



## **STATEMENT OF THE NATIONAL DEMOCRATIC INSTITUTE (NDI) PRE-ELECTION DELEGATION TO ZIMBABWE**

*Harare, 22 May 2000*

### **I. INTRODUCTION**

This statement is offered by an international pre-election delegation to Zimbabwe, organized by the National Democratic Institute for International Affairs (NDI). The delegation visited Zimbabwe from May 15 through May 22, 2000.

NDI is a nongovernmental organization that promotes democracy worldwide. The Institute has conducted impartial pre-election, election-day and post-election observation delegations in more than 50 countries in Africa and around the globe. The purposes of this delegation were to express the support of the international community for a democratic election process in Zimbabwe and to assess the political environment surrounding the upcoming elections, as well as the state of electoral preparations.

The delegation was led by the Hon. Alex Ekwueme, Vice President of Nigeria from 1979-1983 and current Chairman of the Board of Trustees of the People's Democratic Party of Nigeria, and included: Hon. Michael Hishikushitja, Member of Namibia's National Council and Deputy Chief Whip for SWAPO; Hon. Charity Kaluki Ngilu, Member of the Kenya National Assembly and Leader of Kenya's Social Democratic Party; Hon. Abdul Carimo Issa, former Deputy President of the Assembly of the Republic of Mozambique; Hon. Audrey McLaughlin, former member of the Parliament of Canada, Leader of Canada's New Democratic Party and past President of the Socialist International Women; Patrick Merloe, NDI Senior Associate and Director of Programs on Elections and Political Processes. The delegation's technical advisors included: Professor Mandla Mchunu, Chief Electoral Officer of the Independent Election Commission of South Africa; Patricia Keefer, NDI Regional Director for Southern Africa; and Richard Klein, NDI Senior Program Officer. The delegation also was assisted by David Kovick, NDI Program Officer in Zimbabwe; Thabisile Mngadi, NDI Program Director in Mozambique, and Leanne Smith, NDI Regional Coordinator.

The delegation conducted its activities according to international standards for nonpartisan international election observation and Zimbabwean law. NDI does not seek to interfere in Zimbabwe's election process nor, at this juncture, to make a final assessment about the overall process. NDI recognizes that, ultimately, it will be the people of Zimbabwe who will determine the credibility of the elections and of the resulting parliament.

### **SUMMARY OF OBSERVATIONS**

*The conditions for credible democratic elections do not exist in Zimbabwe at this time. Political violence over the period since Zimbabwe's February 2000 constitutional referendum has claimed 23 lives, caused over 100 injuries and resulted in substantial property damage. The violence has created an atmosphere of anxiety and fear. It has substantially restricted the exercise of freedoms of opinion, expression, association, assembly and movement, as well as the right to be secure from physical harm due to political affiliation. The abilities of political parties and many candidates, predominately from the opposition, to campaign openly and freely do not meet international standards for fair electoral competition.*

*The effects of violence and attempts at political intimidation have undermined trust among many Zimbabweans in the secrecy of the ballot and have raised fears of retribution for voting against the ruling political party. Cases of men, women and children being beaten and in some instances tortured (including eight documented cases of rape), could have far-reaching effects in a society that is not long-removed from the tragedy and suffering of the 1980's "Gukurahundi" ("wipe out everything") campaign. These factors could affect voters' decisions about whether to vote and for whom to vote.*

*These conditions appear to be the product of acute political polarization and intolerance. The electoral conditions fail to meet requirements contained in The Declaration of Rights of the Constitution of Zimbabwe and electoral standards based upon international instruments, such as the Universal Declaration of Human Rights and the African Charter on Human and People's Rights, which are applicable to Zimbabwe.*

*There are also problems in the electoral framework concerning a "level playing field," such as news bias favoring the ruling party and qualification requirements for state funding that result in only the ruling party receiving such financing. The compressed electoral calendar raises issues for meeting the requirements and spirit of the law, concerning equality of access to information on the delimitation of parliamentary constituencies. Changes in the law, as well as creation of new Voters' Rolls based on this year's registration drive and merging of databases, require adequate time and opportunity for public inspection of the rolls. In addition, there is a need for large-scale voter education by electoral authorities. Issues to be addressed in such an education campaign include secrecy of the vote; electoral rights of voters; and the importance of inspecting the Voters' Rolls. Opportunities should also be provided for voters to learn about the political party manifestos.*

*Despite serious obstacles, political parties and the population in general have accepted the June 24-25 election dates in the hope that this troubled period may come to an end. Political parties and candidates are contesting the elections. Zimbabwean citizens are mobilizing in large numbers to act as election monitors and observers. Electoral authorities are preparing for the election dates, based on a demonstrated ability to conduct the technical and administrative aspects of elections. Citizens are expressing their desire for a meaningful election process that can be accepted by the ruling political party and opposition political parties alike, as well as by the electorate. For these reasons, the election process warrants heightened observation by the international community in an effort to support a meaningful election process, which observation should be conducted in the spirit of international cooperation and in respect for the right of the people of Zimbabwe to determine freely who shall govern.*

*International experience demonstrates that in countries like Zimbabwe, where violence and fear undermine the credibility of elections, it is necessary to go beyond the minimum requirements of the election law to build sufficient public confidence in the process, so that the elections might be accepted by the political parties and voters. This is all the more important when the legal framework for elections contains serious deficiencies. In order to establish such public confidence, it is often necessary to take extraordinary steps to promote electoral rights and open dialogue among the political contestants to agree on minimum rules for the competition.*

*The elections are just 33 days away; immediate and concerted efforts are therefore required to make improvements to the political environment and to ensure adequate resources for electoral authorities to complete their tasks properly and effectively, as mandated in the Constitution and Electoral Act. A number of important steps can be taken with the limited resources available and within the scant time remaining before the elections. The delegation therefore respectfully offers a series of recommendations in the last section of this report.*

## **II. THE DELEGATION AND ITS WORK**

The delegation was welcomed by leaders of all Zimbabwean political parties and civic organizations. It conducted its work through a series of more than 30 meetings in Harare, Bindura and Bulawayo. In all three cities, the delegation met with a wide range of representatives of: the Government of Zimbabwe, including the Minister of Home Affairs and the Attorney General; election authorities, including the Registrar General, the Electoral Supervisory Commission (ESC) and the Chairperson of the Delimitation Commission; leaders of the ruling and opposition political parties, including ZANU-PF, MDC, member parties of the Voting Pact - ZANU (Ndonga), United Parties, and Zimbabwe Union of Democrats, and ZAPU; civil society, trade union, business and religious leaders; war veterans; and representatives of the international community, including the Commonwealth and the European Union. The delegation would like to express its deep appreciation to all of those who took time to share their views.

In addition, the delegation reviewed the Constitution of Zimbabwe and Electoral Act, both as amended to date, the proposed Draft Constitution of 2000, the Law and Order (Maintenance) Act, the Broadcasting Act, reports of Zimbabwean election monitoring groups, news reports and materials provided by organizations with which it met.

**International Standards for Democratic Elections.** In addition to the requirements of Zimbabwe's Constitution, Electoral Act and related laws, the delegation considered international standards for democratic elections and accepted practices that have emerged to meet such standards.

International standards for democratic elections are based on the proposition – set forth in the Universal Declaration of Human Rights (Article 21) and in all other major human rights documents – that the authority to govern derives from the will of the people of a country, and their will must be demonstrated through genuinely democratic elections, conducted by equal suffrage and a secret ballot. Article 21 also provides that every citizen (regardless of gender), has the right to participate in government directly, as well as through freely chosen representatives.

This requires the opportunity, without political discrimination or unreasonable restriction, to stand for office, as well as to freely cast a ballot.

The exercise of the right to democratic elections cannot be realized without the exercise of related fundamental human rights, including the right to freedoms of opinion, expression (including to seek, receive and impart information), association, assembly, movement, equality before the law and due process of law (including equal protection of the law and to an effective remedy for violations of rights), as well as to life, liberty and security of the person. These rights are not only applicable in Zimbabwe through international obligations; they are applicable directly through the Constitution of Zimbabwe (Articles 11-26, “The Declaration of Rights”).

In an election context these rights have led to a number of international standards, that among other things, require:

- a sound legal framework and an impartial and effective election administration that conducts its activities in an open manner;
- a legal process that is impartial and capable of providing effective remedies;
- freedom to associate into political parties, legal recognition of parties and qualification of parties and candidates for the ballot, free from unreasonable or arbitrary restrictions and free of discrimination prohibited by international human rights instruments;
- voting by secret ballot, based on universal and equal suffrage – and a genuine opportunity to exercise this right – free from unreasonable or arbitrary restrictions and discrimination prohibited by international human rights instruments; and
- an electoral environment in which political parties and candidates are free to express their messages to the public and have an adequate opportunity to do so, including equitable access to and fair treatment by the mass media, as well as the freedom and opportunity to organize peaceful assemblies and other demonstrations of public support and to move freely throughout the country to seek votes.

In addition, the electorate must be free and able to receive adequate and accurate information upon which to make an informed political choice and be free to exercise that choice without fear, intimidation or bribery. Also, the machinery of the state must remain neutral and its resources must be used for the benefit of the electorate, rather than for the benefit or detriment of any of the political contestants.

No electoral process is perfect – all require ongoing improvements – but the degree to which the election and political processes fall short of these standards will determine whether or not the elections are credible. Genuine democratic elections also require that the public, including the political contestants (parties and candidates), have confidence that the results of the elections will reflect accurately the free choice of the voters and that the outcome will be respected.

### **III. THE ELECTORAL CONTEXT**

An accurate and complete assessment of any election must take into account all aspects of the electoral process. These include: 1) conditions set up by the legal framework for the elections; 2) the pre-election period before and during the campaign; 3) the voting process; 4) the counting process; 5) the tabulation of results; 6) the investigation and resolution of complaints;

and 7) the conditions surrounding the formation of a new government. This delegation, therefore, is not making a final assessment of Zimbabwe's election process.

At the same time, no election can be viewed in isolation of the political context in which it takes place. The pre-election period, including electoral preparations and the political environment, must be given considerable weight when evaluating the democratic nature of elections, because this period is central to democratic electoral competition. This is the time when citizens become keenly aware of their power to select representatives to carry the electorate's mandate to govern. Political parties and candidates mobilize their supporters in a test of political pluralism, as they compete for votes.

### **A. The Legal Framework for Elections**

The legal framework for the elections is provided by the Constitution of Zimbabwe, principally through Articles 58-61 (on elections) and Articles 11-26 ("The Declaration of Rights"), the Electoral Act and related laws, such as the Law and Order (Maintenance) Act. While the legal framework has provided the basis for several elections, it contains serious deficiencies. It sets up significant overlaps among electoral authorities, possibilities for duplication of efforts and insufficient transparency and guarantees of impartiality. Agreement had been reached among political and civic leaders on the need for changes to the legal framework, such as the creation of an independent election commission. Regrettably, the time-frame for the elections and the political environment do not allow such matters to be considered at this time.

The President issued a proclamation on April 11 dissolving Parliament. Article 58 of the Constitution thereby requires that elections be held by August 11, four months from the proclamation. On May 15, he set the election dates for June 24-25, which falls within the prescribed period. All of the major political parties have accepted the election dates, while opposition parties have done so with deep reservations about the election process.

**The Delimitation Process.** The Delimitation Commission was appointed by the President on March 28, well beyond the "five-yearly interval" called for in Article 59(4) of the Constitution. The Delimitation Commission received the preliminary voters' register on April 25 and began its work. Article 60(8) of the Constitution provides that following completion of the report of the Delimitation Commission, the President shall issue a proclamation declaring the names and boundaries of constituencies for the Parliamentary election.

To date, the report of the Delimitation Commission has not been submitted, and the President therefore has not proclaimed the names and boundaries of the parliamentary constituencies. The Chairman of the Delimitation Commission regularly briefs the Minister of Justice, Legal and Parliamentary Affairs on progress of the delimitation process, including the anticipated changes in constituency demarcations. The Minister is also the Secretary of Finance of the ruling party, which gives ZANU-PF advance knowledge of delimitation information not yet available to all political parties. All political parties should have equal access to this information, as advance knowledge by any political party would provide it the advantage of allowing it to select candidates, set up campaign organization and begin campaigning inside the constituency boundaries before others could do so. This point is not insignificant this year, when indications

are that perhaps three constituencies will be abolished, three new ones created and the boundaries of many, if not most, are likely to change.

The date that Nomination Courts will sit to receive candidate nominations has been set for May 29, only seven days from today. This raises concerns over the ability of political parties to prepare for the nomination of candidates for constituencies that are not yet known. Nomination papers must be supported by valid signatures of 10 voters registered on the Voters' Roll within a prospective candidate's constituency. Until the final report of the Delimitation Commission is completed and the proclamation issued by the president, the Registrar General cannot prepare the Voters' Roll for each constituency and make it available to the prospective candidates to collect the required 10 signatures.

While it may be possible for the Delimitation Commission to complete its report and for the President to issue the required proclamation in the seven days remaining before the May 29 nomination date, the spirit of the law – which is to provide adequate time (minimum 14 days) to the political parties to choose and qualify their candidates before nomination day – will not be met (Article 38(2)(a)). This could have a discriminatory effect on small opposition parties that may depend on knowing precise definitions of boundaries when deciding whether or not to nominate a candidate in particular constituencies. MDC has filed a court case seeking to move the nomination date to a time later than May 29.

**Inspection of Voters' Rolls.** In the past, there have been serious questions raised about the quality of the Voters' Rolls in Zimbabwe, particularly concerning the number of deceased persons on the rolls and problems with “transferred persons,” who moved from one part of the country to another. These inaccuracies led to questions concerning the credibility of the Voters' Rolls. This year two important steps were taken to address such problems. A massive registration campaign was conducted to register voters and thereby update the rolls, which are based on the voluntary registration of voters. Second, the voters register was merged with the civil registry (Zimbabwe Population Registration System or ZPRS). Mergers of such large databases in most countries create a number of problems in sorting rejected names and technical problems that can cause names to become mis-entered. In addition, the capture and entry of names from the recent registration drive presents issues of backlog and inaccuracies of entries that usually result from such operations. These issues present an urgent need for adequate public inspection of the Voters' Rolls and for an accurate claims and objections process to finalize the roll as accurately as possible.

Moreover, this will be the first election where prospective voters names must appear on the Voters' Rolls, or they will be denied the opportunity to vote. In the past, voters could prove their eligibility to vote at the time of voting and be permitted to cast their ballot. Unless, a large-scale voter education campaign is launched about this change and the critical importance of each voter verifying their name on the roll, many voters may find on June 24-25 that they will not be allowed to vote. Even people who were on previous Voters' Rolls could be omitted or inaccurately entered on the rolls due to problems from merging the rolls and the ZPRS. Such problems could lead to large numbers of voters being disenfranchised, which could lead to confrontations at the polling stations on the election days.

Previously, the Voters' Rolls were displayed from seven to 21 days, so that voters could inspect them and make claims and objections. The rolls were generally posted at polling stations to provide convenient access for voter's inspection. This was in addition to the requirements of the Electoral Act (Article 18) that the Voters' Roll be available for inspection at the Constituency Registrar's Office.

Unfortunately, even though the needs for public inspection of the Voters' Roll this year are greater than in the past, the compressed electoral calendar may cause the number of days for public inspection to be minimized. Equally important, limited funds for the election process may lead to only one copy of the Voters' Roll being available per constituency, with possible mobile units carrying a copy of the rolls. This would limit the ability of prospective voters to verify the roll and could exacerbate the potential for disenfranchisement.

**Electoral Supervisory Commission.** Article 61(3) of the Constitution provides that: "The Electoral Supervisory Commission shall supervise the registration of voters and the conduct of the elections of members of Parliament..." Also, it is not to be subject to the direction or control of any person or authority. The Electoral Supervisory Commission (ESC), is to be comprised of five persons, including a chairperson, all of whom are appointed by the President (three, including the chairman, in consultation with the Judicial Services Commission and two in consultation with the Speaker of Parliament). Presently, the ESC has only three members, including an acting Chairperson appointed by the members themselves.

The ESC does not seem to be able to fulfill its role as envisioned by the Constitution. The ESC does not receive adequate financial resources to hire sufficient staff to supervise the registration of voters or the conduct of elections, per its constitutional mandate. It reportedly was not advised of the recent registration process or adequately enabled to witness or supervise the registration. The ESC has reportedly still not received a copy of the register of voters that was provided to the Delimitation Commission, per its request. This would not be consistent with Article 14 of the Electoral Act concerning the duties of the Registrar General to the ESC.

The ESC has to its credit approached the problem of supervising the conduct of elections by accrediting domestic election monitors to witness election-day procedures. This has allowed civic and religious organizations to mobilize thousands of Zimbabwean citizens to participate in and help ensure the integrity of the election process. It would also be possible for the ESC to accredit nonpartisan organizations to monitor aspects of the pre-election and post-election periods.

In addition to these roles, the ESC could serve as a facilitator of dialogue among the political parties and/or between the election authorities and the political parties. In lieu of an independent election commission and a political party liaison committee, as exist in other countries in the region, the ESC could help to fill these important functions. The ESC, along with business, civic and religious leaders, could encourage the political parties to meet and conduct dialogue on basic conditions and ground rules for the June 24-25 elections, including final agreement and enforcement of a code of conduct.

**Registrar General and Election Directorate.** An Elections Directorate exists by virtue of Article 4(1) of the Electoral Act to coordinate the activities all government organs related to

the electoral process. This directorate is headed by a chairperson appointed by the President and comprises the Registrar General and between two and ten other members appointed by the Minister of Justice, Legal and Parliamentary Affairs.

According to the Electoral Act the Office of the Registrar General is the principal agency responsible for conducting all aspects of elections. In carrying out the duties of this office, the Registrar General, Article 15(2), "shall not be subject to the direction or control of any person or authority other than the Election Directorate, but shall have regard to any report or recommendation of the ESC." For the purposes of registration of voters the Registrar General's office falls under the Ministry of Home Affairs, however, in the conduct of all other aspects of the electoral process the Registrar General reports to the Minister of Justice, Legal and Parliamentary Affairs.

The Electoral Act, Article 14, sets forth the responsibilities of the Registrar General to the ESC. These include routinely providing reports on the electoral process including the registration of voters as well as responding to requests from the ESC and keeping the ESC generally informed on election related matters. According to the ESC, this has not been the case.

In addition, the Registrar General does not routinely meet with nor provide information to political parties about the electoral process. By not providing information the Registrar General is not creating an open and transparent electoral process in which all of the political contestants have timely information in order to make knowledgeable decisions during the electoral process.

While the Electoral Act makes the Registrar General the primary person responsible for the conducting elections, the President is given sweeping powers to control the election process. Article 158 specifically empowers the President to suspend or amend any provision of the Electoral Act and to alter any time period specified by the Electoral Act.

## **B. Election Administration**

Given the problems with the various government institutions involved in the conduct of elections, these institutions have demonstrated the administrative capacity to hold regular elections in the past. The upcoming parliamentary elections are the fifth in Zimbabwe since 1980. In addition, in February 2000 a nationwide referendum on the draft constitution was held. While some of these elections may have been marred by rigging and electoral manipulation, the results have been generally accepted.

The election authorities, particularly the Registrar General, are the subject of considerable controversy. Opposition political parties and civil society organizations consistently express concerns over: the lack of credibility and independence of election authorities; a partisan bias in the work of election authorities; lack of transparency in the election preparations; and a lack of institutional coordination.

Questions were raised in particular about the recruiting of polling officials. In the past, primarily teachers staffed the polling stations. Some political parties and civic organizations expressed concerns that war veterans may now be recruited for these posts. Given the violence

and intimidation in the current pre-election period, the presence of war veterans within the polling stations could lead to situations where voters would not feel safe at the polls. All polling officials should be trained and be held accountable, so that voting procedures are correctly applied and that no correlation could be made between a specific ballot paper and the voter who casts it.

As noted above, the accuracy of the Voters' Rolls is an area of significant concern. The Electoral Act stipulates that only registered voters will be permitted to vote in the parliamentary elections. Citizens are only considered to be registered if their names appear on the Voters' Roll for the constituency in which they are registered (Article 56). Potential voters whose names do not appear on the Voters' Roll for a particular constituency will not be permitted to vote on election day, without exception. During the voter registration exercise registered voters were not issued any receipt or card as proof of their registration. Previously, such receipts provided voters with recourse if, for any reason, their name did not appear on the Voters' Roll. While there is no legal requirement to issue a receipt (Article 23(3)), such a document could have provided voters with a ready means to make claims and objections.

Concerns were also raised about the counting of ballots at constituency counting centers. Under the current practice, once voting is completed on the second day the ballot box is sealed and transported to a central constituency counting center. There the number of ballot papers in each ballot box is first reconciled with the report of each presiding officer, and then co-mingled with all other ballot boxes during the determination of votes. Many political parties expressed concern that the integrity of the vote could be jeopardized during the transportation of ballot boxes and the co-mingling of ballot papers.

At polling stations, Zimbabwe currently uses non-transparent ballot boxes. In many meetings it was suggested that transparent ballot boxes would help build confidence in the process.

Articles 85 and 86 of the Electoral Act provide for polling agents for political parties to monitor the electoral process on behalf of a particular candidate. These polling agents have a right to monitor the election process at polling stations (Article 55) and to be present when the ballot box is shown to be empty before voting commences (Article 54). No other rights are afforded to polling agents under the law. However, polling agents have been able to sleep with the ballot box at night and travel with the ballot box from the polling station to the constituency counting center.

Civil society monitors and international observers are not mentioned in the law, regarding their rights or responsibilities. In practice, Zimbabwean NGO monitors have been accredited by the ESC to monitor elections, permitted into polling stations, and report to the ESC. This has been done under the ESC's constitutional powers to supervise the conduct of elections.

## **C. Electoral Environment**

**Polarization among Political Parties.** The current environment for electoral competition is characterized by mistrust, suspicion and political polarization among the political parties. There is a striking intolerance toward opposing political parties, particularly on the part of ZANU-PF, the ruling political party, toward the MDC. These factors were exacerbated by the results of the

February constitutional referendum, but they are likely associated with the legacy of the de facto one-party state and the liberation struggle ideology which have characterized Zimbabwe even before its independence. Such intolerance has led to ZANU-PF characterizing supporters of the opposition, today and in the past, as unpatriotic for challenging its position, and it has labeled such opposition as foreign-inspired. While ZANU-PF is not monolithic and allows differing points of view to be debated inside its ranks, there is a pronounced tendency which holds that it is not legitimate to challenge the party from outside.

At the same time, the political climate is characterized by a profound lack of dialogue among competing political parties, through which to resolve disputes and tensions in the pre-election period. There is no political party liaison committee or other forum for dialogue sponsored by any of the electoral authorities, government institutions, civic or religious sectors. Attempts by NDI at encouraging dialogue among the political parties over the last year led political parties, ruling and opposition alike, to draft a Code of Conduct for the elections. The Code of Conduct addressed, among other things, the need for political parties to prevent political intimidation and to accept that everyone has the right to put forward their political views without fear. While the other political parties have ratified it, the ruling party thus far has not.

In addition, opposition political parties express distrust of the electoral process and a certain lack of initiative or frustration about petitioning the electoral authorities or the courts for redress. This demonstrates the need for independence and impartiality among the electoral authorities, police, prosecutors and the courts. Actions that produce effective remedies reinforce the value of using complaint mechanisms in accordance with the rule of law, rather than turning to self-help through violent means or retreating from the process.

**Violence, Anxiety and Fear among the Public.** Politically motivated violence, particularly since the February referendum, has produced an environment characterized by anxiety and fear among the electorate. Thus far, 23 people have reportedly been killed; over 100 have been injured, and there has been substantial property damage. The government of a country has an obligation to provide security against violence. Guaranteeing the right to life and security of the person will present a major challenge to the credibility of the election process.

Almost everyone with whom the delegation met condemned the level of politically motivated violence as “unacceptable” and “not conducive to free and fair elections.” On May 10, for example, the ESC issued a press statement stating that it was greatly concerned with the “spate of political violence and intimidation that has characterized the pre-election period.” The Business Leaders’ Forum published a statement in the May 4-10 edition of The Financial Gazette, which said that: “They were very concerned about the general breakdown in law and order in our country caused by politically motivated violence.” It stated that: “The police and other law enforcement agencies must seriously step up their efforts to uphold the rule of law and protect law-abiding citizens from acts of violence.” The Presbytery of Zimbabwe published a statement in the May 17 edition of The Herald, in which they called upon all political parties “to desist from all public pronouncements that encourage violence” and they appealed to “all politicians to ensure that their opponent’s security and well being are as important as their own.”

On May 2, The Commonwealth released The Commonwealth Ministerial Action Group on the Harare Declaration (CMAG) Chairperson’s Statement, which said that the committee of eight Commonwealth foreign ministers “voiced their concerns over ongoing violence, loss of life,

illegal occupations of property, failure to uphold the rule of law and political intimidation in the run-up to Zimbabwe's parliamentary elections.”

Many with whom the delegation met stressed that violence and threats of violence have a powerful impact in rural areas, where the liberation struggle was fought most intensely. This is particularly true in Matabeleland, where memories of the tragedy and suffering of the 1980's “Gukurahundi” campaign are not long removed. It is alleged that supporters of the ruling political party and war veterans who support that party are threatening a return to the armed struggle if the ruling party does not retain control of government. In Matabeleland, for instance, alleged acts of deliberate intimidation include the deployment of war veterans wearing red berets, the trademark of the North Korean trained 5<sup>th</sup> Brigade, suggesting a renewal of the “Gukurahundi” campaign if election results do not favor the ruling party. In addition, inflamed rhetoric has incited violence. The delegation was informed that even seemingly veiled threats like telling a political rally to “go clean your garden” has led to violent attacks.

A statement by the MDC legal committee, entitled Summary of Violence in Zimbabwe since March 1, attributes 86.3 per cent of politically motivated cases of violence to supporters of ZANU-PF, while 6.7 percent of the victims of violence were affiliated with ZANU-PF; the ruling political party would take issue with these numbers. An April 27 ZRP statement to the press reported MDC as the initiator of a significant portion of violent acts, a characterization denied by MDC.

Documented politically motivated violence has included dragging farm workers and villagers from their homes at night and severely beating those identified as supporters of political parties that are in opposition to ZANU-PF. Men, women and children have been among those beaten and even tortured, including eight documented cases of rape. The level of such violence has driven a significant number of people from their homes to other constituencies, including to Harare, which would create problems in exercising the right to vote and to stand for office.

The delegation conducted a number of interviews with victims of political violence. These first-hand narratives gave credence to numerous reports to the delegation that political violence was taking place, including attacks on targeted individuals, clashes among groups of supporters of the opposition and the ruling political party, break-up of political party meetings and establishing so-called “no-go zones.” The political violence appears to be divided into two categories: that of a more or less spontaneous nature; and deliberate targeting of specific individuals for bodily harm and murder.

The delegation's meeting with the MDC in Bindura was encroached upon by more than 10 men who MDC representatives identified as war veterans. The MDC representatives became frightened and wanted to change the meeting's venue, which was done. The interactions illustrated that even small meetings are being watched and attempts at intimidation can even take place in the presence of international observers. In addition, another of the delegation's meetings in Bindura was intruded upon by a man who showed identification as being with the ZRP intelligence unit. He reported that he was taking information about who was attending such meetings. In Bulawayo, another man who also identified himself as being with the ZRP intelligence unit intruded upon the delegation's meeting with Amani Trust, a human rights organization monitoring electoral violence. In both cases, the men left the meetings when asked,

but the incidents illustrate a free-wheeling attitude of intelligence agencies toward the exercise of freedoms of association and assembly.

Reports from both the police and the Commercial Farmers' Union confirm that approximately 1,000 farms have been invaded and occupied by war veterans. There have been numerous, serious incidents of violence following such actions, including deaths, some of which have affected white farm owners but most of which have been directed towards black farm workers. A pattern is reported by credible sources from the independent news media in which after a large number of war veterans invade a farm and initial violence takes place, the bulk of the war veterans move on, leaving a small group to hold the place. According to this pattern, after invading a farm, war veterans set up so-called "reeducation camps" where farm workers are forced by dint of violence or intimidation into singing pro-ZANU-PF songs and slogans. Reportedly, similar activities are also conducted in some villages in the rural areas.

While it was beyond the resources of the delegation to investigate the land issues, all political parties with which it met expressed support for land reform. Leaders of ZANU-PF stated that the party intended to fight the election on the basis of land, which makes it a central part of the political process affecting the elections. The violence and intimidation surrounding the land issue therefore has taken on a definite political nature. Many with whom the delegation met stated that they believed the actions of the war veterans were part of an electoral strategy, especially because the war veterans organization (the Zimbabwe National Liberation War Veterans' Association) has stated its support for ZANU-PF, and its leader, Chenjerai Hunzvi, is reportedly a ZANU-PF candidate for parliament.

#### **D. ELECTORAL COMPETITION ("Level Playing Field" for the Official Campaign Period)**

A number of factors in addition to those discussed above are important in examining conditions for competition among political parties and candidates during the election campaign period. The campaign may not begin officially until Nomination Day, May 29, but it is already in progress. The unofficial campaign period has an important bearing on the election process.

**Media Access.** Mass media provide a critical conduit through which political parties and candidates can communicate to much of the electorate. Without access to the media to express positions, political parties and candidates cannot effectively reach prospective voters, and the voters are left without the accurate information they need to make an informed choice at the ballot box. It is therefore necessary to provide equitable media access for all political parties before and during the official campaign period. To date, the opposition political parties have not had such access to the government-controlled broadcast media. Representatives of ZBC report that there is a plan, to take effect upon the beginning of the official campaign period, to make commercial time available to the political parties. The plan calls for 10 slots of 10 minutes of commercial time per day, at one minute for each of the 10 political parties. The plan will make even more commercial advertising time available on government-controlled radio. While such plans could help build credibility of the election process, paid political advertisements are not a substitute for providing sufficient free media time to competing political parties and candidates on government-controlled radio and television.

ZBC reported to the delegation that a one-half hour program on state broadcast media will be dedicated free of charge for each of the major political parties, in the last days of the campaign (with the party fielding the most candidates appearing closest to the election days, the one with the second most the day before, and so on). It also reported that an all-parties debate would be broadcast free of charge. These are important opportunities, however, the limited amount of time is not likely to allow the voters to receive adequate, accurate information upon which to make a free and informed choice at the ballot box.

**News Media Bias.** Reports from casual observers as well as media monitoring organizations alike highlight gross bias in the government-controlled media's news coverage, which bias favors the ruling political party. The state-controlled media hold a monopoly on in-country radio and television broadcasting licenses. Radio channels are the predominant media by which the population gains news information. Television reaches the urban areas, and state-controlled newspapers have the widest circulation among the print media. A small number of independent print media mainly reach urban areas. Media monitoring efforts have criticized the independent print media for, at times, taking pro-opposition stances.

Bias in news coverage conditions the electorate's attitudes with inaccurate information, which negates the rights of citizens to seek and receive the information needed to make a free and informed choice when voting. Bias also can easily negate the effect of information supplied by political parties and candidates through free media access messages and paid political advertisements. It is therefore critical to the credibility of the election process that directors of state-controlled media act to ensure that bias is eliminated from its coverage, because state-controlled media have an obligation to operate in the public's interest rather than for the benefit of one political party.

**Use of State Resources and Party Financing.** State resources, as noted above concerning state-controlled media, should be used for the benefit of the citizenry as a whole, rather than for the benefit of individuals or one political party. Reports of use of state vehicles for electioneering, while common in many countries, could pose a serious issue in Zimbabwe if freedom of movement for private transport is curtailed – either due to political violence or due to fuel shortages. In the present atmosphere of suspicion, even the appearance of lines at the petrol stations this week fueled rumors that fuel shortages were created for election purposes. It is therefore important for the government to take steps to prevent misuse of state resources, including the time of government workers while on duty, in order to bolster the credibility of the election process.

The Political Parties Finance Act, sets forth the qualification requirements for political parties to receive state funds. It requires that a party must receive 5 percent of the national vote to qualify for such funding. Thresholds of this type are not uncommon; in Zimbabwe, however, the requirement results in ZANU-PF being the only political party that qualifies for receipt of state funds. This qualification requirement makes it particularly difficult for small political parties to compete. In countries where there is a proliferation of political parties, thresholds may help to rationalize the political process, but where a country has only two opposition members in its parliament, provision of state funds on reasonable and equitable bases is advantageous for fostering political pluralism.

**Widespread Voter Education to Increase Confidence in Ballot Secrecy.** Several credible sources reported to the delegation that one of the effects of the recent political violence and accompanying threats has been to undermine public confidence in the secrecy of the vote. The concept of ballot secrecy has been established in Zimbabwe in past elections, and rebuilding public confidence in it is an important challenge for the June 24-25 polls. Reassurances from the electoral authorities, for example the Registrar General and the ESC, in the form of a widespread voter education campaign will be instrumental in this respect. While Zimbabweans have experience in the mechanical aspects of voting procedures, reassurances from electoral authorities concerning the secrecy of the vote are essential.

In addition to ballot secrecy, voter education campaigns about the manifestos and positions of the political parties is critical for a free and informed vote. Civic organizations and the political parties themselves have an obligation to ensure that the electorate receives such information.

Immediate, widespread voter education about the need for citizens to go and verify whether their name is on the Voter's Rolls is also needed, as discussed in detail above. Such a campaign concerning the electoral-related rights of citizens is also needed, along with what to do to seek an effective remedy if such rights are violated.

In sum, a review of the legal framework and the pre-election environment, based on applicable international standards, reveals that the conditions for credible democratic elections do not exist in Zimbabwe at this time.

#### **IV. OBSERVATIONS AND RECOMMENDATIONS**

International experience demonstrates that in countries like Zimbabwe, where violence and fear undermine the potential for credible elections, it is necessary to go beyond the minimum requirements of the election law to build sufficient public confidence in the process, so that the elections might be accepted by the political parties and voters. This is all the more important when the legal framework for elections contains serious deficiencies. In order to establish such public confidence, it is often necessary to take extraordinary steps to promote electoral rights and open dialogue among the political contestants to agree on minimum rules for the competition.

The elections are just 33 days away; immediate and concerted efforts are therefore required to make improvements to the political environment, to create or reinforce safeguards for administrative impartiality and to ensure adequate resources for electoral authorities to complete their tasks properly and effectively, as mandated in the Constitution and Electoral Act. A number of important steps should be taken with the limited resources available and within the scant time remaining before the elections. The delegation therefore respectfully offers the following recommendations.

**1) Ending Political Violence.** The delegation is aware that the government of Zimbabwe has made a commitment to organizing credible elections based on Zimbabwean law and in accordance with Zimbabwe's international commitments concerning democratic elections. The degree of political violence since the February constitutional referendum has greatly damaged the electoral process. Political leaders, especially President Mugabe, should do everything within their power to ensure that the political violence stops immediately. All citizens, including war

veterans, should respect the civil and political rights of others; without such respect elections lose their democratic meaning. The government, including electoral authorities, police and other authorities have an obligation to ensure the exercise of basic rights in the electoral context.

**2) Advancing Political Dialogue.** In order to come to agreement concerning minimum conditions for credible elections that could be accepted by all of the political parties and the electorate, political parties must be able to speak to each other. A political dialogue, even during the heat of an election campaign, is critical to reducing tensions in the country and finding a way to peacefully settle the competition for political power. Electoral authorities, business, civic and religious leaders should encourage the political parties to conduct good-faith discussions about how to compete while maintaining sight of the overriding national interest for peace and meaningful elections. In addition to basic requirements about the election process, the dialogue could advance the code of conduct discussed at a multiparty roundtable conference in Masvingo in February. Signing that document or any similar agreement could be an important symbol, upon which public confidence could build. Training party activists and enforcing such provisions, whether based on a multiparty agreement or unilateral rules of party conduct, could help reduce violence and promote respect for the rights of those holding differing views. Such efforts should continue in the post-election period to ensure peaceful developments no matter what the outcome of the elections may be.

**3) Government and Political Party Liaison Meetings.** It is important that political parties and candidates understand the regulations and procedures of election authorities and other governmental bodies concerned with the elections. It is therefore recommended that election authorities, including the Registrar General and the ESC, set up regular meetings to brief and share information with representatives of the political parties and candidates. The ZBC and the ZRP, respectively, also should set up such regular meetings to discuss issues relating to the broadcast media access and news coverage in the case of the ZBC and security issues around the country in the case of ZRP.

**4) Provision of Adequate Opportunity for Public Inspection of Voters' Rolls.** This year the law for the first time provides that a person whose name is not on the Voters' Rolls will not be allowed to vote. In addition, there was a recent large-scale voter registration effort and the Voters' Rolls and civil registry (ZPRS) were recently merged. These important exercises create a risk for omissions and errors in voter names. It is therefore crucial that the public be provided the maximum feasible opportunity to inspect the rolls, verify their proper registration or make appropriate claims and objections to correct the roll before the election days. It is urged that the Voters' Rolls be made publically available as soon as possible, be posted in numerous convenient places in each constituency for a period extending over at least two weekends to allow adequate inspection. A large-scale voter education campaign should be mounted concerning the need and procedure for this inspection and how to make claims and objections. The claims and objections process should be supervised by the ESC and other observers to help ensure an effective process. In addition, a copy of the Voters' Rolls should be supplied free of charge to each political party competing in the elections. The international donor community should consider providing assistance in each of these steps if necessary and appropriate.

**5) Releasing Information Concerning Delimitation of Constituencies.** Information concerning the location of constituencies and their boundaries should be made immediately available to all political parties contesting the elections. This information is needed to properly

nominate candidates and to begin organizing and conducting campaigns. The circumstance whereby one political party has access to such information due to its position in government should be equalized.

**6) Adding Transparency to Electoral Administration.** The present organization of election administration lacks the confidence of opposition political parties and large segments of the population. Increasing transparency through political party liaison meetings could help correct this. In addition, allowing representatives of the political parties, civil society election observers and the ESC to observe technical preparations for the elections, including production of the Voters' Rolls, ballot production, distribution and security measures, as well as voting, transport of ballot boxes, counting and announcement of results, will add to transparency and improve the basis for public confidence in the election process. Concerns over the alleged replacement of teachers with war veterans, as polling officials, could be relieved by allowing party representatives, civil society monitors and observers to witness the selection and training process for polling station officials.

**7) Improved Media Access and Removal of Bias.** The ability of voters to receive adequate, accurate information about the political parties and candidates is paramount to exercising their free will at the ballot box. Mass media, particularly radio and television, are critical to political parties and candidates providing messages to the voters about their manifestos and related positions. It is therefore recommended that ZBC expand its free broadcast time for the political parties beyond the one-half hour for the last ten days of the campaign and the broadcast of one multiparty debate. Extension of free broadcast time should be considered for at least the 21 days of the campaign and at least three multiparty debates should be broadcast. ZBC should take steps to end bias immediately. As government-controlled media, ZBC should fulfill its obligation to ensure that its media provide accurate and balanced news coverage of all political parties.

**8) Streamlining Voting Procedures.** Streamlined voting procedures and effective training of polling station officials can reduce the time necessary to vote and reduce the time spent in waiting in line. This can help reduce tensions on voting days and add to public confidence. A review of procedures and the training program at this time could enhance election day operations.

**9) Enhanced Voter Education.** Violence and political intimidation combined with fear of possible post-election reprisals have undermined confidence in secrecy of the ballot among large segments of the population. It is therefore recommended that large-scale voter education campaigns be conducted by the electoral authorities (the Registrar General or the ESC) to reassure the public that there will be ballot secrecy for the June 24-25 elections. The voter education campaign should address procedures that will be in place to insure secrecy of the ballot. In addition, widespread voter education campaigns should be conducted by political parties and civil society organizations to help the electorate learn about the manifestos and other positions of the political parties so that voters may make informed choices. As noted above, a widespread voter education campaign concerning the importance of citizens inspecting the Voters' Rolls is needed.

**10) Ensuring Access for Civic Society and International Election Observers.** Monitoring and observation of elections requires access to all aspects of the process, in the pre-election period, on election days and in the immediate post-election period. Election authorities

have provided access to monitors and observers in past elections, and they have contributed to the integrity of the process and to enhanced public confidence. Complete access should be accorded to monitors and observers throughout the remainder of the present election process, including for Zimbabwean civil society observers, political party polling agents and international observers.

NDI will continue to observe the processes surrounding Zimbabwe's June 2000 parliamentary elections in the spirit of international cooperation and in accordance with international standards for election observation and Zimbabwean law. Further NDI reports will be issued as appropriate. Once again, the delegation offers its gratitude to everyone with whom it met. Had they not taken time to share their views and offer information, the delegation would not have been able to complete its work.