginalized groups. In addition, the ZEC should make further efforts to promote CSO engagement in voter education and allow them to use their own materials and means.

Voter Registration

Voter registration is recognized as an important means to protect the right to vote and should be made available to the broadest possible pool of citizens to promote universal and equal suffrage. An effective voter-registration process upholds these principles while increasing transparency in

³⁴ AU, Declaration on the Principles Governing Democratic Elections in Africa, Art. 1; AU, AfCDEG, Art. 12.4; UN, ICCPR, Art. 25(b); UNHRC, General Comment 25, para. 11.

³⁵ Platform for Youth Development (PYD) conducted street events such as the Get Out and Vote initiative in Chipinge District.



the electoral process.³⁶ Under the 2013 Constitution, every Zimbabwean citizen over the age of 18 has the right to vote in all elections and referendums, and to cast a secret ballot.³⁷

While the right to vote is protected by the constitution, voter registration and the voter roll have historically been a source of criticism. In 2013, the process was heavily criticized by stakeholders. An independent Zimbabwean NGO, the Research and Advocacy Unit, reviewed the 2013 roll and concluded that it contained a number of duplicates and dead people and that a large portion of eligible youth had not been registered. The analysis also found that 63 of 210 constituencies had more registered voters than citizens, according to the 2012 census, and that 41 constituencies deviated by more than the permitted 20 percent from the average number of voters.³⁸ Opposition parties alleged that these inconsistencies were intentional and in favor of the ruling party. Other stakeholders expressed concerns that the voter roll was outdated and bloated, allowing openings for voter fraud.

In an effort to improve the voter-registration process, the 2013 Constitution mandated that the ZEC take over voter registration from the registrar general, who had presided over the disputed register for the 2013 elections. The ZEC undertook considerable efforts in the lead-up to the 2018 elections to strengthen the voter roll. With the support of the United Nations Development Programme, the ZEC introduced biometric voter registration (BVR) and conducted an intensive, multi-phased voter-registration drive. The ZEC registered a total of 5,695,706 voters, of which 54 % were women. However, the ZEC and the Office of the Registrar General made the decision to exclude more than 92,000 registered persons from the final voter roll, placing them on an exclusion list. Various reasons were cited for their exclusion, including having multiple registrations or incorrect or missing ID numbers and details. Most were placed on the exclusion list because the registrar general deemed their ID to be invalid. The ZEC confirmed that voters who corrected these errors would appear on the voter roll and be able to cast a ballot in future elections.

After the voter-registration exercise was complete, voters were given ample opportunities to check their names on the voter roll and to receive information regarding their assigned polling station. The ZEC posted the provisional roll for inspection from May 19-29, 2018, at 9,400 registration centers, which later served as polling centers.

The ZEC also offered a tool on its website for voters with internet access to verify their registration status and disseminated text messages to some three million registrants who supplied their mobile numbers during registration. In addition, the ZEC provided toll-free numbers and SMS services for voters to check their names and polling stations. The names and locations of polling stations were also published in newspapers. These efforts by the ZEC are commendable. The ZEC decided against posting copies of the voter roll at the entrance of polling stations on election day. Many

³⁶ U.N., International Covenant on Civil and Political Rights, Art. 25(b); AU, African Union Declaration on the Principles Governing Democratic Elections in Africa, art. 1; U.N., United Nations Human Rights Committee, General.

³⁷ 2013 Constitution of Zimbabwe, Section 67 (3).

³⁸ Research & Advocacy Unit (2013), An Audit of Zimbabwe's 2013 Voters' Roll, July 1, 2013, Harare: Research & Advocacy Unit.



interlocutors expressed concern that voters would not be able to identify their assigned polling station within polling centers with multiple queues.

During the inspection of the provisional voter registry, the ZEC reported that 1.4 million people (24 percent of registered voters) physically inspected the roll at inspection centers, while 2.4 million people (42 percent) checked their details using a USSD mobile technology (SMS) platform. The remaining 1.7 million prospective voters (30 percent) did not check their details during the inspection. Civil society organizations and opposition parties criticized the ZEC for conducting the inspection and final registration of voters concurrently with the final review and correction of the provisional voter registry.

Consistent with the law, the ZEC provided political parties and interested entities with a copy of the voter registry. It was released very close to election day, limiting the ability of parties and civil society to conduct robust verifications. Earlier in the process, opposition parties and civil society organizations criticized the ZEC, as the copies they received did not include a photograph of registered voters, as would be used on election day to verify one's identity in the polling station. Following a petition by a citizen who cited her constitutional right to privacy, the High Court ruled that the law does not require the ZEC to issue copies of the voter registry with photographs to political parties or any member of public and that the electoral body cannot be compelled to do so. In response to the High Court's ruling, the opposition political parties submitted a joint petition, which was dismissed as lacking merit.

The Zimbabwe Election Support Network (ZESN) examined and audited the roll that was shared by the ZEC in June. ZESN's audit concluded that despite various problems and mistakes, the 2018 voter roll was more inclusive than the 2013 voter roll. It found, however, that the ZEC allocated significantly more BVR kits to rural areas, which encouraged high registration, and only 8 percent of the kits to Bulawayo and Harare, resulting in significantly lower voter registration figures in urban areas. Some 34 percent of unregistered voters reside in these two urban provinces. ZESN also noted that the lower registration figures could be attributed in part to voter apathy. While ZESN noted improvements in youth participation, the increases did not match national demographic statistics, which suggest that youth constitute about 60 percent of the population.

Recommendations

Despite the positive strides in creating a new voter registry, additional steps could be taken to improve the comprehensiveness and accuracy of the voter registry for future polls. The ZEC should consider improving its voter registration strategy, deploying an increased number of BVR teams in urban areas so that there is equal coverage vis-à-vis population centers, so as to address concerns about the imbalance in the voter roll in advance of the 2023 polls.

While the Center commends the ZEC's effort to improve the voter-registration process, it notes that delays in the procurement of BVR equipment impacted the conduct of voter registration and a full inspection of the final voter registry. In the future, the voter-registration schedule should



allow adequate time for all phases of the process, including registration, inspection, corrections, and final posting and distribution of the lists in sequential fashion, well in advance of the polls.

The Center also notes that the Electoral Act and conduct of voter registration is not fully aligned with the 2013 Constitution. The Electoral Act allows postal voting only for members of the disciplined forces, electoral officers, and persons on duty in the service of the government outside Zimbabwe, excluding the diaspora, homebound voters, and voters in hospitals and penitential institutions, thus disenfranchising some citizens.³⁹

Candidates, Parties and Campaigns

Political pluralism and genuine voter choice are critical aspects of democracy. Equitable treatment of candidates and parties and the maintenance of an open and transparent campaign environment, with a vibrant free press, are important to ensuring the integrity of democratic elections.⁴⁰

The 2018 election saw a major proliferation of parties and candidates. At the time of the Carter Center's pre-election assessment in March 2018, some 107 parties had been formed, and 14 candidates had declared their intention to run for the presidency. The massive number of parties was facilitated by the more open environment and limited barriers to party registration. In the end, 23 candidates ran for president, 1,631 contested the National Assembly elections, and 6,576 candidates ran for local councils. Many of these ran as independents. Notwithstanding the increasingly fragmented political space, the two leading parties, the incumbent ZANU-PF and opposition MDC, maintained their dominance, albeit with significant levels of internal division.

For ZANU-PF, the deposition of former President Robert Mugabe in November 2017 exacerbated internal divisions between supporters of Mugabe and his wife, Grace (the so-called G-40 group)⁴¹ and those who backed Emmerson Mnangagwa. These internal splits had the potential to fragment the party just as it prepared to move toward the 2018 elections. The formation of a new opposition party with links to the former president (the National Patriotic Front, or NPF), further raised this possibility.⁴² Pro-Mugabe forces in NPF and the vestiges of the G-40 may have aimed to play the role of "spoilers" in order to undercut ZANU-PF's electoral clout, particularly in key Mashonaland provinces, where it appeared to enjoy some influence.

With the death of Morgan Tsvangirai on Feb. 14, the MDC faced increased factionalism of its own. Nelson Chamisa's ascent precipitated the departure of several senior MDC officials, most prominently Thokozani Khupe, who had served as MDC-T deputy president. These defections

³⁹ Electoral Act, Section 72.

⁴⁰ AfCDEG, Chapter 3, Article 3: State parties shall...promote a system of government that is representative; Article 11: Strengthen political pluralism and recognize the role, rights and responsibilities of legally constituted political parties, including opposition parties.

⁴¹ The Zanu-PF Generation 40 (G-40) was a group of Zanu-PF politicians who were rumored to be working against Mnangagwa's succeeding President Mugabe as head of state. The group was believed to be comprised of younger Zanu-PF members and to be in favor of Grace Mugabe taking over from her husband as president.

⁴² These factions were widely reported, surprisingly, even in the state-run *Herald*. <https://www.herald.co.zw/npf-abuses-veteran-nationalist-nkomos-legacy/>.



were not as severe as in 2006, when the MDC split over whether to take part in the Senate elections, or as in 2013, when former Finance Minister Tendai Biti (then MDC-T secretary general) left to form his own party after the MDC lost in general elections that year. Indeed, Chamisa presided over a consolidation of the party and the formation of the coalition known as the MDC Alliance (MDC-A). The MDC-A united several factions, including some that had split off from the MDC in previous cycles. Among the most recognizable were Welshman Ncube's MDC-Ncube and the People's Democratic Party, led by Biti. Thokozani Khupe, however, ran for president under the banner of MDC-Tsvangirai (MDC-T), and this breakaway version of the party competed in National Assembly elections, dividing the MDC vote in some constituencies.

Thus, party identification and performance remained generally constant. The MDC remains an urban-based party, with substantial support in the urban centers of Harare and Bulawayo, as well as Gweru and Mutare. ZANU-PF's principal appeal is to rural voters.

The Campaign Environment

The equitable treatment of candidates and parties during an election, as well as an open and transparent campaign environment, are important to ensuring the integrity of a democratic election process. Zimbabwe's legal framework and its international and regional commitments create obligations related to the campaign environment, including the right to freely express opinions and to participate in public affairs.⁴³

Zimbabwe's Electoral Act includes an electoral code of conduct, which details the commitments of political parties and candidates during the campaign period as well as prohibited activities, which together create a competitive, democratic campaign environment and a climate of tolerance in which election activity may take place without fear, coercion, intimidation, or reprisals.⁴⁴ Other laws and regulations, including the Public Security Act (POSA), constrain the ability of political parties to campaign freely by making them more vulnerable to arrest. Unfortunately, the code of conduct does not specify any sanctions on parties and individuals that do not abide by it, and

⁴³ ICCPR, Article 19(2); ACHPR, Article 13(2); ICCPR, Article 19; ACHPR, Article 13.

⁴⁴ Every political party and every candidate must give wide publicity to the code of conduct and ensure that their members and supporters are familiar with it and their obligation to comply with its terms; publicly state that everyone has the right to freely express their political beliefs and opinions; freely challenge and debate the political beliefs and opinions of others; freely campaign and attend public meetings convened by others; freely distribute campaign material; publicly condemn any action that may undermine the free and fair conduct of elections, and in particular condemn unreservedly and publicly any violence intimidation and cooperate with the law enforcement agencies in apprehending the culprits; disseminate accurate information on electoral processes and accept the result of an election or challenge the result by due process of law. The code of conduct prohibits politically motivated violence or intimidation; publication of false or defamatory allegations about another party, its candidate(s), representatives, or members; discrimination on the grounds of race, ethnicity, sex, gender, class or religion in connection with an election or political party; damaging or defacing property, including the election posters, placards, banners, and other election material of another party or candidate; any posters or other voter-education materials disseminated by the Zimbabwe Electoral Commission; carrying or displaying weapons at political meetings or at marches, demonstrations, rallies or other public political events; bribery of a voter to exercise his or vote in a particular manner; bribery or intimidation of an election official to induce him or her to make a false entry in the voter roll or to alter or falsify election results; encouraging a person to vote knowing that they are not entitled, etc.



instead refers to sanctions that appear in other sections of the electoral law, including for violence, intimidation, and corrupt practices. These sanctions include imprisonment, fines, and disqualification from voting or holding public office.⁴⁵

The Electoral Act does not include any measures regarding the misuse of state resources during electoral campaigns. This is inconsistent with international obligations and best practices that ban “the use of State property for purposes other than those for which they were intended for the benefit of the public official or a third party.”⁴⁶

Because of the limited size and scope of its mission, the Center did not observe the campaign environment in a systematic and comprehensive manner. However, the Center’s experts met with representatives of the main political parties, as well as several smaller parties, during the preelection visit and throughout the Center’s mission. Interlocutors reported that their main campaign tools included door-to-door canvassing and leafleting, small community gatherings, and large-scale rallies. ZANU-PF distributed branded t-shirts, caps, badges, and other items. All parties had access to designated areas for posting campaign materials.

While the campaign was described as generally peaceful, and freedoms of assembly and expression were widely respected, numerous cases of intimidation and threats of violence, mainly by ruling party supporters, were reported by election observation missions that deployed long-term observers. Observer missions reported misuses of state resources by the ruling party, particularly the manipulation of food aid and agricultural programs, in contravention of international good practice. Other concerns included pressure on people to attend rallies, including by traditional leaders involved in partisan activities. In the absence of provisions in the Electoral Act barring such misuse of state resources, no action by the authorities was taken to address the violations. Intimidation, threats by officials, politicization of traditional chiefs, and use of state resources for campaigning are the predictable results of a lack of separation between state and party. As a result, there was not a level playing field in these elections.

Recommendation

The Electoral Act should be amended to introduce provisions on the misuse of state resources. Authorities should be sensitive to all instances of abuse of state resources and take timely and effective action to address any violations that occur.

Campaign-Related Violence

Compared with previous elections, there was considerably less harassment of MDC leaders and supporters, and only sporadic interparty violence from November 2017 to July 2018. Human rights activists noted less hate speech than in both 2013 and 2008, and the once-prevalent targeting and arrest of activists was curtailed sharply. Most evidence suggests that MDC enjoyed unprecedented freedom of movement and expression and the ability to hold rallies, even in ZANU-PF

⁴⁵ Electoral Act – Fourth Schedule, 13 (2).

⁴⁶ AU, Convention on Corruption, Article 4.



strongholds, without incident. For example, police prohibited a ZANU-PF youth rally in Harare, on June 5 because it would have competed with one held by MDC on the same day, thereby raising the risk of interparty clashes.⁴⁷ In the past, such confrontations were at least tacitly encouraged and at times explicitly supported by the Mugabe government.

The notorious Public Order and Security Act (POSA)⁴⁸ and the Access to Information and Privacy Act (AIPPA) were not invoked during the campaign period, although neither has been repealed (and POSA was activated by police on Aug. 1). Both pieces of legislation, enacted in 2002, have been used to restrict civil and political liberties. In cases where police did deny public demonstrations in 2018, these decisions were overturned in court.

The overall environment of calm prevailed even following a grenade attack at a ZANU-PF rally in Bulawayo on June 23. Domestic and international media alike described this as an assassination attempt on President Mnangagwa. Although the president was unharmed, the attack killed two and injured 41. President Mnangagwa himself blamed the G-40, but the absence of a larger security crackdown was a remarkable display of government restraint.⁴⁹ Two suspects were apprehended but released for lack of evidence. At the time of the writing this report, the case remained unsolved.

The reasons for diminished violence during the election period are manifold. One significant contributing factor was that Zimbabwe's once-robust economy was in crisis, plagued by a lack of foreign exchange and insufficient foreign investment. President Mnangagwa advocated Zimbabwe's reintegration into the global economy as key to its economic recovery. Transparent and peaceful elections were held out as a critical dimension of that global reengagement. Hence, the new openness extended to the international community as well: President Mnangagwa signed the AU Charter on Elections (2000) and appealed to international and domestic audiences by welcoming observers without restriction.

A second factor may be the eroded condition of the police, intelligence services, and quasi-state militias, which were frequently used as instruments of repression in previous elections. At the time of the November military-led transition, both the police and Zimbabwe's formidable intelligence apparatus, the Central Intelligence Organization (CIO), were headed by Mugabe loyalists. Shortly after Mugabe's removal, leading members of these bodies were purged, together with many longstanding members of the ZANU-PF hierarchy who were allied to the former president. Although factionalism is not a new phenomenon, the diminished institutional clout of these agencies appeared to increase the degree of freedom enjoyed by opposition forces.

⁴⁷ "ZANU-PF Youth League Stages Solidarity Rally," *The Herald*, 6 June 2018. <https://www.herald.co.zw/zanu-pf-youth-league-stages-solidarity-rally/>.

⁴⁸ POSA gives police the authority to prevent meetings of more than five people, whereas AIPPA is aimed at restricting access to information.

⁴⁹ See <https://www.theguardian.com/world/2018/jun/27/zimbabwe-president-blames-rally-attack-grace-mugabe-g40-faction>.



At the same time, ZANU-PF has dominated Zimbabwe politics for nearly four decades. An incumbent regime with entrenched and intersecting individual and institutional interests seeks to maintain power. The 2018 campaign period was characterized by softer forms of intimidation and influence than in the past, according to reports from other international and domestic election observer missions.⁵⁰ Observers cited the use of state resources, the lower distribution of BVR kits in the MDC strongholds of Harare and Bulawayo, rumors that voters' secrecy of the ballot would be compromised by ZANU-PF by the introduction of biometric voter registration, pressure from traditional chiefs, and the use of food aid as contributing to an unlevelled playing field.

Moreover, the use of subtle measures does not mean that no violent incidents occurred during the campaign. Two domestic observer networks, the Election Situation Room (ESR) and ZESN, reported numerous incidents.⁵¹ It is not possible to quantify their impact on the election outcome with the data currently available.

It is important to note that ZANU-PF still enjoys a genuine base of support, especially in rural communities, while some of its popular support is the result of intimidation or violence. Some support also may be attributable to the rebound of smallholder farming schemes. ZANU-PF's Command Agriculture scheme, introduced in 2016, has been a factor in improving production and livelihoods. The continued salience of ZANU-PF's status as a liberation movement should not be underestimated. Such credentials remain important factors in the national legitimacy of ruling parties across Southern Africa, particularly for older generations.

Citizen and international observer groups with long-term observation components reported that despite cases of direct threats of violence, as well as pressure on people to attend rallies – including by traditional leaders involved in partisan activities – the campaign was generally peaceful, and freedoms of assembly and expression were respected. These activities were mostly in support of ruling-party interests. Physical violence, however, was limited, with the major exception being the June grenade attack.

Recommendation

Although neither the Public Order and Security Act (POSA) nor the Access to Information and Privacy Act (AIPPA) were invoked during the campaign period, these laws should be repealed to reduce the threat of violence and intimidation and strengthen protection for fundamental freedoms.

⁵⁰ See, for example, European Union Election Observation Mission, "Republic of Zimbabwe Harmonized Elections 2018 Preliminary Statement," Aug. 1, 2018: p.8.

⁵¹ Zimbabwe Peace Project, an ESR member, reported 19 cases of interparty violence in the first two weeks of July alone. The political party code characterizes threats of violence, including hate speech, as violence. See ZPP Monitoring Report, Week Ending July 13, 2018, p. 4.



The Role of Social Media and Information and Communication Technology (ICT)

Over half of the Zimbabwe's population use the internet, and the growing availability and use of information and communication technologies (ICTs) and social media has increased access to information and provided new ways to communicate.⁵²

In the context of the 2018 harmonized elections, various stakeholders embraced ICTs and social media platforms – including WhatsApp, Facebook, and Twitter, among others – to campaign and organize. These platforms provided citizens alternatives in a media landscape largely dominated by the state.⁵³ They also posed new and difficult challenges for Zimbabwe's elections, not unlike those experienced today across Africa and around the world.

Candidates, political parties, and opinion leaders took to social media throughout the 2018 elections to campaign and convey messages in real time.⁵⁴ Government agencies and NGOs also utilized social media to inform and organize. Valuable and timely information was shared via social media. For example, citizens could quickly access information about different candidates, learn about events as they happened, and use search engines to conduct their own research.

However, it was frequently difficult to discern the source and accuracy of information available through social media. Sponsored ads were prevalent across social media platforms, but it wasn't clear who paid for them, or what their motives were. Several accounts ran ads in favor of particular candidates and the ZEC, while others broadcast the pronouncements of certain observer groups. While the ownership and reach of these accounts was uncertain, it was evident that they had been created for political persuasion.

The spread of misinformation and “fake news” was also a key concern of many stakeholders throughout the elections. Misleading or false information was generated by different social media accounts. WhatsApp messages, which spread quickly to large numbers of users, were often alleged to include misleading (if not fake) text or audio and video clips. False election results, photos of security force members purporting to be from Zimbabwe, and bogus audio and video clips that seemed to show candidates conducting illegal activities, were all found on different social media

⁵² According to the Postal and Telecommunications Authority of Zimbabwe, as of March 31, 2018, 52.1 percent of citizens now have access to the internet (See: Postal and Telecommunications Authority of Zimbabwe, “Postal & Telecommunications Sector Performance Report First Quarter 2018”). The number of internet users has increased rapidly in the last several years and is expected to rise as the availability of technology and the internet grows and the price of access drops.

⁵³ The European Union EOM to Zimbabwe said in its preliminary statement: “The media landscape in Zimbabwe is largely dominated by state-owned or controlled media, with very little presence of the private sector.” See the European Union Election Observation Mission Republic of Zimbabwe Harmonized Elections 2018 Preliminary Statement here: https://eeas.europa.eu/sites/eeas/files/010818ps_eu_eom_zimbabwe.pdf.

⁵⁴ The major presidential candidates often communicated messages through Facebook and Twitter that were unavailable through other sources.



platforms during monitoring.⁵⁵ It often was difficult for citizens to verify the information they received.

The opportunities and challenges created by ICTs and social media during the elections will remain – and likely grow. Recent steps taken by the government to gain greater control over the ICT market and to regulate social media and those using it have raised concerns about the future of internet freedom in Zimbabwe.⁵⁶

Recommendation

Any steps taken to further regulate ICTs and social media in Zimbabwe should be given careful consideration, and solutions should ensure that the internet remains open and accessible for all citizens, which is essential today to maintaining a democratic society. Increased civic education and fact-checking efforts should be encouraged to help ensure responsible political engagement in this arena.

Civil Society Engagement

According to public international law, all people have the right to participate in the public affairs of their country.⁵⁷ This includes the right of citizens to participate in nongovernmental organizations (NGOs), including citizen observer organizations, and contribute to voter education efforts.⁵⁸ Through these means, civil society can play an essential role in upholding an electoral process that is accountable and in which all participants can have confidence.

The opening of political space for participation in public affairs after the November 2017 coup was a positive step that allowed civil society organizations (CSOs) to conduct meaningful activities throughout the preelection period and election day. The Center applauds these advancements. Regrettably, postelection intimidation and violence directed toward election stakeholders undermined that trust. Civil society leaders interviewed after the elections said that the use of intimidation and violence raised concern that the space opened around the elections was once again closing, or that it had not been genuine, and that they could be targeted for their activities. It is important that progress in civil society participation is supported and nurtured, as the active

⁵⁵ Collaboration between the Center for Innovation and Technology (CITE) and ZimFact, supported by the Carter Center and Meedan.org, revealed multiple instances of social media posts that were either misleading or false. These groups used tools from the Check project (<https://meedan.com/en/check/>) to collect and verify incidents. In one example, fake election results posted by a user on Twitter and distributed widely were proven to be incorrect. In another example, a photo of a supposed Zimbabwean soldier, either crying or impacted by tear gas, was found to be sourced from the internet and actually was a soldier from another country.

⁵⁶ See the Freedom House ‘Freedom on the Net 2017’ report for Zimbabwe: https://freedomhouse.org/sites/default/files/FOTN%202017_Zimbabwe.pdf

⁵⁷ U.N., International Covenant on Civil and Political Rights, Article 25(a); AU, African Charter on Human and Peoples’ Rights, Article 13(1); U.N., Universal Declaration of Human Rights, Article 21(a).

⁵⁸ U.N., United Nations Human Rights Committee, General Comment 25 on “The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service,” para.11; U.N., Human Rights and Elections: A Handbook on the Legal, Technical, and Human Rights Aspects of Elections, para. 124.



participation of citizens in the civic and political affairs of their country strengthens democratic institutions and governance.

The Electoral Act and regulations allow citizen and international observers to observe the full electoral process, and provide specific requirements related to the functions of citizen observers, accreditation of CSOs and their members, and the participation of CSOs in voter-education activities.⁵⁹ In addition, each candidate has the right to nominate election agents to represent the candidate and observe the election process.⁶⁰

CSOs said that the preelection and election-day environment were more open than during the past elections and that the ZEC largely helped to facilitate observation. The accreditation process was inclusive and free from difficulties experienced in the past. More than 7,000 citizen observers were registered by the ZEC and lower-level electoral commissions. The electoral regulations specify that the registration fee for a local observer is \$US10. The fees for different categories of observers and journalists differ.⁶¹

The Zimbabwe Election Support Network (ZESN) called upon the ZEC to critically review the accreditation fees for citizen observers as they present a challenge to efforts to observe the electoral process. In response, the ZEC reduced the US\$10 fee to \$US 2 for citizen observers who were accredited to observe the biometric voter registration. Even though the ZEC made an effort to accommodate organizations with large numbers of observers by reducing the fee for observers who were previously accredited to observe an earlier phase of the electoral process, the accreditation fee is restrictive and is a barrier for certain observation groups, preventing them from fulfilling a key role in the electoral process.

Recommendation

The ZEC should reconsider charging accreditation fees for observers (international and domestic), as well as for journalists, in order to encourage robust engagement of civil society in elections.

Civil society organizations conducted election observation, election-related incident reporting and verification, media monitoring, civic and voter education, and other activities. As during past elections, multiple CSOs coordinated their election-related activities throughout the election cycle, including by seconding members to observe and by sharing information collected. The international community funded several CSO projects to help promote participation of civil society in the electoral process.

⁵⁹ Electoral Act, Part IXB, (Election Observers).

⁶⁰ Electoral Act, Part XVI (Election Expenses and Election Agents), sections 94 (Chief Election Agents) and 95 (Election Agents).

⁶¹ Accreditation fees for observers from Africa is US\$20, for observers outside Africa, US\$100, for observers from foreign embassies in Zimbabwe, US\$50; for local journalists working for foreign media houses, US\$50, for Zimbabwe media practitioners accredited with the Zimbabwe Media Commission, US\$10 and for journalists from Africa, US\$20.



ZESN, a coalition of 36 nongovernmental organizations, conducted observation throughout the election cycle. During the pre-election period, ZESN conducted an audit of the voter roll and also deployed 210 long-term observers on May 18 to report on the pre-election environment and campaign period. On election day, 6,500 short-term ZESN observers observed at polling stations across the country. A sample-based observation was also conducted to provide an assessment of the quality of election-day procedures and a projection of the results of the presidential election. According to ZESN, the sample-based observation included data from 750 polling stations and had a margin of error of +/- 2% for the presidential candidates. The ZEC's official presidential results fell within the margins of error of the sample-based observation.⁶²

ZESN was a convener of the Election Situation Room (ESR), a prominent effort by more than 40 civil society organizations to receive and share information related to the elections and to respond to incidents as they arose. The ESR advertised its efforts across Zimbabwe, provided toll-free numbers for citizens to report information, escalated reports of serious incidents to relevant stakeholders, and released frequent statements about election-related developments. The ESR expanded its operations to respond to an expected increase in reported incidents immediately around and on election day. As in 2013, the ESR's main operations were based in Harare. However, a hub office was also opened in Bulawayo to better coordinate groups in the southern half of the country.

Several additional groups expanded their normal activities to support the elections. Church organizations engaged their memberships and the broader public to promote peaceful elections. For example, the Catholic Commission for Justice and Peace Zimbabwe (CCJPZ) deployed several hundred election observers, and the Zimbabwe Council of Churches (ZCC) conducted dialogue across its membership and commissioned a survey on voter behavior and participation.⁶³ Several groups worked to monitor and support the media, including Media Monitors, which assessed election-related media coverage, and the Media Institute of Southern Africa, which advocated for freedom of expression and tracked violations, among other activities.

Zimbabwe's civil society made significant contributions to holding more accountable, transparent, inclusive, and peaceful elections. These groups are well-positioned to support the country through the next election cycle, including toward electoral and democratic reform. However, steps need to be taken to rebuild the trust lost after election day, and all stakeholders will have to work to support an environment conducive to these groups continuing to serve as an important resource for the country.

⁶² See "ZESN's Presidential Results Projection from Sample-Based Observation, Aug. 3, 2018: <http://www.zesn.org.zw/wp-content/uploads/2018/08/ZESN%E2%80%99s-Presidential-Results-Projection-from-Sample-Based-Observation.pdf>.

⁶³ Zimbabwe Council of Churches "2018 Harmonized Elections: Prospects for democratic transition in Zimbabwe": <http://iprayivote.co.zw/new/wpcontent/uploads/2018/06/ZCC-Elections-Research-Report-June2018.pdf>.



Recommendation

Efforts should be taken to protect space for participation in public affairs for all stakeholders and to reassure civil society and other stakeholders that they are free to operate and can do so without repercussions.

Election Day

The Carter Center expert mission did not observe election-day proceedings in a systematic and comprehensive manner. The team visited only a small number of polling stations in two provinces, assessed the tallying process at command centers at wards and constituencies in and around Harare, and followed tallying of the results at the national level. The team was welcomed at all levels of the election administration without any hindrance.

In order to facilitate the participation of voters who use wheelchairs, the ZEC equipped polling stations with special voting booths with low ledges. However, organizations representing persons with disabilities voiced concerns about limited access to a number of the regular polling stations. Some international election observation missions reported that a number of open-space polling stations were situated in sandy areas, which made access challenging.⁶⁴

Voters who required assistance to cast a ballot were allowed to select a person of their choice or the presiding officer in the presence of police. According to reports, a high number of voters requested assistance.⁶⁵ Persons with disabilities, particularly those who were visually impaired, were among those who received voting assistance in large numbers. Prior to the election, a visually impaired potential voter filed an application with the High Court to request a braille ballot paper. However, the High Court ruled that braille was impractical because braille literacy rate is low, arguing that assisted voting as foreseen by the law allows adequate measures for equal participation.

Recommendation

*The ZEC should review assisted-voting measures, as they may be insufficient to ensure participation on an equal basis for persons with visual impairments who cannot vote independently.*⁶⁶

⁶⁴ EU EOM reported that difficulties in gaining access to polling stations were observed in 10 percent of polling stations visited by the EU EOM on election day.

⁶⁵ Preliminary Statement EU EOM Zimbabwe 2018 harmonized elections; ZESN Preliminary Statement on the 30 July harmonized elections: https://cdn3-eeas.fpfis.tech.ec.europa.eu/cdn/farfuture/kIv-gpv2wEwF18kSrJmmoREr4XmRSK0JNGDCBCWKclk/mtime:1533137724/sites/eeas/files/010818ps_-_eu_eom_zimbabwe.pdf

⁶⁶ Article 29 of the Convention of the Rights of Persons with Disabilities prescribes that states should ensure that persons with disabilities have the right to participate in political life on an equal basis and voting procedures, facilities and materials should be appropriate, accessible, and easy to understand and use.



Tallying, Transmission of Results

Reporting and transmission of results should be transparent, with partisan and nonpartisan observers having meaningful access to the voting and results tallying processes.⁶⁷ By law, representatives of the contestants may observe the tallying and the transmission of the results at all levels of election administration.

According to the ZEC, transmission of the presidential election results was conducted according to an “urgent transmission route,” which bypassed certain levels of election administration. District election officers transmitted the ward presidential results directly to the national collation and results center. Tallying of the results was done on an Excel spreadsheet provided by the ZEC.

Because of the limited size and scope of the Center’s expert mission, the Center did not observe the tallying process in a systematic and comprehensive manner. Although the Center was granted access to the national collation and results center, the data-entry procedures did not allow for independent verification of the information entered.

Announcement of Results

According to the law and the election calendar, the collation and announcement of the presidential election results should be completed within five days of the election day. The law provides for notification of political parties, party agents, and observers of the time of verification and collation of results to allow for their presence during the exercise. Upon request, any candidate, contestants’ agents, or observers should be allowed to review and make note of the contents of any returns. MDC-A officials present at the ZEC’s national command center expressed concerns that the verification of the election results was not conducted in a meaningful manner, as it did not allow for political party or candidate representatives to verify the results. MDC-A later issued an official statement that it could not accept the results of the parliamentary and the presidential elections.

The ZEC began announcing partial results of the National Assembly elections on July 31 and completed it on Aug. 1. The presidential election results were announced on Aug. 3. The Electoral Act does not oblige the ZEC to publish election results at the polling-station level. The ZEC’s website was down for a critical period of time in the postelection period during which challenges to the results could be filed. It was reportedly hacked, hindering the ZEC’s work. Eventually, the ZEC posted the election results on its website; however, only presidential election results were made available on a polling-station level. The results were only available sporadically in the weeks following election day, as the ZEC’s website required maintenance. Voter turnout was reported at 75 percent.

Recommendation

The ZEC should ensure effective maintenance of the election administration website in order to allow for continuous access to information of public interest. While not required by international

⁶⁷ UNHRC, CCPR, Article 19(2) and General Comment 25, para. 20; AU, Convention on Corruption, Article 9 and ACDEG, articles 19–22.



standards, full accountability would require publishing the results of the elections for all races down to the polling-station level, which would greatly increase the transparency and credibility of the polls.

As noted above, the ZEC provided the presidential results at the polling-station level on a CD-ROM to stakeholders upon request, within 24 hours of the announcement of these results.

The Center reviewed the presidential election results for all 10 provinces and compared the totals provided by the ZEC in its summary tables with the data included in the individual tables. The Center identified technical mistakes in the tables for four provinces that affected all presidential candidates. The errors did not impact the final result of the presidential election.⁶⁸ Nevertheless, these mistakes indicated that the system used for tallying results is vulnerable to a human error.

The statistical-based observation conducted by ZESN found that the presidential election results announced by the ZEC were within a credible statistical range. Given the margin of error in the statistical sampling, which straddled the 50 percent threshold, ZESN could not definitively determine whether the leading candidate had attained enough votes to win in the first round of voting.⁶⁹

The ZEC announced the results of the presidential election late in the evening on Aug. 3. The ZANU-PF candidate, Emmerson Mnangagwa, was declared the winner in the first round with 50.8 percent of the total valid votes. Opposition leader Nelson Chamisa placed second with 44.3 percent of the votes.

Recommendation

The ZEC should review the software for tallying the results; inconsistencies and factual mistakes should be reviewed and corrected before the official election results are announced. Tabulation procedures should be reviewed to ensure party agents and candidate representatives have meaningful access to cross-check the results received from the lower levels with those entered into the tabulation system on a national level. To increase transparency and public confidence in the integrity of the election, the ZEC should release detailed results to the polling-station level for all races, including parliamentary and local elections.

Election Results

The ZEC announced the results of the National Assembly elections on Aug. 1, 2018. Of the 210 seats elected by the majoritarian system in 210 constituencies, ZANU-PF candidates received 145 seats and MDC-Alliance received 63 seats. One seat went to the National Patriotic Front (NPF) and one seat to an independent candidate. Female candidates won 25 seats, while male candidates

⁶⁸ The mistakes were identified in Mashonaland Central, Mashonaland East, Mashonaland West, and Matabeleland North provinces.

⁶⁹ See ZESN's report Presidential Results Projection from Sample-Based Observation at: <http://www.zesn.org.zw/wp-content/uploads/2018/08/ZESN%E2%80%99s-Presidential-Results-Projection-from-Sample-Based-Observation.pdf>.



won 185 seats. The 60 seats reserved for women through the proportional representation system were allocated as follows: 35 seats for ZANU-PF, 24 seats for MDC-A, and one seat for MDC-T. The female representation in the National Assembly after adding the 60 reserved seats is 31.5%. While this percentage is almost 8% above the world average for women representation in parliaments (23.8%), it is a decrease of 3.5% from 2013, and it remains well below the 50% required by the constitution.⁷⁰ The 60-seat women quota will be applied for the last time in the 2023 elections.

Recommendation

Zimbabwe political leaders should adopt additional measures to reinforce the constitutional requirement and institutional mechanisms to achieve gender parity in government institutions.

Numerous pre-election reports, including one from Afrobarometer, suggested that third parties might play a spoiler role, particularly by forcing a presidential runoff. But despite the factionalism within the two leading parties, third parties ultimately had little impact on the outcome. Zimbabwean voters largely selected candidates from ZANU-PF and MDC-A. ZANU-PF factionalism did not appear to have an adverse effect on the party's cohesiveness at the polls. In the end, NPF won just a single parliamentary seat and a negligible share of the presidential vote (fewer than 5,000 votes.)⁷¹ Whereas it is clear that MDC-A did not yield substantially larger seat totals for MDC (63 seats vs. 49 in 2013), the alliance largely held. Among third-party candidates, Thokosani Khupe got the highest number of votes (45,573), representing just 0.9 percent of the vote. Her MDC-T party did considerably better at the National Assembly level, winning 3.4% (161,824) of votes, although this resulted in no seats.

ZANU-PF attained a two-thirds majority in the parliament with 66.6 percent of the seats. The 60 Senate seats, elected through proportional representation, were allocated as follows: 35 seats for ZANU-PF, 24 seats for MDC-Alliance, and one seat for MDC-T. Women candidates were awarded 34 seats, and men 26 seats.

Local council results were declared and announced at the ward level by a ward election officer, made public and posted in an aggregated form on the ZECs website.

Post-Election Political Environment

A substantially peaceful pre-election and election day period was shattered on Aug. 1 when large crowds of demonstrators began marching toward ZANU-PF HQ, and the ZEC's nearby Election Results Center, reportedly in protest of the pace of the release of election results and amidst rising rhetoric by some by MDC leaders that the opposition party was being victimized by a dishonest tally process.⁷² Some of the protestors reportedly burned cars and vandalized shops. Although well-equipped riot police were present, Zimbabwe Army soldiers were also deployed, an

⁷⁰ IPU, Women in national parliaments – as of June 1, 2018.

⁷¹ See *The Herald*, 7 August 2018, for example. See also:

<https://www.theguardian.com/world/2018/aug/03/zimbabwe-riot-police-opposition-press-conference-chamisa>

⁷² See, for example, <https://www.bbc.com/news/world-africa-45017383>.



escalation of force that has yet to be explained by the government. The armed forces fired live rounds, reportedly killing six people and injuring dozens. Both the destructive protests and the extreme state response were witnessed by international journalists and widely reported in local and international media.

Reports indicate that in response to the Aug. 1 unrest, police raided MDC headquarters in Harare, purportedly in search of illicit arms caches. They removed computers and other materials and stationed armored police vehicles outside for days afterward.

In the early hours of Aug. 3, the presidential election results were announced. Later that day, Carter Center staff observed a raid by police, in full riot gear, on a scheduled press conference by MDC leader and the presidential candidate Nelson Chamisa at Harare's Bronte Hotel.⁷³ Media, Information, and Broadcasting Services Minister Simon Khaya Moyo later apologized, as did President Mnangagwa, and eventually the press conference took place without incident.

Shortly thereafter, however, a series of raids on the homes of MDC leaders were reported. Numerous MDC officials were arrested; others went into hiding.⁷⁴ Among the latter were MDC Alliance leaders Tendai Biti (himself elected MP for Harare East on July 30) and Morgen Komichi and youth leader Happymore Chidziva. They were accused of inciting the riotous demonstration and violence that rocked Harare on Aug. 1.⁷⁵ Specifically, warrants were issued for their arrest for "participating in a gathering with intent to promote public violence, breaches of peace or bigotry."⁷⁶

While the validity of the charges against MDC officials should be assessed by an independent judicial process, the aggressive behavior of the security forces marks a severe deterioration from the peaceful pre-election and election period. Similar incidents of harassment and serious charges (including treason) against MDC in the past have proven to be specious.

A video made public by international media depicts soldiers, in army uniforms, using live ammunition against a civilian population, including people not involved in the violent demonstration.⁷⁷ It was unclear who ordered the military onto the streets of Harare in the days following the incidents. The state-run Herald newspaper quoted a police spokesperson as saying that because of the police's inability to quell rising civil unrest, the commissioner general of police

⁷³ Presidential candidate Nelson Chamisa had not arrived, but the raid briefly caused attendees, including local and international media, to scatter.

⁷⁴ <https://www.dailynews.co.zw/articles/2018/08/03/crackdown-on-opposition-mdc-leaders>

⁷⁵ <https://www.mysimbabwe.co.zw/news/29240-government-intensifies-crackdown-on-opposition-leaders-manhunt-for-tendai-biti-and-company-launched-see-names.html>

⁷⁶ Under the Criminal Investigations Department for Contravening Section 37 of the Criminal Law Codification and Reform Act, Chapter 9:23. Biti sought asylum in Zambia, which was rejected. In contravention of the Zambian High Court, the Zambian government turned the politician over to Zimbabwean authorities who arrested and held him in custody until released on bail on Aug. 9.

⁷⁷ <https://www.zimbabwesituation.com/news/zimbabwe-election-unrest-turns-deadly-as-army-opens-fire-on-protesters/>



“invoked the provisions of Section 37 (1) of the Public Order and Security Act Chapter 11.17 and approached the Minister of Home Affairs and Cultural Heritage to request the assistance of the Defense Forces [ZDF] for the suppression of the commotion and disturbances in Harare Central Business District,” and that the ZDF “remain under the command and supervision of the Commissioner General of Police.”⁷⁸ Just days later, however, some government officials, including Army Chief Philip Sibanda, denied that the perpetrators were even actual military, perhaps in an effort to obscure blame and responsibility.⁷⁹ None but the principals know precisely who ordered the troops to deploy and, importantly, authorized them to fire live ammunition.

Given that ZANU-PF consolidated its hold on parliament, winning a two-thirds majority, and won the presidency, the state’s severe response seems unjustified politically and inexplicable diplomatically. The party was receiving domestic and international plaudits for overseeing a largely peaceful, substantially open, election period. The Aug. 1 violence, the use of live rounds against protestors, the harassment of international media, the seemingly arbitrary pursuit of MDC leadership and an emerging climate of intimidation, undercut President Mnangagwa’s assertion that “Zimbabwe is open for business.” Indeed, the political and social freedoms enjoyed since November 2017 – openness and transparency, freedom of movement, the welcoming of international observation and partnership, and so on – appear threatened. Under the provisions of the Commissions of Inquiry Act (Chapter 10.07), President Mnangagwa on Aug. 29 established a seven-member commission to look into the postelection violence. Headed by former South African President Kgalema Mothlanthe, the commission found that military force was justified but that troops did not adhere fully to operational standards.⁸⁰

Recommendation

The Zimbabwean judiciary should uphold the legal rights of its citizens and the country’s domestic and international commitments to the U.N. human rights conventions, the African Charter on Human and Peoples’ Rights and the Declaration of Rights of the Zimbabwe constitution (Chapter 4, Section 50: Protection of the Rights of Accused and Detained Persons.)

Transparent investigation and identification of the perpetrators of the Aug. 1 violent events should be conducted, according to local and international laws.

Electoral Dispute Resolution

Effective, clear, and fair procedures for electoral dispute resolution are an essential part of a well-functioning electoral process, particularly as dispute resolution is fundamental to ensuring all other human rights are fulfilled.⁸¹ Voters and other electoral stakeholders must be given – and must

⁷⁸ <https://www.herald.co.zw/breaking-news-police-invoke-posa/>

⁷⁹ <https://www.newsday.co.zw/2018/08/zimbabwe-army-chief-is-said-to-demand-who-ordered-crackdown/>

⁸⁰ <http://kubatana.net/2018/12/18/report-commission-inquiry-1-august-2018-post-election-violence/> Website accessed Feb. 12, 2020.

⁸¹ ICCPR, Article 2(3), “Each State Party to the present covenant undertakes: (a) to ensure that any person whose rights or freedoms are herein recognized as violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) to ensure that any person claiming such a remedy



perceive that they possess –a voice in the quality of the electoral process if the process is to retain credibility.⁸²

The constitution provides for the right to a legal remedy and allows the ZEC to receive and resolve complaints throughout the electoral cycle. However, the Electoral Act does not include the mechanisms and procedures for receiving and resolving complaints except those related to voter registration.

In one of its statements, the ZEC said that it did not receive any complaints during the pre-election phase. The 2018 amendments to the Electoral Act introduced a six-month timeframe for courts to rule on election petitions and appeals related to parliamentary elections, which is an improvement over past elections, in which there were no time limits for a court to rule on electoral disputes. Time limits for court rulings in pre-election disputes should also be clearly specified to ensure timely remedy.⁸³

The Electoral Act provides that the security fees prescribed by the commission, in consultation with the chief justice, should be paid not later than seven days following the submission of a petition.⁸⁴ The fees, which range from US\$1,000 to US\$5,000, are so high that they could restrict parties' right to justice.⁸⁵ The Electoral Act and electoral officer's manual for the 2018 harmonized elections do not include any instructions, procedures, or forms for party agents to file complaints during polling and counting on election day.

Stakeholders generally expressed a lack of confidence in judicial impartiality because of the limited constitutional independence and transparency in the appointments of the chief justice, the deputy chief justice and the judge president of the High Court and the system of allocation of election-related matters to judges by the judge president of the High Court.

More than 50 applications were filed with the courts, beginning several months before the proclamation of the elections and continuing until two days before the polls; only a small number

shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; (c) to ensure that the competent authorities shall enforce such remedies when granted."

⁸² UNHRC, General Comment 32 on the ICCPR, para. 25: "The notion of fair trial includes the guarantee of a fair and public hearing."

⁸³ The EU EOM reported that despite the chief justice's directive that all election-related matters should be treated as urgent, there was a systematic delay by the High Court, with a few exceptions, in either setting down dates for hearing or delivering judgments in a timely manner. The EU EOM also reported that unlike the High Court, the Electoral Court made significant efforts to adjudicate all matters pending before election day in a timely manner.

⁸⁴ On Aug. 8, 2018, the chief justice announced that the amount prescribed for petitions related to the July 30, 2018, harmonized elections were: US\$1,000 for local authority election petitions, US\$2,000 for local National Assembly petitions, US\$5,000 for presidential election petitions.

⁸⁵ U.N. (CCPR): General Comment 32: Right to Equality Before Courts and Tribunals and to Fair Trial (Article 14), para. 11.



of cases were upheld by the courts.⁸⁶ The vast majority of these cases were rejected, most for technical reasons.⁸⁷

Recommendation

A comprehensive review of the electoral framework should be conducted well in advance of the next elections to further clarify, update, and harmonize laws concerning electoral dispute resolution procedures.

Time limits should be introduced for courts to issue rulings on pre-election electoral disputes to provide complainants with an effective and timely remedy to protect their right to stand. Security fees for filing petitions should be reduced in order to allow for equal access to justice.

Candidate and party agents should be provided the opportunity to file complaints at the polling-station level on election day; instructions on the required procedures and forms to do so should be included in the guidance provided to polling staff and agents.

Postelection Petition and Constitutional Court Decision

Following the declaration of the results by the ZEC, the MDC-A lodged an official complaint with the Constitutional Court challenging the outcome of the presidential election. The official complaint alleged systematic fraud in the elections process, resulting in an inflated vote for the incumbent candidate. All the parties concerned submitted their written responses; verbal presentation of arguments by the parties concerned took place, and parties had an opportunity to answer the court's questions. The complainant failed to submit supporting materials for some of the claims included in the complaint and submitted only 0.4 percent of all V11 forms as supporting evidence.

A number of inconsistencies and factual errors in the tabulation identified by the opposition contestant who challenged the presidential results were brought to the ZEC's attention through the MDC-A petition filed with the Constitutional Court. While the ZEC members acknowledged the mistakes and corrected them, no clear explanation for the mistakes was provided to the public, and the ZEC pointed out that these mistakes had no impact on the final result.

⁸⁶E.g. The 2013 Constitution bars traditional leaders from engaging in partisan politics, but this has not stopped the practice. However, the High Court ruled on May 16 that all traditional leaders must refrain from engaging in partisan activities and required a public retraction from the president of the Zimbabwe Council of Chiefs, who publicly pledged his support to the ruling party.

⁸⁷ E.g. An application filed by three Zimbabweans, which sought that Zimbabweans abroad be allowed to participate in the country's electoral processes, challenging some restrictive provisions of the Electoral Act. The Constitutional Court on May 30, 2018, dismissed the case on technical grounds. Another case relates to the Electoral Resource Centre (ERC), which filed a petition demanding the ZEC provide it with a copy of the provisional voter roll. The High Court ruled in ERC's favor; however, the Supreme Court overturned this decision. The Amalgamated Rural Teachers Union of Zimbabwe (Artuz) filed a petition accusing Zanu-PF party of forcing schoolchildren and teachers to attend its political rallies and commandeering school resources such as buses and furniture for its rallies. The High Court ruled on June 28, 2018, that political parties should not abuse learners, teachers, and property in pursuit of private political interests. However, Zanu-PF appealed the High Court's decision to the Supreme Court, which, on July 27, 2018, suspended the High Court order on technical grounds.



The court dismissed the petition unanimously, concluding that “the applicant has failed to place before it clear, sufficient, direct and credible evidence that the irregularities that it alleged in its petition marred the election process, indeed materially existed.”⁸⁸ The court declared Emmerson Dambudzo Mnangagwa duly elected president of the Republic of Zimbabwe. The court issued its ruling within 14 days of its filing as prescribed by the legal framework, and the inauguration of Mnangagwa took place within 48 hours of the ruling, as required by the constitution.

Because of limited space in the courtroom, access to court premises was granted to the contestants, the ZEC, their legal teams and one international election observer per organization, upon request and accreditation of these observers. The court proceedings were broadcast live on state television, and a tent housing large screens was set up in front of the court to accommodate political party representatives, additional members of the ZEC, citizen observers, etc.

While the court proceedings were conducted in an orderly and transparent manner, and adhered to procedures, the timeframe did not allow for the conduct of a proper investigation of the alleged violations included in the petition, undermining the right to effective remedy and public confidence in the resolution. Following the elections, police raids on MDC leaders’ homes and party headquarters, confiscation of party resources, as well as the arrests of party officials further undermined the opposition’s opportunity to build a case, as the party was forced to collect evidence in hostile environment.

Recommendation

The timeframe for filing postelection challenges should be revised to allow complainants adequate opportunity to gather substantiating information to file complaints and to allow the court to conduct a proper investigation of the alleged violations included in the petition, as to strengthen the right to effective remedy and public confidence in the judiciary’s resolution of electoral disputes.

⁸⁸ <http://kubatana.net/2019/11/07/full-judgment-constitutional-court-ruling-on-nelson-chamisas-2018-presidential-election-petition/> Website accessed Feb. 12, 2020.



Recommendations

Though limited in size and scope, the Carter Center expert mission noted key aspects in the implementation of the elections that could be improved. As a result, the Center offers the following recommendations for consideration:

Legal Framework

1. Repeal or amend the Public Order and Security Act and the Access to Information and Privacy Act to allow for the free exercise of political and civil rights under the Zimbabwean constitution.
2. Allocate the seats reserved for women in the National Assembly, as well as the 60 elected seats in the Senate, proportionally according to the population of each of the 10 provinces to guarantee equal representation.
3. Carry out boundary delimitation exercises in line with constitutional requirements in order to uphold the principle of equality of the vote.

Voter Registration

4. Improve the comprehensiveness and accuracy of the voter registry for future polls, conducting efforts to close the gap in registration between urban and rural areas.
5. Provide adequate time for all phases of the voter-registration process, including registration, inspection, corrections, and final posting and distribution of the lists in sequential fashion well in advance of the polls.
6. Fully align the Electoral Act with the 2013 Constitution, and introduce measures to allow the diaspora, homebound voters, and voters in hospitals and penitential institutions to participate.

Campaign Environment

7. Strengthen campaign-finance regulations to increase the transparency and accountability of political financing. State resources should not be used to conduct partisan political activities.
8. Amend the Electoral Act to introduce provisions on the misuse of state resources. Authorities should be sensitive to all instances of abuse of state resources and take timely and effective action to address any violations that occur.

Campaign-Related Violence and Intimidation

9. Repeal or amend the Public Order and Security Act and the Access to Information and Privacy Act, so as to reduce the threat of violence and intimidation and to protect the fundamental freedoms enshrined in Zimbabwe's 2013 Constitution and international treaties to which Zimbabwe is a party.



Civil Society Engagement

9. Eliminate accreditation fees for observers (international and domestic), as well as for journalists, to encourage greater transparency and full engagement of civil society in elections.
10. Make efforts to protect space for participation in public affairs for all stakeholders, and to reassure civil society and other stakeholders that they are free to operate without repercussions.

Social Media and Information Communication Technologies (ICT)

11. Carefully consider any steps to regulate ICTs and social media in Zimbabwe; solutions should ensure that the internet remains open and accessible for all citizens.

Voter Education

12. Conduct greater and more comprehensive voter education, with an increased focus on reaching women, youth, and disabled voters.
13. Make additional efforts to promote CSO engagement in voter education, including by using their own materials and means.

Announcement of Results

14. Maintain the ZEC website effectively around election day to allow for continuous access to information of public interest. While not required by international standards, publishing the results of the elections for all races down to the polling-station level would greatly increase the transparency and credibility of the polls.
15. Review and update the software for tallying results to eliminate potential errors; inconsistencies and factual mistakes should be reviewed and analyzed on a case-by-case basis before the official election results are announced.
16. Revise tabulation procedures to allow party agents and candidate representatives meaningful access to cross-check the results received from the lower levels with those entered into the tabulation system on a national level.

Election Administration

17. Introduce mechanisms to address the lack of public confidence in the impartiality and inclusivity of the appointment mechanisms of the ZEC as well as recruitment of lower-level election commission members. In addition to publishing the names of presiding officers in the official gazette, clear selection criteria should be published prior to recruitment.
18. International community: Continue offering technical and financial support to further increase the capacity of the ZEC, in line with its strategic plan, which should build upon lessons-learned sessions from the 2018 harmonized elections conducted at both the regional and national level.



19. Consider extending or establishing permanent MPLCs in order to have a continuous forum for intraparty dialogue before the beginning, and during, the electoral process.
20. Develop a proactive communication strategy for the public in general and for political parties in particular.
21. Provide public information on a regular basis and allow for a meaningful observation of ZEC activities. Information on decision-making and all other activities should be made available through briefing papers posted on the ZEC website and through regular, timely briefings for candidate agents and observers.
22. Enhance the effectiveness of ZEC training on election-day procedures, with a particular focus on the vote count and how to complete summary results forms by dedicating more time to practical exercises on these issues.
23. Remove the serial number from the back of ballots to avoid vote tracing and therefore challenges to the principle of secrecy of the vote.

Women's Participation In Elections

24. Develop additional measures to reinforce the constitutional requirement and institutional mechanisms designed to achieve gender parity in government institutions.

Electoral Dispute Resolution

25. Conduct a comprehensive review of the electoral legal framework well in advance of the next elections to further clarify, update, and harmonize respective laws.
26. Introduce time limits for courts to issue rulings on pre-election electoral disputes to ensure effective and timely remedy for complainants.
27. Cancel or reduce the required security fees for filing petitions in order to allow for equal access to justice for everyone.
28. Review the timeframe for filing postelection challenges, so as to allow complainants adequate opportunity to gather substantiating information to file complaints and to allow the court to conduct a proper investigation of the alleged violations included in the petition, which will strengthen the right to effective remedy and public confidence in the judiciary's resolution of electoral disputes.

Complaints and Appeals (On Election Day):

29. Make it possible to file complaints at the polling-station level on election day and include instructions on the procedures and forms to do so in polling manuals and information provided to the candidate and party agents.



Postelection Political Environment:

30. Judiciary: Uphold the legal rights of citizens and the country's domestic and international commitments to the U.N. human rights conventions, the African Charter on Human and Peoples' Rights and the Declaration of Rights of the Zimbabwe constitution (Chapter 4, Section 50: Protection of the Rights of Accused and Detained Persons.)
31. Investigate in a transparent fashion the violent events of Aug. 1 so that perpetrators may be brought to justice, according to local and international laws.

Annexes

Terms and Abbreviations

ACDEG	African Charter on Democracy, Elections and Governance	IFES	International Foundation for Electoral Systems
AIPPA	Access to Information and Protection of Privacy Act	IPU	Inter-Parliamentary Union
ARTUZ	The Amalgamated Rural Teachers Union of Zimbabwe	IRI-NDI	International Republican Institute – National Democratic Institute
AU	African Union	JSC	Judicial Services Commission
BVR	Biometric voter registration	MDC-A	Movement for Democratic Change-Alliance
CCJPZ	Catholic Commission for Justice and Peace Zimbabwe	MDC	Movement for Democratic Change
CEO	Chief elections officer	MDC-T	Movement for Democratic Change-Tsvangirai
CIO	Central Intelligence Organization	MPLC	Multiparty liaison committees
CITE	Center for Innovation and Technology	NGO	Non-governmental organization
COMESA	Common Market for Eastern and Southern Africa	NPF	National Patriotic Front
CSO	Civil society organizations	POSA	Public Order and Security Act
CoE	Code of ethics	PPP	Purchasing Power Parity
ECF-SADC	Electoral Commissions Forum of SADC countries	PYD	Platform for Youth Development
EISA	Electoral Institute for Sustainable Democracy in Africa	SADC	Southern African Development Community
ELMO	Election Monitoring	UN ICCPR	United Nations International Covenant on Civil and Political Rights
EOM	Election observation mission	UNDP HDR	United Nations Development Program Human Development Reports
ERC	Electoral Resource Centre	UNHRC	United Nations Human Rights Council
ESR	Election Situation Room	USSD	Unstructured Supplementary Service Data
EU	European Union	ZANU-PF	Zimbabwe African National Union-Patriotic Front
FPTP	First-past-the-post majoritarian system	ZCC	Zimbabwe Council of Churches
GDP	Gross Domestic Product	ZDF	Zimbabwe Defense Force
GNU	Government of National Unity	ZEC	Zimbabwe Electoral Commission
ICT	Information Communication Technologies	ZESN	Zimbabwe Election Support Network
IDEA	International Institute for Democracy and Electoral Assistance	ZHRC	Zimbabwe Human Rights Commission

Election Results

Presidential Results (The Commonwealth)

	Candidate	Party	Votes	%
	Emmerson Mnangagwa	ZANU-PF	2,456,010	50.67
	Nelson Chamisa	MDC-A	2,151,927	44.39
	Thokozani Khupe	MDC-T	45,626	0.94
	Joseph Makamba Busha	FreeZim Congress	17,540	0.36
	Nkosana Moyo	Alliance for People's Agenda	15,172	0.31
	Evaristo Chikanga	Rebuilding Zimbabwe Party	13,132	0.27
	Joice Mujuru	People's Rainbow Coalition	12,823	0.26
	Hlabangana Kwanele	Republican Party	9,460	0.20
	Blessing Kasiyamhuru	Zimbabwe Partnership for Prosperity	7,016	0.14
	William Mugadza	Bethel Christian Party	5,898	0.12
	Peter Wilson	Democratic Opposition Party	4,895	0.10
	Peter Munyanduri	New Patriotic Front	4,498	0.09
	Divine Mhambi	National Alliance of Patriotic and Democratic Republicans	4,405	0.09
	Ambrose Mutinhiri	National Patriotic Front	4,107	0.08
	Daniel Shumba	United Democratic Alliance	3,905	0.08
	Peter Gava	United Democratic Front	2,858	0.06
	Brian Mteki	Independent	2,732	0.06
	Lovemore Madhuku	National Constitutional Assembly	2,692	0.06
	Noah Ngoni Manyika	Build Zimbabwe Alliance	2,681	0.06
	Elton Mangoma	Coalition of Democrats	2,431	0.05
	Melbah Dzapasi	#1980 Freedom Movement Zimbabwe	1,890	0.04
	Violet Mariyacha	United Democracy Movement	1,673	0.04
	Timothy Chiguvare	People's Progressive Party	1,546	0.03
Invalid/ blank votes			72,316	—
Total			4,847,233	100

National Assembly Results (ZEC):

	Party	Votes	%	Seats
	ZANU-PF	2,477,708	52.35	179
	MDC-A	1,624,875	34.33	88
	MDC-T	161,824	3.42	1
	People's Rainbow Coalition	61,644	1.30	0
	National Patriotic Front	49,103	1.04	1
	Zimbabwe Partnership for Prosperity	26,515	0.56	0
	Zimbabwe African People's Union	16,088	0.34	0
	Zimbabwe Democratic Union	11,199	0.24	0

	National Constitutional Assembly	9,736	0.21	0
	Mtwakazi Republic Party	9,554	0.20	0
	Build Zim Alliance	8,486	0.18	0
	Coalition of Democrats	6,522	0.14	0
	FreeZim Congress	4,303	0.09	0
	United Democratic Alliance	3,599	0.08	0
	Republican Party of Zimbabwe	3,264	0.07	0
	Freedom Movement #1980	2,146	0.05	0
	Alliance for the Peoples Agenda	2,111	0.04	0
	United African National Council	1,889	0.04	0
	The African Democrats	1,387	0.03	0
	United Movement for Democracy	1,357	0.03	0
	Alliance for National Salvation	1,204	0.03	0
	Zimbabwe Rainbow Democratic Party	1,172	0.02	0
	People's Progressive Party Zimbabwe	1,064	0.02	0
	Freedom Justice Coalition Zimbabwe	773	0.02	0
	United Democratic Front	611	0.01	0
	PRZ	494	0.01	0
	Zimbabwe Labour Party	464	0.01	0
	Zimbabwe Patriotic Movement	402	0.01	0
	Zim First	373	0.01	0
	National Action Party	362	0.01	0
	Rebuilding Zimbabwe Party	346	0.01	0
	Maat – Zimbabwe	342	0.01	0
	Zimbabwe People's Party: Good People's Movement	328	0.01	0
	Democratic Official Party	323	0.01	0
	United Democracy Movement	318	0.01	0
	Forces of Liberation Organization of African National Party	303	0.01	0
	Chief's Party	282	0.01	0
	United Crusade for Achieving Democracy Green Party of Zimbabwe	224	0.00	0
	Unity Party Zimbabwe	214	0.00	0
	New Zimbabwe Republican Party	198	0.00	0
	Federal Democrats of Zimbabwe	194	0.00	0
	ERA	177	0.00	0
	Democratic Alliance–United People's Party	147	0.00	0
	Progressive Democrats of Zimbabwe	144	0.00	0
	United Christian Alliance	123	0.00	0
	African People's Congress	70	0.00	0
	Suffering Voices of Zimbabwe	66	0.00	0
	Freedom Front	44	0.00	0
	Independents	238,179	5.03	1
Total		4,732,851	100	270

Senate Results (ZEC):

	Party	Seats
	ZANU-PF	34
	MDC-A	25
	MDC-T	1
	Chiefs	18
	People with disabilities	2
Total		80

Carter Center Condemns Violence in Zimbabwe; Calls for Responsible Leadership, Peaceful Participation, and Transparency

August 01, 2018

FOR IMMEDIATE RELEASE

Contact: In Atlanta, Soyia Ellison, soyia.ellison@cartercenter.org

HARARE, ZIMBABWE – The Carter Center expresses grave concern about post-election tensions and the violent clashes that occurred today between armed security forces and protestors in Harare, which resulted in multiple casualties. The Center calls on Zimbabwe's political leaders to set an example by refraining from inflammatory rhetoric, which could incite further violence. Security forces should protect citizens and avoid disproportionate use of force.

"The Carter Center stands with Zimbabwe in its commitment to peace and democracy," former U.S. President Jimmy Carter said. "I urge political actors to demonstrate responsible leadership, Zimbabweans to exercise their political rights peacefully, and the Zimbabwe Electoral Commission to finalize detailed election results as transparently and expeditiously as possible."

While citizens expressed their preferences at the ballot box, the electoral process is still ongoing as the ZEC continues to tabulate and finalize results. Until official results for the presidential contest and remaining parliamentary races are announced, it is critical for everyone to demonstrate patience and to avoid making premature declarations about the results.

Although the legal deadline for announcing electoral results is Aug. 4, The Carter Center calls on the ZEC to publish the results expeditiously and in a transparent manner, including at the polling-station level to allow political parties to verify the integrity of the results and to increase public confidence.

This election marks a critical juncture in Zimbabwe's history, as it seeks greater democracy, freedom, and prosperity. The Center shares the Zimbabwean people's commitment to these ideals.

The Carter Center deployed an expert mission to observe the 2018 harmonized elections. The Center conducted a pre-election assessment in March 2018 and established a presence in May 2018 to assess the electoral process. The team's work is limited in nature and includes an analysis of Zimbabwe's legal and electoral framework, election administration, political and electoral environment, campaign period, women's participation, civil society engagement, and electoral dispute resolution. The Center did not conduct election day observation in a systematic and comprehensive manner. The expert mission will remain in Zimbabwe through Aug. 12 and will issue a final report on its findings.

Joint Statement by International Election Observation Missions to Zimbabwe's Harmonized Elections

August 02, 2018



We, the International Election Observer Missions present for the 30 July Harmonized Elections in Zimbabwe, while appreciating the generally peaceful and orderly pre-electoral environment and on voting day, express our grave concern about the regrettable outbreaks of post-election violence.

At the outset, we extend our sympathies to the families and loved ones of those affected by these troubling incidents.

While recognising the right to peaceful protest, we condemn vandalism and destruction of property and call on political party supporters to abide by the law.

We denounce the excessive use of force to quell protests and urge the police and army to exercise restraint.

We urge the Zimbabwe Electoral Commission (ZEC), to release the full and detailed results expeditiously, in a transparent and accountable manner. This election presents an opportunity for Zimbabwe to break the cycle of electoral contentions and post-election violence.

We call on the leadership of all political parties and their supporters, in particular the two main parties, ZANU-PF and the MDC Alliance, civil society, faith based organisations, and all other stakeholders to safeguard the integrity of the political and electoral process.

We urge all stakeholders and citizens to pursue grievances peacefully and through the established legal channels.

We encourage political leaders to show magnanimity in victory and graciousness in defeat.

On 30 July, the people of Zimbabwe went to vote in high numbers, aspiring for a new beginning. We stand in solidarity with them as they look up to their leaders, and all stakeholders to complete this process peacefully and credibly, and to ensure their votes truly count.

Agreed by the following Heads of International Election Observation Missions in Harare, Zimbabwe on 2 August 2018:

- **His Excellency Hailemariam Dessalegn Boshe, Head of the African Union Election Observation Mission (AUEOM)**
- **His Excellency John Dramani Mahama, Head of the Commonwealth Election Observation Mission**
- **His Excellency Tete Antonio, Secretary of State for External Relations of the Republic of Angola and Head of the SADC Election Observation Mission**
- **Justice Dr. Patrick Matibini, Head of the SADC Parliamentary Forum Election Observation Mission**
- **Judge Semistocles Kaijage, Head of Mission, ECF - SADC**
- **Ambassador Ashraf Rashed, Head of COMESA Election Observation Mission**
- **Elmar Brok, Head of the European Union Election**
- **Masa Janjusevic, Head of the Carter Centre Election Observation Mission**
- **Joint International Observation Delegation of IRI and NDI**