

Zimbabwe Harmonised Elections

23 August 2023



The Commonwealth

VOTE
ZIMBABWE!
Our Zimbabwe, Our Responsibility

Zimbabwe Harmonised Elections

23 August 2023



The Commonwealth

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Map of Zimbabwe



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Acronyms and Abbreviations

AMH	Alpha Media Holdings
BAZ	Broadcasting Authority of Zimbabwe
CCC	Citizens Coalition for Change
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CHOGM	Commonwealth Heads of Government Meeting
CLA	Commonwealth Lawyers Association
CMAG	Commonwealth Ministerial Action Group
COG	Commonwealth Observer Group
CSO	civil society organisation
ERC	Election Resource Centre
FBO	faith-based organisation
FAZ	Forever Associate Zimbabwe
FPTP	first past the post
ICT	information and communication technology
IMT	Inter-Ministerial Task Force on the Alignment of Legislation to the Constitution
MDC	Movement for Democratic Change
MDC-A	MDC Alliance
MDC-T	Movement for Democratic Change – Tsvangirai
MISA	Media Institute of Southern Africa
MMC	Media Monitoring Committee
MMZ	Media Monitors Zimbabwe
MOPA	Maintenance of Public Order Act
MoU	memorandum of understanding
MP	Member of Parliament
MPLC	Multi-Party Liaison Committee
NGO	non-governmental organisation
POLAD	Political Actors Dialogue
PVO	private voluntary organisation

PVT	parallel vote tabulation
PWD	person with disabilities
RSF	Reporters Without Borders
SADC	Southern Africa Development Community
UK	United Kingdom
USA	United States of America
UZA	United Zimbabwe Alliance
ZANU	Zimbabwe African National Union
ZANU-PF	Zimbabwe African National Union – Patriotic Front
ZAPU	Zimbabwe African Peoples Union
ZBC	Zimbabwe Broadcasting Corporation
ZCC	Zimbabwe Council of Churches
ZDF	Zimbabwe Defence Forces
ZEC	Zimbabwe Electoral Commission
ZESN	Zimbabwe Election Support Network
ZMC	Zimbabwe Media Commission
ZRP	Zimbabwe Republic Police

Letter of Transmittal

Commonwealth Observer Group Zimbabwe Harmonised Elections 23 August 2023

Dear Secretary-General,

I am pleased to forward to you the final report of the Commonwealth Observer Group ('the Group') you constituted to observe Zimbabwe's Harmonised Elections on 23 August 2023. It was my privilege to chair this observer mission, which comprised experts from all corners of the Commonwealth. It was our privilege to bear witness to this important milestone in the democratic life of Zimbabwe. We wish to extend our heartfelt gratitude to the people of Zimbabwe for the warm welcome shown to our Group throughout our time in the country.

Ahead of the elections, our Group received briefings by a wide range of stakeholders, including the Zimbabwe Electoral Commission, senior government officials, representatives of political parties, presidential candidates, the Commissioner General of Police, international observers, media representatives, members of the Commonwealth diplomatic corps, the Law Society, civil society organisations representing citizen observers, women, persons with disabilities, youth, church representatives, and business representatives. On Election Day, the Group deployed across eight provinces of the country, including the two municipalities of Harare and Bulawayo, where our observers met with local stakeholders.

As such, our report is based on extensive discussions with stakeholders across the country, and our own observations on the various aspects of the electoral cycle that we were able to observe. In accordance with our mandate, we assessed these elections against Zimbabwe's domestic law, regional and international laws and standards to which she has committed herself, as well as international good practice in the fields of democracy, governance and election administration. Crucially, in observing the process, our Group took into account the broader political, social and historical context in which these elections took place.

Aside from the tragic death of a political party supporter shortly before the election, we noted the largely peaceful environment during the campaign period, on election day, and in the post-

election period. Whilst more can be done to rid the process of some intimidatory tactics, on the whole political parties and Zimbabwean citizens are to be commended for their role in holding a peaceful election.

The Group also commends other positive developments. The extension of women-only seat quotas and the introduction of youth seat quotas fall short of previous recommendations on inclusion, but they are at least a positive step. On election day, officials were well trained and cooperated well with party agents and law enforcement. Voters waited long hours to exercise their democratic rights, and polling agents demonstrated admirable dedication to their jobs, particularly in those regions that experienced significant delays in the provision of ballots.

Yet, the Group regrets there were a number of shortcomings with the process that call into question the credibility, transparency and inclusivity of the election. Unfortunately, there have been few legislative reforms in key areas, including on the registration of political parties, campaign finance, and the independence of ZEC. Furthermore, Zimbabwe passed new laws that negatively impacted journalistic freedoms and civic space. The government, unfortunately, has not demonstrated the level of commitment to democratic reform that its citizens hope for.

There were also a number of significant issues in the pre-election period that impacted the credibility of the election, including a boundary delimitation exercise that did not confirm with constitutional requirements, and the denial of candidate nomination of 87 opposition aspirants due to a technicality, which had the effect of limiting the choice available to voters. Unfortunately, the media landscape in Zimbabwe also remains heavily biased towards the state.

The Group cannot ignore the combined impact of these shortcomings on the credibility, transparency and inclusiveness of the election. Consequently, the Group was unable to endorse all aspects of the election.

Yet, there is room for optimism. Attainable solutions exist for each of these shortcomings. The Group has provided recommendations for

improving specific areas of the electoral process that are responsive to Zimbabwe's political and cultural context that, with sufficient political will and multistakeholder collaboration, can be implemented in a manner that benefits the country as a whole. We hope these recommendations will be useful to national stakeholders as they seek to continue the unending process of democratic consolidation. And we trust that these recommendations are received in the spirit in which they are being offered. We call on the international community to stand ready to support Zimbabwe in this process, if called to do so.

We commend the people of Zimbabwe for demonstrating their commitment to representative

democracy, despite its challenges. The people of Zimbabwe have shown significant patience with the country's democratic project, and it is our sincere hope that Zimbabwe's leaders will take seriously the aspirations of its people for democratic consolidation and make concrete steps towards implementing reforms in the proceeding electoral cycle. If adopted, it is our sincere belief that Zimbabwe will emerge stronger and more united as a result.

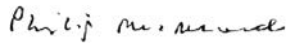
Yours sincerely,



Ambassador Amina Mohamed

Chairperson, Commonwealth Observer Group

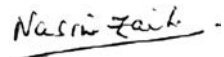
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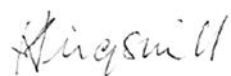
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Executive Summary

Following an invitation from the Minister of Foreign Affairs and International Trade of the Republic of Zimbabwe, and notwithstanding that Zimbabwe is not presently a member of the Commonwealth, the Commonwealth Secretary-General, the Rt Hon. Patricia Scotland KC, constituted a Commonwealth Observer Group (COG) for the 23 August 2023 Zimbabwe harmonised elections, in line with the provisions of the 2018 Revised Commonwealth Guidelines for the Conduct of Election Observation in Member Countries.

The Zimbabwe COG was chaired by Ambassador Amina Mohamed, former Cabinet Secretary for Foreign Affairs and Education of Kenya, and 13 other eminent Commonwealth citizens (Annex I). A staff team of 11 from the Commonwealth Secretariat provided technical support to the Group.

The Group was briefed on the preparations and political environment ahead of the 2023 harmonised elections by the Zimbabwe Electoral Commission (ZEC); senior government officials; representatives of political parties; presidential candidates; the Commissioner General of Police; international observers; media representatives; members of the Commonwealth diplomatic corps and the Law Society; civil society organisations (CSOs) representing citizen observers, women, persons with disabilities (PWDs) and youth; church representatives; and business representatives.

Elections are inherently complex processes with multiple phases and many stakeholders. As such, it is incumbent on observers to assess the election day administrative process within the wider legal, political and democratic context in which it takes place. In accordance with the COG's mandate, and in line with the Declaration of Principles for International Election Observation, the Group considered a broad array of factors impacting the credibility, transparency and inclusivity of the election, including the protection of civic and political rights, such as freedom of association, assembly, conscience and expression; freedom to vote and stand for election; institutional independence and impartiality; the equality of the vote; access to the courts; the role and freedoms of civil society; freedom of the press

and campaign coverage; the inclusion of women, youth, PWDs and marginalised groups; and the administrative aspects of the election. In seeking to determine the credibility, transparency and inclusivity of the election, the Group assessed each of the constituent elements in turn, in order to be able to form nuanced conclusions, avoid reductive judgements and provide targeted recommendations.

Political environment

The prevailing atmosphere in the months leading up to the election was largely peaceful compared with previous cycles, with few instances of significant electoral violence. The Group was informed of some instances of intimidation during the campaign period, as well as a sense of fear among some stakeholders; the Group was briefed on isolated instances of inter- and intra-party violence, including one that resulted in the tragic death of a Citizens Coalition for Change (CCC) supporter shortly before the election. Yet a number of stakeholders noted the improved political climate compared with 2018, and the campaign period was mostly peaceful. Political parties are to be commended for signing the pre-election peace pledge, and the Group further acknowledges the peace messaging of the Multi-Party Liaison Committees in this regard.

The Political Actors Dialogue (POLAD) ostensibly represented an effort to calm tensions that had arisen between parties since 2018. POLAD was, however, boycotted by the two largest opposition parties, CCC and the Movement for Democratic Change – Tsvangirai (MDC-T), which were apprehensive of the effect of this body on the voice of the main opposition. Therefore, while political parties, security services and other electoral stakeholders are to be commended for the part they played in a largely peaceful election, there is still more to be done, particularly by the governing party and security services, to build trust and rid the process of intimidatory tactics that may dampen levels of political participation.

In order to address youth disillusionment in representative democracy, political parties across the spectrum must also demonstrate a greater

commitment to political discourse rooted in policy reform, as opposed to one centred around individual personalities.

Legislative reforms

The Constitution of Zimbabwe Amendment Act 2021 contains both positive and negative provisions. The Act's extension of the 60 party list seats for women, the introduction of a 10-seat quota for youth in the National Assembly and a 30 per cent quota for women via proportional representation in local authorities are welcome provisions. Yet the Group notes that these provisions fall short of the 2018 COG's recommendations regarding the establishment of directly elected women-only seats.

The Amendment Act also includes new provisions that confer the President with the authority to appoint vice-presidents, as well as the ability to extend the terms of office of the most senior members of the judiciary for a period of five years. The Group is concerned that the former provision further concentrates power in the Office of the President, whereas the latter does little to assuage concerns regarding a perceived lack of independence of the judiciary. Indeed, the President's newfound authority to grant extensions to judicial appointees is in opposition – both in spirit and in letter – to the 2018 COG recommendation that provisions pertaining to the appointment of members of the judiciary be free from political influence.

The Group noted the establishment of the Inter-Ministerial Task Force on the Alignment of Legislation to the Constitution (IMT), which developed a draft bill to amend the Electoral Act in line with certain recommendations of the 2018 COG. While the resulting Electoral Amendment Act 2023 was not operational in the 2023 election, the Group notes that it fails to bring the Act in alignment with key constitutional provisions, particularly regarding women and PWDs. The Group is thus concerned by deficiencies in the consultative and drafting processes, and by the apparent lack of government commitment to advancing electoral and democratic reforms. This is evidenced by the fact that none of the 2018 COG Report's major legislative recommendations have been implemented, including those on strengthening political finance regulations, increasing the independence of ZEC and introducing legislation on the registration of political parties.

The Group is also concerned by the passing of new legislation with negative impacts on fundamental democratic and political rights, including freedom of association and assembly, as well as journalistic freedoms. The Criminal Law (Reform & Codification) Amendment Act (the 'Patriot Act') received presidential assent on 14 July 2023, despite the government's claims that this would not occur until after the election. The Group is deeply concerned by the chilling effect this Act may have on freedom of expression, assembly and conscience.

The Group is also troubled by certain provisions of the Maintenance of Public Order Act (MOPA), which has repealed the Public Order Act. The new Act grants the police substantial powers in respect of the sanctioning of campaign activities – powers that some parties claimed resulted in unfair denials of the right to hold rallies.

Lastly, the Group also noted with concern key provisions of the Private Voluntary Organisations (PVO) Bill, which will govern the registration and regulation of CSOs. The Bill had not passed into law at the time of the election, although CSOs were of the view that it was *de facto* already in operation. The Bill prohibits 'lobbying' yet does not clearly define this term and vests the responsible Minister with considerable powers in respect of both the initiation of investigations and the appeals process.

The above laws should be reviewed by the government, the Office of the Attorney-General and the legislature to ensure their full alignment with the Constitution and Zimbabwe's commitments under international law.

Independence of ZEC

Public trust in the electoral process is dependent in large part on people's confidence in the independence of the electoral commission. As noted by previous observer missions, the legal framework underpinning the appointments, staffing, operations and reporting processes for ZEC undermines its independence and reduces public confidence in the institution. The Group regrets that no reforms have been undertaken to rectify these shortcomings, and strongly encourages legal amendments in this regard.

Boundary delimitation

The Group has a number of concerns with respect to the boundary delimitation exercise. The exercise was carried out late in the day, despite

the Census Act having been amended to facilitate the timely execution of this process. Additionally, the methodology ZEC employed to determine registered voters per constituency was not in line with constitutional provisions, resulting in a larger differential of voters between constituencies than would otherwise have been the case. This disproportionately affected urban constituencies. As such, the equality of the vote was not entirely provided for, and the possibility of gerrymandering cannot be disregarded.

Voter registration and provision of the voters' roll

With voter registration standing at 83 per cent of eligible citizens, the Group commends the people of Zimbabwe for their commitment to the democratic process, and commends ZEC for the administration of this exercise, including the significant voter education efforts that this entailed. However, ZEC failed to provide, in a timely manner and in accordance with the law, updated polling station voter lists to parties that took account of additional polling stations announced by ZEC. The Group has provided recommendations aimed at ensuring greater transparency in future elections.

Candidate nomination and dispute resolution

The Group notes that there were 140 pre-election court cases, a significant increase since 2018. The Group commends the courts for their ability to hear such a large quantity of cases, and further commends political parties and candidates for their commitment to seeking redress through the courts. The Group notes the positive decision of the Appellate Court to reinstate the candidacies of 12 CCC candidates. Yet ZEC's refusal to extend the deadline for MDC-T to make the necessary payments, despite allowing extensions for other parties, cast a significant shadow on the candidate nomination process.¹ In future elections, it is imperative that ZEC, in exercising its discretion, weigh up the relative importance of procedural issues versus the democratic ideal of maximising the choice available to voters.

¹ This decision was later upheld by the High Court, which rejected MDC-T's petition on procedural grounds.

Registration of political parties

Despite years-long discussions and previous observer recommendations, Zimbabwe is yet to pass legislation on the registration of political parties. The Group acknowledges the hesitance of some stakeholders, who fear parties could be unduly deregistered. Yet such legislation could be crafted in such a way that it not only provides assurances to parties but also results in the strengthening of political parties by compelling them to have constitutions and legally robust party executives. The drafting of such legislation should happen in tandem with a review of legal provisions pertaining to ZEC's independence.

The media

The Group was encouraged to see some progress towards greater liberalisation of, and pluralism in, the media landscape. Yet too much of the media remains either state-owned or owned by government-friendly individuals, and the positive steps referred to above have been significantly undercut by the passage of new laws that have had negative impacts on media freedoms and that lead to self-censorship. The result is that there is no genuine public broadcaster; state television coverage continues to have a pro-government and pro-Zimbabwe African National Union – Patriotic Front (ZANU-PF) bias, and state broadcasters fell short of their mandate to provide balanced and equitable coverage of the campaign. The bedrock of a free and independent media is a legal framework that is aligned with the Constitution's provisions around freedom of expression. Legal reforms are necessary to ensure such alignment, and further reforms to promote media independence and pluralism are needed.

Inclusion and participation

Above all, the people of Zimbabwe are to be commended for registering and voting in large numbers,² often queueing for hours to do so. The lack of incidents on election day also demonstrates voters' commitment to a peaceful process. Zimbabwean citizens' commitment to ensuring their voices were heard is a reminder of the sanctity of the electoral process and, ultimately, of whom representative democracy exists to serve.

² Turnout was 68.9 per cent.

The Group commends ZEC for its efforts to mainstream gender throughout its strategic plan, including in targeted voter education that may have contributed to women representing more than 50 per cent of registered voters.³ Yet there still exist a multitude of impediments to women's political participation and representation, most of which inevitably lie beyond the ability of the electoral commission to resolve. These include a combination of legal, social, economic and cultural barriers that will require multistakeholder efforts to address. Regretfully, the number of women candidates in this election was a decrease on the 2018 figure. While the passage of laws that provide seats for women and youth is a step in the right direction, these laws fall short of constitutional provisions and previous COG recommendations.

Youth representatives expressed a degree of disillusionment with the electoral process, as well as with the internal democracy of political parties and their responsiveness to the needs of youth. PWDs were under-represented as candidates and noted the lack of support available to them to stand for election. In the case of women, youth and PWDs, there exist some low-hanging fruit, such as a reduction in candidate nomination fees and the provision of targeted leadership training by political parties, which could help reduce these gaps in future elections. Beyond this, legislative reforms in line with observer recommendations should be considered.

Parallel vote tabulation (PVT) by citizen observer groups is a well-established international practice; it provides a means of verifying the veracity of results, which in turn increases the transparency of the election. The Zimbabwe Election Support Network (ZESN) conducted PVT and sample-based observation in previous elections without issue. The Group was therefore deeply concerned by the police's decision to arrest 41 citizen observers and confiscate their equipment on the evening of 23 August 2023. Provided PVT results are shared after the official declaration of results, there does not appear to be any legal reason to prevent this activity.

Election day administration

On the whole, election day was well administered. Polls largely opened on time, polling staff appeared well trained, the security services were helpful and unobtrusive, and there were few - if any -

disturbances of the peace. The Group observed party agents for the two largest parties in the majority of polling stations. Voters turned out in large numbers to exercise their franchise, and the voting and counting process proceeded relatively smoothly. However, there is room for improvement in a number of areas: accessibility and priority voting procedures could be improved; party agents should be provided with copies of the register; and ZEC should seek to reduce the number of polling station tents in future elections. Yet, for the most part, ZEC, polling staff, agents, security personnel and voters are to be commended for a smooth election day in most parts of the country.

The one major challenge on election day was the delay to voting in Harare and Bulawayo and one or two other areas owing to the non-arrival of ballot papers and, in some wards, the need to provide corrected ballot papers. This was a significant shortcoming that cast a shadow on an otherwise smooth process. The Group finds it difficult to accept ZEC's explanation for either the non-arrival of ballot papers or the delays in issuing corrected ballot papers, which it attributed to candidate nomination legal issues. The Group commends President Mnangagwa for issuing a proclamation for the extension of the polling period in affected areas. Ultimately, it is hard to establish the impact the initial delays had on voter turnout. For future elections, ZEC should review its ballot printing processes to ensure there is no repeat of this situation.

Conclusion

As stated above, elections are complex processes that require nuanced assessments of their overall credibility, transparency and inclusivity. It is the view of the Group that the election day administrative process was largely without issue, save for the problems with ballot paper management that caused significant delays in two municipalities. In the pre-election period, however, there were a number of deficiencies, as detailed in this report; these on their own were significant enough to severely affect the overall credibility, transparency and inclusivity of the election.

The combined impact of these shortcomings cannot escape the Group's attention and, ultimately, the Group cannot endorse all aspects of the electoral process. Yet there is room for optimism. Each of the factors that affected the election's credibility are, when approached one by

³ The Group has not had sight of disaggregated voter turnout statistics.

one, readily surmountable with sufficient political will. In all countries, democratic consolidation is an on-going endeavour, but much can be achieved in five years. The onus is on the government to generate this political will.

In this regard, it is hoped the Group's recommendations are taken in the spirit in which they are being offered. In noting Paragraph 7 of the Revised Guidelines,⁴ the Group calls on Parliament, political parties, civil society, the media, youth and, above all, the government to work together, through the establishment of a domestic mechanism, to review and implement these recommendations. The Group encourages the international community to stand ready to assist Zimbabwean stakeholders in this regard when called upon. It is the heartfelt view of this Group that, should Zimbabwe resolve to strengthen democracy and governance through the implementation of said reforms, she and her people will emerge stronger and more united than before.

Recommendations

Legal framework and electoral administration

- The current potential for ministerial interference in ZEC reports could be remedied via a legal amendment compelling the concerned Minister to table the report to Parliament without edits, with any comments of the Minister or other parliamentarians on the reports' contents conveyed through regular parliamentary debate.
- Sections 14 and 15 of the Act, which relate to ZEC's accounts and the selection of auditors, should be reformed to confer greater financial independence on ZEC.
- The Act's requirements that ZEC report to Parliament through a Minister should be amended to include a requirement that the Minister table that report in the terms submitted by ZEC.
- Any provisions by which ZEC must perform its functions as directed by a member of the executive should be removed.
- The Act should be amended so that the fees for nominations of candidates are fixed by ZEC, and not by or at the direction of the executive.
- Section 238 of the Constitution affecting the appointment of the chairperson and other commissioners, and the maximum terms for which they may hold office, should be amended to limit the scope for political influence over this process.
- The employment of staff within ZEC's Secretariat and the selection of its committees should be under the control of ZEC, free of intervention by or involvement of the executive.
- Section 47 of the Electoral Act, and any other relevant laws, should be amended to enshrine ZEC's ability to set candidate fees without ministerial approval.
- ZEC should review candidate nomination fees to ensure political participation under Sections 3 and 47 (2) of the Act and Section 67 of the Constitution is guaranteed.
- In order to build public confidence and trust in the Census and delimitation process, relevant legislation pertaining to the Census and delimitation, in particular provisions on the timing of the delimitation exercise and the requirement that it be based on a final and publicly available census report, should be strictly adhered to.
- Consideration should be given to amending Section 161 of the Constitution to provide certainty and to avoid any unfortunate controversy in the context of another election or delimitation.
- Future boundary delimitation exercises should, as far as possible, uphold the constitutional provisions relating to the 20 per cent deviation from the national average of registered voters.
- The two-week 'top-up' mobile registration exercise should be extended in order to increase the number of registered voters.
- The six-day period for inspection is too short and should be significantly extended.

⁴ 'Commonwealth election observation has far greater impact and value when the recommendations offered by a COG, and other observers, are addressed so as to reduce the risk of shortcomings in future elections. Ideally there should be some form of domestic mechanism in place in each member country to review the conduct of an election and take forward prospective reforms as required' (CHOGM, 2018, 'Revised Commonwealth Guidelines for the Conduct of Election Observation in Member Countries'. <https://bit.ly/3Oy0cqc>).

- The *265# code used to check voter registration details is a commendable and much-valued innovation yet it is currently provided by only two telcos. ZEC should therefore work with the Postal and Telecommunications Regulatory Authority of Zimbabwe and all service providers to ensure customers of all networks are able to use this code.
- The 48-hour window for registering to vote following the proclamation of the election should be expanded for a reasonable amount of time, albeit long before the last date of nomination, to ensure the greatest possible expansion of franchise.
- In the interests of transparency and efficiency, ZEC should ensure that all persons, political parties and candidates receive free copies of the voters' roll and the polling station voters' roll strictly within the period of five days of nomination day, as proscribed by Section 21 of the Act.
- The Government of Zimbabwe and ZEC should explore avenues for extending the constitutional right to vote to Zimbabwean citizens who are not residing or who are not present within Zimbabwe on polling day.
- ZEC should ensure it significantly expands the gap beyond the current 24 hours between the issuance of directives on party list structures and the date of the Nomination Court, so as to allow political parties adequate time to compile and submit their lists.
- Electoral court judges should ensure all pre-election cases are heard with the appropriate level of urgency, and substantive reasons are given. The courts should be adequately resourced to do so.
- In order to build trust in the judiciary, and by extension the electoral process, the judiciary must ensure – and be seen to ensure – it upholds the key principles of impartiality, transparency and accountability in line with its constitutional requirements.
- Through a multistakeholder consultative process, Zimbabwe should draft and pass legislation that provides for a regulatory framework for the registration of political parties, including such provisions as may

be necessary – in either new or existing legislation – to guarantee the legal and administrative independence of the regulating body and equal application of the law.

Participation and inclusion

Women

Recommendations to the government:

- The government should consider increasing resourcing for educational programmes on gender equality and violence against women in elections.
- The government should consider improved enforcement of existing laws and strategies to achieve gender equality.
- The government should redouble its efforts on the implementation of targeted policies, based on analysis of key gender indicators, to address gender disparities.
- The number of women candidates that a party is able to place on its list for an election year should be used as a factor, by government, in considering the threshold for political party funding.

Recommendations to political parties:

- Political parties should consider creating a supportive framework that will encourage increased participation of women in the political process, particularly as candidates. This could include the provision of leadership training for women aspirants, as well as financial support for nomination fees and campaign expenditure.
- Political parties should amend internal party policies to ensure the appointment of a greater number of women in the party executive hierarchy and in decision-making positions.
- Political parties should consider putting more resources and efforts behind initiatives such as 'Vote for a Woman.'

Recommendations to ZEC:

- ZEC should consider reducing candidate nomination fees for women.
- ZEC should collect and publish gender-disaggregated data on voter turnout.

Youth

- In order to address low voter registration figures for youth, ZEC should give consideration to a programme to increase youth voter registration.
- Consideration should be given to lowering the age for holding political office to 18, the legal voting age, to create inclusivity for youth.
- ZEC should consider lowering nomination fees for youth aspirants.

Persons with disabilities

- Further consideration should be given to improving participation through enhanced and more targeted voter education materials, for example, use of braille or audio guides.
- To assist the elderly and PWDs, a review of polling stations should be undertaken. ZEC should consider the use of ramps and the provision of transport to polling stations.
- ZEC should improve engagement with PWDs and PWD organisations, and improve targeted PWD voter education.
- Consideration should be given to strengthening engagement between PWDs and other election stakeholders (e.g. political parties, CSOs) to enhance their participation throughout the electoral process, as practicable, as candidates, agents and observers
- ZEC and political parties should develop capacity-building and leadership training programmes for PWDs.
- ZEC ensure adequate representation of PWDs during its training of polling officials so as to ensure polling staff are sufficiently sensitised to accessibility and inclusion issues on election day.

The elderly

- Consideration should be given to facilitating postal voting for the elderly.
- ZEC should collect and publish age-disaggregated data on voter turnout.

Civil society

- In view of the importance of civil society in contributing to consolidating and deepening democracy, and its ability to

reach various audiences within society, including marginalised groups, a more constructive relationship should be fostered between CSOs, government, ZEC and other stakeholders in order to promote an environment where CSOs can operate freely and fulfil their lawful mandates without fearing for the safety of their organisation and personnel. This includes activities dependent on, or protected by, Article 62 of the Constitution on access to information.

- The government, the Office of the Attorney-General and Parliament should collectively review the Patriotic Act, MOPA and the PVO Bill to ensure compliance with fundamental political and civil rights contained in the Constitution and in international law.
- The well-established practice known as PVT (along with other non-official results computation methodologies such as exit polls and quick counts) should be permitted in Zimbabwe. Should amendments to Zimbabwean law be required to enshrine this right, such amendments should be made.
- ZEC and other stakeholders should undertake voter education to ensure citizens are fully aware that results announced by ZEC are the only official results.

Faith-based organisations

- Faith-based organisations should continue to play their role in the maintenance of peace and respect for human rights.

The campaign and the media*The campaign*

- To avoid any suggestions of executive bias, real or perceived, the Political Parties (Finance) Act should be amended such that the responsibility for determining in a transparent manner whether parties meet the criteria for state funding, and the subsequent disbursement of funds, rests with ZEC rather than the relevant Minister.
- In order to foster a level playing field and increase transparency and public confidence in the electoral process, Zimbabwe should consider the enactment of comprehensive political finance legislation applicable to both parties and candidates. The legislation

should include detailed provisions on the disclosure of assets, donations and sources of funding, and campaign expenditure, and on sanctioning. ZEC should be mandated to enforce the legislation, and should be sufficiently resourced to enable this.

The media

- The Group noted a disparity between the constitutional position that state broadcasters should provide free and equal access to public media and the reality of news reporting during the election period. The Group recommends that enhanced efforts be made to ensure full implementation of existing rights to ensure balanced and fair coverage of candidates and parties.
- The appointments process for Zimbabwe Media Commission board members should be reviewed to prevent undue influence by government officials.
- The Media Monitoring Committee (MMC), established by ZEC, should make greater efforts to enforce relevant media legislation and regulations, particularly as regards fair, equitable and balanced reporting of elections. The MMC should ensure its findings and decisions are published expeditiously.
- ZEC should reduce or eliminate accreditation fees for journalists.
- ZEC should consider measures to address hate speech, such as incorporating provisions on hate speech into the Electoral Code of Conduct for Political Parties.

Voting, counting and the results process

- ZEC should improve its pre-election communications and transparency with stakeholders regarding key stages of the electoral process, such as its plan for the printing of ballot papers, as well as the dates and procedures for postal voting.
- ZEC should also prioritise the development of election day and post-election communication strategies, based on models of crisis communication. Such communication strategies would allow for ZEC to apprise the public and the media in a timely manner on efforts to address issues such as delays to the commencement of

polling. Clear and regular communication is key to establishing and maintaining trust in the electoral process, and to avoiding the prospect of mis- and disinformation filling the information void.

- ZEC, going forward, should focus on and resolve logistics operations, particularly supplies of sensitive election materials, such as ballot papers, to ensure timely commencement of the polling process.
- ZEC should, over time, reduce temporary polling stations set up in tents, and relocate to proper public buildings, so it can better facilitate voting and improve the working conditions of polling officials. In the meantime, larger tents could be provided to ensure adequate space for polling officials, voters and agents.
- ZEC should ensure sufficient lighting in all polling stations, such as through the provision of additional lamps, to aid the voting and counting process after nightfall.
- ZEC should consider providing tables of a suitable and comfortable height from which to work.
- ZEC should consider if a new Form V.11 could be produced to reduce the time needed for completion. Perhaps some details on the Form could be completed before the poll closed – such as the names of the candidates.
- ZEC should consider including sample/ dummy ballot papers in its voter education programmes, and affixing sample ballots to the walls of polling stations, to educate voters on how to cast their vote.
- ZEC should enhance the inclusivity of PWDs by providing braille ballots for visually impaired voters and adequate ramps, including temporary ones where needed, for physically challenged voters, in line with the Constitution's guarantee on the right to vote. Signage and dedicated lines for PWDs at polling stations should be clearly marked to facilitate their voting.
- ZEC should ensure visible signage indicating the 300-metre radius around polling stations so that candidates, election agents and political parties comply with the regulations pertaining to prohibition of campaigning within this radius.

- ZEC should consider using appropriately labelled and coloured ballot boxes pertaining to different layers of the harmonised elections to facilitate voters in dropping their ballot papers in the correct corresponding ballot boxes. This will also improve efficiency in the counting process.
- To help voters reach their designated polling stations inside large polling centres with multiple streams, ZEC should, in line with international good practice, set up voter assistance booths at the entrance of such centres.
- ZEC should consider deploying police personnel at the gate of polling stations (or place them at the voter assistance booth) rather than deploying them inside polling stations. This would ensure that police can keep an eye on what is going on inside and are readily available to assist should the Presiding Officer call on them. Such a deployment would also be in line with international good practice.
- ZEC should promote the adoption of PVT that aligns with electoral regulations, as a globally recognised method to enhance transparency and public trust.
- ZEC officials and police personnel at polling stations should ensure that conduct such as that seen to be engaged in by Forever Associate Zimbabwe does not arise within the prescribed 300 metre radius of polling stations.

1. Introduction

This introductory chapter begins with a brief summary of Commonwealth Observer Group (COG) methodology to provide important background information on the context in which COGs operate. The chapter concludes with an overview of this methodology as applied to the 2023 Zimbabwe harmonised elections.

International election observation methodology

Since 1980, the Commonwealth has observed just under 200 elections in 39 member countries.⁵ International election observation serves a number of purposes, including:

- promoting openness and transparency in the electoral process
- deterring improper practices and attempts at fraud
- enhancing public confidence in the process, thereby contributing to acceptance of election results
- diffusing political tensions through diplomacy and mediation and
- strengthening international standards on electoral good practices.

The Commonwealth Revised Guidelines: key provisions

The *Revised Commonwealth Guidelines for the Conduct of Election Observation in Member Countries* ('Revised Guidelines') were agreed by Heads of Government at the 2018 Commonwealth Heads of Government Meeting (CHOGM) in London, United Kingdom.⁶ The key provisions include the following:

- COGs are independent, including of the Secretariat: 'Members of a COG are invited by the Secretary-General... in their personal

capacity as an eminent Commonwealth citizen, not as a representative of any member country, government or political group.'

- COGs are observers, not monitors: Unlike some citizen observer groups, which are permitted to intervene or offer assistance to electoral officials in a limited manner and act as monitors of the election, Commonwealth observers - as with all international observers - cannot and do not interfere in any way with any aspect of the electoral process.

Taking forward COG recommendations

The Revised Guidelines encourage member countries to establish '**domestic mechanisms**', such as multistakeholder meetings or committees, to review and take forward recommendations made by a COG.

Whole-of-election-cycle approach

Election observation is not a standalone activity. Where possible, the Secretariat seeks to support stakeholders in the implementation of these recommendations through a range of methods, including the production of expert publications, the training of election management body staff, the facilitation of peer-to-peer knowledge exchange and, crucially, bespoke technical assistance to national stakeholders upon the submission of a formal request.

The strength of Commonwealth Observer Groups

While all international election observer missions adhere to the 2005 *Declaration of Principles for International Election Observation*,⁷ each organisation's methodology has slight variances that reflect its unique strengths. The strength and value of Commonwealth observer missions lie in three key characteristics:

1. *Eminent observers*: While COGs are smaller in size than some other international observer missions, they comprise eminent

⁵ To access the Commonwealth's collection of COG reports dating back to 1967, see <https://library.commonwealth.int/Portal/External/en-GB/Collections/Collection/135>

⁶ CHOGM (2018) 'Revised Commonwealth Guidelines for the Conduct of Election Observation in Member Countries'. <https://bit.ly/3Oy0cqc>

⁷ United Nations (2005) 'Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers'. <https://bit.ly/43p4uV6>

persons from across the Commonwealth in their respective fields of expertise, such as senior politicians; electoral commissioners; diplomats; and human rights, legal and media experts. Biographies of all observers can be found in Annex I.

2. *Diversity and peer-to-peer learning:* COGs reflect the geographical diversity of the Commonwealth itself, with observers selected from each of the world's five continents. This inculcates a genuine spirit of peer-to-peer learning on election administration and democratic reform.
3. *Political mediation through the chair's good offices:* COGs are normally chaired by a former head of state or senior diplomat, invited based on careful consideration of a number of factors that ensure they are a 'good fit' for the election in hand. The respect afforded to such high-profile leaders allows COG chairs to enter into a 'good offices' role in instances of post-election political disputes and non-acceptance of election results. Such good offices roles have played a vital part in ensuring peaceful transitions between governments on many occasions.

More information on the role and mandate of observers can be found in the *Commonwealth Handbook on Election Observation*.⁸ For more information on the Commonwealth's efforts to promote democracy, please visit the Commonwealth Secretariat website.⁹

Deployment of a COG to the 2023 Zimbabwean elections

Following an invitation from the Minister of Foreign Affairs and International Trade of the Republic of Zimbabwe, and notwithstanding that Zimbabwe is not presently a member of the Commonwealth, the Commonwealth Secretary-General, the Rt Hon. Patricia Scotland KC, constituted a COG for the 23 August 2023 Zimbabwe harmonised elections,

in line with the provisions of the 2018 Revised Commonwealth Guidelines for the Conduct of Election Observation in Member Countries.

The Zimbabwe COG was chaired by Ambassador Amina Mohamed, former Cabinet Secretary for Foreign Affairs and Education of Kenya, and 13 other eminent Commonwealth citizens (Annex I). A staff team of 11 from the Commonwealth Secretariat provided technical support to the Group.

Terms of reference

The terms of reference for the Group were as follows:

- . *The Group is established by the Commonwealth Secretary-General at the invitation of the Minister of Foreign Affairs and International Trade of the Republic of Zimbabwe. The Group is to consider the various factors impinging on the credibility of the electoral process as a whole.*
- . *It will determine in its own judgement whether the elections have been conducted according to the standards for democratic elections to which Zimbabwe has committed itself, with reference to national election-related legislation and relevant regional, Commonwealth and other international commitments.*
- . *The Group is to act impartially and independently. It has no executive role; its function is not to supervise but to observe the process as a whole and to form a judgement accordingly. It would also be free to propose to the authorities concerned such action on institutional, procedural and other matters as would assist the holding of such elections.*
- . *The Group is to submit its report to the Commonwealth Secretary-General, who will forward it to the Government of Zimbabwe, the Zimbabwe Electoral Commission, political parties taking part in the elections and thereafter to all Commonwealth Governments.*

Activities

The COG was present in Zimbabwe from 16 to 29 August 2023. The Group was briefed on the preparations and political environment ahead of the 2023 harmonised elections by the Zimbabwe Electoral Commission (ZEC); senior government

⁸ The Commonwealth (2019) 'The Commonwealth Handbook on Election Observation'. https://staging-new-commonwealth-files.s3.eu-west-2.amazonaws.com/s3fs-public/2022-01/GPD_Handbook_Election_Observation.pdf

⁹ See <https://thecommonwealth.org/our-work/promoting-democracy>

officials; representatives of political parties; presidential candidates; the Commissioner General of Police; international observers; media representatives; members of the Commonwealth diplomatic corps and the Law Society; civil society organisations (CSOs) representing citizen observers, women, persons with disabilities (PWDs) and youth; church representatives; and business representatives.

The Group released its Arrival Statement on 18 August 2023 (Annex II).

On election day, members of the Group observed polling in eight provinces, including the municipalities of Bulawayo and Harare (Annex III).

The COG released an Interim Statement on 25 August 2023 (Annex IV), highlighting its preliminary findings and observations.

This report was prepared in Zimbabwe prior to the Group's departure on 29 August 2023. It was edited in London, signed off by observers and thereafter transmitted to the Commonwealth Secretary-General.

2. Political Background

Introduction

The purpose of this chapter is to provide a political background on the 2023 harmonised elections in Zimbabwe. In assessing these elections, and in offering our recommendations in subsequent chapters, the Group took account of relevant aspects of the country's past and present political context, and their impact on the 2023 elections. These included Zimbabwe's former racial colonial administration, the protracted struggle for independence and the lengthy regime of President Robert Gabriel Mugabe, who was in office from 1980 to 2017, which led to exacerbated geographic and tribal divisions, international isolation and economic decline. These sections of the chapter gratefully adopt much of the historical background contained in the 2018 report (differently constituted, at times). The present COG acknowledges with thanks the efforts of the 2018 COG in compiling this important historical background.

The chapter then proceeds to examine the reform efforts since 2018, along with the political background to the 2023 harmonised elections.

From British colonial influence to independence

British colonialism in Zimbabwe began in 1888 when Cecil John Rhodes, a forerunner of the British Government, and the British South Africa Company obtained access to mineral deposits from local chiefs. In the absence of significant gold discoveries, the white settlers acquired vast areas of fertile land for farming. Eventually, the region was divided under British rule as Southern Rhodesia, Northern Rhodesia and Nyasaland. In 1953, Southern Rhodesia, Northern Rhodesia and Nyasaland formed a federation that was dissolved at the end of 1963 after much crisis and turmoil. Northern Rhodesia, which is present-day Zambia, and Nyasaland, present-day Malawi, became independent states in 1964.

Southern Rhodesia became Rhodesia and remained under British control. The British colonial administration used traditional chiefs to provide leadership and influence over indigenous people.

This practice of indirect rule was used to support British objectives. The role and influence of traditional chiefs remains strong in Zimbabwe up till today – indeed is given legislative backing by virtue of the Traditional Leaders Act (Cap 29:17).¹⁰

In response to British pressure to accept black-majority rule, Rhodesia, then under Prime Minister Ian Smith, declared independence from the United Kingdom in 1965, which led the United Nations to impose economic sanctions. The nationalist movement, the Zimbabwe African Peoples Union (ZAPU), led by Joshua Nkomo, and eventually its break-away rival, the Zimbabwe African National Union (ZANU), led by Robert Mugabe, waged a guerrilla resistance against Ian Smith's government's Unilateral Declaration of Independence.

After years of liberation war and pressure from the international community, and the failed 1978 internal settlement between the Smith regime and moderate African nationalist leaders, all major parties in the conflict participated in peace talks, initiated at the 1979 CHOGM in Lusaka and finally convened in London, under the auspices of the British Government. This led to the Lancaster House Agreement on land, the holding of elections and acceptance of the principle of black-majority rule. A new Constitution was also part of the agreement. Robert Mugabe and ZANU won the 1980 elections, which the Commonwealth observed. Zimbabwe subsequently declared independence in the same year. It joined the Commonwealth in October 1980.

Zimbabwe hosted the 1991 CHOGM in Harare. That CHOGM resulted in the seminal Harare Declaration setting out the Commonwealth's fundamental political values. Zimbabwe would later be assessed on these values by the Commonwealth Ministerial Action Group (CMAG).

Post-independence period until the 2000 referendum

Zimbabwe's new government invested in socio-economic development and education. However, the short-lived peace was destroyed by the

¹⁰ This is explored further in Chapter 4.

Gukurahundi massacres, when the North Korean-trained Fifth Brigade army was unleashed on the people of Matabeleland and an estimated 20,000 Ndebeles were killed. In 1987, there was a Unity Accord between the leaders Joshua Nkomo of ZAPU and Robert Mugabe of ZANU. Eventually, these two parties would merge to become the Zimbabwe African National Union – Patriotic Front (ZANU-PF).

During the 1990s, the economy was in decline as a result of droughts, strikes for improved employment conditions, allegations of corruption and poor governance, the impact of the Economic Recovery Programme of the International Monetary Fund and the World Bank's Economic Structural Adjustment Programme. Notable during this period was the growing strength of the Zimbabwe Congress of Trade Unions in challenging government policies and mobilising strike actions. Morgan Tsvangirai, then a ZANU-PF member, was elected as its Secretary-General. He would subsequently become the head of a new opposition party, formed in 1999 with support from the trade unions, civil society and commercial farmers – the Movement for Democratic Change (MDC).

By 2000, Zimbabwe was in both economic and democratic difficulty. In February 2000, the government held a referendum on a new Constitution to replace the Lancaster House Agreement and was defeated. Although the government formally accepted the results of the referendum, ZANU-PF, as a party, interpreted the rejection of the draft Constitution as being the result of a conspiracy by the black urban middle-class elite (represented by the MDC), the country's white commercial farmers and the government's external enemies. The government decided to enact some provisions of the rejected draft Constitution, in particular the implementation of a fast-track land reform process that still reverberates in Zimbabwean politics.

Shortly after the referendum, in what was perceived as retribution for ZANU-PF's loss, some 'veterans of the liberation war' and their supporters moved to occupy a significant number of white-owned commercial farms and other lands amid a campaign of violence and intimidation. The continued implementation of the fast-track land reform, aimed at benefiting landless black Zimbabweans but generating considerable controversy, led to a sharp decline in production and is said to have contributed to the collapse of the economy.

Efforts to assist in addressing the land issue by the Commonwealth and other international partners, including through the Abuja Agreement on the Land Issue and Related Matters in Zimbabwe, did not make much progress.

The 2000 and 2002 elections

The political environment in the lead-up to the 2000 parliamentary elections led the Commonwealth Ministerial Action Group (CMAG), the custodian of the organisation's fundamental political values, to take an interest in Zimbabwe. CMAG voiced its concerns over on-going violence, loss of life, illegal occupations of land, failure to uphold the rule of law and political intimidation.

Subsequently, the COG that observed the 2000 parliamentary elections in Zimbabwe concluded that 'obstacles were put in the way of opposition groups attempting to exercise freedom of expression and movement.' The Group also deplored the 'violence and intimidation' over the weeks leading up to the elections.

When the COG observed the 2002 presidential election, it highlighted that, 'while the actual polling and counting processes were peaceful and the secrecy of the ballot was assured, the Presidential Election in Zimbabwe was marred by a high level of politically motivated violence and intimidation, which preceded the poll.' The Group concluded further that the 'conditions in Zimbabwe did not adequately allow for a free expression of will by the electors.'

The Group further expressed concern over a flawed legal framework, the activities of paramilitary youth groups, the restrictions placed on civil society groups and the disenfranchisement of thousands of Zimbabweans as a result of a lack of transparency in the registration process.

Zimbabwe remained on CMAG's formal agenda until its suspension from the councils of the Commonwealth in 2002, an event that precipitated President Mugabe's withdrawal of Zimbabwe from the Commonwealth in December 2003.

The 2008 and 2013 elections

The 2008 elections took place in a highly constrained political environment. These elections introduced the first real threat to President Mugabe's power, in the form of the opposition MDC, led by Morgan Tsvangirai, which by then had

also suffered a split. The MDC-T (led by the latter and therefore bearing the first letter of his surname) won the first round of the presidential election (as none of the parties achieved the 50 per cent plus 1 threshold). This outcome resulted in the unleashing of violence, allegedly at the hands of Mugabe and ZANU-PF, on MDC-T's members and supporters. Consequently, Morgan Tsvangirai refused to participate in the second round. The Zimbabwe Human Rights NGO Forum reported significant human rights abuses during this time.

Accordingly, the election outcome of the second round, which kept President Mugabe in power, was not recognised by the wider international community. After months of difficult negotiations mediated by the former President of South Africa, Thabo Mbeki, in his capacity as the facilitator for the Southern Africa Development Community (SADC), a power-sharing agreement, the Global Political Agreement, was reached. This resulted in Mugabe remaining President and Morgan Tsvangirai becoming Prime Minister. In January 2013, talks involving President Mugabe and Prime Minister Tsvangirai culminated in a new Constitution, which was approved by an overwhelming majority in a referendum.

The 2013 elections

The 2013 election was the first harmonised elections held under the new constitutional framework. The late President Mugabe gained a seventh term in office and his party won three-quarters of the seats in Parliament. The African Union Election Observation Mission noted in its report that, 'the political antecedents that contributed to the post-election violence of 2008 were feared to still exist.' However, the report said that voting was conducted in an atmosphere 'devoid of violence, harassment and disturbances' and 'from a historical perspective and in comparison to the 2008 elections', it was generally an improved process. SADC commended the relatively peaceful polls but also highlighted some irregularities. Both missions highlighted the polarisation and bias of the media during the elections.

In its report on the elections, the Zimbabwe Electoral Support Network (ZESN) highlighted its concerns about 'critical factors' such as 'inadequate and delayed voter education, an inadequate and flawed voter registration process, failure to provide the voters' roll to political parties and stakeholders on time, chaotic special voting, and the high

numbers of assisted and turned away voters'. ZESN concluded that these challenges 'seriously compromised the credibility and fairness' of the 2013 elections. The opposition MDC dismissed the polls as fraudulent. Notably, the 2013 elections were held under an unreformed electoral framework. Although the 2013 Constitution had been adopted, a Supreme Court judgment in May 2013, directing the government to hold elections by 31 July, did not leave sufficient time for the enactment of electoral reforms, which were being demanded by the opposition and other stakeholders.

Lead-up to the 2018 elections

Following the missed opportunity of the 2013 elections, reformist elements began to emerge within the ZANU-PF but were quelled by purges. The first was the dismissal of the then Vice-President, Joice Mujuru, in December 2014, who was the leader of the party's women's wing. President Mugabe appointed his wife, Grace Mugabe, as leader of the women's wing, giving her automatic membership into the party's politburo and fuelling speculation that she was being positioned to succeed the ageing President.

Emmerson Mnangagwa, Justice Minister, replaced Joice Mujuru as Vice-President. He had been the Minister responsible for state security during the massacre of the 1980s. There were subsequent reports of a succession struggle within the party, particularly between factions aligned with Grace Mugabe and Mnangagwa. Eventually, President Mugabe dismissed Mnangagwa on 6 November 2017, accusing him of undermining his authority. The latter went into exile in South Africa.

November 2017 transition

On 15 November 2017, members of the Zimbabwe Defence Forces (ZDF) seized control of the Zimbabwe Broadcasting Corporation (ZBC) and key areas of Harare. The ZDF subsequently issued a statement explaining that this was not a coup d'état, and that President Robert Mugabe was safe. On 19 November, ZANU-PF expelled Mugabe as party leader, replacing him with Mnangagwa. Mugabe resigned on 21 November, paving the way for Mnangagwa to be sworn in as President on 24 November 2017.

The regional and international community's silence over the nature of the military transition, often referred to in Zimbabwe as the 'new dispensation,'

provided an opportunity for the Mnangagwa government to pursue a reformist agenda involving a strong re-engagement with the international community. The message of reintegration into the international community, especially to attract much-needed investment for development, was one that appeared to be shared by the MDC opposition during this period.

Tsvangirai's death and emergence of the MDC Alliance

The MDC-T experienced its own challenges. The death of its leader, Morgan Tsvangirai, on 14 February 2018 triggered a succession row in the main opposition party among three rival leaders: Nelson Chamisa, Elias Mudzuri and Thokozani Khupe. Nelson Chamisa, an appointed Vice-President of the party, was eventually appointed its Acting President. Thokozani Khupe, former Deputy Prime Minister of Zimbabwe from February 2009 to August 2013 (during the Global Political Agreement), and an elected Vice-President of the party, challenged Nelson Chamisa for the leadership of the party. She did so on the basis that the party's rules required the acting party president to be an elected leader of the party.

Khupe was subsequently dismissed from the party, and she formed her own faction. A legal dispute arose between Chamisa and Khupe over the use of the party name and symbols. In what is seen as a compromise, Khupe's faction retained the MDC-T name and Nelson Chamisa's faction became the MDC Alliance (MDC-A). Both were elected presidential candidates for their respective parties for the 2018 elections. Khupe was one of the four women presidential candidates. For the 2018 elections, the MDC-A consisted of Chamisa's MDC-T faction, Transform Zimbabwe, Professor Welshman Ncube's MDC, Zimbabwe People First, the Multi-Racial Christian Democratic Party, the People's Democratic Party and ZANU Ndonga.

In the 30 July 2018 general election, President Mnangagwa was returned to office with 50.67 per cent of the 4.77 million valid votes cast. Chamisa obtained 44.39 per cent of the vote. Within two days of the polling date and before a declaration of the results of the election, there was an outbreak of violence in Harare in which six unarmed people were fatally shot in the streets by the Zimbabwean army. On the following day (2 August 2018), the Zimbabwean police raided the Harare-based headquarters of the MDC Alliance

party under a search warrant issued on the basis of an alleged suspicion that Chamisa and others were in 'possession of dangerous weapons' and were involved in 'public violence.' On 3 August, Chamisa called a press conference in the gardens of a hotel (where the COG was based); police in full riot gear entered the hotel grounds and forcefully instructed the journalists to leave, according to the 2018 COG Report. The COG's 'Overall Assessment' was as follows:

Important gains were made in these elections. The markedly improved pre-election environment, where all parties were generally able to campaign freely, is to be commended. The polls on 30 July were conducted in a peaceful manner and were well managed and transparent. For the first time, four out of a record 23 Presidential candidates were women – although more needs to be done to improve women's political representation in Zimbabwe.

However, the acute bias of the state media in favour of the governing party, the ZEC's limitations in the implementation of its mandate as identified in this report, persistent allegations of intimidation reported to the Group and the unfair use of incumbency privileges, unlevelled the playing field in favour of the governing party. The post-election violence, which resulted in fatalities, and the behaviour of security forces, marred this phase of the elections. For these reasons, the Commonwealth Observer Group is unable to endorse all aspects of the process as credible, inclusive and peaceful.

Political landscape leading to the 2023 elections

The 2023 harmonised elections are the fifth in the country's electoral history and the second to be conducted after the 2017 transition. The Group was informed that the nature of the campaign for the 2023 harmonised elections was influenced by an improved political climate compared with previous elections, and that the pre-electoral environment was comparatively peaceful. Reports of intimidation were alleged by some candidates and yet others cited legal hurdles that impeded their chances to exercise their right to contest the election.

Since the 2018 election, several actions to undertake political and electoral reforms have been initiated, from both the government and the civil society side. The Inter-Ministerial Task Force on

the Alignment of Legislation to the Constitution (IMT) developed a draft Bill to amend the Electoral Act, which took into consideration the 2018 COG recommendations and those of other international observers. ZEC undertook a series of post-election review processes with a variety of stakeholders and compiled its own recommendations for electoral reforms, which it submitted to the Minister of Justice, Legal and Parliamentary Affairs. Among the issues proposed were the need to prioritise electoral reforms to ensure alignment of the legal framework with the 2013 Constitution, enforcement of the electoral Code of Conduct and promotion of gender parity through the introduction of registration and internal democracy requirements for political parties.

In a parallel process, CSOs also undertook significant efforts to advance the electoral reform agenda and engaged with all stakeholders in several rounds of consultations. ZESN submitted a petition to Parliament in December 2018 and presented its recommendations on the proposed amendments to the Electoral Act in February 2019. After consultations with Members of Parliament (MPs) and upon a request by the Speaker, ZESN submitted a Model Electoral Amendment Bill in October 2020, essentially based on the 2018 observers' recommendations. It was accepted by Parliament as a working document for subsequent consultations between ZESN and the Parliament's Portfolio Committee on Legal and Parliamentary Affairs. ZESN's Model Electoral Amendment Bill was later updated following consultations with the Independent Commissions of Chapter 12,¹¹ representatives of the three parliamentary parties and the Political Actors Dialogue (POLAD).

Political Actors Dialogue

To address the political polarisation that characterised the 2018 and previous elections and promote a national dialogue, other initiatives were launched in 2019, including POLAD, initiated by President Mnangagwa. Several leaders of political parties that contested in the 2018 harmonised elections joined the dialogue platform, which was initially co-chaired by the National Peace and Reconciliation Commission and the Zimbabwe

Gender Commission. The main opposition political parties (MDC-A and the Citizens Coalition for Change – CCC) boycotted POLAD. The Group's engagement with the leadership of POLAD revealed that it had contributed to reducing political tension in the polity. Some stakeholders engaged were, however, of the view that POLAD had been largely unsuccessful in building consensus for electoral reforms. POLAD is currently chaired by the presidential candidate of the Zimbabwe Coalition for Peace and Development.

The Group was informed of stakeholders' concerns on the slow progress of the reform process, which reportedly has been affected by two major events: first, the suspension for an indefinite time of electoral activities following the President's Declaration of State of Disaster in view of the global COVID-19 pandemic in March 2020¹² and, second, the recall of opposition MPs and local authority officials who had contested the 2018 harmonised elections under the umbrella of the MDC-A, following a Supreme Court judgment of 31 March 2020.¹³ Reportedly, this recall impeded the consultative process required to progress the electoral reforms in Parliament.

The opposition political parties expressed their deep dissatisfaction with the status of electoral reforms.¹⁴ In the lead-up to the 2023 elections, CCC articulated alternative reform propositions that included a proposal on the right to vote for the diaspora; the de-politicisation of state institutions, including ZEC; inclusive voter registration and an accessible auditable voters' roll; media and political freedoms; de-politicised distribution of inputs and food handouts; a real-time auditable results announcement; and an agreement on the procurement and storage of all electoral materials. Civil society actors reported to the Group that, despite concerted efforts that resulted

¹¹ Chapter 12 of the 2013 Constitution establishes five Independent Commissions: the Zimbabwe Electoral Commission, the Zimbabwe Human Rights Commission, the Zimbabwe Gender Commission, the Zimbabwe Media Commission and the National Peace and Reconciliation Commission.

¹² Statutory Instrument 225A/2020 of the Public Health (COVID 19 Prevention, Containment and Treatment) (Amendment) Regulations 2020, No. 4.

¹³ ZESN (2021) 'ZESN Concerned about the Slow Pace of Electoral Reform', 29 September. <https://www.zesn.org.zw/zesn-concerned-with-the-slow-pace-of-implementation-of-electoral-reforms/press-statement/5698/19/30/21/29/09/2021/tinashe/>. On 25 March 2020, ZEC announced the suspension of all election activities until further notice.

¹⁴ Supreme Court Judgement No. SC 56/2020 declared the 2016 appointment and subsequent election of Nelson Chamisa as President of MDC-A null and void. Subsequently, the party lost its assets and the right to party funding.

in the submission of the Electoral Amendment Bill to Parliament, only a few select proposed amendments were passed.

Amendments to the 2013 Constitution

The most substantial reform has been the passing of the Constitution of Zimbabwe Amendment (No. 2) Act 2021. The provision for 60 party list seats for women in the National Assembly, the introduction of a 10-seat quota for the party list proportional representation of youth and the introduction of a 30 per cent quota for women by means of proportional representation in local authorities were lauded by political and electoral stakeholders that engaged the Group. The Group further noted the concerns of political parties, CSOs and the legal community over other amendments to the Constitution, which have been perceived as further consolidating presidential powers. In particular, the Constitution of Zimbabwe Amendment (No. 2) Act introduces provisions empowering the President to appoint and remove the Vice-Presidents from office, instead of their direct election and removal being by the Parliament, as was in force before the Amendment. The Act also empowers the President to extend the tenure of office for the Chief Justice, the Deputy Chief Justice and judges of the Constitutional and the Supreme Courts, for a period of five years after retirement age, subject to certification of physical and mental fitness.¹⁵

Constituency delimitation

The final delimitation report was gazetted on 20 February 2023, around three weeks later than the constitutional deadline of 28 January, the latest date for the report to be gazetted for it to not be within six months of the election date. The report was challenged in court by MDC-T but the Constitutional Court of Zimbabwe dismissed the case. The 2023 harmonised elections were thus conducted in the 210 constituencies and 1970 wards based on the new constituency and ward boundaries. The Group's interactions with civic and political actors revealed that concerns persisted

throughout the pre-election period regarding the process and outcome of the delimitation exercise, as Chapter 3 will discuss.

Intra- and inter-party disputes

The political environment leading to the 23 August harmonised elections was peaceful, albeit reportedly characterised by intra- and inter-party disputes. The Group noted that the August 2023 report of the Zimbabwe Peace Project highlighted and compared incidents of inter-party violence. There were isolated instances of violent intra- and inter-party clashes. Inter-party violence was reported to have resulted in one death in Harare on 3 August 2023.

The pre-election process was also characterised by an unprecedented level of litigation, with ZEC being the respondent in some 140 cases.¹⁶ During the 2018 elections, the opposition political party, MDC-A, won 87 seats. Intra-party disputes and litigations led MDC-A to recall 28 of its parliamentarians after the courts stripped Nelson Chamisa of the party's leadership in March 2020. The internal disputes leading to the 2023 elections were between Advocate Nelson Chamisa, Ms Thokozani Khupe and Senator Douglas Mwonozora.

In April 2020, Khupe won a Supreme Court judgement that allowed her to use the official name of the party, MDC-T. The party's headquarters building was handed to the MDC-T. State funding due to it in terms of the Political Parties (Finance) Act (calculated as a percentage of the votes won by MDC-A in the 2018 elections) was consequently transferred to the splinter MDC-T. In January 2022, MDC-T announced that it would contest the March 2022 by-elections using the name MDC-A. This final action necessitated the establishment of an entirely new party in February 2022 under the leadership of Nelson Chamisa, the Citizens Coalition for Change (CCC). The launch of CCC ended the tussle over the MDC-A name. CCC received no funding under the Political Parties (Finance) Act. Substantial government funds were allocated under that Act to ZANU-PF and to what was described as the MDC-A, upon the basis of the performance by the party then so called in the 2018 election. Mr Chamisa had been the leader of that party in the 2018 election but, by the time of the allocation of these funds, the MDC-A had

¹⁵ The Constitution of Zimbabwe Amendment (No. 2) Act was signed into law by the President on 7 May 2021, a few days before the Chief Justice would reach the mandatory (before the amendment) retirement age. Acting in accordance with the amended Section 186 of the Constitution, the Chief Justice exercised the option to extend his tenure of office by an additional five years, which the President accepted on 11 May 2021.

¹⁶ Election Court Watch, 5 August 2023.

ceased to exist. The result, the COG was informed, was that only ZANU-PF received any substantial funding from the state for its campaign in the 2023 elections, while its main opponent, CCC, led by Mr Chamisa, received no funding.

March 2022 by-elections

The 2023 harmonised elections were preceded by by-elections held on 26 March 2022 to fill in 28 vacancies in the National Assembly and 122 in local authorities. The seats became vacant mostly because of the recalls that had followed internal party disputes within the main opposition, MDC-A, as settled by the courts in tandem with Section 129(1)(K) of the Constitution, which stipulates that 'a member of parliament loses his/her seat if he/she ceases to be a member of the party under which they were elected'.

The March 2022 by-elections were held after a long period, beyond the 90 days set by Zimbabwe's electoral laws for filling such vacancies, owing to the indefinite suspension by the government of by-elections in early 2020 owing to the COVID-19 pandemic. The newly founded CCC won 19 of the National Assembly seats. ZANU-PF won nine. It was reported to the Group that, although the by-elections were mostly peaceful, the days leading up to them were marked by a number of reports of violence. Cases of violence were recorded, one of which, regretfully, led to the death of a CCC supporter, Mboneni Ncube, at the party's rally in Kwekwe on 27 February 2022.¹⁷

Youth representation

Representation of youth was a significant issue in the backdrop of the election. The COG was informed that youth regard the political class, and associated democratic institutions, as being dominated by the older generation. Indeed, youth representation in Parliament following the 2018 election stood at just 1.92 per cent.¹⁸ The Group was informed this owed to a variety of factors,

including lack of economic resources to contest elections, fear of violence and intimidation, and diminishing confidence in the ability of political parties to bring about positive change in their lives.

Proclamation of the 2023 harmonised elections

The Group further noted that Section 144 of the Constitution requires the President, by proclamation, to call and set a date for a general election after consultation with ZEC. Pursuant to this provision, His Excellency Emmerson Dambudzo Mnangagwa, on 31 May 2023, issued a proclamation fixing 23 August 2023 as the date for presidential, parliamentary and local government elections, referred to as the 'harmonised elections'. A further proclamation was issued by President Mnangagwa on 23 August 2023, rendering 24 August 2023 as polling day because of delays experienced at certain polling stations in receiving ballot papers. He also proclaimed 2 October 2023 for the run-off election to the office of President if such a poll became necessary.

Peace Pledge

The Group commends the decision by all political parties to sign a Peace Pledge on 4 August 2023 and all stakeholders who initiated and supported this process. Furthermore, the Group noted repeated peace messaging by President Mnangagwa and other presidential candidates, intended to enhance confidence that the 23 August elections would be peaceful. The Group also observed parallel provincial Peace Pledges signed in Manicaland Province and was informed of similar processes in other provinces, signed by youth leaders of political parties to enhance peaceful participation in the elections.¹⁹ The Group also noted the contributions of the Multi-Party Liaison Committees (MLPCs) in promoting peaceful elections.

Overall, the Group's observation of the pre-election period was that it was largely peaceful.

¹⁷ ZESN 2022 Report.

¹⁸ ZESN (2019) 'Youth Participation in Elections and Governance Processes in Zimbabwe. Position Paper. www.zesn.org.zw/wp-content/uploads/2019/11/ZESN-Position-Paper-on-Youth-Participation-in-Elections-and-Governance-Processes-in-Zimbabwe.pdf

¹⁹ The provincial Peace Pledge signing ceremonies for youth leaders of political parties were organised by Four H Zimbabwe and supported by the Swiss Embassy.

3. The Legal Framework and Electoral Administration

Harmonised elections in Zimbabwe were held on 23 August 2023 for presidential, parliamentary and local authority candidates.

The Constitution: supremacy, founding values and fundamental political rights

Zimbabwe is a unitary, democratic and sovereign republic (Section 1 of the Constitution). The supremacy of the Constitution is laid down in Section 2 and is binding on every person, including the state.

Section 3 of the Constitution mandates founding values and principles including the rule of law, gender equality, respect for human rights and fundamental freedoms, cultural diversity (including religious and traditional values), good governance and recognition of the liberation struggle. The section further stipulates good governance, including a multi-party democratic political system; an electoral system based on universal adult suffrage and equality of votes; free, fair and regular elections; adequate representation of the electorate; the orderly transfer of power following elections; respect for the rights of all political parties; the separation of powers; transparency, justice, accountability and responsiveness; and respect for the people of Zimbabwe, from whom the authority to govern is derived.

Chapter 3 of the Constitution guarantees equal citizenship, while Chapter 4 provides for fundamental rights and freedoms, including the freedoms of expression, assembly and association, without discrimination. The constitutional political rights guaranteed to Zimbabwean citizens include the right to vote in secret and, subject to age and other requirements, the right to stand for elections. Citizens are further guaranteed the political right to form and join a political party; to campaign and to participate in peaceful political activity and gatherings; and to influence, support or challenge government policies or any other political cause. The Constitution also guarantees special attention to the elderly and PWDs. The Constitution further

mandates that international treaties are binding only if approved by Parliament and domestic legislation is enacted.

Legal framework for electoral administration

Elections in Zimbabwe are governed by the Constitution of the country and the Electoral Act (Chapter 2:13). This legislation is complemented by subsidiary legislation in the form of regulations such as the Electoral Regulations – Statutory Instrument 21 of 2005, the Electoral (Accreditation of Observers) Regulations 2013, the Electoral (Voter Registration) Regulations 2017, the Electoral (Nomination of Candidates) Regulations 2014 and the Zimbabwe Electoral Commission (Media Coverage of Elections) Regulations – Statutory Instrument 33 of 2008.

The following national laws provide the direct legal and regulatory framework for the conduct of the elections:

- Constitution of Zimbabwe 2013 (as amended)
- Electoral Act 2023 (Chapter 2:13)
- Political Parties (Finance) Act (Chapter 2:11)
- various electoral regulations
- various statutory instruments
- case law

Various other laws with impacts on constitutional rights, freedoms and responsibilities associated with the conduct of democratic elections include:

- Maintenance of Peace and Order Act 2019
- Criminal Law (Codification & Reform) Amendment Act 2023
- Disabled Persons Act 1992
- Judicial Laws Amendment Act 2023
- Judicial College Act 1999
- Cyber and Data Protection Act 2021
- Broadcasting Services Act 2001

- Freedom of Information Act 2020
- Zimbabwe Media Commission Act 2020
- Censorship and Entertainment Controls Act 1967
- Official Secrets Act 1970
- Interception of Communications Act 2007
- Public Procurement and Disposal Act 2017

New and amended laws

There have been limited but significant changes to the electoral framework since 2018, including some that were passed within six months prior to the election date, contrary to international good practice on the holding of elections. This section lists these laws in brief, but they are addressed in more depth throughout this report in other relevant chapters.

Electoral Amendment Act 2023

The Electoral Amendment Act 2023 was first gazetted on 4 October 2022 and received presidential assent on 19 July 2023. Since the Act was assented to after the date of proclamation of the election, it was not in use for the 2023 elections, as per Section 157(5) of the Electoral Act.

Criminal Law (Codification & Reform) Amendment Act 2023

The Criminal Law (Codification & Reform) Amendment Act received presidential assent on 14 July 2023, despite the government's claims that this would not occur until after the election. The Group is deeply concerned by the chilling effect this Act has on freedom of expression, assembly and conscience. It is also unclear why such an Act was necessary, given existing legislation and constitutional provisions regarding treason and national security. This Act is addressed in greater detail in Chapters 4 and 5.

Maintenance of Peace and Order Act 2019

The Maintenance of Peace and Order Act (MOPA) 2019 repealed the Public Order and Security Act. The Group is concerned with certain provisions of this Act as regards fundamental political rights and freedoms, such as of association and assembly. This Act is addressed in greater detail in Chapters 4 and 5.

Statutory Instrument 144/2022 (Candidate Nomination Fees)

The issue of candidate nomination fees, as per Statutory Instrument 144 of 2022, is discussed in the section below entitled 'The Independence of ZEC'.

International human rights standards, commitments and instruments

Zimbabwe has signed, ratified and committed or agreed to key regional and international instruments accepted as relevant to democratic governance, including the conduct of elections, with a view to realising the fundamental norms that the will of the people shall be the basis of the authority of government. These are stipulated in the following instruments, among others:

- Universal Declaration of Human Rights 1948
- International Covenant on Civil and Political Rights 1966
- International Covenant on Economic, Social and Cultural Rights 1966
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979
- African Charter on Human and Peoples' Rights 1981
- Convention on the Rights of the Child 1990
- Treaty for the Establishment of SADC 1992
- International Convention on the Elimination of All Forms of Racial Discrimination 1996
- Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict 2000
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of women in Africa 2005
- Convention on the Rights of Persons with Disabilities 2006
- African Charter on Democracy, Elections and Governance 2007
- SADC Protocol on Gender and Development 2008

- African Convention for the Protection and Assistance of Internally Displaced Persons in Africa 2012
- Commonwealth Charter 2013

Electoral system

Chapter 7 Part 1 of the Constitution provides for the holding of regular elections, which must be 'peaceful, free and fair'. Elections must be held by secret ballot, based on universal adult suffrage, equality of votes and freedom from violence and other electoral malpractices (Section 155).

The state has responsibility to ensure the realisation of the principles stated above by taking appropriate measures with regard to the registration of qualified voters; the facilitation of voting by eligible voters and disabled persons; ensuring political parties and candidates have reasonable access to all materials and information necessary for them to participate effectively; ensuring fair and equal access to electronic and print media, both public and private; and timely resolution of election disputes (Section 155).

The Constitution further mandates ZEC to use simple, verifiable, accurate, secure and transparent voting methods; to announce the results as soon as possible after the closing of the polls; to eliminate electoral violence and malpractices; and to ensure the safekeeping of election materials (Section 156).

The Constitution further requires there to be an electoral law that addresses periodic delimitation of constituencies and wards; voter registration; codes of conduct for political parties and candidates; a system of proportional representation; the election of PWDs; elections at provincial, metropolitan council and local authority levels; and challenges to elections (Sections 157).

The electoral law must also ensure that nomination of political candidates is at least 14 days after proclamation of elections. The elections must be at least 30 days after the nomination of candidates (Section 157).

Electoral laws or subsidiary legislation can be amended only in consultation with ZEC, with its recommendations duly considered. Once an election has been proclaimed, no changes to an electoral law or any other law relating to elections have effect for the purposes of that election (Section 157).

Section 158 of the Constitution stipulates the conditions determining the timing of elections, and further states that 'general elections to local authorities must be held concurrently with presidential and parliamentary general elections'.

Zimbabwe's administrative structure consists of 10 provinces, divided into 210 constituencies and 1,958 wards.

President

A presidential candidate must be a citizen of Zimbabwe, a registered voter and at least 40 years of age. The President is elected to a term of office of five years and is limited to two terms. The President is directly elected by voters, with presidential elections conducted concurrently with every general election to other tiers of democracy. The presidential term is generally coterminous with the life of Parliament (Section 95).

According to the Constitution, for a candidate to be successful s/he must secure 50 per cent plus one of the votes cast in the first round – that is, using the absolute majority system of first past the post (FPTP). If no candidate secures that majority, then the two leading candidates contest in a run-off. For the 2023 elections, there were 11 presidential candidates, compared with 23 candidates in 2018. Among the candidates in 2023 there was only one woman, down from four in 2018.

The Constitution of Zimbabwe Amendment (No. 2) Act 2021 made a number of amendments to provisions relating to Vice-Presidents, most crucially that these are now appointed by the President-Elect rather than running on a joint ticket with the presidential candidate.

Parliament

The Constitution establishes Parliament, which consists of the National Assembly and the Senate (Section 118).

Senate

Section 120 of the Constitution and the Eighth Schedule of the Electoral Act provide for the establishment and appointments to the Senate. The senate comprises 80 Senators:

- Sixty Senators are directly elected through proportional representation (6 per each of the country's 10 provinces) by using a party list

system. The party list is a 'zebra' list; it starts with a female candidate who is followed by a male candidate, and alternates thereafter.

- Sixteen Chiefs are elected by the Provincial Assembly of Chiefs (established by the Traditional Leaders Act), with two elected from each of the provinces, apart from the metropolitan provinces of Harare and Bulawayo. This election was held on 3 August 2023.
- A further two Chiefs join the Senate by virtue of their positions as the President and Deputy President of the Council of Chiefs. This election was held on 10 August 2023.
- Two Senators are elected by the Electoral College for Persons with Disabilities to represent PWDs, pursuant to the Seventh Schedule of the Constitution. The Electoral College is established by the National Disability Board. Elections to these positions were held on 26 August 2023.²⁰

Candidates for the senate must be aged over 40 years (there is no upper age limit) and must be registered voters.

National Assembly

The National Assembly comprises 280 members:

- Of these, 210 members are directly elected from the country's 210 constituencies into which Zimbabwe is divided.
- As per the Constitution 2013, 60 women (six from each province) are elected under a party list system of proportional representation based on the total number of votes cast for candidates of a political party and for the life of the first two Parliaments following enactment of 2013 Constitution (Section 124).
- As a result of a 2021 constitutional amendment, 10 youth members aged 21–35 (one per province) are elected under a party list proportional system. Male and female candidates are listed alternately.

All candidates for the National Assembly must be registered voters and be at least 21 years old (S.125). MPs are elected to serve a five-year term but without restrictions on the number of terms they can serve. For the 2023 elections, there were 518 National Assembly candidates sponsored by political parties, as well as 64 independent candidates.

Provincial and Metropolitan Councils

Harare and Bulawayo have Metropolitan Provincial Councils, while the other eight provinces have Provincial Councils. Ten members are elected to each Council on the basis of proportional representation, and Mayors are elected by the councillors. Mayors are ceremonial, and at least in law lack substantive executive authority, which is vested in the Minister of Local Government, Rural and Urban Development.²¹ The legislative framework underpinning local governments and their election is contained in a number of laws, including the Constitution, the Electoral Act, the Rural District Councils Act (Chapter 29:13), the Urban Councils Act (Chapter 29:15) and the Local Government Amendment Act.

Local authorities

There are a total of 2,572 local authority seats. Of these, 1,970 are elected using a FPTP system, while 602 (30 per cent) are reserved for women and are filled using a proportional representation system based on the result of the election. Candidate criteria for local assemblies and the National Assembly are the same. For the 2023 elections, there were 4,648 candidates sponsored by political parties and 266 independent candidates. A total of 91 candidates were declared winners unopposed.

Parliamentary term and dissolution

A parliamentary term is five years from the date of the swearing-in of the President-Elect. Parliament stands dissolved at midnight before the general election date (Section 143). The President determines the first sitting of Parliament but it must be no later than 30 days after the President's assumption of office (Section 145).

²⁰ The COG did not observe the elections of 18 Chiefs nor those of the two PWD Senators because these were held either side of the COG's presence in Zimbabwe.

²¹ Chigwata, T.C., Marumahoko, S. and Madhekeni, A. (2019) 'Supervision of Local Government in Zimbabwe: The Travails of Local Mayors.' *Law, Democracy and Development* 23: 44–67.

Proclamation of general election 2023

The President of Zimbabwe proclaimed 23 August 2023 the date on which the harmonised presidential, National Assembly and local authority elections were to be held. This is contained in Statutory Instrument 85 of 2023 in terms of Section 144 of the Constitution of Zimbabwe. The dates for a general election must be fixed by the President after consultation with ZEC. Polling day is a public holiday.

The 'election period' means the period in time between the calling of the election and the declaration of the result of the poll; in the cases of constituencies and local authorities, the election period ends with the declaration of the result of the last constituency or ward.

The President also fixed:

- Nomination Court sittings for 21 June 2023 to receive nominations for candidates in respect of presidential, National Assembly and local authority elections
- election dates for senatorial seats
- the date for a run-off election, if it were to become necessary (2 October 2023).

The Group notes that, because of a delay in issuing ballots papers on election day in polling stations in some areas, the President of Zimbabwe issued a second proclamation that extended polling for a period of 24 hours in order to ensure voters at affected polling stations were given a full 12 hours to cast their vote.

Zimbabwe Electoral Commission

Chapter 12 of the Constitution establishes various Independent Commissions supporting democracy. Part 2, Sections 238–241, establishes ZEC.

- Section 238 establishes ZEC and determines its composition.
- Section 239 mandates the roles and functions of ZEC.
- Section 240 prescribes disqualification for appointment to ZEC.
- Section 241 requires ZEC to submit a report to Parliament, through the Minister of Justice, on every election and referendum.

Section 235 of the Constitution states that the Independent Commissions in general 'are independent and are not subject to the direction or control of anyone; must act in accordance with [the] Constitution; and must exercise their functions without fear, favor or prejudice'.

The Commission is required to submit a report to Parliament at least once a year on its programmes of work 'through the appropriate minister'. Although Section 235(1) of the Constitution prescribes that the Commission is 'accountable to Parliament' and Section 235(2) prescribes that the state 'must protect [the Commission's] independence, impartiality, integrity and effectiveness', the Minister of Justice holds the Commission's portfolio and therefore the report of the Commission is routed to Parliament through this Minister. The conflicting nature of this situation negatively affects perceptions regarding the independence of ZEC.

Recommendation:

- The current potential for ministerial interference in ZEC reports could be remedied via a legal amendment compelling the Minister to table the report to Parliament without edits, with any comments of the Minister or other parliamentarians on the reports contents conveyed through regular parliamentary debate.

Composition of ZEC

ZEC consists of a chairperson and eight other commissioners. The chairperson must be a judge, a former judge or a person qualified for appointment as a judge. The President, following consultations with the Judicial Services Commission and the Parliamentary Committee on Standing Rules and Orders, appoints the chairperson. The President, however, is not required to accept the advice of the Judicial Services Commission or the Committee but must inform the Committee if their recommendation is not accepted. The eight other commissioners are appointed by the President from a list of 12 nominees submitted by the Committee on Standing Rules and Orders. Commissioners are appointed for a six-year term and may be appointed for an additional term. No person can serve more than 12 years. Members of ZEC must be Zimbabwean citizens and must be chosen for their integrity, experience and competence.

Justice Priscilla Chigumba, Judge of the High Court of Zimbabwe, has served as the Chairperson of ZEC since 31 January 2018. Of the eight serving commissioners, two were appointed in March 2022 and six in July 2022.

A Secretariat, headed by a chief electoral officer, assists ZEC in the management and discharge of the operational aspects of elections. The chief electoral officer is appointed by ZEC (Section 9 of the Electoral Act) and is the chief executive and accounting officer of the Commission.

Section 9(7) of the Act allows the Commission to recruit any persons as it may deem necessary for the proper administration of an election. The terms and conditions of employment are approved by the minister responsible for finance (Section 9(8)).

The functions of ZEC are provided for in Section 239 of the Constitution. This includes preparing, conducting and supervising presidential, National Assembly and Provincial and Metropolitan Council elections; elections of the President of the Senate and the Speaker of the National Assembly; elections to the National Council of Chiefs (as per Section 285); and finally national referendums. ZEC must ensure that elections are conducted 'efficiently, freely and fairly, transparently and in accordance with the law' (Section 239).

Major functions of ZEC include the registration of voters; the compilation and custody of the voters' register; delimitation of constituencies, wards and other electoral boundaries; all matters pertaining to the design, printing and distribution of ballot papers; the accreditation of observers; instructing state employees recruited for the purpose of election administration; and, finally, receiving and considering complaints from the public and taking such action as it considers appropriate.

Other additional functions include undertaking research, keeping the public informed on various matters relating to the elections and ensuring that gender is mainstreamed into electoral processes (Section 5 of the Electoral Act).

The Electoral Act prescribes the decentralisation of ZEC. ZEC has 10 provincial offices and 63 district offices. For the conduct of elections, the Commission seconded additional personnel from the state and local authorities. ZEC identifies, selects and trains these individuals in order to supplement the staff complement of its officials.

Funding of ZEC

The ZEC is funded by a variety of sources, including by an appropriation bill, candidate nomination fees, monetary penalties issued by ZEC, donations and grants from either local or national sources (if approved by the Minister of Finance) and investments of money not immediately required by the Commission. ZEC had initially requested Z\$128.6 billion²² for 2023 in order to administer the elections but was granted Z\$101.6 billion (40 per cent lower than its request) via the Appropriation (2023) Bill 2022. However, ZEC informed the COG in its briefing that the Treasury provided necessary funds required to conduct elections.

Independence of ZEC

As discussed earlier, the Constitution states that ZEC, as one of the Independent Commissions supporting democracy, is independent and not subject to the direction or control of anyone. However, that independence must be promoted by the constitutional and legislated structure of ZEC, which, as far as possible, should allow and require ZEC to function independently, and to be seen by the people of Zimbabwe to be doing so.

The Group considers that there are several ways in which the structure of ZEC could be changed to promote its actual and apparent independence in practice. Each of them is directed to protecting the performance of the commission from the undue influence of the government of the day.

Some structural reforms are necessary for at least four reasons. The first is that, based on the Group's discussions with a variety of stakeholders, there are widespread and longstanding perceptions that ZEC lacks full autonomy and independence. The second is that Zimbabwe has not always enjoyed the most propitious environment in which to develop norms and conventions that might protect ZEC from interference of the executive.

The third is that the independence of ZEC must be supported by the rule of law and most importantly by an effective and independent judiciary, to which we will return subsequently. A strong perception

²² Mangwaya, M. (2023) 'Treasury Slashes ZEC Election Funding Bid by 40 Percent'. News Day, 7 April. www.newsday.co.zw/local-news/article/200009877/treasury-slashes-zec-election-funding-bid-by-40

by a substantial part of the population that these things are lacking requires the stronger protection of the reforms we suggest.

The fourth is that, based on interactions of the COG with stakeholders, it appears that the work of the executive and various institutions in Zimbabwe does not enjoy the scrutiny that is provided by a strong and balanced media coverage.

Recommendations: In summary, the Group recommends reforms to be made by amendments to the Constitution and the Electoral Act, as follows:

- Sections 14 and 15 of the Act, which relate to ZEC's accounts and the selection of auditors, should be reformed to confer greater financial independence to ZEC.
- The Act's requirements that ZEC report to Parliament through a Minister should be amended to include a requirement that the Minister table that report in the terms submitted by ZEC.
- Any provisions by which ZEC must perform its functions as directed by a member of the executive should be removed.
- The Act should be amended so that the fees for nominations of candidates are fixed by ZEC, and not by or at the direction of the executive.
- Section 238 of the Constitution affecting the appointment of the chairperson and other commissioners, and the maximum terms for which they may hold office, should be amended to limit the scope for political influence over this process.
- The employment of staff within ZEC's Secretariat and the selection of its committees should be under the control of ZEC, free of the intervention by or involvement of the executive.

The above-recommended reforms are discussed in more detail below:

Financial independence

ZEC must be provided with adequate and timely funding for the performance of its functions, which we recommend be mandated by the Electoral Act, if not by the Constitution. Having regard to the Public Finance Management Act, it would be ZEC's

responsibility to expend those funds consistent with its mandate and its statutory duty to publish audited accounts.

The powers of the executive to issue directions to ZEC as to its accounts, presently within the Sixth Schedule, Section 14 of the Act, should be removed. So, too, should be removed the powers to choose the external auditor of the accounts and to give directions for the extent of the auditor's work (beyond an audit of the accounts), which are conferred by Section 15. ZEC should choose its own external auditors based on its rules and in a transparent manner.

Reporting to Parliament

The financial reports of the Commission, like its other reports, should be furnished to Parliament through the Minister, with a requirement that the Minister table the report in the terms submitted by ZEC (Section 13 of the Act).

Other executive powers of direction

Similarly, other provisions of the Act by means of which the executive may direct the Commission in the performance of its functions we recommend be removed. The Commission will be accountable to Parliament and the supervisory jurisdiction of the courts to ensure that it acts according to law.

Candidate nomination fees

In August 2022, ZEC, with the approval of the Minister of Justice, gazetted Statutory Instrument 144/2022.²³ The Statutory Instrument significantly increased from 2018 levels the candidate nomination fees for presidential and National Assembly candidates, as follows:

- Presidential nomination fees increased from US\$1,000 to \$20,000.
- National Assembly nomination fees increased from US\$50 to \$1,000.

²³ Statutory Instrument 144 of 2022 https://www.veritaszim.net/sites/veritas_d/files/SI%202022-144%20Electoral%20%28Nomination%20of%20Candidates%29%20%28Amendment%29%20Regulations%2C%202022%20%28No.%2019%29.pdf

The Group has three interlinked concerns: the approval of fees by the Minister; the justification for such high increases in fees; and the impact of these increases on citizens' constitutional and legislative right to stand for election.

First, ZEC's requirement to receive approval from the Ministry of Justice for the setting of candidate nomination fees diminishes ZEC's independence. Second, given that the total fees received by ZEC from all candidates would have represented but a small fraction of the total budget of the Commission, it cannot be reasonably suggested that the increase in fees was necessary to fill a gap in its budget. Many stakeholders thus perceived the increase in fees to have been decided by the executive for reasons other than to fund the Commission's functions.

Third, the increase of 1,900 per cent places a significant burden on political parties and candidates. It unfairly discriminates against those parties or candidates who cannot afford the higher fees in favour of those who can do so, especially the party that also has the benefit of state funding. The fixing of the fees should be the sole province of ZEC, without the involvement of a Parliamentary Committee, which is likely to be dominated by the party then in government. Divine Mhambi Hove, leader of the National Alliance of Patriotic and Democratic Republicans Party, challenged the increase in nomination fees on the basis that they had not been properly considered by the Parliamentary Legal Committee. He obtained an order from the Constitutional Court requiring the Parliamentary Committee to consider (or reconsider) the fees but the Committee, dominated by members of ZANU-PF, then approved the fees anyway.

The Group appreciates that such increases in nomination fees may be comparable with increases in other countries in the region. Yet the measure of this law's constitutionality lies not in its comparison with other countries but rather in its impact on the fundamental political rights of Zimbabwean citizens. According to many from whom the Group heard, these fees presented a barrier to participation as a candidate for the financially disadvantaged, as well as for women, youth and PWDs (for whom the law provides no reduction in fees). The fees are demonstrated to offend the requirements that they not be inhibitive but instead reasonable enough to

allow an eligible citizen to stand for election to public office (see Sections 3 and 47 (2) of the Act, and the rights conferred by Section 67 of the Constitution).

The impediment to participation by otherwise eligible candidates, and those supporting their participation, goes to the heart of the fairness of the process of the election, regardless of what might have been an individual's prospects of election had he or she been able stand as a candidate. The impediment was all the more unfair for the fact that it resulted from the decision of a member of the executive, whose party was contesting every constituency and the election of the President.

It is necessary, we consider, that the Act be amended to provide that the nomination fees will be those quantified by the Commission, in accordance with the spirit and letter of the Constitution and Section 47 of the Electoral Act, and that the Minister will be required to cause those fees to be prescribed.

Recommendation:

- Section 47 of the Electoral Act, and any other relevant laws, should be amended to enshrine ZEC's ability to set candidate fees without ministerial approval.
- ZEC should review candidate nomination fees to ensure political participation under Sections 3 and 47 (2) of the Act and Section 67 of the Constitution is guaranteed.

Appointment and length in office of the chairperson and other commissioners

As discussed earlier, the appointment of the chairperson and other commissioners must be according to Section 238 of the Constitution. In the circumstances of Zimbabwe, summarised earlier, the fact that the power of appointment resides solely in whoever is the President is not ideal, insofar as it has the potential to compromise the independence of the Commission. On the other hand, it is not easy to conceive of a clearly preferable alternative, given that the other arms and institutions of government do not enjoy a history in which conventions and norms of conduct have been established and demonstrated to the satisfaction of both sides of the political divide.

Therefore, if the power to appoint the chairperson and commissioners of ZEC is to continue to reside solely in the President, it is necessary at least to confine the possible appointees as chairperson to those whose appointment would be supported by the bodies that must now be consulted about the appointment – namely, the Judicial Services Commission and the Committee on Standing Rules and Orders.

Again, in the circumstances, it is necessary to confine the potential period of service to one term of six years, to avoid a perception that an appointee may be acting in the office in order to win a further term.

Removal of a commissioner

Section 237 of the Constitution prescribes the grounds on which a commissioner might be removed, which is the same as the process required for the removal of a judge. That means that a commissioner can be removed only on the findings of an independent tribunal appointed to investigate and report on the suggested ground or grounds for removal.

We are satisfied that this provides sufficient protection against the risk of an actual or threatened removal from office by the executive.

ZEC staff and its committees

As noted earlier, Section 9(8) of the Act states that the terms and conditions of employment of Secretariat staff are subject to approval by the Minister for Finance. It is appropriate that the Act specifically provides that decisions on the employment of staff, including on to the terms and conditions of their employment, together with those on the engagement of members of a committee of ZEC, be made by ZEC without the advice or direction of a member of the executive.

Boundary delimitation

Section 160 of the Constitution stipulates that there must be 210 constituencies for the National Assembly. Section 161 compels ZEC to 'conduct a delimitation of electoral boundaries into which Zimbabwe is to be divided'. For both National Assembly and local authority boundaries, the delimitation exercise 'must be such that, so far as possible, at the time of delimitation equal numbers of voters are registered in each [ward and constituency]' (Section 161 (3-4)). Section 161(4)

(a-f) states that delimited constituencies and wards may vary by up to 20 per cent in order to take into consideration physical features, communities of interest and other factors. ZEC is required to undertake a boundary delimitation exercise once every 10 years 'or within a period fixed by the Commission so as to fall as soon as possible after a population census'. In order for the results of delimitation to apply to an election, the delimitation must be completed by ZEC at least six months before the polling day in a general election.

ZEC, after fulfilling constitutional requirements, must submit a final delimitation report to the President. The President, within 14 days of receiving the report, must make a proclamation declaring the names of constituencies as finally determined by ZEC.

Prior to the delimitation of boundaries that took effect on 22 February 2023, the most recent delimitation that ZEC had undertaken was in 2008. Section 161(1) of the Constitution required ZEC to conduct a delimitation 'once every 10 years, on a date or within a period so as to fall as soon as possible after a population census'. By Section 161(2), if a delimitation is completed less than six months before the polling day in a general election, the boundaries so delimited do not apply to that election. Consequently, the delimitation was more than four years overdue.

A further problem was that Section 161(1) also required that the delimitation be 'as soon as possible after a population census.' By an amendment in 2020 to Section 12 of the Census and Statistics Act, a national census was required to be conducted by 1 July 2021. The Census was not conducted until during a period from 21 to 30 April 2022. The delimitation process began in June 2022. A preliminary delimitation report was presented by ZEC to the President on 6 January 2023. The final census report was dated 16 January 2023. The final delimitation report was submitted on 17 February 2023, after the Census. However, there was no material difference between the preliminary and final reports.

At the closing of the voter register for the purposes of conducting the exercise, Zimbabwe had 5,804,376 voters, an increase of 3.42 per cent from the 2008 figure of 5,612,464. The figure of 5.8 million represented 72 per cent of all adult citizens (the final number of registered voters was 6,623,511, representing 83 per cent of all eligible citizens).

The Group is concerned by four key issues regarding the delimitation exercise:

1. *The Census and constitutionality*

The delimitation exercise was undertaken before the publication of the full report of the Census, which was not published until January 2023.²⁴ This raises *prima facie* concerns regarding the constitutionality of the exercise, and the statistical basis on which the exercise was conducted.

2. *Equality of the vote*

The methodology ZEC used in its delimitation report was as follows. ZEC first calculated an average of 27,640 voters per constituency by dividing the total number of registered voters in Zimbabwe at the relevant date by the number of constituencies (210). It calculated a range defined by 27,640 plus or minus 20 per cent, resulting in a maximum of 33,168 and a minimum of 22,112 voters. It then considered, province by province, whether the existing number of constituencies within that province was an appropriate number for that province. It did so simply by dividing the voter population within each province by the number of existing constituencies and comparing the result with the range of 22,112 to 33,168 voters. Where the average number of registered voters per constituency within a province was below 22,112, ZEC reduced the number of constituencies in that province so that the minimum of 22,112 was reached. Conversely, where the average number of registered voters per constituency within a province exceeded 33,168, the number of constituencies was increased so that the maximum of 33,168 was not exceeded.

This methodology had no apparent basis in Section 161 of the Constitution. Quite apart from the point to which we refer in the next paragraph, the fixing of a number of constituencies, province by province, was inconsistent with Section 161. The consequence of ZEC's methodology was that the delimitation failed to achieve anything approaching the equality in the numbers of voters across the 210 constituencies, which,

according to Section 161, should have been ZEC's objective. For example, the number of constituencies in Harare was increased by only one, from 29 to 30, despite Harare having experienced an increase in the number of its registered voters of the order of 24 per cent since the previous delimitation, resulting in all but two of its new constituencies having more than 30,000 voters. The percentage increase in the number of registered voters in Zimbabwe over the same period, as noted earlier, was 3 per cent.

3. *Possible misinterpretation of Section 161 of the Constitution*

Section 161(3) of the Constitution provides that the boundaries of the constituencies must be such that, so far as possible at the time of delimitation, the exercise results in equal numbers of registered voters in each constituency within Zimbabwe. Section 161(5) prescribes the considerations by which there may be a departure from that equality. The extent to which there may be a departure entails that no constituency may have a number of voters that is 20 per cent more or fewer than 'the other constituencies'.

In the previous Constitution (until 2013), the provisions for delimitation were in different terms. By Section 60(4), the Commission could depart from the requirement of equal voters in each constituency 'but in no case to any greater extent than 20 per centum more or less than the average number of registered voters in constituencies on the common roll'. As one stakeholder told us, ZEC referred to the current Constitution but used the language of the previous Constitution. In particular, ZEC employed the factor of an 'average' number across all constituencies, which is not found in the language of the present provision.

The language of the present provision is different, so that it cannot be assumed that it was intended to have the same effect as the previous one. To give it the same effect would require the insertion of other words. Nevertheless, if there is no other possible interpretation, it would be given that effect.

Another possible interpretation is that in no constituency should there be a number of voters that is 20 per cent more or less than

²⁴ ZimStat (2023) 'Zimbabwe 2022 Population and Housing Census Report'. https://www.zimstat.co.zw/wp-content/uploads/Demography/Census/2022_PHC_Report_27012023_Final.pdf

the number in another constituency. The effect of this is that the range within which the number for a constituency might be fixed is narrower, although not so narrow as to reject this interpretation as one that could not have been intended.

This issue was raised by the Parliamentary Committee that considered the preliminary report in January 2023. The Committee observed that 'there was a possible misinterpretation by ZEC of the twenty per cent variance provision in subsection (6) as some wards and constituencies ended up having a variance of up to 40 per cent'. Pursuant to Section 161(8) (b), the Committee referred the preliminary report back to ZEC for it to consider that issue and others. By Section 161(9), ZEC was bound to do so, but ZEC's final report contained no reference to it.

We recommend that consideration be given to amending Section 161 to provide certainty and avoid any unfortunate controversy in the context of another election or delimitation.

4. *Dispute resolution*

The Group notes that MDC-T challenged the veracity of the delimitation report, and by extension the constitutionality of the election, on a number of grounds, including per Section 119 of the Constitution, though this challenge was rejected by the Constitutional Court on 8 May 2023. The Court, as far as the Group could ascertain, did not provide reasoning for this decision. Indeed, the Group is also not aware of any justification provided by ZEC, either.

Recommendations:

- In order to build public confidence and trust in the Census and delimitation process, relevant legislation pertaining to the Census and delimitation, in particular provisions on the timing of the delimitation exercise and the requirement that it be based on a final and publicly available census report, should be strictly adhered to.
- Consideration should be given to amending Section 161 of the Constitution to provide certainty and to avoid any unfortunate controversy in the context of another election or delimitation.

- Future boundary delimitation exercises should, as far as possible, uphold the constitutional provisions relating to the 20 per cent deviation from the national average of registered voters.

Voter eligibility and voter registration

Voter eligibility

The eligibility requirements for voting in Zimbabwe are that a person must be a citizen of Zimbabwe and at least 18 years of age. The voters' roll is polling station-specific; in order to register, persons must provide proof of residence. At the point of registration, an eligible voter must have been ordinarily resident in their constituency for a continuous period of 18 months.

Section 17A of the Electoral Act prescribes continuous voter registration, although ZEC also conducted a mobile voter registration exercise from 12 March to 26 March 2023 in preparation for the upcoming harmonised elections. The voter registration exercise provided an opportunity for new registrants to register while others applied for transfers. Over 450,000 people were registered during the exercise, bringing the total voter population for the elections to 6,623,511 voters, or 83 per cent of all eligible citizens. Men comprised 46.3 per cent of all registered voters, while women represented 53.7 per cent. Youth of either gender (age 18-35) represented 41.7 per cent.

Voter registration in Zimbabwe is based on the digital capturing of a voter's biometric (photo and fingerprints) and biographical data and is termed 'biometric voter registration'. However, the latter is not used for identification of a voter on polling day.

Inspection of the provisional voters' roll was conducted from 27 May to 1 June 2023. The purpose of the inspection of the voters' roll was to allow members of the public to check if their details were correctly recorded and to amend any detected anomalies. There is no legal provision for an independent audit of the voters' roll. During the exercise, according to ZEC, 11,337 inspection centres were set up, with 1,177,326 inspections carried out by voters.²⁵ Many more people are

²⁵ Chairperson's Second Briefing to Observers, Harare, 16 August 2023.

stated to have inspected the voters' roll using the platform *265# created for Econet and NetOne mobile phone subscribers.

Recommendations:

- The two-week 'top-up' mobile registration exercise should be extended in order to increase the number of registered voters.
- The six-day period for inspection is too short and should be significantly extended.
- The *265# code used to check voter registration details is a commendable and much valued innovation, yet it is currently only provided by two telcos. ZEC should therefore work with the Postal and Telecommunications Regulatory Authority of Zimbabwe and all service providers to ensure customers of all networks are able to use this code.

Once voting day has been declared, the law indicates that there is a window of 48 hours for any voters to be included on the roll for that election. Any person registering after this cut-off period can only vote in the next election. This may have led to a number of voters not being able to vote in the 2023 elections.

Recommendation:

- The 48-hour window for registering to vote following the proclamation of the election should be expanded for a reasonable amount of time, albeit long before the last date of nomination, to ensure the greatest possible expansion of franchise.

Provision of copies of the voter register

At all relevant times for these elections, Section 21 of the Electoral Act required ZEC to provide various persons or entities with copies of the voters' roll within a reasonable period of time. By Section 24(4) it was required to provide, within a reasonable period of time after the calling of the elections, to every political party that intended to contest the election, and to any accredited observer who requested it, a copy of the voters' roll to be used in the election. By Section 21(6) it was required to provide, within a reasonable period of the time after the nomination day in an election, to every nominated candidate, a copy of the voters' roll in electronic form and (on payment of the prescribed fee) in printed form. By Section 21(7), where a voters' roll was provided in electronic form, its format was required to be such as to allow its contents to be searched and analysed.

Section 22A provides for 'polling station voters' rolls'. This required ZEC to determine where polling stations would be situated and to prepare a voters' roll for each polling station on which the names of all registered voters already resident within the area for that polling station were to be entered. By Section 22A(3), where a voters' roll had been prepared for a polling station area, voters who were registered on that roll were required to cast their votes at the polling station for whose area the roll had been prepared, unless they were permitted to vote by post. By Section 22A(3)(b), the provisions of the Act applicable to or in respect of constituencies and wards, and constituency and ward voters' rolls, applied with any necessary changes to or in respect of the polling station area and the polling station voters' roll for that area.

ZEC did not comply with these provisions. The elections were called on 31 May yet a roll was provided, at least to CCC, only in July. In non-compliance with Section 21(7), the rolls that were provided were not in a format that could be searched and analysed.

The main problem was that ZEC announced, on 8 August, that there would be new polling stations further to those relating to the national voters' roll that it had provided in July. On 8 July, ZEC had announced that it had established 1,501 polling stations but on 8 August it said there would be 2,370 stations. This meant 869 new polling stations for which polling station voters' rolls were yet to be created.

CCC brought proceedings to obtain orders that would compel ZEC to provide up-to-date rolls. The judge before whom the case came at first said that he did not consider that the matter was urgent, and that it could be heard after the election. The legal representatives for CCC persuaded the judge that it was urgent, and the matter was fully argued in two days of hearing. One can infer from the judgment, which agreed with ZEC, that ZEC had argued that CCC had already provided final rolls in complete compliance with the Electoral Act. On the afternoon of 21 August, the judge dismissed CCC's application, without giving reasons, although he had reserved the case for some days. The judge later published reasons.²⁶

²⁶ *Citizens Coalition for Change & Ian Makone v Zimbabwe Electoral Commission and Chairperson, Zimbabwe Electoral Commission & Chief Elections Officer, ZEC* [2023] ZHHC394. <https://zimlil.org/akn/zw/judgment/zwhhc/2023/394/eng@2023-08-21/source.pdf>

Subsections 3, 4 and 6 of Section 21 of the Electoral Act were amended in 2023 by the deletion of the phrase 'within reasonable time' and the substitution of 'within five working days' (Electoral Amendment Act 2023, Section 4). However, these amendments did not apply to the present elections.

The delay in providing a final copy of the roll had a number of consequences, including the inability of parties to identify any inaccurately allocated names on the list prior to election day and impacts on the capacity of political parties to make adequate logistical, operational and campaign plans. The Group notes that none of the party agents from any of the major parties had copies of the voters' roll at polling stations, as is international good practice.

Recommendation:

- In the interests of transparency and efficiency, ZEC should ensure that all persons, political parties and candidates receive free copies of the voters' roll and the polling station voters' roll strictly within the period of five days of nomination day, as proscribed by Section 21 of the Act.

Postal voting

Government officials abroad on duties (and their spouses), uniformed forces members and electoral officers are all allowed to cast their vote via a postal ballot. Provisions relating to postal votes are in Section 71–80 of the Electoral Act. The Group did hear from some stakeholders that, in some cases, uniformed personnel were influenced by their supervisory officers to cast their vote in a particular way. However, the Group could not ascertain the veracity of the statement.

Diaspora voting

Section 35(1) of the Constitution provides that persons are Zimbabwean citizens by birth, descent or registration. By Section 35(2), all Zimbabwean citizens are equally entitled to the rights, privileges and benefits of citizenship. By Section 67, every Zimbabwean citizen has the right to make political choices freely; by Section 67(3), every Zimbabwean citizen over the age of 18 years has the right to vote in all elections and to stand for election for public office and, if elected, to hold that office. By Section 86(2), those fundamental rights conferred by Section 67 may be limited only in terms of a law of general application and to the extent

that the limitation is fair, reasonable, necessary and justifiable in a democratic society, and by a consideration of whether there are less restrictive means of achieving the purposes of that limitation.

By Section 155 of the Constitution, elections must be held regularly; be peaceful, free and fair; be conducted by secret ballot; be based on universal adult suffrage and equality of votes; and be free from violence and other electoral malpractices. By Section 155(2), the state must take all appropriate measures, including legislative measures, to ensure that effect is given to the principles set out in Subsection 1 and in particular must 'ensure that all eligible citizens, that is to say the citizens qualified under the Fourth Schedule, are registered as voters' and to 'that every citizen who is eligible to vote in an election has an opportunity to cast a vote'.

Sections 92(4) and 125 of the Constitution provide that the qualifications for registration as a voter for the office of President or for the National Assembly (as the case may be) are those set out in the Fourth Schedule. The Fourth Schedule provides that, subject to disqualifications that may be prescribed by the Electoral Act, a person is qualified to be registered as a voter on the voters' roll of a constituency if he or she is of or over the age of 18 years and is a Zimbabwean citizen. It further provides that the Electoral Act may prescribe additional residential requirements 'to ensure that voters are registered on the most appropriate voters' roll' but that any such requirements must be consistent with the Constitution, particularly Section 67. By Clause 2 of the Fourth Schedule, certain categories of persons are disqualified to be registered as voters, being the mentally disordered or intellectually handicapped, persons incapable of managing their affairs as declared by an order of a Court or persons convicted of an offence under the Electoral Act and declared by the High Court to be disqualified for registration as a voter.

There is no distinction within any of these constitutional provisions between Zimbabwean citizens living outside Zimbabwe and those living within the country.

The requirement that a Zimbabwean citizen must reside in a particular constituency to be registered as a voter comes not from the Constitution but from Section 23 of the Electoral Act. Section 23(1) provides that, 'subject to the Constitution and this Act, in order to have the requisite residence qualifications to be registered as a voter in a

particular constituency, a claimant must be resident in that constituency at the date of his or her claim'. For the purposes of Subsection 1, a claimant shall be deemed to be residing in a constituency while he or she is absent therefrom for a temporary purpose. However, by Section 23(3), a voter who is registered on the voters' roll for a constituency shall not be entitled to have his or her name retained on such a roll if, for a continuing period of 18 months, he or she has ceased to reside in that constituency.

Section 72 of the Electoral Act provides for postal voting. Where an election is to be held in a constituency, a person who is registered as a voter on the roll for that constituency shall be entitled to vote by post if, on all polling days in the election, he or she will be (a) on duty as a member of a disciplined force or as an electoral officer, (b) on duty in the service of the government outside Zimbabwe or (c) outside Zimbabwe as the spouse of a person referred to in (b).

The apparent tension between the constitutional provisions, most notably Section 67 of the Constitution and Sections 23 and 72 of the Electoral Act, was resolved unanimously by the Constitutional Court in *Shumba & Ors v The Minister of Justice, Legal & Parliamentary Affairs & Ors* [2018] ZWCC 4.²⁷ The applicants in this case were Zimbabwean citizens but not resident in Zimbabwe, and for various reasons were unable to travel to Zimbabwe to participate in the elections as voters. The Court held that Sections 23 and 72 of the Electoral Act were effective to qualify their right to vote by Section 67(3), read with the Fourth Schedule to the Constitution.

In consequence, there are hundreds of thousands of Zimbabwean citizens living outside Zimbabwe who are effectively disenfranchised, notwithstanding the constitutional provisions to which we have referred. Further, there are likely to have been some Zimbabwean citizens who were ordinarily resident in Zimbabwe and registered to vote but who were on polling day outside Zimbabwe and who were unable to vote because of the absence of any means of doing so. Postal voting is confined to the relatively small categories of voters defined by Section 72 of the Electoral Act.

The justification for excluding the diaspora of Zimbabwean citizens from voting is not readily apparent. In the Group's meeting with representatives of ZANU-PF, it was told that the enfranchisement of the diaspora would be unfair to ZANU-PF because certain of its members, who are individuals presently subject to international sanctions, would be unable to travel to countries to campaign there. However, these sanctions are not in place in, for example, any of Zimbabwe's neighbours, such as South Africa – yet the provisions of the Electoral Act, in removing the voting rights of the diaspora, do not distinguish between Zimbabwean citizens living in countries that have imposed sanctions and those living elsewhere.

Recommendation:

- The government and ZEC should explore avenues for extending the constitutional right to vote to Zimbabwean citizens who are not residing or no present within Zimbabwe on polling day.

Election dispute resolution mechanisms

The following mechanisms have been provided in the legal framework for resolution of election-related disputes:

1. *Multi-Party Liaison Committees*
Section 160B of the Electoral Act calls for the establishment of MPLCs at various levels, including both national and constituency-level MPLCs for presidential and National Assembly elections and local authority MPLCs for local elections. The Committees are established by ZEC and must be chaired by a commissioner and must include either one (for national Committees) or two (for constituency and local Committees) representatives of all concerned parties contesting the election.

The purpose of the MPLCs is to:

- hear and attempt to resolve disputes, including alleged violations of the Code of Conduct for Political Parties and Candidates and Other Stakeholders (the Code of Conduct)
- report to ZEC any grievances, concerns, disputes or violations of the Code of Conduct

²⁷ <https://zimlil.org/akn/zw/judgment/zwcc/2018/4/eng@2018-05-30>

- request that ZEC mediate any disputes as may be required
- submit reports to ZEC on the electoral process and provide recommendations

All decisions of the committees are to be agreed by consensus.

The national MPLC was established on 4 April 2023 while other Committees were established throughout the country soon after the sitting of Nomination Court to resolve electoral disputes arising during the campaign period. In the current elections, ZEC informed observers that 11 political parties were represented on the national MPLC, which met five times, while several meetings of other Committees have been held throughout the country.

2. *Code of Conduct*

The Fourth Schedule of the Electoral Act provides for the Code of Conduct for Political Parties and Candidates and Other Stakeholders and is legally binding on all political parties and candidates and their supporters. While the Code states that the Act prescribes sanctions for certain electoral offences, the extent to which ZEC has issued sanctions for violations of the Code is not entirely clear.

3. *Electoral Court and Constitutional Court*

The Electoral Court, which is a division of the High Court, is established by Section 161 of the Electoral Act. It is the sole institution tasked with hearing appeals and petitions relating to the Electoral Act, and it has the authority to review and overturn decisions of ZEC, including with respect to election results. Parliamentary and local government petitions are presented to the Electoral Court. Any candidate may present a petition of an undue return or an undue election by reason of want of qualification, electoral malpractice, irregularity or any other cause. Parliamentary petitions must be submitted within 14 days of the official declaration of results and the petition should be determined within six months. Decisions of the court on the question of law are subject to appeal to the Supreme Court. All petitions are heard in open court.

The Court can issue sanctions for various electoral offences listed in the Act, such as illegal voting, bribery and intimidation. The Court cannot, however, hear criminal cases.

Under Section 166(3)(a), the Constitutional Court hears any election-related cases concerning the election of a President or Vice-President. Any aggrieved candidate may present a presidential petition. A petition must be submitted within seven days of the declaration of official results. The Constitutional Court has 14 days from the filing of the petition to adjudicate. The Court may declare a winner or invalidate an election, calling for a fresh election within 60 days.

Parliamentary and local government petitions are presented to the Electoral Court. Any candidate may present a petition of an undue return or an undue election by reason of want of qualification, electoral malpractice, irregularity or any other cause. Parliamentary petitions must be submitted within 14 days of the official declaration of results and the petition should be determined within six months. Decisions of the court on the question of law are subject to appeal to the Supreme Court. All petitions are heard in open court.

4. *Establishment of Special Police Liaison Officers*
Special Police Liaison Officers were appointed in accordance with Section 133H of the Electoral Act to investigate cases related to electoral violence that might arise during the campaign period. Each of the country's 10 provinces was assigned two Special Police Liaison Officers. The Judicial Services Commission also appointed 10 magistrates, one for each province to deal with electoral disputes promptly.

Nomination Court

As mentioned above, the President fixed the Nomination Court to sit for 21 June 2023 to receive nominations for candidates in respect of presidential, National Assembly and local authority elections. Accordingly, the Nomination Court sat on 21 June from 10:00 to 16:00 as stipulated in the Electoral Act to choose candidates to participate in the harmonised elections. This process resulted in the selection of 5,598 people, with the breakdown as follows:²⁸

²⁸ These figures were taken from the ZEC Chairperson's Second Briefing to Observers. It should be noted, however, that the Brief contains conflicting data on the number of candidates. There may therefore be some minor inaccuracies in the figures.

President

- 11 presidential candidates sponsored by political parties
- one woman candidate

National Assembly

- 518 candidates sponsored by political parties
- 64 independent candidates
- 55 women candidates, comprising 9.36 per cent
- 14 political parties contested

Local authorities

- 4,648 local authority candidates sponsored by political parties
- 266 independent candidates
- 755 women candidates, comprising 15.26 per cent
- 91 unopposed local authority candidates
- 42 parties contested

Candidate nominations

ZEC issued directives on how the party lists should be structured just one day before the Nomination Court sat, which, according to political stakeholders, constrained the ability of some parties to provide adequate numbers of women for provincial council party lists. Parties were allowed to resubmit lists but this reportedly caused delays. It was reported that only the governing party managed to submit party lists and candidates for every constituency and ward election, and therefore it ran uncontested in some political wards.²⁹ The Group noted that 11 candidates were approved for the presidential election, 637 candidates from 14 political parties and 67 independent candidates for the National Assembly election and 4,816 candidates from 42 political parties and 272 independent candidates for the local authority elections, of whom 91 were unopposed.³⁰

²⁹ Uncontested elections occurred in the following wards: 28 in Midlands, including 11 in Takawira (Chirumhanzu); 24 in Mashonaland Central, with six in Chaminuka (Shamva) and seven in Rushinga; 13 in Mashonaland East; 12 in Mashonaland West; four in Masvingo; four in Matabeleland North; six in Matabeleland South; and one in Manicaland.

³⁰ ZEC Chairperson's Second Briefing to Observers, 16 August 2023.

Recommendation:

- ZEC should ensure it significantly expands the gap beyond the current 24 hours between the issuance of directives on party list structures and the date of the Nomination Court, so as to allow political parties adequate time to compile and submit their lists.

The Group noted concerns raised by stakeholders on the high increase in nomination fees for all levels of elections. Nomination fees had increased 20-fold in comparison with the 2018 elections. Fees for presidential contestants were US\$20,000, up from \$1,000. Those for MPs were \$1,000, up from \$50. Those for Senate and local authorities were \$100. It was claimed to the Group that this significant increase had disenfranchised eligible contenders, particularly those from underrepresented groups.

The nomination process was contested. The Group was informed that Saviour Kasukuwere, an independent presidential candidate, was barred from the presidential race on the basis that he had been living outside the country continually for more than 18 months – a decision he unsuccessfully challenged at both the Supreme and the Constitutional Courts.

The nomination of the only female presidential candidate, Elisabeth Valerio of the United Zimbabwe Alliance (UZA), was initially rejected owing to challenges with her nomination fee payment. The Electoral Court Division of the High Court ruled in favour of the reinstatement of her candidature.

Initially, the candidacies of the 12 CCC Bulawayo parliamentary candidates were rejected by the High Court but, upon appeal, all 12 were reinstated by the Supreme Court.

Rejection of 87 MDC-T candidates

The Group was addressed by Senator Mwonozora on the nominations controversy that affected his party, MDC-T. The relevant facts about this controversy do not appear to be in doubt. They were related to the Group in our meeting with Senator Mwonozora and nothing in the recently published reasons for judgement of the High Court in Harare, which dismissed the challenge to the rejection of the nominations, suggests any incorrectness in his factual account.

Acting under Section 46(5) of the Electoral Act, the nominations officer appointed by ZEC held a public court for receiving and vetting the nominations of candidates on 21 June 2023. It was not until about the evening on that date that the nominations officer, having vetted the four nominations of these 87 candidates, announced his decision to receive them. The candidates were then each required to pay the nomination fee of US\$1,000 and to do so by midnight. However, ZEC said that the funds had to be in its account before midnight, which was impossible for a payment by electronic transfer. The MDC-T candidates were not the only ones who faced being unable to pay their nomination fees on 21 June in the way ZEC required.

On the following morning, ZEC granted extensions of time for the payment of fees. However, ZEC did not grant an extension to the MDC-T candidates, who promptly challenged the rejection of their nominations by an appeal filed in the Electoral Court in Harare on 23 June 2023. Their appeal was not heard until 18 and 21 July and it was dismissed on 31 July, with reasons not being published at the time or while the Group was still in Harare. As the Group was told by Senator Mwonozora, the subsequently published reasons confirm that the appeal was dismissed on procedural grounds and without any consideration of the merits of the case.

From these facts there was, at the least, a serious failure of process in that eligible nominees were prevented from paying their fees because of ZEC'S refusal to receive an electronic funds transfer or a credit card payment, which was compounded by ZEC's refusal to extend to these candidates an extension of time to pay.

The unfairness of this conduct was not remedied because the candidates were unable to have the merits of their complaints decided by the court, which, having failed to hear their appeal with the necessary expedition, ultimately disposed of the case by accepting ZEC's arguments on procedural points. Indeed, it appears from the reasons for judgement that the judge even entertained doubts as to whether it had been established that the nominations officer did sit on 21 June, or that there was a political party called MDC-T.

Senator Mwonozora then sought to withdraw as a presidential candidate (before the ballot papers were printed) in response to the blocking of the 87 candidates. ZEC refused to let him do so, with

the consequence that his name appeared on the ballot paper, on the faith of which some votes were mistakenly cast in his favour.

The issue here is not whether the disallowance of these nominations, or the withdrawal by Senator Mwonozora, had any effect on the outcome of the elections. The concern is with the failures of process that we have discussed.

Transparency and capacity of the courts

The Group was informed that the courts heard 140 pre-election cases, and that this was a significant increase on 2018. The Group is concerned that a number of these cases in 2023 were held without an appropriate level of urgency, given legal timelines associated with candidate nomination. The Group is also concerned that the courts made a number of decisions without providing reasons. The COG is concerned that the lack of urgency and transparency of judicial processes adversely affected citizens' trust in the impartiality and accountability of the judiciary. This alone is a significant cause for concern that should be addressed.

Some stakeholders expressed a lack of trust in the judiciary; they questioned its independence and suspected executive interference. The judiciary must not only be impartial, transparent and accountable but also be seen to be each of these things. It is therefore incumbent on the judiciary to hear cases with due urgency and to make available substantive reasons. Where resource constraints hinder such efforts, the government should provide supplementary resources.

Recommendations:

- Electoral Court judges should ensure all pre-election cases are heard with the appropriate level of urgency, and substantive reasons are given. The courts should be adequately resourced to do so.
- In order to build trust in the judiciary, and by extension the electoral process, the judiciary must ensure – and be seen to ensure – it upholds the key principles of impartiality, transparency and accountability in line with its constitutional requirements.

Registration of political parties

The regulation of political parties refers to laws, rules, guidelines and policies that dictate how

political parties can operate. It establishes a baseline for legitimate political parties and minimum requirements regarding how political parties should conduct their affairs. The regulation of political parties through legislation, enforced through either a country's electoral commission or a separate regulatory body, has become an accepted part of international good practice.

In Zimbabwe, there is currently no legislative or regulatory mechanism under which a political party is required to be registered. At present, the legal framework governing the registration of political parties lies in Section 67(2)(a) of the Constitution, which guarantees the rights of citizens to 'form, to join and to participate in the activities of a political party or organization of their choice.' A political party need only inform ZEC of its intention to field candidates in an election in advance of the sitting of the Nomination Court. While the Electoral Code of Conduct for Political Parties and Candidates that is contained in the Fourth Schedule of the Electoral Act, and to which all political parties, candidates and supporters are compelled to adhere, acts as a form of regulation of certain political party activities, it does not in itself constitute a regulatory framework in line with international good practice.

The Group appreciates that discussions around political party registration are not new to Zimbabwe. Indeed, the debate dates back at least to 2005, when the predecessor to ZEC, the Electoral Supervisory Council, made such a recommendation.³¹ The Group also appreciates that such discussions have been ongoing in Zimbabwe, including within POLAD. The Group also acknowledges that current concerns regarding the independence of ZEC may have contributed to the fears of some stakeholders that a regulatory regime for political parties could potentially be applied unequally in a manner that unfairly disadvantages some parties and benefits others.

Yet legislation could be drafted in such a manner that it contains a number of safeguards against its misuse. If enforcement of the regulatory regime were to rest with ZEC, adoption of a number of the recommendations contained in this report regarding ZEC's independence should be considered prior to, or in parallel with, the drafting

of such legislation. Alternatively, Zimbabwe could adopt a model used in many countries in which a new regulatory body is established to enforce the legislation (sometimes called a Registrar of Political Parties, or some variation thereof). In either model, the legislative framework should include safeguards such as making the deregistration of parties subject to confirmation by the High Court, and ensuring multiple levels of appeal for parties sanctioned in accordance with the legislation.

It should also be noted that, insofar as there may be concerns that this report's recommendations on reducing candidate nomination fees could lead to a proliferation of fly-by-night parties, a proper regulatory framework for political parties could act as a counterbalance against this. The registration process for political parties could be such that only those that can demonstrate a genuine commitment to representative democracy and the advancement of public policy through the dissemination of ideas are able - and sufficiently motivated - to register.

Recommendation:

- Through a multistakeholder consultative process, Zimbabwe should draft and pass legislation that provides for a regulatory framework for the registration of political parties, including such provisions as may be necessary - in either new or existing legislation - to guarantee the legal and administrative independence of the regulating body and equal application of the law.

Polling stations

ZEC established 11,501 polling stations throughout the country. However, some polling stations exceeded the voter population threshold of 1,000, owing in part to the inclusion of some people who had been placed on the voters' roll exclusion list pending verification of their details. An exclusion list comprises prospective voters whose details require verification. Such details include shared first names and surnames, shared national registration numbers and identity documents that do not appear genuine.

The process of verifying dubious entries involves contacting the Civil Registry, which is the authority responsible for the issuance of civil documents. After verification of these entries, authentic registrants are included on the voters' roll in order

³¹ Masunungure, E. (2006) 'Regulation of Political Parties in Zimbabwe: Registration, Finance and other Support', p. 3, prepared for ZESN. www.zesn.org.zw/wp-content/_protected/publications/publication_113.pdf

to avoid disenfranchising them. The inclusion of entries formally on the exclusion list onto the voters' roll does not only result in a slight adjustment in the voters' roll figure but also can mean some polling points exceed the 1,000 voter population threshold. Therefore, a number of polling stations were split to form composite polling stations. This resulted in the total number of polling points rising to 12,374.

ZEC published a provisional list of the polling stations in the country's four dailies and eight community newspapers on 2 August 2023 as per Section 51 of the Electoral Act.

Polling personnel and training

ZEC recruited about 150,000 electoral officers for the harmonised elections in terms of Section 10(3) of the Electoral Act, which compels the Commission to employ electoral officers from the public service and statutory bodies. According to the briefing by ZEC, the Commission recruited and trained all Constituency Elections Officers, Ward Elections Officers and Presiding Officers by 19 August 2023.

4. Participation and Inclusion

Zimbabwe has ratified, signed, committed or agreed to various international³² and regional³³ human rights instruments, as listed in Chapter 3. Amongst other commitments, the Universal Declaration of Human Rights (Article 21) and as well as the Constitution of the Republic of Zimbabwe (Chapter 4), together affirm the fundamental rights of persons to engage in democratic processes, through free and fair elections. National authorities as duty-bearers are primarily tasked with the duty of promoting democratic values, standards and practices in their societies. Fulfilment of this duty includes establishing the relevant legal frameworks, institutions and processes that facilitate the exercise of citizens' rights to freely participate in the governance of their countries.

At the national level, the 2013 Constitution (as amended) remains the foundational block for the exercise of good governance; inclusive participation; and the respect, protection and fulfilment of the rights of all, on the basis of equality and non-discrimination. The principles of protection and promotion of human rights contained in the Constitution, and international instruments to which Zimbabwe is party, are aimed at the consolidation of the democratic process through the creation of a sustainable human rights culture. This includes removing impediments that result in the exclusion and marginalisation of groups such as women, youth, PWDs and the elderly.

Women

Women's political participation in Zimbabwe

Zimbabwe's Constitution guarantees women's rights and gender equality, with Section 80 providing for the full and equal dignity of women, including equal opportunities in political, economic and social activities. However, despite these legal guarantees promoting women's rights in Zimbabwe, women still face numerous challenges, which are exacerbated by inadequate implementation of the law. These challenges include uneven access to education,

constraints on employment, job segregation, weak access to legal protection, no easy access to healthcare and poor political representation. Women are also negatively affected by entrenched patriarchy, religious practices and cultural norms.

Additionally, gender-based violence, in particular domestic and sexual violence, is a systemic barrier prejudicial to attaining gender equality in the country, since women bear a disproportionate impact of this violence. Statistics released by the Zimbabwe Gender Commission earlier this year revealed that at least 22 women are raped daily in Zimbabwe – an average of one rape every 75 minutes. One in three Zimbabwean girls is raped or sexually assaulted before reaching the age of 18. 'Alarming and increasing' is how the Commission described the statistics compiled from data collected from the Zimbabwe Republic Police (ZRP), which reported that it recorded 3,175 cases of sexual violence between October and December 2022.³⁴

The importance of women's equal participation in the political sphere cannot be over-emphasised as it is fundamental to addressing the above issues and achieving the country's Sustainable Development Goals. Women's participation in political and decision-making positions can effectively advance a range of policy issues that tend to be ignored, such as parental leave, childcare, care of the elderly and the attainment of gender equality. Moreover, there is much to be said for women's leadership and conflict resolution skills. The impact of women in political leadership is evident in many countries in the region where steady leaps are being made towards gender equality.

Zimbabwe has recognised the importance of women's political participation in its commitments to international women's rights instruments and in its national legislative framework. CEDAW obliges state parties to 'take all appropriate measures to eliminate discrimination against women in the political and public life of the country'

³² Article 25 of International Covenant on Civil and Political Rights and General Comment.

³³ Article 13 of the African Charter on Human and Peoples' Rights.

³⁴ ICJ (2020) 'The Case for Reform: Criminal Law and Sexual Violence in Zimbabwe'. <https://icj2.wpenginepowered.com/wp-content/uploads/2020/11/Zimbabwe-Sexual-violence-Advocacy-Analysis-brief-2020-ENG-1.pdf>

(Article 7). Article 9 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol) provides that:

State Parties shall take specific positive action to promote participative governance and the equal participation of women in the political life of their countries through affirmative action, enabling national legislation and other measures to ensure that: 1 a) Women participate without any discrimination in all elections; b) Women are represented equally at all levels with men in all electoral processes; c) Women are equal partners with men at all levels of development and implementation of State policies and development programmes; 2) States Parties shall ensure increased and effective representation and participation of women at all levels of decision-making.

The SADC Protocol on Gender and Development stipulates similar obligations in Article 12 (on representation) and Article 13 (on participation).

Women's participation in the 2023 harmonised elections

Building on international commitments since 1990, the United Nations Commission on the Status of Women reaffirmed in 2021 the global target of 50/50 gender parity in all elective positions.³⁵ In Zimbabwe, there remain significant gaps. Despite the progress that has been made in terms of a progressive legal framework to promote women's political participation, and while we note that 53.7 per cent of registered voters were women, the number of women candidates at the three different levels of elective office has seen a decline in the case of presidential and National Assembly candidates. There was only one female presidential candidate, Elisabeth Valerio of UZA. This represents a regression from the 2018 elections, when four women contested for this office. Regarding the other two offices, there were 55 women candidates out of a total of 586 candidates for the National Assembly (9.36 per cent, down from 15 per cent in 2018) and 755 women out of a total of 4,946 candidates for local government (15.26 per cent). The COG was unable to establish the number of women candidates for local government

in 2018 in order to draw a comparison with 2023.³⁶ Much work remains to be done to ensure alignment with Zimbabwe's constitutional and international commitments.

Persistent structural barriers that sustain gender inequality in Zimbabwean society pervade and affect women's effective participation in every sphere of life, including politics. In relation to the 2023 elections, among the key issues cited by women's groups and candidates related to this continuing trend are the following:

1. *Socio-cultural norms resulting in discriminatory beliefs, attitudes and practices against women*
Despite the progress that has been made to promote equality in the country's legal framework, women noted that, at a practical level, gender inequality in political participation persisted because leadership continued to be viewed as a male preserve, where women's voices are not taken seriously, including their aspirations for high political office.
2. *Lack of prioritisation of women as candidates*
While women are present in significant numbers in political parties and are active in mobilising the electorate for support, their candidature is often only guaranteed by the proportional representation system, which requires the 'zebra listing' whereby parties alternate women and men on their lists. Even where political parties have committed to promoting gender equality, there are fewer women put forward by political parties as candidates to contest FPTP positions and often the numbers fall short of the parties' own commitments to promote gender equality. Additionally, even though women's wings form part of party structures, it is often few who sit in the national executives of their political parties.
3. *Lack of access to and control of resources*
Women noted that participation in politics, and in elections in particular, required significant financial and other resources, which women do not have at their disposal. For the 2023 elections, the nomination fees for aspiring candidates increased significantly.

³⁵ CSW65 Agreed Conclusions (E/CN.6/2021/L.3).
<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/079/07/PDF/N2107907.pdf?OpenElement>

³⁶ The figures contained in this paragraph are drawn from the Chairperson's Seconding Brief to Observers. The Brief itself contains some inconsistent figures. Therefore, there may be some slight inaccuracies in the figures stated in this report.

Fees for presidential contestants were up from US\$1,000 to \$20,000, those for MPs from \$50 to \$1,000 and those for the Senate and local authorities from \$100 to \$1,000. The Group was informed that the increase in the nomination fees was a significant deterrent for many women. Further, even where women were nominated, they then did not have the resources to conduct extensive campaigns, unlike many of their male counterparts.

4. *Gender-based violence*

Women candidates shared that women contesting elections in Zimbabwe were subject to violence including threats, intimidation, assault and even sexual violence, including from supporters of their male opponents. The Group was further informed that the use of cyber-bullying and other forms of social media and online abuse against women candidates was common in the pre-election period.

5. *Lack of confidence and self-esteem*

Women candidates noted that socialisation had negatively affected women's political participation. Many women have been socialised to not see themselves as having the ability to lead and, even where they do aspire to political office, many defer to their male counterparts. For instance, in consultations with political parties, the Group observed that, when women were in the presence of male colleagues, they were subdued; yet, when they were on their own, they were more expressive, though some did not exhibit the confidence and assertiveness expected of a political candidate.

The above challenges are aggravated in the case of young women and women with disabilities.

Women's participation in election administration

Women's participation in the administration of the 2023 harmonised elections was in sharp contrast with the above situation. According to ZEC, it is committed to mainstreaming gender in all its structures and activities, and in 2020 it adopted a four-year Gender and Inclusion Policy to facilitate this. This Policy includes the development of an Action Plan for its implementation; the establishment of a Gender and Inclusion Unit in the Department of Research and Development;

the development of a monitoring and evaluation system; gender-responsive budgeting; gender-balanced human resources policies; a gender and inclusion audit; and gender-sensitive post-election reviews.

The work that has been done in this regard has been evident in ZEC's governance and management of the 2023 electoral process. Of ZEC's nine commissioners, five are female, including the chairperson. ZEC made a concerted effort to promote women's participation in the election, and the Group noted education and communication materials, such as ZEC billboards and posters, encouraged women to participate in the elections. The Group observed high numbers of women election officials at different levels: at the polling stations observed there was often a gender balance and, in many cases, there were more women than men. Additionally, election officials were collecting gender-desegregated data as voters went through the process of casting their ballots.

Women as voters

As with previous elections, women outnumbered men in registering for the 2023 harmonised elections. On polling day, the Group observed a large turnout of women. The statistics shared by election officials with the Group at the time of observation showed that more women were voting, although the COG has not been able to obtain final disaggregated voter turnout data. In many polling stations, women and men queued separately to vote and women carrying babies were offered priority and brought to the front of the queue.

Women as party/candidate agents and local observers

The Group observed the active participation of women as party/candidate agents, as well as local observers.

Efforts to promote women's participation

In addition to ZEC's efforts, women's groups, the Gender Commission and political parties have instituted various programmes in an effort to increase the participation and representation of women, including civic education, capacity-building on leadership and initiatives like the Vote for a Woman campaigns. While the Group has not yet seen disaggregated data on voter turnout, the declining number of women candidates

in the presidential and National Assembly elections suggests these programmes have had limited success.

Recommendations to government:

- The government should consider increasing resourcing for educational programmes on gender equality and violence against women in elections.
- The government should consider improved enforcement of existing laws and strategies to achieve gender equality.
- The government should redouble its efforts on the implementation of targeted policies, based on analysis of key gender indicators, to address gender disparities.
- The number of women candidates that a party is able to place on its list for an election year should be used as a factor, by government, in considering the threshold for political party funding.

Recommendations to political parties:

- Political parties should consider creating a supportive framework that will encourage increased participation of women in the political process, particularly as candidates. This could include the provision of leadership training for women aspirants, as well as financial support for nomination fees and campaign expenditure.
- Political parties should amend internal party policies to ensure the appointment of a greater number of women in the party executive hierarchy and in decision-making positions.
- Political parties should consider putting more resources and efforts behind initiatives such as Vote for a Woman.

Recommendations to ZEC:

- ZEC should consider reducing candidate nomination fees for women.
- ZEC should collect and publishing gender-disaggregated data on voter turnout.

Youth participation

Section 20 of the 2013 Constitution defines youth as persons between the ages of 15 and 35 years and mandates 'the state and all institutions

and agencies of government at every level' to take reasonable measures, including affirmative action programmes, to ensure young people have opportunities to be represented and to participate in the political, social and economic spheres of society.

Zimbabwe, a young democracy, is also a youthful country, with approximately 67.7 per cent of its 13 million population under 35 years.³⁷ A total of 41.7 per cent of registered voters were youth in 2023, confirming that they were a critical demographic in the context of the elections. However, youth in Zimbabwe have tended not to vote in recent electoral cycles in a manner commensurate with the size of their demographic. However, they do attend political rallies in significant numbers to express their frustrations, although this does not necessarily translate into registering to vote. Representatives from Zimbabwe's National Association of Youth Organisations suggested that youth tend to feel disenfranchised, side-lined by political parties and used to lend legitimacy to government policies.

The political class in Zimbabwe has tended to be dominated by an older generation, members of which identify as leaders and often came out of the liberation movement. Young people, many of whom were not even born at that time, feel that this locks them out of mainstream politics. This is reflected by youth representation in Parliament of just 1.92 per cent between 2018 and 2023.³⁸

A priority issue for Zimbabwean youth continues to be the high rate of unemployment, which stood at around 12.4 per cent in 2022.³⁹ There has been a significant brain drain of young people as they vote with their feet to find employment elsewhere. Civil society, youth organisations and ZEC have made concerted efforts to encourage youth participation in elections and to improve electoral education via extensive social media, TV and other audio-visual platforms. Despite these efforts, this has not translated into political action and the Group noted that there continued to be much apathy among youth.

³⁷ ZHRC (2023) 'OHCHR Study on Youth and Human Rights: Youth in Zimbabwe'. www.ohchr.org/sites/default/files/Documents/Issues/Youth/ZimbabweHRCCommission.pdf

³⁸ ZESN (2019) 'Youth Participation in Elections and Governance Processes in Zimbabwe. Position Paper.

³⁹ www.statista.com/statistics/813214/youth-unemployment-rate-in-zimbabwe/

Youth leaders, in their briefing to the Group, expressed frustration with, and mistrust of, ZEC's management of the electoral process. They further noted that the National Youth Council, which has the mandate to empower young people across the political spectrum, was perceived as biased and partisan and did not broadly reflect the different interests of youth. In addition, youth leaders felt constrained in their ability to fully participate in the electoral process as candidates owing to intimidatory tactics by the police and other political actors during campaigns, as well as fears about their ability to speak freely on issues that affect them.

Several structural barriers have further prohibited youth participation in politics. The discrepancy in age requirements to stand for and vote in elections reinforces the political marginalisation of youth. While an individual must be 18 years or older to vote, an individual must be 21 years or older to contest the local authority elections and the National Assembly elections. Meanwhile, individuals must be 40 years or older to be appointed to the Senate or to contest the presidential elections. Additionally, the substantial increase in election candidate registration fees noted above are considered unaffordable for many young people, as are campaign costs.

Recommendations: The Group notes with regret that many of the recommendations contained in the 2018 Report of the Commonwealth Observer Group have not been taken forward, although it is noted that 10 seats in the National Assembly have been allocated to youth. While reiterating the recommendations made in 2018, the COG offers the following additional recommendations for consideration:

- In order to address low voter registration figures for youth, consideration should be given by ZEC to a programme to increase youth voter registration.
- Consideration should be given to lowering the age for holding political office to 18, the legal voting age, to create inclusivity for youth.
- ZEC should consider lowering nomination fees for youth aspirants.

Persons with disabilities

According to the 2013 National Survey on Living Conditions among Persons with Disabilities in Zimbabwe, the prevalence of disability in the

country is estimated to be 7 per cent, amounting to approximately 914,287 persons based on the Zimbabwe population of 13 million.⁴⁰

Article 29 of the 2008 Convention on the Rights of Persons with Disabilities, to which Zimbabwe is a party, obliges state parties to guarantee political rights to persons with disabilities and the opportunity to enjoy them on equal basis. It provides that:

States Parties shall guarantee (...) political rights and the opportunity to enjoy them on an equal basis (...) and:

- (a) *To ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:*
 - (i) *Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;*
 - (ii) *Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate (...)*
- (b) *To promote actively an environment in which [PWDs] can (...) participate without discrimination and on an equal basis with others (...).*

Article 22(1) of the Constitution mandates 'the state and all institutions and agencies of government at every level to recognise the rights of persons with disabilities to be treated with respect and dignity'. The Constitution equally mandates the state to facilitate voting by PWDs or those with special needs (Articles 56 and 83). It further requires the Senate to reserve two seats – one male and one female – elected through a FPTP system by an electoral college system designated by the National Disability Board.

⁴⁰ See www.unicef.org/Zimbabwe. Zimbabwean disability groups put the figure slightly higher, at 9.1 per cent.

Crucially, while the Disabled Persons Act 1992 enjoins the National Disability Board to prevent discrimination against PWDs resulting from or arising from their disability, it does not specifically guarantee, or provide for, any mechanisms that promote political participation by PWDs. The Act is primarily concerned with the provision of support to PWDs, rather than codifying the rights of PWDs in political life. The 1992 Act (as amended) is therefore not in alignment with the Zimbabwe's commitments under the more recent Convention on the Rights of Persons with Disabilities, in particular Article 29 on participation in political and public life.

As this section will show, while polling officials on election day demonstrated they had received significant training from ZEC with regard to PWD assistance at polling stations, for which ZEC is to be commended, the Group found that such attentiveness to the needs of PWDs was lacking in the pre-election period, and few significant efforts had been made since 2018 to further strengthen PWD participation in the election. Thus, key stakeholders, most crucially ZEC, did not fulfil their constitutional mandate under Articles 22(1), 56 and 83 of the Constitution.

Participation of persons with disabilities

Organisations of PWDs consulted by the Group noted that, as in many areas of life, PWDs, and their special needs in relation to strengthening their participation in politics, tend to be overlooked. This was confirmed by the low numbers of PWDs as candidates, voters, party/candidate agents, election observers and election officials at polling stations and at the different levels of election administration.

While acknowledging that one of ZEC's commissioners is a PWD – with a visual impairment – these organisations were of the view that ZEC had not put in place sufficient mechanisms to ensure greater participation by PWDs in the electoral process. While the Group observed some ZEC billboards encouraging PWDs to participate in the election, and ZEC reported having produced some civic education materials in some disability-friendly formats (braille), these groups expressed dissatisfaction with what they reported to be ZEC's limited engagement with PWD organisations to ensure that all aspects of the electoral process were accessible to all constituents. It was noted that, even though sign language interpreters are

available, they had not been used to support the voter education exercise, nor had PWDs been among those involved in delivering voter education.

During consultations with PWD organisations, they also stated that, from past experience of political violence, PWDs fear participating in campaign activities such as political rallies because they could be more vulnerable if violence occurs. For instance, in the event of a clash between political parties or parties and security personnel, a person with a visual impairment would not be able see the direction from which danger was approaching and how they could escape. Additionally, even if a disabled person is accompanied by an assistant, if violence were to erupt it could be difficult to quickly move to a place of safety.

Persons with disabilities as candidates

The Group was informed that proportionately few persons with physical disabilities participated in the 2023 harmonised elections as candidates. The Group was informed that, because of the social and economic constraints PWDs face, participation as independent candidates would be difficult and therefore their participation is somewhat dependent on political parties, which currently do not actively encourage or promote their candidacy, despite the fact that many PWDs are members of different political parties. PWD organisations stated that it was difficult for PWDs to physically visit party headquarters to plead for more inclusive policies, and that political parties had not made any effort to engage or reach out to them in order to understand the situation of PWDs and to find ways of enhancing their inclusion within parties.

Another key issue raised was the cost of participating in elections, which was cited as being prohibitive for PWDs. It was noted that, even before nomination fees were increased, PWDs struggled to obtain the necessary resources, and that the increased 2023 fees were a further barrier to standing as candidates. They were of the view that it was unfair for ZEC to treat them in the same way as other candidates insofar as fees are concerned, and that ZEC should consider lowering fees.

Persons with disabilities as polling officials

PWDs can play an important role in the training of other polling officials in respect of PWD voting and accessibility at polling stations and collation centres. The Group thus recommends that ZEC ensure adequate representation of PWDs during training.

Persons with disabilities as voters

Disability organisations informed the Group that the total population of PWDs in Zimbabwe, according to the 2022 Census, was 9.1 per cent. These organisations were unsure what percentage of registered voters were PWDs, or what the turnout of PWDs on election day was, since ZEC had not released this data.

The Group observed the participation of PWDs as voters at different polling stations where ZEC had made arrangements to ensure accessibility. Some polling stations were located in schools where wheelchair access was possible or had temporarily been provided, and many were in tents that were on flat surfaces. However, the Group observed that access was problematic for those who face mobility challenges, as some polling stations were far from residential areas. This was particularly the case in rural areas, where the terrain is rough and the roads are dusty, which could deter PWDs or, even if they are willing, their assistants, from undertaking the travel.

Voters with disabilities were given priority to vote, although there did not seem to be a systematic way of identifying them and drawing them out of the lines, which were quite long at times. Inside the polling stations, the Group observed that there was one voting booth that was lower than the others, provided to ensure wheelchair accessibility. The Group also observed the availability of braille templates at some polling stations.

Where disabled voters required assistance, they were assisted either by a confidante (in most cases, the Group was informed, these were relatives) or by four officials – namely, the Presiding Officer, two Elections Officers and a police officer. In the case of the latter, the voter would then be required to place a mark on a register kept by the Presiding Officer to confirm such assistance. While one of the PWD CSO representatives expressed concern in discussions with the Group that such assistance, particularly by a police officer, could intimidate a voter and compromise the secrecy of her or his vote, the Group observed no instance of a police officer actively participating in assisting disabled voters. Rather, as confirmed by the police, the Presiding Officer was the one assisting and the other officials, including the police officer, simply witnessed the process, which the Group viewed as actually being protective of the will of the voter.

In terms of numbers of disabled voters who cast their ballot, election officials collected gender- and age-disaggregated data but not data on disability. The Group observed many examples of voters with disabilities making a determined effort to cast their vote and being courteously assisted by election officials. The Group wishes to commend those PWD voters who were able to cast their ballot despite difficult circumstances, in doing so demonstrating a laudable commitment to participating in the electoral process.

Recommendations:

- Further consideration should be given to improving participation by means of enhanced and more targeted voter education materials – for example the use of braille or audio guides.
- To assist the elderly and PWDs, a review of polling stations should be undertaken. ZEC should consider the use of ramps and the provision of transport to polling stations.
- ZEC should improve engagement with PWDs and PWD organisations, and improve targeted PWD voter education.
- Consideration should be given to strengthening engagement between PWDs and other election stakeholders (e.g. political parties, CSOs) to enhance participation throughout the electoral process, as practicable, as candidates, agents and observers
- ZEC and political parties should develop capacity-building and leadership training programmes for PWDs.
- ZEC ensure adequate representation of PWDs during its training of polling officials so as to ensure polling staff are sufficiently sensitised to accessibility and inclusion issues on election day.

Elderly persons

Persons aged 65 and above constituted 3.3 per cent of the population of Zimbabwe in 2022.⁴¹ Most elderly people live in rural areas, which predominantly have poor infrastructure, with few community gathering spaces and government offices. Despite the small population percentage, elderly persons,

⁴¹ See www.knoema.net

particularly older men, continue to be the dominant leaders and hold decision-making power in both traditional and government systems in the country.

Section 21 of the Constitution outlines the role of the state and institutions of government charged with the support and protection of elderly persons, including encouraging their full participation in society and ensuring programmes are in place that enable them to engage in productive activity suited to their abilities.

In addition, the Older Persons Act 2012, which came into effect in 2016, established a Director of Older Persons and the Older Persons Board, generally responsible for the activities, welfare and well-being of older persons. This is consistent with international law. Notably, the United Nations Principles for Older Persons and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa sets out the principles of independence, protection, participation in social and political life, care, self-fulfilment and dignity of older persons, and further recognises the rights of older persons to make decisions without undue influence. Fundamental to these national, regional and international frameworks is the need for provisions and services to be fully accessible, keeping in mind the physical and mental state of some elderly persons.

Participation of elderly persons

The Group observed the active participation of elderly persons in the elections, their numbers being higher in rural areas. Elderly persons who were disabled or required assistance were able to cast their votes with assistance either from a confidante or from election officials (as referred to above). The Group was concerned about the distances required to travel to some polling stations, particularly in rural areas.

Recommendations

- Consideration should be given to facilitating postal voting for the elderly.
- ZEC should collect and publish age disaggregated data on voter turnout.

Civil society organisations

Organised civil society in Zimbabwe is robust and diverse, comprising trade unions, think-tanks, charities, community-based organisations, women's groups, youth groups and developmental

non-governmental organisations (NGOs).

In previous elections, the Group was informed that CSOs faced a tense and challenging environment and were unable to operate freely without the threat of violence or intimidation from state security operatives. However, CSOs indicated that the period preceding the 2023 elections was comparatively peaceful.

Restrictive legislative developments leading up to the 2023 elections

CSOs with which the Group consulted indicated that, despite attempts to constructively engage and collaborate with government and independent constitutional bodies, a high level of mistrust between the government and CSOs persists to the extent that, even where CSO recommendations may be legitimate and expressed in good faith, CSOs are viewed as partisan.

These tensions between CSOs and the government were heightened in the pre-election period by the enactment of certain legislation. CSOs raised concerns about the following laws:

- The Criminal Law (Reform & Codification) Amendment Act criminalises actions that 'wilfully injure the sovereignty and national interest of Zimbabwe.' Of concern was that some of the provisions of the Act are broad and vague and therefore could be misinterpreted and abused to punish legitimate activities by CSOs.
- Amendments to the Private Voluntary Organisations (PVO) Act, which governs the registration and regulation of CSOs, were reported to have the potential to restrict the ability of CSOs to freely operate, receive foreign donor funding and conduct accepted lobbying and advocacy activities, under the guise of streamlining administrative procedures and promoting accountability. CSOs reported that they had convened meetings with the government, including a meeting between CSO representatives and the President, to attempt to clarify the meaning of the word 'lobbying' that the Bill seeks to prohibit. Although passed by Parliament, the President did not sign the Bill into law prior to the election. CSOs were, however, of the view that its provisions were already being punitively applied. As a result, CSOs had reportedly taken a cautious

approach in their election-related activities and had focused on sustaining the 'existence' of their organisations, which they see as threatened by the PVO Bill.

- The Maintenance of Peace and Order Act has repealed the Public Order and Security Act and affects the holding of public meetings, processions and public demonstrations. Concern was expressed that the police were misinterpreting the legislation and appropriating the power to authorise such activities, even though all that is required of them is the provision of notice. However, the Group was informed by the police officials it met that, in their understanding, permission for activities under MOPA is given by local authorities based on applicants' fulfilment of the relevant criteria, which includes ensuring that notifications are submitted on time. It was noted that, as police, their actions are guided by adherence to the law; where the law has been violated, the police have a duty to step in.
- The Cyber and Data Protection Act was said to conflate cyber security with national security and, because of the vague definition of 'legitimate interest', it could curtail freedom of expression and enable the interception of communication without justification.

CSO participation in the harmonised elections 2023

Zimbabwean civil society was significantly engaged in the 2023 elections. The Group was informed that, despite a narrowed space for civic engagement, resource constraints and a restriction of civil liberties, CSOs conducted a number of election-related activities in the pre-election period. These included:

1. Voter education

CSOs participated in conducting widespread voter education. In this regard, they collaborated with ZEC, which requires that those conducting voter education use the ZEC manual, undergo training on delivery of the material and obtain ZEC's approval of their voter education material. During consultations, the Group was advised that CSOs did not view the ZEC requirement as a way of stifling or censoring them but understood it to be in good faith to ensure that accurate and consistent information

on the applicable laws and various electoral stages and processes was disseminated to the electorate regardless of which organisation or institution was conducting the education. The Group observed various educational and promotional materials produced by CSOs, such as billboards, posters and TV advertisements. Educational programming and interviews were heard on local radio stations in both English and local languages.

2. Attempts to contribute to and advocate for law reform

CSOs advised the Group that they had attempted to engage the government on proposed reform to electoral legislation. In particular, ZESN, a network of 37 organisations formed to co-ordinate activities pertaining to elections in Zimbabwe, reported that it had prepared a shadow Bill with the hope that its recommendations would be incorporated into the proposed changes. However, this was not done.

3. Media monitoring

CSOs conducted media monitoring activities and produced reports on how broadcasting, printing and social media reported on the election process, and how political stakeholders and the electorate used and engaged on election-related issues. This is covered in detail in the media section of Chapter 5.

4. Follow-up and advocacy on previous recommendations

CSOs reported attempting to monitor implementation by the government, ZEC and other electoral stakeholders of recommendations made by different stakeholders, including international observer missions, on strengthening Zimbabwe's electoral process, and to conduct follow-up advocacy on same. However, they were not able to do so in a systematic and sustained way. The Group was advised by CSOs themselves that this owed primarily to two main factors: first, the view of elections as an 'event' that happens once every five years, rather than an on-going process of consolidating and deepening democratic values and practice; and, second, insufficient resources as a result of dependency on donor funding, whose

availability is vulnerable to the economic situation of donors, as well as changing priorities.⁴²

5. *Citizen (domestic) observation*
ZESN and the Election Resource Centre (ERC), a non-partisan think-tank and advocacy institution on elections and democracy, monitored and observed the pre-election processes and continued to do so in other phases of the electoral process, including on polling day. The Group saw and spoke with several domestic observers from ZESN and the Zimbabwe Council of Churches (ZCC) at various polling stations who were able to do their work without disruption.

Arrest and detention of domestic observers

The relative peace of the electoral period was severely marred by the arrest and detention of over 40 accredited domestic observers from ZESN. On the evening of 23 August, the election date, heavily armed security forces conducted raids on the ZESN command centre and other locations where domestic observers were working, allegedly on the suspicion that ZESN intended to release elections results prior to the official announcement by ZEC. ZESN personnel were arrested and detained. Equipment, including laptops, mobile telephones and modems, being used to conduct parallel voter tabulation (PVT), a legitimate activity for the analysis of an election outcome, was seized. It is worth noting that, according to stakeholders, and backed up by reporting from newZWire, ZESN had been requested to carry out the PVT exercise by ZEC Chair Priscilla Chigumba,⁴³ following ZESN's Sample-Based Observation of the 2018 elections as well as of six of the 28 by-elections that took place on 26 March 2022.⁴⁴ For the 2023 general elections, ZESN was accredited by ZEC. The Constitution gives a right to access information and, although there is no apparent legal basis for

preventing PVT, the police informed the Group on 20 August, prior to the election, that there would be no PVT allowed.

Law on parallel vote tabulation

PVT is an internationally recognised and widely used election observation methodology, involving the use of information from a sample of polling stations to make an independent and statistically backed estimate of the likely outcome of the poll. PVT comes with a margin of error because it is based on samples of polling. The observers were charged with attempting to commit an offence against Section 66A on announcing the result of an election as the true or official result. The terms of Section 66A are relevantly as follows:

66A. Unofficial or false declaration of results prohibited

(1) *Subject to subsection (3), any person who –*
(a) *purports to announce the result of an election as the true or official result; or*
(b) *purports to declare any candidate to have been duly elected;*

before an electoral officer, acting in accordance with this Act, has announced the result of that election or declared a candidate to have been duly elected in that election, as the case may be, shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[...]

(3) *Subsection (1) shall not be construed as preventing any person from reporting the number of votes received by a candidate or political party in an election, where the report is based on polling-station returns and constituency returns from the election concerned...*

There had been no purported announcement or declaration by the ZESN observers. They were charged with an offence of attempting to do so, meaning they had taken certain steps with the intention of making an unlawful announcement or declaration.

The first thing to be noted is that no offence is committed against Section 66A(1) if the purported announcement or declaration is made after an electoral officer has announced the result or

⁴² An example was made of a shift in the donor landscape towards issues such as climate change.

⁴³ newZWire (2023) 'ZEC Urged Them to Do Parallel Vote Tabulation. They Did, Then They Got Arrested'. 24 August. <https://newswire.live/zec-urged-them-to-do-parallel-vote-tabulation-they-did-then-they-got-arrested/>

⁴⁴ ZESN (2023) 'Preliminary Statement on the 26 March 2022 By-Election Observations'. www.zesn.org.zw/preliminary-statement-on-the-26-march-2022-by-election-observations/press-statements/5761/21/51/07/31/03/2022/tinashe/

declared a candidate to have been duly elected. In other words, PVT as an exercise providing a basis of comparison with the officially announced or declared outcome is not prohibited. Second, by Section 66A(3), no person commits an offence against Section 66A(1) where the report is based on polling station returns and constituency returns from the election concerned. This is what is commonly involved in PVT.

Disproportionality of arrests

The arrests and the conspicuous manner in which they were carried out, as observed by the Group, cast a shadow on an election day that had been relatively peaceful, despite challenges such as the delay in the delivery of ballot papers to major voting centres, which could have resulted in an eruption of violence but did not. In addition to concerns regarding the legal basis for the arrests, the Group and other international observer missions expressed concern about the disproportionate, heavy-handed response by the security forces. While those arrested were released on 25 August 2023, ZESN released a statement the following day expressing concern over the continuing threats to and intimidation of their observers, including pressure to resign, and calling on the government to 'ensure the safety and security of observers when carrying out their duties in line with the legislative framework, regional continental, and international obligations and fundamental human rights during election observation.'

Recommendations:

- In view of the importance of civil society in contributing to consolidating and deepening democracy, and its ability to reach various audiences within society, including marginalised groups, a more constructive relationship should be fostered between CSOs, government, ZEC and other stakeholders in order to promote an environment where CSOs can operate freely and fulfil their lawful mandates without fearing for the safety of their organisations and personnel. This includes activities dependent on, or protected by, Article 62 of the Constitution on access to information.
- The government, the Office of the Attorney-General and Parliament should collectively review the Patriotic Act, MOPA and the PVO

Bill to ensure compliance with fundamental political and civil rights contained in the Constitution and in international law.

- The well-established practice known as PVT (along with other non-official results computation methodologies such as exit polls and quick counts) should be permitted in Zimbabwe. Should this require amendments to Zimbabwean law to enshrine this right, such amendments should be made.
- ZEC and other stakeholders should undertake voter education to ensure citizens are fully aware that results announced by ZEC are the only official results.

Faith-based organisations

Religion plays a significant role in culture, and societal beliefs and practices in Zimbabwe. The Constitution guarantees the right to freedom of religion and conscience (Article 60). The non-discrimination clause of the Constitution ensures no one is discriminated against based on religion and beliefs (Article 56). Faith-based organisations (FBOs) played a significant role during the 2023 harmonised elections.

Churches have contributed to development in different sectors and ways. This includes the provision of education and health, promoting peace and national healing, addressing the rights of women, supporting income-generating projects, protecting the environment and engaging in advocacy for the poor and marginalised. There is no law that directly deals with the registration of religious organisations. However, most churches can register as non-profit-making or charity organisations and the law that deals with that is the PVO Act. Under this, organisations that are registered are deemed to be private voluntary organisations (PVOs).⁴⁵

⁴⁵ The Act defines PVOs as any body or association of persons, corporate or unincorporated, or any institution the objects of which include or are one or more of the following that provides for the provision of all or any of the material, mental, physical or social needs of persons or families; the rendering of charity to persons or families in distress; the prevention of social distress or destitution of persons or families; the provision of assistance in, or promotion of, activities aimed at uplifting the standard of living of persons or families; the provision of funds for legal aid; and the prevention of cruelty to, or the promotion of the welfare of, animals.

Church representatives remarked on the relative calm and peace of the pre-election environment, and welcomed the Peace Pledge and the public statements made by political leaders regarding the need for peace. Yet they noted that, at the grassroots level, voters were fearful of possible violence and stated that they felt intimidated.

ZCC and the Evangelical Fellowship of Zimbabwe played a mediatory and conciliatory role between political parties before, during and after the elections. These religious bodies hosted political parties, organised prayer sessions, administered the Peace Pledge and offered venues to ZEC

for voter registration and polling purposes across all provinces of the country. Spiritual leaders encourage participating political parties, civil society, traditional leaders, citizens and security services to embrace absolute peace and tolerance and to ensure compliance with the Electoral Code of Conduct during and after elections.

Recommendation:

- FBOs should continue to play their role in the maintenance of peace and respect for human rights.

5. Campaign and the Media

The campaign

This chapter analyses the election campaign and media environment for the 2023 harmonised elections in Zimbabwe. The Constitution of Zimbabwe (as amended), the Electoral Act (Chapter 2 Clause 13), the Constitutional Court Act and Rules, the High Court Act and Rules, and the Electoral Court Act and Rules all governed the political campaign and media coverage of the 2023 elections.

Pre-election campaign environment

The Group was informed that the nature of the campaign for the 2023 harmonised elections was influenced by an improved political climate. Most of the stakeholders engaged held the view that the political campaign period was comparatively calm, with the presidential candidates across party divides weaving peace messages into their campaigns. Despite this, the campaign period witnessed pockets of disturbing incidences of inter-party clashes. The Group was informed by the police that one incident that led to the death of a CCC supporter, on 3 August 2023, was being investigated and an autopsy report was being awaited.

The political campaigns began after the Presidential Proclamation on 31 May 2023. After the Nomination Court sat in June 2023, the campaign intensity rose markedly. The campaign continued from this date until 24 hours before voting, in accordance with Section 7(1) of the Code of Conduct. The Group noted that election-related activities such as the signing of the Peace Pledge at the provincial level happened on the eve of election day. The National Peace Pledge was earlier signed by all political parties, on 4 August 2023.

Campaign code of conduct

Political parties are free to campaign within the remit of the law, subject to approvals by local authorities and police with respect to the date, time and venue. The Electoral Act (as amended), Section 3(c)(iii), provides that all political parties can campaign freely within the law and outlines penalties, including a fine or imprisonment, for any

person who intimidates, prevents or obstructs any party or candidate's right to campaign (Section 133C). The Electoral Act also incorporates an Electoral Code of Conduct for Political Parties and Candidates and Other Stakeholders, which binds all stakeholders to ensure that the political environment is at all times free of violence, coercion and intimidation. It also stipulates that political parties and candidates, members and supporters must accept that others have the right to present their political principles and ideas in a peaceful environment, without intimidation or fear of reprisal, and must respect that right.

Campaign methods

The main methods of campaigning by political parties during the 2023 elections were rallies; door-to-door campaigning; paid TV and radio advertisements; and promotion through billboards, posters and the use of social media. The Group was informed by the police that the presidential candidate of ZANU-PF participated in 10 rallies in the provinces while the CCC presidential candidate reportedly went to more.

Role of traditional chiefs

The National Council of Chiefs of Zimbabwe is a 36-member body that was established pursuant to Section 285 of the Constitution. There are 286 Chiefs in Zimbabwe, and they play a significant role in Zimbabwean society. While the role of the Chiefs in relation to election campaigns is not explicitly defined, the Chiefs are required to assist in a non-partisan manner in voter education and public awareness. Yet allegations of partisan behaviour of traditional leaders in favour of the ruling party is a highly contentious issue in Zimbabwe. Some stakeholders are of the view that perceptions of Chiefs' alignment with the governing party are in relation to the reacquisition of land, which is the pillar of the existence of the Zimbabwe people. It is argued that Chiefs tend to support any political party that supports the reacquisition of land as part of their campaign platform.

Some political stakeholders feel that the involvement of Chiefs in the campaign is in contradiction with Section 281(2) of the

Constitution. In this regard, a High Court Order of 14 May 2018 instructed the National Council of Chiefs and the Minister of Local Government to put in place mechanisms for the establishment of the constitutionally provided Integrity and Ethics Committee of Chiefs to examine complaints related to traditional leaders in an election environment. The Group was informed that this Committee had not been established and complaints filed with ZEC concerning traditional leaders are reportedly being forwarded to the Ministry of Local Government.

Key campaign themes

The Group noted that the main campaign themes of the political parties that contested the elections included growing and stabilising the economy, infrastructural development and building closer ties with the international community, including the Zimbabwean diaspora. Specifically, ZANU-PF focused on leadership, anti-corruption, job creation, re-engagement with the international community and national unity as its main campaign themes.

The CCC campaign messages were macro-economic stability, revamping the country's infrastructure, modernising agriculture, guaranteeing human rights and constitutionalism. The party promised to establish the office of the opposition leader in the Parliament and to set up a national Consultative Transformation Council made up of government, business, civil society, academics and labour organisations.

MDC-T pledged to build a shared and inclusive economy; reconstruct the country's infrastructure; undertake currency reforms; ensure social justice; and improve service delivery in healthcare, education and housing.

The campaign messages of the other political parties had similar themes with varying emphases on the transformation of the public enterprise and security sectors, on gender parity and on environmental sustainability.

UZA, the party with the only female presidential candidate, campaigned on four themes: accountability, dignity, unity and stability, all of which would be harnessed towards the delivery of a 'flourishing' Zimbabwe.

It was the view of some stakeholders that, considering the similarity of the party campaign manifestos and messaging, voters were left to make their choice based mainly on factors such as

historical voting patterns, the urban–rural divide, and the personality and leadership qualities of the candidates.

State funding of political parties

The Political Parties (Finance) Act provides for state funding of a party based on the proportion of its representation in Parliament, so long as the party attained at least 5 per cent in the previous election. The Group notes, however, that funding was allocated to two parties, ZANU-PF and MDC-A, despite the latter no longer existing. As a result, the main opposition entity, CCC, whose leader was formerly part of the MDC entity that later split into two factions, received no funding at all. Of concern is the fact that it is the responsibility of the relevant Minister, rather than ZEC, to determine whether political parties meet the eligibility criteria.

Political finance regulation

At present, while the Political Parties (Finance) Act and the Electoral Act contain limited provisions on funding and campaign expenditure, Zimbabwe does not have comprehensive or standalone legislation for the regulation of political finance in line with international good practice in this area.⁴⁶

Both the Political Parties (Finance) Act and the Electoral Act contain some limited provisions relating to the funding of political parties. The former prohibits parties from receiving funding from foreign sources and contains sanctions for violations of this provision. Section 93 of the Electoral Act, meanwhile, lists types of lawful candidate expenditure. Section 97 of the same Act states that all payments relating to a candidate's campaign must be made through a chief electoral agent. Similarly, all donations must be paid to the chief electoral agent and not directly to the candidate. Section 99 requires the submission of claims for election expenses but appears to apply only to successful candidates, while Section 100 places limits on personal expenditures of candidates. As with the Political Parties (Finance) Act, there do not appear to be any limits on donations.

⁴⁶ See, for example, Commonwealth Secretariat (2020) 'Political Finance Regulation: A Best Practice Guide to Commonwealth Legislative Approaches'. [https://production-new-commonwealth-files.s3.eu-west-2.amazonaws.com/s3fs-public/2023-04/Political%20Finance%20Regulation%20Legislative%20Approaches\[66\].pdf?VersionId=k10NoN_VNuWvH0wnP_JcEiarciJLf4D](https://production-new-commonwealth-files.s3.eu-west-2.amazonaws.com/s3fs-public/2023-04/Political%20Finance%20Regulation%20Legislative%20Approaches[66].pdf?VersionId=k10NoN_VNuWvH0wnP_JcEiarciJLf4D)

The Electoral Act therefore applies only to candidates and not to political parties, and only for the election period. There is therefore no regulation of political finance expenditure for political parties, nor for the full electoral cycle. There are no limits on expenditure and no provisions around disclosure or sanctioning.

Recommendations:

- To avoid any suggestions of executive bias, real or perceived, the Political Parties (Finance) Act should be amended such that the responsibility for determining in a transparent manner whether parties meet the criteria for state funding, and the subsequent disbursement of funds, rests with ZEC rather than the relevant Minister.
- In order to ensure a level playing field and increase transparency and public confidence in the electoral process, Zimbabwe should consider the enactment of comprehensive political finance legislation applicable to both parties and candidates. The legislation should include detailed provisions on asset disclosure, donations and sources of funding, campaign expenditure disclosure and sanctioning. ZEC should be mandated to enforce the legislation, and should be sufficiently resourced to enable this.

The media

Historical context

Freedom of the press has been an issue in Zimbabwe since Rhodesia's Unilateral Declaration of Independence in 1965. Several laws were passed by the Rhodesian Government making it illegal to print news reports 'likely to cause alarm, fear, or despondency among readers'.⁴⁷ After the Lancaster House Conference in 1979, censorship of the foreign press ended; however, the government retained powers to censor the media at its discretion. After independence, the new Republic of Zimbabwe did not implement proposed media reforms to any great degree. In the 1990s, independent media started functioning in the print sector, though the state-run ZBC remained the sole TV and radio broadcaster.

⁴⁷ See Raymond Louw, 'Zimbabwe: Silencing the Media', in *Comparative Monitor* (Vol. 18, No. 1) https://journals.co.za/doi/pdf/10.10520/AJA0259188X_929

Current environment

Zimbabwe's media landscape is complex, evolving and polarised. In 2019, there were 157 registered media organisations in the country, covering broadcast, print and online media. Online news readership and social media are fast gaining traction among young, urban and educated Zimbabweans. According to the World Press Freedom Index 2022, the media landscape in Zimbabwe has improved 'slightly' since 2017.⁴⁸ The report notes an increase in access to information and a decline in self-censorship. The media environment is dominated by state or state-owned broadcasters, with relatively few private sector media outlets. It was reported to the Group that, while there are notable efforts to liberalise the sector and enhance access to information, there has been very little effort to transform state media into a true public service.

In its 2022 report, Reporters Without Borders (RSF) ranked Zimbabwe 130 out of 180 in terms of media freedoms, which is a slight improvement from its previous rank of 137 in 2021. The Media Institute of Southern Africa (MISA) indicates a considerable reduction in the number of media freedom violations. However, media freedom remains precarious, especially with the enactment of the Criminal Law (Codification & Reform) Amendment Act 2023. MISA cites several positive developments for journalists since 2017, including:

- repeal of the Access to Information and Protection of Privacy Act and its replacement by the Freedom of Information Act 2020
- introduction of post-cabinet media briefings
- an open-door policy operated by the Ministry of Information
- a Police Media Action Plan and follow-through to improve the professional working relationship between the media and the police⁴⁹

⁴⁸ See <https://rsf.org/en/rsf-s-2022-world-press-freedom-index-new-era-polarisation>

⁴⁹ See MISA (2017) Police and Media Agree on Actions to Secure Safe Media Environment'. <https://zimbabwe.misa.org/2017/12/20/police-media-agree-actions-secure-safe-media-environment/> and MISA (2023) 'The Nuts and Bolts of the Nationwide Police-Media Engagement Meetings'. <https://zimbabwe.misa.org/2023/04/13/the-nuts-and-bolts-of-the-nationwide-police-media-engagement-meetings/>

- a Media Practitioners Bill: Under the Zimbabwe Media Commission Act 2020, Cabinet has approved co-regulation between the Zimbabwe Media Commission (ZMC) and industry
- a Media Code of Conduct Pledge signed on 10 August and initiated by MISA and ZMC on ethical and professional conduct during the 2023 election⁵⁰

Legal framework

The media in Zimbabwe is regulated by ZMC. The Commission's responsibilities include upholding, promoting and developing freedom of the media, enforcing ethical practices, promoting fair competition and ensuring media diversity. According to RSF, authorities influence the selection of members of the board of ZMC. It should be noted that, once the election proclamation dates are gazetted, ZMC cedes control of media regulation of election coverage to ZEC, which then regulates the media's electoral coverage in accordance with the Constitution, the Electoral Act, Statutory Instrument 33/2008 and other relevant media laws.

Section 3(c) of the Electoral Act states that every political party has the right to have (iv) fair and equal access to electronic and print media, both public and private; and (v) reasonable access to all material and information necessary for it to participate effectively in every election. Section 160(g) states that public broadcasters shall afford all political parties and independent candidates contesting an election such free access to their broadcasting services as may be prescribed.

As mentioned in Chapter 3, the Criminal Law (Codification & Reform) Act 2023 contains new provisions that place restrictions on freedom of speech. Section 22A(2)(b) of the Act criminalises 'upsetting' the Government of Zimbabwe, and outlaws being present at any meeting at which sanctions and boycotts against Zimbabwe are even 'consider[ed]'. Both the vagueness of the law and the harshness of the penalties (a fine of up to Z\$200 000 or imprisonment for up to 10 years

or both) are likely to have led to self-censorship among journalists and may have dampened journalistic enterprise.

State-owned media

The media in Zimbabwe is dominated by state-owned or state-aligned outlets, most notably ZBC, which is wholly state-owned, and Zimbabwe Newspapers (Zimpapers), which is majority-owned by the Zimbabwe Mass Media Trust, a public trust that owns ZTV and four national radio stations. In 2020, following calls to diversify the media landscape, the Broadcasting Authority of Zimbabwe (BAZ) awarded six free-to-air national commercial TV broadcasting licences, breaking a 40-year monopoly. The Zimbabwean Government also manages two key newspapers, *The Herald* published in Harare and *The Chronicle* published in Bulawayo.

Private media

Privately owned news publications include *NewsDay*, *The Standard* and *The Zimbabwe Independent*, owned by Alpha Media Holdings (AMH). AMH also owns the online Heart and Soul TV/Radio. In 2019 AMH Chair and Co-Founder Trevor Ncube joined President Mnangagwa's Presidential Advisory Council but departed in 2022. *The Daily News*, *The Sunday News* and *The Financial Gazette* (weekly) are part of the Associated Newspapers of Zimbabwe stable, which was awarded one of the six free-to-air national commercial TV broadcasting licences in 2020. Stakeholders asserted that, increasingly, media control is being secured by capital injection and state capture.

The core challenge confronting Zimbabwe is one of state control, either directly or indirectly, of much of the media landscape - both broadcast and print. Based on the Group's assessment of campaign coverage, state-aligned media houses seldom offered genuine scrutiny of government policy, nor did they provide citizens with balanced and critical analysis of law and policy. Private media was also biased at times, although to a lesser extent. As stated above, Zimbabwe has made some limited progress towards diversifying the media landscape, for which it should be commended. Yet this core challenge will not be addressed solely by the awarding of new broadcasting licences if new entrants to the market are similarly disposed to support government policy without scrutiny, particularly where concerns about journalistic

⁵⁰ See MISA (2023) 'Zimbabwean Media Pledges to Uphold Ethical Standards in Covering 2023 Election' <https://zimbabwe.misa.org/2023/08/16/zimbabwean-media-pledge-to-uphold-ethical-standards-in-covering-2023-election/>

freedoms persist. Rather, the bedrock of a free and diverse press lies in the state's adherence to its constitutional commitments to freedom of conscience, association, assembly and expression. Amendments to law such as those in the Criminal Law Act run contrary to this endeavour.

Governments draw their legitimacy through popular consent. The government, and any political party seeking political power, must have sufficient confidence in the legitimacy and efficacy of its proposals that it is willing to subject these to genuine journalistic scrutiny. A government that shies away from scrutiny is one that lacks confidence in the popularity of its own policies. The media must be supported, both in the upholding of constitutional freedoms and in the liberalisation of the media landscape, to undertake its solemn duty to scrutinise parliamentary affairs.

Media monitoring

Media monitoring in Zimbabwe comprises official media monitoring, as well as media monitoring by CSOs, each of which will be addressed in turn.

Under Section 160(k) of the Elections Act, ZEC is given the responsibility to monitor the media and promote fair and balanced coverage during election campaigns. For the 2023 harmonised elections, ZEC established a Media Monitoring Committee (MMC), with participation from BAZ and ZMC. The MMC is chaired by ZEC and is required to publish a report that is an addendum to the main election report. Critics described MMC as inactive and slow to publish its findings.

The Group was informed that, following the proclamation of elections, MISA Zimbabwe wrote to ZBC requesting the implementation of fair and balanced coverage of political parties during the election. A report released by Media Monitors Zimbabwe (MMZ) indicates that media coverage was tilted in favour of ZANU-PF.⁵¹ The Group was informed that, although ZBC produced an Elections Coverage Schedule, it did not provide live coverage of rallies for all the contesting political parties. The Election Schedule was published in *The Herald* on Friday, 28 July 2023.

Among other violations of media regulations, an MMZ weekly report shortly before election day found that two ZBC radio stations, National FM and Radio Zimbabwe, had broadcast subtle campaign messages in support of ZANU-PF as part of its Heroes' and Defence Forces commemorations by encouraging listeners to give 'the second republic' another mandate in light of the sacrifices made during the liberation struggle.⁵² This is in violation of Section 6(2) of Statutory Instrument 33/2008, which states that, 'A public broadcaster shall transmit an election advertisement in such a manner that the election advertisement does not follow immediately before or after another election advertisement'.

Media code of conduct

In the lead-up to the 2023 elections, MISA Zimbabwe, the Zimbabwe Union of Journalists and the Zimbabwe National Editors Forum mobilised their memberships across the country to engage with the police commands and political parties in building consensus on the need to ensure a safe working environment and on preserving the integrity of the media and journalism during the election. This engagement process yielded commitments from all key electoral stakeholders culminating in the signing of the *Harmonised Elections Media Code of Conduct Pledge 2023*. The pledge was signed by the media organisations and endorsed by representatives of political parties in Parliament (ZANU-PF, CCC and MDC-A), ZMC and the Ministry of Information, Publicity and Broadcasting Services.

Training and accreditation of journalists

In April 2023, the Media Alliance of Zimbabwe trained journalists from four Zimbabwean media houses on physical safety, digital security, psycho-social well-being and media reporting for the 2023 election. During elections, all Zimbabwean journalists were required to pay US\$10 to be accredited by ZEC to observe elections and gain access to election-related information and events schedules. This is in addition to the annual \$10 accreditation fee paid to ZMC. Media representatives argued this 'double accreditation' was costly to media houses that may have wished to accredit several journalists to cover elections, and that, in limiting the number of journalists on

⁵¹ MMZ (2023), 'Media Watch Week 3: An Analysis of Coverage of the Election Period by the Media' <http://www.mediamonitors.org.zw/elementor-1058/>

⁵² Ibid.

the ground who could provide coverage, this in turn affected the quality of news. Additionally, it was noted that several journalists from foreign media houses were denied accreditation, notably Voice of America, South Africa's Daily Maverick and ARD of Germany.

Media framing of campaign issues

According to an August 2023 report by MMZ, the coverage of the election was characterised by the polarisation of the Zimbabwean media and bias towards political candidates. The publicly owned media portrayed positive coverage of the electoral environment and towards the ruling party. This was attributed to the failure of journalists in publicly owned media houses to separate the President's campaign from the role of government, such as on the issue of resourcing the police force and the allocation of residential stands to home seekers in Marondera.⁵³ The Group was informed that such actions clearly violate Statutory Instrument 33 of 2008, which emphasises the importance of providing equitable coverage to all political candidates.

MMZ reported that, during the election period, political campaigns were covered extensively by all five major media platforms, with public print generating the most publicity (29 per cent). MMZ suggested that publicly owned media tended to downplay incidents of political violence that happened across the country. It tended to focus, instead, on the activities of the Peace Pledge signed nationally by political parties in Harare and those signed in Bulawayo, Manicaland and other provinces. Conversely, the private media reportedly maintained a more balanced approach to framing issues in the electoral environment and covering the political developments of ZANU-PF and CCC. Political violence was reported the most in private media. This included coverage of the violence that occurred during the electoral period and at the CCC rally, as well as the institutional responses of the police, the church and political party spokespersons.⁵⁴

Campaign coverage and schedule

The Group was informed of government policy to ensure publicly owned media allocated free campaign slots to all political parties, in line with the principles of equitable access as outlined in Section 3 and the Fourth Schedule of the Electoral Act. Some stakeholders were of the view that publicly owned media exhibited a bias towards the governing party by providing greater coverage of its rallies and campaigns. The Group was informed that, although less-established political parties would have been granted proportionately less coverage in accordance with the size of their party, the lack of visibility was exacerbated by the failure of these parties to take advantage of the offered advertising space. MMZ observed a significant increase in deliberate, subtle campaigning, primarily from the publicly owned media, in support of the incumbent.

In the week leading to the election, MMZ reported that, of the 18 political parties that received media coverage, only seven (39 per cent) received a significant amount of time and space in the media. ZANU-PF received 69 per cent coverage in the week leading to the election. CCC was in second place, accounting for 19 per cent of coverage during the same period. MDC-T saw a decline in its media coverage owing to its candidate's withdrawal from the presidential election race.⁵⁵

The report also indicated that ZANU-PF was the most widely covered party on the public broadcaster (85.75 per cent) and private broadcasters (38 per cent). The party also dominated public print coverage, receiving 97 per cent of public newspaper coverage. CCC was more visible in private print, receiving the largest share of all parties at 44.4 per cent, while it received slightly more than half of the coverage from online-only publications. The party was least covered in public print (1.2 per cent) but enjoyed better coverage from private broadcasters (25.5 per cent). UZA generated 12.6 per cent of private broadcasting coverage, while Zvido Zvevanhu People's Party generated 8.16 per cent of private broadcasting coverage, an indication of private broadcast media's greater inclusivity in its coverage of political parties.

In the pre-election period, media coverage was more focused on presidential candidates, neglecting the significance of the National Assembly and local authority candidates. The report

⁵³ MMZ (2023) 'Media Watch Week 4: An Analysis of the Coverage of the Election Period by the Media' <http://www.mediamonitors.org.zw/download/media-watch-week-4-an-analysis-of-the-coverage-of-the-electoral-period-by-the-media-in-zimbabwe-issue-4-12-18-july-2023/>

⁵⁴ Ibid.

⁵⁵ Ibid.

also indicates that presidential candidates were allocated 55 per cent of media space, while National Assembly candidates were provided with 18 per cent, local authority candidates 3 per cent and party spokespersons 2 per cent. Party spokespersons were visible in the media discussing their parties' campaigns, challenging opponents and calling for peaceful elections. The Group was concerned, however, with the level of misinformation spread by official party sources regarding the activities of international observers. It is the view of the Group that MMC, established by ZEC, should do more to enforce legislative and regulatory provisions regarding balanced media coverage of the election.

Coverage of female candidates

The Group noted that media coverage for female candidates was low, yet this owed at least in part to the broader issue of the under-representation of women as candidates in the election. In the weeks leading to the election, MMZ indicated that female candidates took up 19 per cent of news reportage, while male candidates took up 81 per cent. The Group noted that the presidential election had one female candidate, Elisabeth Valerio, leader of UZA, which translated into less than a tenth of available airtime for women even if the media were to strictly adhere to the legal framework governing elections. According to MMZ, the public media's coverage of Valerio's campaign contributed 6.92 per cent of the overall coverage. Male journalists provided 61 per cent of news reports while female journalists accounted for 39 per cent. Women made a significant contribution to news, including long-format interviews with political actors on both private and public broadcasters.⁵⁶

Social media

In early 2023, there were 5.7 million internet users in Zimbabwe, representing 34.8 per cent of the population. According to Datareportal, Zimbabwe had 1.5 million social media accounts, equating to roughly one account per every tenth person.⁵⁷ Of the 5.7 million internet users, 1.3 million were active on Facebook, while just 323,000 internet users were active on X (formerly Twitter), equivalent to roughly 2 per cent of the population.⁵⁸ WhatsApp,

meanwhile, is the dominant social media service, amounting to almost 50 per cent of internet traffic in Zimbabwe.⁵⁹ Social media channels played a role in the dissemination of opinions and information during the 2023 election campaigns. According to MISA Zimbabwe, WhatsApp was the dominant platform for the spread of mis- and disinformation during the 2023 elections, in part because it is considered a safer form of communication on account of its encryption technology. Yet the closed-group format of WhatsApp makes it more difficult for fact-checking organisations such as ZimFact to identify and counter such disinformation.⁶⁰

The audience for social media channels such as Facebook, Twitter and WhatsApp is mostly urban and diaspora-based Zimbabwean voters, as they have greater internet access. One of the noteworthy characteristics of the social media electoral campaign was that it served the primary function of fortifying already existing political positions, by acting as 'echo chambers' of already held perspectives. Prominent Zimbabwean 'Facebookers' and Twitter celebrities posted on social media, indicating which party they supported. Hate speech on Zimbabwe's social media landscape has, however, vitiated the atmosphere. The Group was informed that women candidates faced online abuse and gender-based threats, which may be a contributing factor to the disproportionately low number of women aspirants in this election. The Group is of the view that cyber-enabled violence against persons and its transmission is unacceptable in any circumstance, particularly during elections. In addition to existing legislation against hate speech, the Group proposes that ZEC introduce measures to address the problem, such as incorporating provisions on hate speech into the Electoral Code of Conduct for Political Parties and Candidates and Other Stakeholders.

Recommendations:

- The Group noted a disparity between the constitutional position that state broadcasters should provide free and equal access to public media and the reality of news reporting during

⁵⁶ Ibid.

⁵⁷ Some individuals will have more than one account, however.

⁵⁸ <https://datareportal.com/reports/digital-2023-zimbabwe?rq=zimbabwe>

⁵⁹ Masarakufa, C. (2023) 'Critical Look at Social Media Usage in Zimbabwe'. Business News, 6 May <https://startupbiz.co.zw/critical-look-at-social-media-usage-in-zimbabwe/>

⁶⁰ AFP (2023) 'Zimbabwe Election Disinformation Spreads on WhatsApp'. 3 August www.france24.com/en/live-news/20230803-zimbabwe-election-disinformation-spreads-on-whatsapp-1

the election period. The Group recommends that enhanced efforts be made to ensure full implementation of existing rights to ensure balanced and fair coverage of candidates and parties.

- The appointments process for ZMC board members should be reviewed to prevent undue influence by government officials.
- MMC, established by ZEC, should make greater efforts to enforce relevant media

legislation and regulations, particularly as regards fair, equitable and balanced reporting of elections. MMC should ensure its findings and decisions are published expeditiously.

- ZEC should reduce or eliminate accreditation fees for journalists.
- ZEC should consider measures to address hate speech, such as incorporating provisions on hate speech into the Electoral Code of Conduct for Political Parties.

6. Voting, Counting and Results Process

Zimbabwe's harmonised elections were conducted on 23 August 2023 for the President, the National Assembly and local government. On election day, the Group observed the opening of the polls, polling, the closing of the polls and the count.

ZEC established 11,501 polling stations throughout the country. However, the zones of some of these exceeded the 1,000 voter population threshold so they were split to form composite polling stations with streams. This resulted in the total number of polling points rising to 12,374. The number of registered voters was 6,623,511 voters, 53.7 per cent of whom were women.

The Group was informed that postal voting would be conducted in line with Section 72 of the Electoral Act. Eligible persons included:

- persons on duty on polling day as members of the disciplined forces
- electoral officers
- persons on duty in the service of the Government of Zimbabwe outside Zimbabwe and their spouses

Postal voting does not take place at any designated polling stations. Upon receipt of the marked ballots, the Chief Elections Officer distributes them to the appropriate polling stations, where they are placed in ordinary ballot boxes and counted along with the rest of the ballots cast on election day.

In 2022, before the by-elections, the Chairperson of ZEC encouraged CSOs to perform PVT in order to enhance transparency in the electoral process. Two of the accredited CSOs, ZESN and ERC, both of which stated their intention to conduct PVT, were accredited by ZEC. Similarly, the opposition party CCC intended to conduct PVT on election day. However, it was noted during the briefing for observers by ZEC and ZRP that the use of PVT would not be permitted owing to what they described as security concerns related to premature and unofficial announcements of election results resulting in chaos and public disorder.

Security preparations

Management of security during elections is guided by the Constitution of Zimbabwe Amendment Act 2023, MOPA, the Police Act and the Electoral Amendment Act and Regulations. The Group noted that the security environment ahead of the 2023 harmonised elections remained largely peaceful and calm. The majority of stakeholders with which the Group interacted noted a significant reduction in incidents of violence compared with in previous elections.

Section 219 of the Constitution of Zimbabwe clearly lays out the functions of ZRP, while Part II of MOPA regulates the management of public gatherings also by ZRP.

The Group noted the positive security preparations for the elections. This included the establishment of a specialised police unit for the harmonised elections and the development of a booklet on the Code of Conduct for Police Officers during elections. In addition, the ZRP leadership reported that deployments of police officers, supplemented, where necessary, by Correctional Services officers, were adequate. The Group noted the number appeared to range from three to 10, depending on the region and polling station. It was reported that special support units were deployed throughout the country to manage any potential unrest. The Group was informed by the Police Commissioner that he wished to learn from the 2018 elections and pay particular attention to the post-election period and to ensure that he had sufficient resources at his disposal to mean he would not have to call upon the army to secure order.

Key procedures for the conduct of the poll

Every voting centre is designated with a Presiding Officer, and the number of electoral staff members at each polling station varies based on the size of the voter list. If there are more than 500 people on the voters' roll, there should be 10 electoral staff members. If there are fewer than 500 registered

individuals, eight officials are required. When the voters' roll contains fewer than 200 people, six officials are needed. These personnel will have various responsibilities, including ensuring voter sanitation, guiding voters, verifying names on the voter list, applying indelible ink, distributing ballots, recording statistical data, documenting any incidents and maintaining security.

Additional individuals at the polling station included polling staff, voters, political party agents, accredited international and citizen observers, and police officers. The Polling Manual stipulates that special consideration should be given to elderly voters, voters with disabilities, expectant mothers and mothers with young children, allowing them priority when casting their votes.

On election day, preparations were scheduled to occur between 06:00 and 06:30. From 06:30 to 07:00, the procedure involved declaring all ballot boxes empty and sealing them. During this time, the seal straps' serial numbers were provided to party agents and observers. Election agents also had the option to sign the envelope containing the keys. The Presiding Officer's responsibility included ensuring that the ballot boxes for the polling station were properly labelled with information such as polling station name, ward number, local authority name, constituency name and election name. Additionally, Presiding Officers were required to ensure the ballot box aperture was opened correctly.

Voting was scheduled to take place for 12 hours from 07:00 to 19:00, and the prescribed voting process was as follows.

Upon reaching the polling station, the voter first verifies their name on the publicly displayed voters' roll and then joins the queue. At the polling station, special consideration is given to individuals with disabilities, senior citizens, expectant mothers and nursing mothers. This is followed by the following process:

1. The voter presents a valid national identification document, which could be a national identification card or a passport. Elections Officers examine the fingers for indelible ink.
2. Elections Officers cross-check the voter's name in the voters' roll to confirm their registration status and mark their name to indicate they have voted.

3. The Statistics Officer records voter demographics, including gender and age group.
4. The voter is provided with three ballot papers, one each for the presidential, National Assembly and local authority elections.
5. The voter's small left finger is marked with indelible ink. If the voter has any finger disability, the next finger in sequence is marked.
6. The voter proceeds to a private booth to discreetly mark their preferred candidates on the ballot papers with an X.
7. After marking, the voter folds the ballot papers and places each one in the corresponding-coloured ballot box.
8. Finally, the voter exits the polling station.

If a voter requires assistance during the voting process, they can request it, and a trusted person can accompany them into the voting booth. This trusted individual must be at least 18 years old and is not required to be a registered voter. A person providing assistance can assist only one voter. In cases where a voter does not have someone to assist them, the Presiding Officer will provide assistance. This assistance should be carried out in the presence of two polling officers and a police officer who will act as witnesses.

Poll set-up

- Most of the polling stations had been set up by the eve of the elections. Materials had been received, polling officials and the police were present and in some cases party agents were there. On the eve of elections, the Group found that ZEC appeared to be prepared. An important feature of set-up is that officials and agents spent the night at the polling station, which contributes to timely opening as well as the security of polling stations. ZEC should be commended for this arrangement and the commitment of the Presiding Officers and other officials was favourably noted by the Group.
- The majority of voting locations were situated within schools to facilitate the voting process. In instances where appropriate facilities were lacking, temporary polling stations were established using tents.

- Access to some polling stations posed a challenge for physically disabled voters, as they were primarily accessible via stairs and there were no ramps.
- The layout of most polling booths adhered to the guidelines outlined in the Polling Manual, with clearly marked voting booths. ZEC should ensure that, in future, temporary ramps are provided at polling stations that are not PWD-friendly.
- Polling stations featured between three and four polling booths, one of which was designed for PWDs, ensuring voters could mark their ballot paper in privacy, in line with the Polling Manual.
- The Group was pleased to observe that women were well represented and, in most cases, the majority of polling officials, including those in the role of Presiding Officers, were women.
- Visible signage, including directional arrows, the polling layout and posters illustrating the voting process, was present in many polling stations.
- The Group noted that voter lists were either posted outside the polling stations or displayed openly, enabling voters to verify their assigned polling stations and the number of voters at each location. The quality of the voter lists affixed outside the polling stations was very good in terms of legibility, paper quality and printing.
- However, the Group observed a lack of visible signage indicating the 300 metre radius of the polling station. Such signage is an important guide for all stakeholders, particularly political parties or candidates, as campaigning is not permitted on polling days and no political material should be within this boundary.
- The Group observed that excessive numbers of tents were used as temporary polling stations at many places owing to a lack of permanent buildings. Many tent structures were erected alongside busy roads, causing inconvenience to voters and users. Inside, the tents were not very bright, and indeed were often gloomy. The ground was uneven, the tents were hot and there was a lack of fresh air; desks were in some places too low

to be comfortable. This might have caused inconvenience to voters in casting their votes and would have been uncomfortable for officials in discharging their duties for long hours. The Group recommends that the number of temporary tents be reduced over time and alternative buildings be identified.

- It would be useful to provide some dummy ballot papers to train voters in casting their votes with ease. The Group also noted that all the three plastic ballot boxes were similar in appearance, which may have caused confusion for voters when trying to drop ballot papers in the right boxes. To assist voters in the voting process and to avoid misplaced ballot papers, ballot boxes should be different colours, corresponding to the colour of the ballot papers. Even pasting a paper of a differing colour on each box may serve the purpose provided the paper is big enough or on the lid of the box.

Opening of polls

The Polling Manual states that polls shall open at 07:00; if the polling station opens later than the stipulated time, the Presiding Officer must inform the Ward Elections Officer as soon as possible. The Presiding Officer must ensure the polling station remains open for a continuous period of 12 hours if there is a delayed opening. Except for in postal voting, voters must vote at the polling station at which they are registered.

- The Group observed that the polls opened on time in most of the observed polling stations, except for some in Harare Metropolitan Province, Bulawayo Metropolitan Province and Mashonaland East. In some areas, particularly Harare and Bulawayo, the polling process started late, leading to extended queues at certain polling stations by 19:00. In a few instances, ballot papers were not delivered until the afternoon, with one case experiencing delays as late as 19:30. These delays could have influenced voter turnout, especially in these densely populated urban areas, and may have caused frustration among voters. We learned from reports that ZEC attributed these delays to the printing process being affected by various court challenges. This explanation cannot be accepted, when it is seen that the ballot

papers were able to be printed and delivered on time across the country including to its most remote polling stations yet not in places in Harare and Bulawayo. The fact that these areas were perceived to be opposition strongholds in the 2023 elections provided grounds for suspicion that this had not been an innocent mistake by ZEC's staff.

- It was observed that polling officials were directed to keep polling open for a full 12 hours, in accordance with the law. We noted that the President of Zimbabwe's Proclamation, on the evening of Election Day – that is, 23 August 2023 – extended polling day to 24 August in 27 Manicaland wards, two Mashonaland Central wards and 11 Harare wards for the elections of the President, the National Assembly and local councillors. The Group notes, however, that the Proclamation did not allow for an extension of voting in Bulawayo, which was significantly affected by delays.⁶¹
- The Group observed that all polling officials were on time as per Polling Manual guidelines. Party agents, unarmed police, and citizen and international observers were also present.
- In some polling stations, the Group noted that polling officials conducted a sweep of the polling station and its 300 m perimeter to remove campaign posters, party regalia and other campaign material in order to ensure the polling environment was in accordance with electoral law.
- Information regarding those who were assisting and assisted was also collected by ZEC. The Group was informed this was to avoid one person assisting more than one voter.
- The Group observed that all voters upon arrival at the polling station were able to check for their name on the displayed voters' roll and then join the queue. Those whose names did not appear on the voters' roll were redirected by election officials, including the police, to the appropriate polling station. Voters could also dial *256# to check their polling station.
- Polling officials were observed to guide voters on how to complete the ballots correctly, including in local languages. However, at those premises that had multiple polling stations, the Group noted that voters at the entrance needed guidance and direction to their respective polling station. Voters were seen moving from station to station in an effort to identify their designated station. To facilitate voters to go to their designated polling station, a voter assistance booth manned by one or two polling officials may be set up near the entrance to the premises, where voters can approach polling officials for guidance.
- The Group noted that poll procedures were adhered to, which included identification verification, voters' roll registration confirmation, ballot issuance, inking and polling. The election officials seemed well trained, efficient, meticulous and highly transparent in the conduct of their duties. It was uniformly observed that the quality of the voter lists containing coloured pictures of voters used by polling officers inside the polling station was very good and helped in establishing the identity of voters. ZEC deserves to be commended for this.
- In most cases, priority was accorded to pregnant women, nursing mothers, PWDs and the elderly, although some polling stations lacked an efficient system for identifying priority voters, resulting in them queueing for long periods. There was some inconsistency in the support provided to PWDs inside polling stations. At some polling stations, men and women were separated into different queues.

Polling procedures

- The Group noted the mix of voters who turned up. In some areas, youth turnout appeared to be very high; in others, older generations appeared to represent the majority of voters. ZEC also collected disaggregated data on voters by age and gender, although at the time of writing the Group has not been able to obtain this data.

⁶¹ Statutory Instrument 151 (Proclamation 5) of 2023, which includes the line 'under and by virtue of the powers vested in the President as aforesaid, I do, by this proclamation in respect of the affected polling stations for the wards listed in the Schedule to this Proclamation fix the 24th of August, 2023, as the last day of polling for the election to the office of President, the election of members of the National Assembly and election of councillors.' www.veritaszim.net/sites/veritas_d/files/SI%202023-151%20Proclamation%205.pdf

- The Group noted that assisted voting was provided to ensure all eligible voters exercised their democratic right in a timely manner. The assisted voters utilised either a confidante of their choice or the Presiding Officer, accompanied by two other officials to guarantee the integrity of the vote. The Group observed that most of the assisted voting was for PWDs, especially the blind and amputees.
- We note that voting after dark in the areas affected by the late provision of ballots may have been a barrier to voters, particularly women, the elderly and PWDs.
- The delay in the supply of ballot papers in some areas may have led to voters not returning to vote later when ballot papers were eventually provided.
- Party agents of the main political parties, and in some instances independent candidates, were present in all polling stations observed. While they lacked copies of the voters' roll, they were nonetheless diligent, to the extent possible, in the conduct of their duties.
- As per the Polling Manual, security was present at every polling station observed. In most areas, they were professional and unobtrusive and carried out their duties diligently. We note that, in some instances, security personnel were situated inside polling stations, although they did not appear to interfere or be an intrusive presence. Nonetheless, the presence of police officers inside polling stations could be a silent deterrent, and is not in line with international good practice.
- Observers witnessed tables set up in close proximity to some polling stations in Harare and Bulawayo by an organisation called Forever Associate Zimbabwe (FAZ), and received reports that members of the organisation were allegedly recording the names and ID numbers of voters. We also noted that members of FAZ were conducting citizen observation. Their presence fuelled allegations of voter intimidation, since FAZ is associated with ZANU-PF.⁶²

⁶² The FAZ website states, on its 'About' page, 'On 12th August 2022, FAZ Trust submitted its application for affiliate status in the Zimbabwe African National Union Patriotic Front (ZANU PF) in terms of Section 16 (2) of the Party Constitution, of which a decision is pending, but this should not preclude any activity.' <https://faztrust.com/about/>

Close of polling

- The Group noted that, in most stations, the Presiding Officer both inside and outside the polling station announced the close of the polling station at 19:00 for polling stations that started on time and at the end of 12 hours from the start time for the polling stations that had delayed opening. Voters who were already in the queue after the end of the polling time were allowed to vote. It was also noted that a police officer stood as the marker of the end of the queue at 19:00.
- The due process for closing was diligently followed for the most part, which included dismantling the polling booths.
- In those polling stations where postal votes were received, the Presiding Officer processed them before sealing the ballot box in the presence of election agents.
- The Group also noted that the Presiding Officer, in the presence of candidates, election agents and observers, accounted for all ballot papers used before the start of the count.

Counting process

- Counting and verification were conducted at the polling stations, and no one was allowed to enter or exit the room once counting had started and until results were finalised and captured on the Polling Station Return Form, Form V.11, as prescribed in the Polling Manual.
- The Group noted that the count was a detailed and thorough process, carried out by professional, dedicated and resilient polling officials in the presence of attentive party agents and observers. The count followed due process for the most part, with a high degree of transparency. The manual completion of the Forms V.11 took a considerable amount of time.
- Polling staff were efficient, meticulous and highly transparent in the conduct of their duties. However, we noted some minor disagreements between officials and agents as to how to complete results forms, owing to perceived ambiguities.
- The Group observed that Presiding Officers showed the completed Form V.11 to those present and requested each candidate or his/

her election agent to append their signatures to the Form V.11, after which a copy was given to each of the respective agents.

- The Group also noted that the completed Form V.11 was affixed on the outside of the polling station so that it is visible to the public
- and remained there. This is in tandem with international good practice.
- We noted that presidential candidates and their agents were invited to the national tallying centre to verify the results before they were announced.

Annex I. Composition and Biographies of the Group

Chairperson of the Commonwealth Observer Group

Ambassador Amina C. Mohamed, EGH, CAV (Kenya)

Ambassador Amina Mohamed has had a distinguished career in the public service spanning over 35 years. She has served in three Kenyan ministerial portfolios, as Cabinet Secretary in the Ministries of Foreign Affairs and International Trade; Education, Science and Technology; and Sports, Culture and Heritage. She has also been Permanent Secretary for Justice, National Cohesion and Constitutional Affairs, Assistant Deputy-General/Deputy Executive Director of the United Nations Environment Programme and Ambassador/Permanent Representative in Geneva.

She holds a Masters in Law, a Doctorate in Humane Letters and a Doctor of Letters degree.

Observers

Hon. Philip McMurdo (Australia)

Hon. Philip McMurdo KC practises as an arbitrator and mediator from chambers in Brisbane. From 2003 until his retirement in April 2023, he was a Judge of the Supreme Court of Queensland in its Trial Division, a court of general jurisdiction in which he heard a broad range of civil cases, including public law as well as criminal cases. He also served as a Judge of the Queensland Court of Appeal from 2015.

He was admitted to practise in 1977 and worked for a firm of solicitors before being called to the Bar in 1980, where he practised for 23 years, specialising in commercial, administrative and intellectual property law. He was appointed as a Queens Counsel in 1992. In 2000, he was engaged by the Criminal Justice Commission to examine allegations of widespread electoral fraud.

He lectured in law at the Queensland University of Technology for two years, served on the Bar Council and for six years was a part-time member of the Queensland Law Reform Commission.

From 2012 to 2014, he was President of the Judicial Conference of Australia, a body comprising most of Australia's judiciary and that since 2014 has represented the Australian judiciary within the International Association of Judges. He is a graduate from the University of Queensland in Law (with Honours) and Commerce.

Hon. Pelonomi Venson-Moitai (Botswana)

Hon. Pelonomi Venson-Moitai is ranked among Africa's forerunners in the field of governance, particularly local government. She holds a Masters in Administration and another in Human Resource Development. She served the Botswana Government for 20 years, leaving at the rank of Permanent Secretary. She then was recruited by the African National Congress to help set up local government in the new South Africa. At the end of that contract, she was honoured with a Service Excellence award by the South African Local Government Association.

Upon returning home, she joined politics and after initially being specially elected to Parliament she won three consecutive elections before retiring in 2019. During her term of office, she was appointed to various Cabinet portfolios, including Education, Science and Technology; Foreign Affairs; and Local Government. The Botswana Local Authority Association has honoured her for her contribution to the restructuring of local government in Botswana. She is an accredited trainer recognised by the Botswana Qualifications Authority.

Lomcebo Dlamini (Eswatini)

Lomcebo Dlamini's work's focuses on human rights, women's rights, good governance and democracy. She has served in different capacities in several national and regional organisations that promote

human rights and democratic principles, including the Women and Law in Southern Africa Research Trust, the Swaziland Coalition of Concerned Civic Organisations, the Constituent Assembly of Civil Society in Swaziland and the Media Institute of Southern Africa. She is a founder member of Eswatini Women's Rights Land Alliance and the Justice and Law Initiative. She has been involved in various democratic transformation, peace-building and conflict resolution processes, including election observation, both in Eswatini and in other Commonwealth member countries.

HE Mohamed Ibn Chambas (Ghana)

HE Mohamed Ibn Chambas served as Special Representative of the Secretary-General and Head of the United Nations Office for West Africa and the Sahel from 2014 to 2021. He has extensive experience from a long and distinguished career in governmental and international service. He was also the African Union–United Nations Joint Special Representative for Darfur and Head of the African Union–United Nations Hybrid Operation in Darfur. From 2010 to 2013, he was Secretary-General of the African, Caribbean and Pacific Group of States. Prior to that, he held the positions of Executive Secretary (2002–2005) and President (2006–2009) of the Economic Community of West African States. In Ghana, he has held several governmental positions, including the position of Deputy Foreign Minister.

Nasim Zaidi (India)

From 2012 to 2017, Nasim Zaidi served as India's 20th Chief Election Commissioner and the Chair of the Election Commission of India. He oversaw elections to the Parliament, State Assemblies, the Presidency and the Vice-Presidency, leveraging a number of electoral technologies, including electronic voting machines with voter-verified paper audit trail. He has served on several international observer missions.

Between 1976 and 2012, as a member of the Indian Administrative Service, he served in a number of increasingly significant positions in the Provincial Government of Uttar Pradesh. He served in Federal Government in the civil aviation sector for 12 years, and also as Joint Secretary and Permanent Representative of India on the Council of the International Civil Aviation Organization in Montreal, and as Director General of Civil Aviation and Permanent Secretary to the Government of India in the Ministry of Civil Aviation until 2012.

He possesses rich experience in policy-making and implementation of programmes in the areas of district management, elections at district level, urban planning, surface transport, rural development and agriculture.

He is a graduate (Master of Public Administration) of Kennedy School of Government, Harvard University, and also holds a Doctorate in Biochemistry with several publications. With 41 years of rich experience in public service, he currently serves on the board of News Broadcasting and Digital Standards Authority and engages in international speaking fora for promotion of electoral democracy.

Professor Prajapati Trivedi (India)

Professor Trivedi is currently the Commonwealth Secretary-General's Special Envoy for Sustainable Development Goal Implementation and a Distinguished Professor at the School of Public Policy and Governance, Management Development Institute, India. Previously, he worked as Senior Director in the Commonwealth Secretariat in London (2018–2019) and was in charge of the Economic, Youth and Sustainable Development Directorate. In addition, he is a visiting Economics Faculty Member at Harvard University's Kennedy School of Government, where he has taught various courses for the past 40 years.

He is currently a Visiting International Fellow at the IBM Center for the Business of Government, Washington, DC. He has served in several key positions in the Government of India, including, Secretary of Performance Management in the Cabinet Secretariat of the Prime Minister's Office, Chairman of the National Authority Chemical Weapons and Economic Adviser in the Department of Public Enterprises. He worked as a Senior Economist with the World Bank from 1995 to 2009 and STC Chair Professor of Public Sector Management at the Indian Institute of Management Calcutta (1987–1992).

He received a Masters in Economics from the London School of Economics in 1972 and Doctorate in Economics from Boston University in 1985. He is the author of five books and several academic papers. An elected life-time Fellow of the National Academy for Public Administration, USA, he became the first Indian to receive the International Public Administration Award by the American Society for Public Administration in recognition of his significant contributions to the field of public administration as a scholar and

practitioner. He was also awarded the Harry Hatry Distinguished Performance Management Practice Award for 2019 in Washington, DC.

Ambassador Aloun Ndombet-Assamba (Jamaica)

Ambassador Ndombet-Assamba is a former Senator and Member of Parliament. Between 2001 and 2007, she held various ministerial positions, including Minister of State in the Ministry of Industry, Commerce, Science and Technology; Minister of Industry and Tourism; and Minister of Tourism, Entertainment and Culture. She was also High Commissioner to the UK and Ambassador to several European countries from 2012 to 2016.

After returning home, she was invited by the Board of COK Sodality Co-operative Credit Union to resume the position of Chief Executive Officer, which she had vacated in 2001 to enter the political arena. After retiring from this position in 2021, she became a Special Consultant and Brand Ambassador for the Credit Union.

Ambassador Assamba is an Attorney-at-Law and has worked as a lawyer in both the public and the private sectors, as well as in her own law firm, which has been closed. She was one of the first people in Jamaica to be trained as a mediator, having been trained when the programme first started in the country. She is also a Supreme Court-appointed mediator, and has participated in many mediations both in Jamaica and overseas.

Wyvolyn Gager, OD (Jamaica)

Wyvolyn Gager is a Journalist and former Editor-in-Chief of the Jamaican Gleaner, where she remains a member on the Editorial Board. She has supervised editorial staff in Jamaica, Canada, the USA and the UK, and has held training workshops on media and communications in Jamaica, Guyana, Saint Lucia and the USA.

She has both a journalistic and personal interest in the administration of democratic institutions and good governance, and has been an observer on numerous Commonwealth Observer Group missions, including in Belize (Referendum), Dominica and Mozambique.

She is also the Chancellor's Representative on the University of West Indies Council and a Board Member of Mico University and of Hope Valley Experimental School.

She has won numerous regional and international awards for her journalism, and in 2014 was conferred with Jamaica's Order of Distinction for service to journalism. She has a Bachelors degree from the University of West Indies.

Samuel Oe-Amseb (Namibia)

Samuel Oe-Amseb has held a number of positions relating to local government throughout his career. He is currently President of Local Authorities of Namibia and Vice-President of the United Cities and Local Governments of Africa, Southern Africa Region. Prior to this, he was Mayor of Outjo, Namibia, between 2018 and 2020. He is also Second Vice-President of Namibia Public Workers Union. He has been awarded an honorary Doctorate in Philosophy by the World Christian University of Southern Africa.

Ambassador Julius Peter Moto (Uganda)

Ambassador Julius Peter Moto was the High Commissioner of Uganda in UK & Ireland from 3 August 2017 to 30 March 2022. Prior to his posting to the UK, Amb. Moto served as Uganda's High Commissioner to South Africa and Head of Mission from July 2013 to April 2017. His tour of duty covered the Republic of Botswana, Namibia, Zimbabwe and the Royal Kingdoms of Eswatini & Lesotho.

Amb. Moto has worked extensively in the business and NGO sector of Uganda and East Africa. He served as the Program Manager with a relief and economic recovery project under USAID/World Concern Project in South Sudan from 2011 to August 2012. He served as Marketing Manager, Projects Director, and CEO for large private sector-driven NGOs and organisations in Uganda, notably the Uganda National Farmers Federation, the Northern Uganda Manufacturers Association, the Private Sector Foundation of Uganda, and the Chamber of Commerce Lira Branch. He worked as International Trade Policy Program Officer at the Eastern African Farmers Organisation based in Nairobi from 2006–2008, where he trained farmers on regional organisation and sensitised farmers on trade policies, including the EU's Economic Partnership Agreements, the US's AGOA, and the COMESA PTA protocols.

Amb Moto has substantial skills in representations, advocacy, programme management, resources mobilisation, community mobilization and

development activities acquired over a period of 25 years in government, private sector organisations and development-based NGOs and INGOs.

Brian Speers (United Kingdom)

At the Commonwealth Law Conference in Livingstone, Zambia, in 2019, Mr Speers was elected as President of the Commonwealth Lawyers Association (CLA). He served as President of the CLA for four years until March 2023. He has represented the CLA at numerous meetings and webinars including at two Commonwealth Law Ministers Meetings (Colombo 2019 and Mauritius 2022) and at the Commonwealth Heads of Government Meeting in Kigali in June 2022. He has spoken extensively on access to justice, freedom of expression, the Latimer House Principles and other rule of law issues affecting many Commonwealth jurisdictions.

He practises as a Solicitor in Belfast, Northern Ireland, where he is Managing Partner of CMG Cunningham Dickey Solicitors. In 2010–2011 he served as President of the Law Society of Northern Ireland. He is now Treasurer of the Law Society of Northern Ireland.

He is one of the most experienced legal mediators in Northern Ireland. He is the Chair of the Law Society Mediation Service administered by the Law Society of Northern Ireland. He has written extensively on mediation and conflict resolution and has mediated many disputes in the UK and Ireland and regularly contributes on mediation matters internationally.

In March 2021, he was appointed Chair of the Commonwealth Games Ethics Commission.

Baroness Denise Kingsmill (United Kingdom)

Baroness Denise Patricia Kingsmill was born in Rotorua, New Zealand. She later moved with her family to the UK. After graduating from the University of Cambridge with a degree in Economics and Anthropology, she spent the early years of her career in the fashion industry in Paris and New York. She then qualified as a Solicitor of the Supreme Court and, after a 20-year legal career, was appointed Deputy Chair of the Competition Commission, the UK's anti-trust regulator. In 2000, Baroness Kingsmill was awarded a CBE, and in June 2006 she was appointed to the House of Lords as a Life Peer.

Baroness Kingsmill has had an extensive business career. She is a Member of the Board of Inditex SA. (Zara) and until recently she was also a member of the Boards of E.ON SE, IAG S.A and Telecom Italia. She was the Founding Chair of Monzo Bank, a mobile-only internet bank.

Kryticous Patrick Nshindano (Zambia)

Kryticous Patrick Nshindano is a public policy and electoral management expert. He served as the Chief Electoral Officer of the Electoral Commission of Zambia and oversaw the successful conduct of the country's 2021 general elections and the peaceful transition of government administration. He also served as the Southern Africa Regional Representative for the Global Civil Society Partnership for Development Effectiveness, as well as the African Union's Economic, Social and Cultural Council Economic Affairs Cluster National Chairperson.

He has also served on numerous boards and technical committees in both government and civil society, including as the Operations and Technical Committee Board Chairperson for the Millennium Challenge Account Zambia. He has also served on the external advisory panel of the International Monetary Fund on social safeguards in its programmes. He has also served as External Expert to the National Democratic Institute, providing policy and technical support to political parties in Zambia on electoral governance and national development. He also led the co-ordination of non-state actors' input into Zambia's development of the revised Sixth and Seventh National Development Plans.

He was a Doctoral candidate in Business Management and holds a Masters in Business Administration and a Bachelors in Economics. He is finalising a Masters in Electoral Policy and Administration.

Commonwealth Secretariat support staff

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Victoria Holdsworth

Communications and Media Liaison Lead
(Consultant)

Annex II. Arrival Statement



The Commonwealth

Arrival Statement of the Commonwealth Observer Group

Zimbabwe Harmonised Elections

Statement by Ambassador Amina Mohamed, Former Cabinet Secretary for Foreign Affairs and Education for Kenya

Chairperson of the Commonwealth Observer Group

Harare, 18 October 2023

Members of the media
Fellow Observers
Citizens of Zimbabwe

Today, I am here as a fellow African, and a friend to Zimbabwe as the country seeks to consolidate its democratic values. The same values held dear by the Commonwealth: peace, democracy, the rule of law and good governance.

It is an honour for me to chair the Commonwealth Observer Group, to witness voting to elect councillors, members of parliament, and a president on 23 August.

Our 14-member Observer Group was constituted by the Commonwealth Secretary-General, The Rt Hon Patricia Scotland KC, following an invitation from the Ministry Foreign Affairs and International Trade. Members have been drawn from across the Commonwealth, representing a diversity of experience and expertise including, in law, politics, election administration, human rights, media and civil society. The Group is supported by a staff team from the Commonwealth Secretariat led by Joshua Setipa, Senior Director of the Strategy, Portfolio, Partnerships and Digital Division.

I am sure I speak for all of us when I say that we have been warmly welcomed since our arrival in this beautiful, historic land.

Ladies and gentlemen,

The Commonwealth has remained a supportive partner in Zimbabwe's democratic journey since its independence in 1980. This will be the second

successive Observer Group to witness the country's harmonised elections since Zimbabwe left the Commonwealth in December 2003.

Since then and throughout this period, the Commonwealth has continued to foster and nurture people-to-people linkages.

We recognize the significance of these elections to the people of Zimbabwe, the region and the global community. We are honoured to be a part of this important democratic process.

The Commonwealth Observer Group has no executive role; its function is not to interfere with, but to observe the process as a whole and to make recommendations accordingly. We will observe the pre-election environment, polling day activities and the post-election period. In particular, we will consider whether the conditions exist for credible elections, including a fair election environment; whether public media has been impartial; the transparency of the entire process; whether voters are free to express their will; and whether the counting and results process is transparent. We will then report on whether the elections have been conducted in accordance with the standards to which Zimbabwe has committed itself, including its national law, and regional and international commitments.

In conducting our duties, we will be guided by the principles of neutrality, impartiality, objectivity and independence. As we are here in our individual capacities as responsible and experienced Commonwealth citizens, our assessment will be our own, and not that of any member government.

Over the coming days we will be meeting stakeholders including government representatives, political parties, security agencies, civil society groups, citizen and international observer groups, diplomats, and the media. From the 21 August, we will deploy our observers across various parts of Zimbabwe

to observe the voting, counting and results process, as well as meet with other stakeholders in respective locations. On Election Day, we will observe the opening, voting, closing, counting and the results management processes. We will issue an interim statement on our preliminary findings on the 25 August, before members of the Group depart Zimbabwe on the 29 August. A final report will then be prepared and submitted to the Commonwealth Secretary-General, and subsequently shared with relevant stakeholders and made publicly available.

Friends, colleagues,

It is my hope that our presence here affirms the unwavering support of the Commonwealth to this country and its democratic processes.

We call on all political parties and their supporters to uphold standards for credible, inclusive and transparent elections and we encourage all citizens to play their part by ensuring that a peaceful and credible process takes place next Wednesday.

I thank you.

Annex III. Deployment Plan

No.	Province	Locations	Teams
1	Harare Metropolitan Province	Harare City	Amina Mohamed (Chair) Joshua Setipa (Staff Team Leader) Linford Andrews (Staff) Victoria Holdsworth (Staff)
2	Harare	Harare City	Aloun Ndombet-Assamba Mohamed Chambas
3	Harare	Epworth and Ruwa	Nasim Zaidi Tiffany Chan (Staff)
4	Harare	Chitungwiza	Kale Williams (Staff) Zippy Ojago (Staff)
5	Masvingo	Masvingo City, Gutu, Chivi and Masvingo Rural	Brian Speers Nancy Kanyago
6	Midlands	Gweru City, Kwekwe City, Red-cliff Town and Shurugwi Town	Philip McMurdo Samuel Oe-Amseb
7	Bulawayo	Bulawayo	Patrick Nshindano Denise Kingsmill
8	Matabeleland South	Gwanda, Plumtree, Matobo, Mangwe and Esigodini	Prajapati Trivedi Steve Onwuasoanya (Staff)
9	Mashonaland East	Domboshava, Goromonzi, Marondera and Murehwa	Pelonomi Venson Andy Baines (Staff)
10	Matabeleland North	Umguza, Bubi and Nkayi	Lomcebo Dlamini Peter Moto
11	Manicaland	Makoni, Rusape Town, Mutare City and Mutare Rural	Wyvolyn Patterson Abubakar Abdullahi

Annex IV. Interim Statement



The Commonwealth

**Interim Statement of the Commonwealth
Observer Group
Zimbabwe Harmonised Elections
23 August 2023**

**Statement by Ambassador Amina Mohamed
Former Cabinet Secretary for Education and
Foreign Affairs of Kenya
Chairperson of the Commonwealth
Observer Group**

Harare, 25 August 2023

Introduction

Ladies and Gentlemen, honourable members of the diplomatic corps, members of the press, other observers here present, ladies and gentlemen.

Thank you for coming to this Commonwealth Observer Group Press Conference. I will present the interim observations of the Commonwealth Observer Group on the electoral process thus far, noting that the tallying process is still ongoing. The final report, setting out our full findings on the entire process and our recommendations, will be submitted to the Commonwealth Secretary-General in due course.

We are honoured by the invitation of the Ministry of Foreign Affairs and International Trade of the Republic of Zimbabwe to observe these elections. As I stated at our Arrival Press Conference, we are here as friends of Zimbabwe, and it is my hope that our presence affirms the unwavering support of the Commonwealth family to this country as it seeks to consolidate its democratic values. These same values are held dear by the Commonwealth: peace, democracy, the rule of law and good governance.

We arrived in Harare on 16 August, and have engaged a wide range of stakeholders, including the Zimbabwe Electoral Commission (ZEC), the flagbearers and party representatives of several political parties, as well as an independent candidate. We also met the Commissioner of

Police, representatives of civil society, citizen observers, faith-based organisations, women's groups, youth, the media, the business community, the Commonwealth Local Government Forum and Commonwealth Ambassadors.

On 21 August, our teams were deployed to Harare Metropolitan Province, Bulawayo Metropolitan Province, Masvingo, Midlands, Matabeleland North, Matabeleland South, Mashonaland East, and Manicaland. In these locations, we observed the pre-election environment and preparations for the poll. We visited numerous polling stations in different constituencies and met voters, provincial, district and poll station electoral officials, political parties, the police, civil society and others in these locations to gain a deeper appreciation of the electoral process. We also liaised with citizen observers and other international observers in these locations.

Before I proceed to outline our key findings, let me also convey our Group's intention to fully assess, in our final report, the level of implementation of recommendations proposed by the 2018 Commonwealth Observer Group to the Harmonised Elections, and reflect carefully on the way forward.

Key findings

On the electoral process, from our own observations, there was a peaceful pre-election atmosphere. Throughout the voting process, we met professional, diligent and friendly election officials and security officers. We observed that voters lists were visible, well placed, of high quality, arranged in alphabetical order, and accessible at polling stations, all of which made identification of voters easier. We sensed a strong feeling of excitement among all the people we interacted with. We learnt about the death of an opposition supporter earlier this month from a number of stakeholders, as was confirmed by

the Commissioner General of Police, who advised that an investigation is still under way. We hope that there will be an expeditious outcome to this investigation.

In terms of equitable media coverage of all political actors, the Group notes that there is still room for improvement in levelling the playing field.

It was noteworthy that several mechanisms to deal with election disputes are in place, including the electoral courts, although there have been reports that national-level multiparty liaison committees have had limited success in resolving disputes.

Prior to election day, the Zimbabwe Electoral Commission had provided various assurances of its preparedness and readiness to conduct the elections as scheduled. However, on election day the late opening of polls due to the late arrival of ballot papers in the major urban areas of Harare and Bulawayo, raised concerns and heightened tensions, noting that these areas represent a significant proportion of the overall population. While we note ZEC's explanation regarding challenges with logistics and the impact of late court cases, we would welcome a more detailed explanation from ZEC in the coming days, and we will reflect further on this matter in our final report.

Election Day proceeded in an atmosphere of relative peace and calm, and we observed that the 69 per cent turnout of voters, especially women and youth, is testimony to the desire of all Zimbabweans to make their voices heard and contribute to the country's ongoing democratic consolidation. We commend the people of Zimbabwe for the enthusiasm and largely peaceful approach in the exercise of their franchise.

Greater information sharing by institutions and stakeholders, in particular ZEC, on all aspects of the electoral process, including on the issue of the voters' roll, would improve transparency and trust.

We observed, and received various reports, that an NGO called Forever Associate Zimbabwe (FAZ), had set up 'exit poll survey' tables in close proximity to polling stations, with governing party regalia. From our briefings with other civil society organisations and stakeholders, it was made clear that exit polling is currently not permitted within the legal framework of Zimbabwe.

Let me now turn to each of the key areas of the electoral process in more detail:

Overall pre-election environment

We note that these elections were conducted against the background of a peace pledge agreed by political parties, as well as conflict resolution and prevention mechanisms including the Multiparty Liaison Committees. We also note that these elections were characterised by a number of legal challenges, several of which were unresolved by Election Day. We will comment on these in our final report.

It was commendable that political parties and other stakeholders committed to peaceful elections by signing the peace pledge on 4 August 2023. I laud the commitment of all Zimbabweans to ensuring that Election Day proceeded largely peacefully and urge all political parties and their supporters to honour this pledge in the coming days and to use available legal means for conflict resolution.

Although this was the third election organised by an independent election management body, ZEC, we note that a combination of legislative and administrative reforms would continue to improve its performance.

Recalling the Commonwealth Observer Group report of Zimbabwe's 2018 Harmonised Elections, stakeholders once again expressed the view that ZEC could have done more to build trust and instil confidence in the electoral process through effective communication. We will provide a detailed assessment in our final report.

Preparations for the Elections

Legal Framework

The legal and electoral framework, primarily the 2013 Constitution of the Republic of Zimbabwe as amended, and the Electoral Act [Chapter 2:13] as amended, provide the basic legal conditions for credible and peaceful elections. We note that, since the 2018 elections, amendments were made to the legal framework, with legislation such as the Maintenance of Peace and Order Act (MOPA) enacted in 2019, which replaced the previous Public Order and Security Act (POSA). This new legislation has had an impact on the electoral landscape.

The enactment of new laws or amendments six months prior to the harmonised elections was raised as an issue by stakeholders, who felt it created an uncertain legal environment in terms of interpretation of the law. This includes the Criminal

Law (Codification and Reform) Amendment Act (or the 'Patriotic Act'), as well as the Private Voluntary Organisations (PVO) Bill, which, though not yet enacted, was *de facto* being applied.

Independence of ZEC

Stakeholders expressed concerns over the appointment of ZEC commissioners and the Secretariat, and a suggested lack of independence, particularly in relation to the Secretariat. Public confidence in ZEC needs strengthening.

Nominations

The significant increase in nomination fees was reported to us by most stakeholders. The Group was advised that the hike in nomination fees had proved a barrier to nomination, most acutely amongst women and young people, who are the majority of voters in the country, as well as persons with disabilities.

Boundary delimitation

We were informed that this exercise was conducted without a published final census report; and that there could be wide discrepancies between the number of voters in constituencies. We will assess this aspect in greater detail in our Final Report.

Voters' roll

Though the voter's roll was available to parties and candidates, we were told that there was a lack of clarity as to how voters would determine where they could vote. We also observed that party agents did not have copies of the voters' roll for their respective stations indicating that parties and candidates could not inform and remind voters of their polling station, to promote turnout on election day. We also observed that the names of some voters who had confirmed their polling station via mobile phone using the SMS code provided by ZEC did not appear on the lists on election day.

Accreditation of media

We note concerns raised about the so-called 'double accreditation' process for the media whereby Zimbabwean journalists already accredited with ZMC were required to pay an additional \$10 to accredit with the ZEC to observe elections and gain access to elections-related information

or events. Accreditation for international media houses wishing to cover the election was regarded as prohibitive.

Additionally, it was noted that several journalists from foreign media houses were denied accreditation, notably Voice of America, South Africa's Daily Maverick and ARD of Germany.

The Campaign

In briefings, it was alleged that, for those campaign rallies that were denied by the Zimbabwe police, they had made selective use of the Maintenance of Peace and Order Act of 2019, and that this selective use created an unlevel playing field. However, the Police stated that there were legitimate reasons for rallies being denied, such as failure to meet certain criteria. The Group will address this issue in more detail in its final report.

State and other Media

Mainstream media (radio, television and newspapers) remain the most important communication channels to inform the electorate about the policies and platforms of political parties and candidates running for office. It is therefore essential that media present all viewpoints during a campaign so that voters can make an informed choice.

Stakeholders reiterated concerns about state media bias favouring the incumbent governing party. Political parties noted that although airtime was made available, many media outlets required payment for slots, which proved unaffordable. This imbalance in coverage started well before the campaign began.

The Group notes that once the President has gazetted the election proclamation date, the ZMC cedes control of media regulation, which then falls under the electoral legal framework, including, but not limited to:

- The Constitution
- The Electoral Act
- Media Regulations Statutory Instrument 33 of 2008

The Group noted that the Zimbabwe Electoral Commission (ZEC) established a Media Monitoring Committee (MMC) to monitor the coverage of the

Elections. The Committee is chaired by the ZEC and comprises the Zimbabwe Media Commission and the Broadcasting Authority of Zimbabwe.

WhatsApp dominated the rapid spread of disinformation during the 2023 elections, with the app's encryption and closed group functionality making mis- and disinformation harder for fact-checking organisations such as *ZimFact* to counter.

Participation and Inclusion

In the presidential election, the Group notes there were four women candidates in the previous election, but just a single woman candidate in 2023. We understood that there were multiple barriers to women's political representation, such as cultural biases, targeted abuse and lack of resources. This issue will be analysed in our final report.

We welcome the inclusion of the 10 per cent youth quota to the National Assembly. At the local government level, we also welcome the introduction of a 30 per cent quota for women.

It is commendable that there are reserved seats for Persons with Disabilities in the Senate. Additionally, ballot templates were provided for visually impaired voters at polling stations, and that the ZEC had also accommodated wheelchair-bound voters.

Election Day

Pre-Poll Procedures

On arrival at their various deployment stations, our teams visited provincial and district level ZEC offices, local police stations, and in some cases, the local offices of some of the political parties, among others. Most of the polling stations had been set up by the eve of the elections; materials had been received; polling officials, as well as the police, were at post, and in some cases, party agents were present. On the eve of elections, we found that ZEC appeared to be prepared.

The Opening and Conduct of Polls

Our observers reported that the opening of polls commenced on time in most of the polling stations observed, with the exception of Harare Metropolitan Province and Bulawayo Metropolitan Province. Due to the late start of polling in some areas, particularly Harare and Bulawayo, there were still long queues at some polling stations by 19h00. In some cases, ballot papers did not arrive until the

afternoon, in one instance as late as 19h30. This could have had an effect on voter turnout in these large urban areas, and could have had an impact on voters, some of whom appeared agitated. We noted from reports that ZEC attributed the delays to the impact of numerous court challenges on the printing process. As mentioned above, we look forward to further clarity from ZEC on this issue.

It was observed that polling officials were directed to keep polling open for a full 12 hours, in accordance with the law. We noted the President of Zimbabwe's announcement on the evening of Election Day, in which the polling period was extended in the affected wards by 24 hours for the elections of president, National Assembly and local councillors.

The consequence of the above was that the affected polling officials and agents had to work in excess of 24-hour shifts. Polling officials we spoke to stated they did not receive any notification from ZEC that they would be rotated at any point. The welfare of polling staff and agents therefore became an issue of concern, and this could have potentially impacted the accuracy and speed of the counting process. Nonetheless, we were impressed by the resilience, dedication and professionalism of polling staff despite the long hours.

In addition, we note that voting after dark may have been a barrier to women voters, the elderly and people with disabilities.

Given the issues with delayed starts to polling in a number of areas, we would have welcomed a more robust and timely communication strategy from ZEC on election day.

Voter lists and verification

At many polling stations, voters took it upon themselves to check their names on the voters' roll affixed to the tent, building or nearby wall before joining the queue. The prominence of the voters' roll is commendable, and this, along with the mobile SMS code provided by ZEC, may be why its officials recorded very few instances of voters having to be redirected to the correct polling station. That said, the mobile SMS code appeared to work well prior to election day, but not on the day itself. Observers noted that the names of some voters who had confirmed their polling station via mobile phone using the SMS code did not appear on the lists on election day.

Our observers reported that the voter verification process was smooth and proceeded in line with the prescribed process.

Polling Procedures

In those areas not affected by the late provision of ballots, generally speaking all pre-poll procedures were adhered to, and polling staff seemed well trained.

Polling staff were efficient, meticulous, and highly transparent in the conduct of their duties. However, we noted some minor disagreements between officials and agents as to how to complete results forms, owing to perceived ambiguities.

Layout of polling stations

Some polling stations were in tents, while others were indoors in public buildings. Despite this, there was relative uniformity in the layout of polling stations. The secrecy of the ballot was assured. Certain deficiencies with polling station tents, as compared to buildings, will be detailed in more length in our final report.

Participation and Inclusion

Large numbers of voters turned out on election day, and it was pleasing to note the mix of voters who turned up. In some areas, the youth turnout appeared to be very high, whilst in other areas older generations appeared to represent the majority of voters. We were pleased to see ZEC disaggregate voters by age and gender and look forward to reviewing these statistics once publicly available.

In most cases, priority was accorded to pregnant women, nursing mothers, persons with disabilities, and the elderly, although some polling stations lacked an efficient system for identifying priority voters, resulting in them queueing for long periods. There was some inconsistency in the support provided to persons with disabilities inside polling stations. At some polling stations, men and women were separated into different queues.

ZEC is to be commended for its efforts at fostering greater inclusion, especially for persons with disabilities (PWDs), by making available assistive devices at polling stations.

Voter intimidation on election day

Our observers witnessed tables set up in close proximity by an organisation called Forever

Associate Zimbabwe (FAZ) and received reports that members of the organisation were allegedly recording the names and ID numbers of voters. We also noted that members of FAZ were also conducting citizen observation. Their presence fuelled allegations of voter intimidation.

Party agents

Party agents of the main political parties were present in all polling stations observed. Whilst they lacked copies of the voters' roll, they were nonetheless diligent, to the extent possible, in the conduct of their duties.

Security

Security was present at every polling station observed. In most areas, they were professional, unobtrusive and carried out their duties diligently. We note that in some instances security personnel were situated inside polling stations, although they did not appear to interfere or be an intrusive presence.

Close of polls

The count was a detailed and thorough process, carried out by professional, dedicated and resilient polling officials in the presence of attentive party agents and observers. The close and count followed the due process for the most part, with a high degree of transparency.

However, it was noted that at some stations, particularly those in tents, lighting was insufficient which may have delayed the counting process.

Arrest and detention of citizen observers

We are following with concern the cause of the detention of 41 local civil society observers during a series of raids in Harare on the night of 23 August. We hope that the legal justification for their detention will soon become clearer as further information comes to light.

Conclusion

In conclusion, our overall assessment of the voting process is that it was well conducted and peaceful. However, there exist a number of issues that could impact on the credibility, transparency and inclusivity of the process. It has been an honour for us to be a part of this important process. As we already noted, this is a critical moment for the people of Zimbabwe. Elections are an opportunity

for you to choose your leaders, but to do so in a peaceful environment, in which the rights of all citizens are respected, and the role of the Zimbabwe Electoral Commission, and other key participants in the electoral process, is respected and supported.

I would therefore encourage all political leaders and their supporters to continue exercising patience

and restraint in the days ahead, to allow the results process to be brought to its natural conclusion, in accordance with legal provisions.

The Commonwealth family continues to stand in solidarity with you, the people of Zimbabwe.

I thank you.

Harare, 25 August 2023

Annex V. Zimbabwe Recommendations Tracker

Zimbabwe harmonised elections 2018

Status of 2018 COG recommendations as
of 23 August 2023

The 2018 Zimbabwe COG Report is available [here](#)

Summary:

• Total recommendations	<u>54</u>
• Fully implemented	0
• Mostly implemented	7
• Partially implemented	9
• Not implemented	27
• No data or N/A	11

Table V1 Zimbabwe Recommendations Tracker

No.	2018 recommendation	Type of recommendation	Status of implementation	Comments
Legal framework and election administration				
1	Consideration should be given to the adoption of a Political Party Act.	Legal	Not implemented	 Zimbabwe has not passed a Political Parties Act.
2	Consideration should be given to the amendment of the Electoral Act to align it with the Constitution, by requiring declaration of the results of the Presidential Election without undue delay.	Legal	Not implemented	 No such amendment to the Electoral Act has been made.
3	The Electoral Act should be amended to align it with the Constitution to prevent disenfranchisement.	Legal	Not implemented	 No amendments have been made to the Electoral Act or Constitution that appear to address the issue of enfranchisement.
4	To guarantee the independence of the ZEC, the Electoral Act should be aligned with Section 235 of the Constitution, with the effect that the ZEC reports directly to the National Assembly and secures its own funding from the Consolidated Fund.	Legal	Not implemented	 The Electoral Act has not been amended in respect of Section 235.
5	The ZEC should review its procedures and practices, especially for Election Day, to align them with Section 156(b) of the Constitution, to ensure the voting, counting and aggregation of results 'is simple, verifiable, secure and transparent'.	Administrative	Mostly	 The deficiencies in providing ballot papers to Harare, Bulawayo and one or two other areas represented a significant shortcoming of the administration of the electoral process.

Types of recommendation: Administrative; Legal/regulatory; Political; Policy; Technical

Status of implementation:  Fully;  Mostly;  Partially;  Not implemented;  Not yet known, no data or N/A

(Continued)

Table V1 Zimbabwe Recommendations Tracker

No.	2018 recommendation	Type of recommendation	Status of implementation	Comments
6	In order to address any perceptions of partiality, consideration should be given to amending the Constitution to stipulate appointments of the judiciary and its funding are free from political influence.	Legal	Not implemented	No such amendments have been made. In fact, the Constitutional Amendment Act confers further powers on the President in respect of judicial term limits.
7	In order to ensure expeditious treatment of disputes, adequate funding of judicial and non-judicial dispute resolution mechanisms should be assured, judicial caseloads should be managed appropriately, and appropriate use of available recourses should be proactively promoted.	Administrative	Not yet known, no data or N/A	While the caseloads of courts, particularly with regard to candidate nominations, has increased since 2018, the COG was unable to determine whether there had been a concomitant increase in funding and staffing.
8	Funding for the judiciary, notably for its training on elections, should be assured, including for the Judicial College as foreseen by law.	Administrative	Not yet known, no data or N/A	The COG was unable to determine whether there had been a significant increase in funding.
Participation and inclusion				
9	The Commonwealth Observer Group recommends the quotas prescribed for women under Section 124 of the 2013 Constitution should be negotiated by the new parliament before its expiration in 2023. For example, in Uganda and Bangladesh, quotas for women are negotiated in parliament every five years before their expiration.	Legal	Not implemented	While temporary special measures relating to women's representation were extended via the Constitutional Amendment Act, no amendments to the provisions themselves were made.

Types of recommendation: Administrative; Legal/regulatory; Political; Policy; Technical
Status of implementation: ● Fully; ● Mostly; ● Partially; ● Not implemented; ● Not yet known, no data or N/A

(Continued)

Table V1 Zimbabwe Recommendations Tracker

No.	2018 recommendation	Type of recommendation	Status of implementation	Comments
10	Given the low participation of women in contested seats in this election, consideration should be given to extending the quota system to the Senate and local authorities.	Legal	Not implemented	While the zebra party list system is used for candidates, there are no seat quotas for women in the Senate. There are also no seat quotas for women in provincial assemblies.
11	Consideration should be given to the creation of women-only seats. The 60 seats could be contested as safe constituencies by women, similar to the situation that pertains in jurisdictions such as Bangladesh and Uganda.	Legal	Not implemented	Women seats in the National Assembly are still apportioned based on proportional representation and National Assembly election results in the 210 constituencies.
12	Noting the important role political parties can play in addressing gender imbalance in political leadership, we urge political parties to adopt and implement special measures, such as voluntary quotas, to achieve gender balance within their own decision-making structures and processes.	Policy	Not yet known, no data or N/A	The Group was not made aware of any significant initiatives within parties to boost women's presence in decision-making positions.
13	Noting the high levels of intra-party violence and hate speech towards women candidates, as well as physical and psychological violence against women in this election, the Group supports the recommendation by some civil society groups that political parties should consider establishing intra-party referral systems that allow women to report cases of violence within political parties to the police and law courts, without fear of reprisals. We further endorse the recommendations by some civil society groups that issues of violence against women in elections (VAWIE) are discussed at the multi-party liaison committees.	Policy	Not yet known, no data or N/A	The Group was not made aware of the establishment of any such initiatives.

Types of recommendation: Administrative; Legal/regulatory; Political; Policy; Technical

Status of implementation: ● Fully; ● Mostly; ● Partially; ● Not implemented; ● Not yet known, no data or N/A

(Continued)

Table V1 Zimbabwe Recommendations Tracker

No.	2018 recommendation	Type of recommendation	Status of implementation	Comments
14	To alleviate the weight of the financial burden on women seeking to contest elections and to encourage more women to run for office in Zimbabwe, we urge political parties to consider ways of supporting women candidates, including through the establishment of special funds. Moreover, noting the effect of the increase of candidate nomination fees on certain groups, we urge the Electoral Commission to review the impact of such measures on the inclusiveness of the candidate nomination process in the 2018 harmonised elections, in order to guide the formulation and implementation of future policies or measures.	Policy	Not implemented	The Group was not made aware of any such funds, nor was there a reduction in candidate nomination fees for women.
15	The Commonwealth Observer Group urges the relevant authorities in Zimbabwe to consider setting the age to stand for office at Local Authority, National Assembly and Senate Elections as the same as the age to vote (18 years), similar to other Southern African countries.	Legal	Not implemented	Not implemented.
16	The Group urges the consideration of a quota system for youth representatives (aged 18 to 35) to the Local Authority and National Assembly Elections, similar to other jurisdictions like Rwanda.	Legal	Mostly	There are now 10 seats for youth in the National Assembly (one per province), apportioned by proportional representation rather than via direct ballot.

Types of recommendation: Administrative; Legal/regulatory; Political; Policy; Technical
Status of implementation: ● Fully; ● Mostly; ● Partially; ● Not implemented; ● Not yet known, no data or N/A

(Continued)

Table V1 Zimbabwe Recommendations Tracker

No.	2018 recommendation	Type of recommendation	Status of implementation	Comments
17	The Group encourages political parties to create empowered youth-led wings and youth caucuses, designed to actively involve young people in policy and decision-making.	Policy	Not yet known, no data or N/A	The Group did not receive any information on the establishment of organised youth structures in political parties.
18	Noting the participation of young people in electoral and political violence, and/or their susceptibility to be used in such situations, the Commonwealth Observer Group encourages the greater use of peace pledges by CSOs and youth organisations to encourage young people to shun political violence.	Political	Not yet known, no data or N/A	The Group was not aware of any youth-specific peace pledges but it notes the low levels of electoral violence throughout the campaign period.
19	It is recommended that CSOs and the ZEC engage in voter education programmes throughout the electoral cycle, targeting young voters from age 16. This could increase electoral literacy	Policy	Not yet known, no data or N/A	While the Group acknowledges references to targeted voter education in its strategic plan, it was unable to clearly establish whether any such programmes were undertaken in collaboration with CSOs or for the duration of the electoral cycle.
20	Concerted efforts are required to ensure an increased number of youths are registered as voters and participate in the electoral process.	Political	Mostly	ZEC figures do show an increase of the proportion of total registered voters who are young, and youth do appear to be significantly engaged in the political process, albeit predominantly as supporters. Yet more can be done to further increase youth participation.
21	Noting the effect of the increased candidate nomination fees on certain groups, the ZEC should consult youth groups to review the impact of such measures on youth participation in the 2018 Harmonised Elections in order to guide the formulation and implementation of such future measures.	Legal/regulatory Policy	Not implemented	Whether or not such consultations took place, candidate nomination fees were determined by the relevant Ministry and there were no reductions for youth.

Types of recommendation: Administrative; Legal/regulatory; Political; Policy; Technical

Status of implementation: ● Fully; ● Mostly; ● Partially; ● Not implemented; ● Not yet known, no data or N/A

(Continued)

Table V1 Zimbabwe Recommendations Tracker

No.	2018 recommendation	Type of recommendation	Status of implementation	Comments
22	The positive legal provisions for the participation of PWDs in Zimbabwe should be followed by adequate resources and effective enforcement. PWDs should be directly and actively involved in any plans and programmes related to their active participation.	Legal/regulatory Policy	Not implemented	The Group noted that key legal provisions pertaining to PWD participation had not been implemented, and PWDs remain marginalised throughout the electoral process.
23	It is not enough to support persons with disabilities to cast their vote on Election Day. Deliberate efforts should be made to facilitate their participation as candidates for elective office, as well as participate as polling officials, local observers, party agents, media monitors and so forth.	Legal/regulatory Policy	Not implemented	On the substantive issue of PWD representation in Parliament, no legislative amendments to facilitate the candidacy or representation of PWDs were passed. The Group was unable to obtain data on PWD polling officials, local observers and party agents.
24	Government and political parties should make their structures more inclusive for PWDs. Particular attention should be paid to women with disabilities, who suffer multiple discrimination.	Legal/regulatory Policy	Not implemented	The Group did not receive any evidence that political parties had amended their executive structures to accommodate PWDs in decision-making positions.
25	As Zimbabwe's democracy and its economy evolve, for future elections, the Commonwealth Observer Group encourages Zimbabwe to develop effective electoral information, education and communication materials tailored for PWDs, using various formats including braille, closed caption and audio. The country could learn from other electoral jurisdictions. For example, South Africa prints larger ballot paper templates for its visually impaired voters.	Policy Administrative	Partially	ZEC did not widely adopt the use of braille and sign language, nor was there extensive use of PWD-targeted voter education materials, despite this being included in ZEC's strategic plan. While polling officials made efforts to support PWDs on election day, more could be done to assist PWDs in the pre-election period.

Types of recommendation: Administrative; Legal/regulatory; Political; Policy; Technical

Status of implementation: ● Fully; ● Mostly; ● Partially; ● Not implemented; ● Not yet known, no data or N/A

(Continued)

Table V1 Zimbabwe Recommendations Tracker

No.	2018 recommendation	Type of recommendation	Status of implementation	Comments
26	The Group urges the ZEC to invest in comprehensive training for its officials on disability and inclusion.	Policy Administrative	Partially	On election day itself, the Group noted that polling officials appeared to be sufficiently aware of issues relating to PWD voters. However, the Group did not see evidence that PWD issues had been mainstreamed throughout ZEC in relation to pre-election engagement of PWD voters and candidates.
27	In line with previous recommendations, as Zimbabwe's economy evolves, the Group hopes that efforts will be made to address accessibility challenges, physical and visual, on Election Day and in the pre-election period at the polling station and voter registration sites.	Policy Administrative	Partially	On election day itself, the Group noted that polling officials appeared to be sufficiently aware of issues relating to PWD voters. However, the Group did not see evidence that PWD issues had been mainstreamed throughout ZEC in relation to pre-election engagement of PWD voters and candidates.
28	Consideration should be given to the development of a co-ordinated partnership arrangement, which would enable civil society to support the ZEC through a more targeted and systematic approach in fulfilling its voter education and outreach mandate, especially to reach rural and more remote places in the country.	Policy Administrative	Mostly	The Group was not made aware of any formal partnership arrangements between ZEC and CSOs, such as through the signing of memoranda of understanding (MoUs). ZEC's strategic plan references signing MoUs with 'institutions of higher learning' (i.e. universities) for the delivery of voter education but makes no reference to co-operating with CSOs. However, the Group is aware that collaboration with CSOs did occur, albeit with less formality than an MoU. This included the training of CSOs by ZEC, particularly on how to use and understand the Polling Manual. CSOs were also required to seek ZEC's approval of their voter education materials. CSOs stated their relationship with ZEC had been a largely positive one.

Types of recommendation: Administrative; Legal/regulatory; Political; Policy; Technical
Status of implementation: ● Fully; ● Mostly; ● Partially; ● Not implemented; ● Not yet known, no data or N/A

(Continued)

Table V1 Zimbabwe Recommendations Tracker

No.	2018 recommendation	Type of recommendation	Status of implementation	Comments
29	CSOs expressed concern about the high accreditation fees for citizen observers. The Group urges the ZEC to ensure that fees for citizen observer groups are not prohibitive, given their important role: citizen observers often have the numbers on ground, as well as local knowledge that international observers may lack.	Policy	Not implemented	Fees remained at US\$10 per citizen observer.
30	The Commonwealth Observer Group encourage CSOs to continue engaging in voter education with all segments of the population, with an emphasis on marginalised groups.	Policy	Mostly	CSOs made good efforts to increase and improve voter education outputs, including materials targeted at marginalised groups. CSOs worked closely with ZEC in this regard.
31	The Commonwealth Observer Group commends the historical role of FBOs in promoting peace and tolerance in elections in Zimbabwe. The Group encourages FBOs to continue its efforts in this respect. In the same vein, the Group urges political parties to denounce sentiments among a minority group of FBOs which, in the context of elections, perpetuate discrimination and exclusion.	Political	Mostly	FBOs continue to play a positive and critical role in promoting peace. The Group was not made aware of any inflammatory or discriminatory sentiments expressed by FBOs.

Types of recommendation: Administrative; Legal/regulatory; Political; Policy; Technical
Status of implementation: ● Fully; ● Mostly; ● Partially; ● Not implemented; ● Not yet known, no data or N/A

(Continued)

Table V1 Zimbabwe Recommendations Tracker

No.	2018 recommendation	Type of recommendation	Status of implementation	Comments
Electoral campaign and media				
32	The ZEC should take firm action against those involved in hate speech in its many forms, such as disqualifications or suspensions.	Legal/regulatory Policy	Not yet known, no data or N/A	The Group is not aware of any suspensions as a result of hate speech. Equally, the Group is not aware of any instances of hate speech by a candidate that would have justified disqualification or suspension.
33	Measures to enhance the effectiveness of both national and local multi-party liaison committees during the election campaign should be considered.	Legal/regulatory Policy Political	Not yet known, no data or N/A	No data.
34	Legislation capping electoral expenditure should be enacted before the next elections.	Legal	Not implemented	Not implemented.
35	To promote transparency and ensure greater accountability, consideration should be given to strengthening the Political Parties (Finance) Act through the inclusion of provisions regarding the declaration of assets by parties, candidates and Members of Parliament.	Legal	Not implemented	Not implemented.
36	The ZEC should incorporate a code of conduct for the use of social media into the Electoral Code of Conduct for Political Parties.	Legal/regulatory	Not implemented	The Fourth Schedule has not been amended.
37	The ZEC's capacity to monitor the media and ensure balanced coverage should be strengthened, including through the creation of an immediate mechanism to enforce balanced election coverage by broadcast and print media.	Legal/regulatory Policy	Not implemented	ZEC established MMC but this did not adequately enforce the law with regard to balanced media coverage in either broadcast or print media, much of which was heavily favourable towards the incumbent party.

Types of recommendation: Administrative; Legal/regulatory; Political; Policy; Technical

Status of implementation: ● Fully; ● Mostly; ● Partially; ● Not implemented; ● Not yet known, no data or N/A

(Continued)

Table V1 Zimbabwe Recommendations Tracker

No.	2018 recommendation	Type of recommendation	Status of implementation	Comments
38	Media outlets should establish an independent, self-regulatory authority to set out standards and codes of behaviour for their organisations, which can rule on complaints from the public about biased news coverage during election campaigns. The self-regulatory authority should also operate independently of the Zimbabwe Media Commission (ZMC).	Legal/regulatory	Not implemented	The Secretariat is not aware of the establishment of such a body.
39	The development community should provide training to Zimbabwean journalists to encourage less polarised coverage of election issues.	Policy	Not yet known, no data or N/A	The Group did not receive any information on such training.
Voting, counting and results				
40	To avoid operational or implementation delays, confusion and potentially conflicting provisions, international good electoral practice advocates that there should not be substantive changes to the legal and electoral framework 6 to 12 months prior to an election.	Legal	Not implemented	The Electoral Amendment Act (No. 12 of 2023) became law in July 2023 but was not in force. However, other laws that have an impact on the exercise of political rights, such as the Patriotic Act and MOPA, were passed within six months.

Types of recommendation: Administrative; Legal/regulatory; Political; Policy; Technical
Status of implementation: ● Fully; ● Mostly; ● Partially; ● Not implemented; ● Not yet known, no data or N/A

(Continued)

Table V1 Zimbabwe Recommendations Tracker

No.	2018 recommendation	Type of recommendation	Status of implementation	Comments
41	To promote transparency and a level playing field, the ZEC should consider adopting a more communicative and collaborative approach with the various election stakeholders. Opportunities and aspects of the electoral process that do not contravene the legal framework, such as stakeholder comments on the design of ballot papers prior to printing, should be seen as a constructive and positive means for engagement.	Policy	Partially	In the pre-election period, ZEC demonstrated a commitment to working with CSOs on voter education yet it was also slow to provide important information to parties and CSOs at key milestones of the electoral process (at times, contrary to its legal requirement to do so), or to consult them on issues such as ballot printing. The election day and post-election communication strategy was also found wanting, such as in relation to the delayed ballot papers in some wards.
42	The variance in population size across Zimbabwe's constituencies remained an issue of concern to some stakeholders. To ensure fairness and equal access, a review of the boundaries should be undertaken in an inclusive, non-partisan and transparent process, with a view to standardising the numbers of voters across constituencies to ensure fair and equal representation.	Legal/regulatory Policy	Not implemented	ZEC conducted a boundary delimitation exercise following the 2022 Census; however, this was not carried out in accordance with the provisions of the Constitution.
43	The Group notes some of the infrastructural challenges observed, such as polling station locations without basic facilities (e.g. inadequate lighting or water) to enable the smooth and efficient management the elections. These are issues which are not exclusive to Zimbabwe, but familiar in a number of developing democracies. As they impact inclusivity and access, as well as the transparency of the process, it is the Group's hope that as Zimbabwe prospers, the infrastructure for elections, which is often the same as that for development, such as schools and community centres, will be given due consideration.	Administrative	Partially	While the Group appreciates that the use of tents will be unavoidable in some cases, tents were a more common feature than was ideal. The tents themselves were often cramped and hot, making the job of polling staff and agents very difficult.

Types of recommendation: Administrative; Legal/regulatory; Political; Policy; Technical
Status of implementation: ● Fully; ● Mostly; ● Partially; ● Not implemented; ● Not yet known, no data or N/A

(Continued)

Table V1 Zimbabwe Recommendations Tracker

No.	2018 recommendation	Type of recommendation	Status of implementation	Comments
44	To avoid fatigue and thereby minimise human errors, it is recommended that the ZEC considers deploying its officials in shifts, whereby the presiding officer and polling officials hand over the counting process to a counting officer and counting staff. In addition, it is suggested that consideration be given to reducing the volume of paperwork used at the polling station.	Administrative	Not implemented	Polling staff were not deployed in shifts. In those polling stations affected by delayed ballots, polling officials worked up to 24 hours. The volume of paperwork had not decreased since the previous election.
45	The Group encourages the ZEC to consider streamlining the counting, collation and tabulation process to reduce redundancy and to minimise human errors, without compromising the integrity and accuracy of the process.	Legal/regulatory Policy	Not implemented	The process remained largely unchanged.
46	The Group recommends that the ZEC ensures that underlying information from each polling station, which enables the tabulation of results for Ward, Constituency and Presidential Elections, are available throughout the process such that the aggregation of results is carried out in a transparent manner.	Legal/regulatory Policy	Not implemented	ZEC did not establish an online portal for the live publication of polling station results.
47	To ensure greater consistency in the application of electoral procedures, strengthening and lengthening the duration of the training for polling officials is recommended.	Administrative	Mostly	The Group is not aware whether the total training time was increased for this election but staff appeared well trained, so the current level of training was evidently more or less sufficient.

Types of recommendation: Administrative; Legal/regulatory; Political; Policy; Technical

Status of implementation: Fully: ● Mostly: ● Partially: ● Not implemented: ● Not yet known, no data or N/A

(Continued)

Table V1 Zimbabwe Recommendations Tracker

No.	2018 recommendation	Type of recommendation	Status of implementation	Comments
48	To ensure consistency in the application of procedures, while maintaining the dignity and the secrecy of their vote, a review of the procedures and approach for assisted voters should be conducted by the ZEC.	Administrative Policy	Mostly	The Group did note some inconsistencies in the application of procedures for assisted voters. However, in the main, polling officials provided adequate support to assisted voters. However, more can be done to improve these processes. The Group made recommendations in this regard.
49	A review of the current Secrecy Declaration should be conducted, as it seems too broad in scope.	Legal/regulatory Policy	Not implemented	The Secrecy Declaration remains unchanged since 2018.
50	To promote and enable greater participation, it is recommended that consideration be given to waiving the fees for citizen observers.	Legal/regulatory Policy	Not implemented	Fees for citizen observers remain unchanged.
51	Consideration should be given to a review of the process for casting and counting postal votes, to ensure efficiency while guaranteeing the secrecy of the vote.	Legal/regulatory Policy	Not yet known, no data or N/A	The Group did not observe the casting of postal votes. It was not aware of any changes to the 2018 procedure.
52	The Group commends the ongoing civic education campaigns, especially those targeting women, youth and people who are illiterate. We recommend the prioritisation of such campaigns to ensure increased participation of these groups.	Policy	Mostly	While it would be a stretch to claim ZEC prioritised targeted voter education, ZEC did make significant efforts in this regard. However, more could have been done in relation to PWD voter education.

Types of recommendation: Administrative; Legal/regulatory; Political; Policy; Technical
Status of implementation: ● Fully; ● Mostly; ● Partially; ● Not implemented; ● Not yet known, no data or N/A

(Continued)

Table V1 Zimbabwe Recommendations Tracker

No.	2018 recommendation	Type of recommendation	Status of implementation	Comments
53	To continue to strengthen voter confidence in the electoral process, a more robust civic awareness and voter education programme – designed and implemented by the ZEC, political parties and all relevant stakeholders – is encouraged.	Administrative	Partially	Both ZEC and CSOs made significant efforts on voter education, including working together on this endeavour. More could be done in relation to PWD voter education. However, ZEC's voter education efforts were at times undercut by delays in providing political parties with important information, such as voting lists. Political parties made significant efforts with regard to voter education, although the Group notes efforts by ZANU-PF, in particular, to spread disinformation aimed at keeping CCC voters away from the polls. Such efforts are anathema to the spirit and purpose of voter education.
54	At the conclusion of the electoral period, a review of policies, procedures and staff capacity is recommended to identify the successes, challenges and lessons that can be learned to build and strengthen the capacity of the Zimbabwe Electoral Commission for future elections.	Policy Administrative	Partially	ZEC did produce a 2018 post-election report but, as is evidenced by the large number of unimplemented recommendations (many of which ZEC has the authority to implement), ZEC's 2018 post-election analysis did not translate into the implementation of recommended reforms or lessons learned. This is in part explained by constraints on ZEC's independence. However, ZEC did not establish a multistakeholder domestic mechanism to discuss and take forward observer recommendations, which might have yielded more progress.

Types of recommendation: Administrative; Legal/regulatory; Political; Policy; Technical

Status of implementation: ● Fully; ● Mostly; ● Partially; ● Not implemented; ● Not yet known, no data or N/A

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