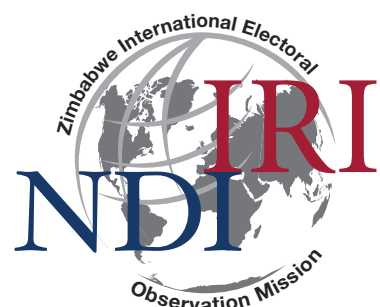




IRI/NDI Zimbabwe International Election Observation Mission Final Report

October 2018



IRI/NDI Zimbabwe International Election Observation Mission

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Acronyms & Abbreviations

| | | | |
|--------|---|---------|---|
| ADR | Alternative Dispute Resolution | NPRC | National Peace and Reconciliation Commission |
| AFIS | Automated Fingerprint Identification System | OAC | Observer Accreditation Committee |
| AU | African Union | PEAM | Pre-Election Assessment Mission |
| BAZ | Broadcasting Authority of Zimbabwe | POSA | Public Order and Security Act |
| BVR | Biometric Voter Registration | PR | Proportional Representation |
| CIO | Central Intelligence Organization | PRC | People's Rainbow Coalition |
| COMESA | Common Market for Eastern and Southern Africa | PVT | Parallel Vote Tabulation |
| CSO | Civil Society Organization | SADC | Southern African Development Community |
| DRL | Bureau of Democracy, Human Rights, and Labor | SBO | Sample Based Observation |
| EFZ | Evangelical Fellowship of Zimbabwe | SMS | Short Messages Service |
| ERC | Election Resource Center | STO | Short Term Observer |
| ESR | Election Situation Room | USAID | United States Agency for International Development |
| EU | European Union | UZ | University of Zimbabwe |
| EVID | Election Voter Identification | VMCZ | Voluntary Media Council of Zimbabwe |
| GNDEM | Global Network of Domestic Election Monitors | ZANU-PF | Zimbabwe African National Union -Patriotic Front |
| IRI | International Republican Institute | ZAPU | Zimbabwe African People's Union |
| LGBT | Lesbian, Gay, Bisexual, and Transgender | ZCC | Zimbabwe Council of Churches |
| LTO | Long Term Observer | ZDF | Zimbabwe Defense Force |
| LSZ | Law Society of Zimbabwe | ZEC | Zimbabwe Election Commission |
| MDC | Movement for Democratic Change | ZESN | Zimbabwe Election Support Network |
| MDC-T | Movement for Democratic Change-Tsvangirai | ZIEOM | Zimbabwe International Election Observation Mission |
| MMZ | Media Monitors Zimbabwe | ZLHR | Zimbabwe Lawyers for Human Rights |
| MP | Member of Parliament | ZMC | Zimbabwe Media Commission |
| MPLC | Multi Party Liaison Committee | ZPP | Zimbabwe Partnership for Prosperity |
| NDI | National Democratic Institute | ZRP | Zimbabwe Republic Police |
| NED | National Endowment for Democracy | | |
| NGO | Non-Governmental Organization | | |
| NPF | National Patriotic Front | | |

Executive Summary

The International Republican Institute (IRI) and the National Democratic Institute (NDI) organized the Zimbabwe International Election Observation Mission (ZIEOM) for the 2018 Zimbabwe presidential, parliamentary, and local government elections (referred to locally as “harmonized” elections). Recognizing that elections are about more than just Election Day, the seven-month mission analyzed the legal framework and observed the pre-election period; voting and counting on Election Day as well as the announcement of results; and, during the post-election period, the resolution of electoral disputes and taking of office by the winners.

Overall, the 85 percent turnout on Election Day, July 30, 2018, irrespective of other considerations, demonstrated that Zimbabweans want to transition away from the divisions, brutality and economic ruin of the Robert Mugabe era. While some significant incremental improvements were demonstrated in the 2018 elections, Zimbabwe has not yet established a process that treats all political parties equitably and allows citizens to be confident that they can cast their vote and express their political opinion free from fear of retribution. Consequently, Zimbabwe’s democratic trajectory is not certain, and the international community should remain vigilant and engaged in supporting the people’s call for a genuine transition.

This report reviews Zimbabwe’s electoral environment and processes, and it offers recommendations to various stakeholders based on IRI’s and NDI’s comparative experience, in the spirit of international cooperation, and with respect for the sovereignty of Zimbabwe.

Methodology

The ZIEOM methodology is based on systematic, comprehensive gathering of information for fact-based, politically impartial analysis that is presented in the mission’s findings and recommendations. ZIEOM was guided by the Declaration of Principles for International Election Observation as well as international and regional standards. The mission carried out its activities in conformity with the laws of Zimbabwe. The 2018 harmonized elections took place against a backdrop of an 18-year political crisis. Extraordinary steps were required to break with the country’s past and set the country on a new trajectory. Therefore, the election process needed to do more than adhere to the letter of the law, show more than just incremental improvements, and result in more than a generally peaceful outcome.

Background

Zimbabwe’s current political crisis (and the related economic crisis) began in the late 1990s. The ruling Zimbabwe African National Union - Patriotic Front (ZANU-PF) retained political power through fundamentally flawed elections in 2000, 2002, 2008, and 2013. By late 2017, tensions over succession had exacerbated fractionalization within the ruling party and led to military intervention and the removal of President Robert Mugabe from office. Emmerson Mnangagwa, a senior ZANU-PF stalwart who has been implicated in past government repression, came to power in November 2017, promising economic reforms and credible elections with monitoring by international election observers.

In February 2018, long-time opposition leader Morgan Tsvangirai died, with Nelson Chamisa emerging as the leader and presidential candidate of the Movement for Democratic Change (MDC) Alliance. That month, just six months before the elections, President Mnangagwa appointed

a new chairperson for the Zimbabwe Electoral Commission (ZEC). On May 30, President Mnangagwa declared that elections would be held on July 30, making them Zimbabwe's first without Mugabe on the ballot, and the first since the political crisis began without Tsvangirai as the main opposition candidate.

ZIEOM Mission

During the mission, ZIEOM deployed:

- a core team of election analysts based in country from April through October;
- a high-level pre-election delegation in June;
- 14 long-term observers across all 10 provinces from June through August;
- an Election Day delegation comprising 60 observers across the country;
- and a high-level post-election delegation in October.

ZIEOM's Election Day delegation was led by former Liberian President and Nobel Peace Prize Laureate Ellen Johnson Sirleaf and former Interim President of the Central African Republic Catherine Samba-Panza. The Election Day leadership team further included U.S. Congresswoman Karen Bass, and former U.S. Assistant Secretaries of State for African Affairs Ambassador Johnnie Carson and Constance Berry Newman. Throughout, ZIEOM coordinated closely with other international observer missions as well as citizen observer groups.

IRI and NDI are grateful for the warm welcome and cooperation ZIEOM received from all Zimbabweans with whom it interacted, including the chairperson of the Zimbabwe Electoral Commission (ZEC), election officials around the country, the leading presidential candidates, political party leaders, government officials, citizen election monitors, civil society leaders, and others. Through ZIEOM, NDI and IRI sought to express the international community's interest in and support for credible, peaceful elections in Zimbabwe; provide an accurate and impartial report on the character of the election process; and offer recommendations to improve the electoral process. IRI and NDI recognize that it is the people of Zimbabwe who ultimately determine the credibility of their elections.

Legal Framework

Zimbabwe adopted a new Constitution in 2013 that guarantees citizens a wide array of electoral and political rights. It includes protections for women and persons with disabilities (PWDs) to enjoy the same rights as all other citizens and established, for the first time, an independent election management body (EMB)—the Zimbabwe Electoral Commission (ZEC)—responsible for all aspects of the electoral process. On May 28, just over two months before Election Day, the Electoral Act was amended to help bring it into alignment with the 2013 Constitution. The lower courts issued several decisions that demonstrated the independence of the judiciary. However, most of these decisions were either set aside or overturned upon appeal to higher courts giving the impression of bias in favor of the ruling party. It also included provisions to expedite the processing of cases of politically motivated violence and intimidation. Concerns remained however about the ability of Zimbabweans outside the country to exercise their right to vote; the continued existence of repressive laws that curtail the ability of Zimbabweans to fully realize their constitutional rights; provisions of the Electoral Act that could undermine the independence of ZEC; and the independence of the judiciary.

Pre-Election Period

Throughout electoral preparations, the ZEC took a legalistic approach and generally complied with the minimum standards of the law rather than employing its discretion to go beyond the letter of the law to maximize public confidence. Consequently, concerns were raised about the ZEC's level of inclusiveness, transparency, and accountability, leading to accusations by an array of stakeholders that the ZEC was politically biased.

The ZEC took several positive steps in the administration of the elections, including discarding the voters roll used for the 2013 harmonized elections; employing biometric voter registration (BVR) to develop a new voters roll; and using polling station-based rather than ward-based voters rolls. However, concerns were raised about issues such as the design of the presidential ballot paper, which did not align with legal requirements and seemed to benefit the ruling party's presidential candidate by placing his name at the top of a second column rather than close to the mid-point in a single alphabetical column. There were also initial concerns about the placement of the polling booths at polling stations, a decision by the ZEC that would have undermined the secrecy of the ballot had the ZEC not ultimately reversed itself on this issue.

Voter registration was conducted using the new BVR system over four phases, with an additional mop-up phase. Following voter registration, there was an inspection period where physical centers were established for voters to check the voters roll. Additionally, for the first time, voters could check their registration details by mobile phone or online. The ZEC cleaned the voters roll through a deduplication process based on BVR data.

Overall, 79 percent of eligible voters were registered, with a significant increase in young registrants. However, registration rates for urban areas were dramatically lower than rural registration rates. The ZEC refused to release an electronic copy of the preliminary voters roll (as was done in 2013), citing errors, but did ultimately provide an electronic copy of the final voters roll (though too late in the process for any issues to be addressed). Two audits of the final voters roll were conducted by local groups, with both identifying shortcomings. The Pachedu report concluded that these issues compromised the quality of the voters roll while the report by the Zimbabwe Election Support Network (ZESN) found that the 2018 voters roll was an overall improvement over the 2013 voters roll.

Constituency delimitation was not conducted in advance of the 2018 harmonized elections. The last exercise was conducted over ten years ago ahead of the 2008 elections. Under the 2013 Constitution, the number of registered voters per constituency should vary by 20 percent or less. However, for the 2018 elections, the number of registered voters for 106 of 210 constituencies varied by more than 20 percent, undermining the equality of the vote.

Concerns were also raised that a version of the voters roll was not made available in advance of candidate nominations to enable aspirants to verify that the names they were submitting in support of their candidacy were on the voters roll, as stipulated by law. However, this issue did not result in any prospective candidates having their candidacy rejected. Candidate nominations on June 14 saw a record number of presidential aspirants, political parties contesting the election, and independent parliamentary candidates.

The ZEC engaged in a nationwide multifaceted voter education campaign. The ZEC further accredited 78 civil society organizations (CSOs) to conduct voter education activities. However, concerns were raised about delays by the ZEC in the release and inadequate distribution of voter education materials. While a few public forums were held to bring together representatives of different political parties at the national level, generally the campaign did not feature debates

or other public events that allowed candidates to articulate their differing political opinions or platforms for voter reference.

The campaign environment was generally peaceful with political parties largely free to campaign across the country prior to Election Day. This was a marked improvement over previous elections. Of note, all presidential candidates endorsed a well-publicized Peace Pledge. However, the campaign was not without violence. The most significant event was a grenade attack on a rally held by President Mnangagwa on June 23. There were widespread incidents of threats of violence, including so-called “soft intimidation” to coerce voters into supporting ZANU-PF (such as reminding citizens of the 2008 violence and saying it would return unless the ruling party won the presidential race in the first round). In addition, there were extensive reports of efforts to undermine public confidence in the secrecy of the ballot, such as rumors that the BVR system could be used to identify how someone voted and reports of officials demanding to see and record individual voter’s registration numbers, leading the voter to believe that his or her vote would be tracked.

The ruling ZANU-PF relied heavily on state resources in campaigning with little differentiation between the state and the party. As a result, there was a massive disparity in funding levels between ruling and opposition party candidates. Efforts were made to use the courts to prevent the abuse of state resources. While a lower court initially ruled that ZANU-PF should not use state resources for campaigning, the Supreme Court ultimately dismissed the case on technical grounds. There were also widespread reports of the partisan distribution of government food aid and agricultural inputs to coerce support for the ruling party.

Traditional leaders (i.e. chiefs and headmen) are explicitly forbidden from engaging in political affairs under the 2013 Constitution. However, in some rural areas, traditional leaders regularly led voters to doubt the secrecy of the vote, required villagers to attend ruling party rallies, and encouraged villagers to vote for the ruling party, often implying repercussions for not doing so.

The Electoral Act provides for the establishment of Multi-Party Liaison Committees (MPLCs) at the national, provincial, constituency, and ward level. The MPLCs are intended to bring together political parties with the ZEC to discuss election-related matters. However, the national MPLC met infrequently and generally did not serve as a forum where decisions were made, undermining its effectiveness.

Only 15 percent of candidates standing for directly elected parliamentary seats were women. Under the 2013 Constitution, 60 proportional representation National Assembly seats are reserved for women, but this quota will sunset ahead of the next election. Just 17 percent of candidates for local authority elections were women. Female candidates, party activists, election officials, and voters continue to face violence and intimidation because of their gender, including attacks in social media against women candidates for president and other offices. Youth, like women, also continue to be marginalized, though there was a dramatic increase in the registration of younger voters. Little has been done to make voting on Election Day accessible to PWDs, with efforts to introduce a tactile braille ballot being unsuccessful.

Significant concerns exist about the role of the military in Zimbabwean politics. While the Zimbabwe Defense Forces (ZDF) stated that it would not interfere in the elections, it did not clearly commit to respect the outcome irrespective of the winner. Trust in the EMB was undermined by a significant number of former military personnel serving in ZEC management positions.

While there are pro-government and opposition newspapers, television and radio (including community radio) are dominated by stations that are either state-owned or owned by supporters

of the ruling party. State-owned media showed systematic and extreme bias in favor of the ruling party. The ZEC established a Media Monitoring Committee, but it was largely ineffective in identifying offenses and in enforcement, and therefore did not affect coverage. Overall, social media was more balanced than traditional media, but the social media environment was negatively affected by hate speech and disinformation, including attacks against female candidates and an excessive focus on personalities over the substantive issues concerning voters.

Zimbabwe has an active civil society that was engaged in the electoral process. CSOs conducted voter education, mobilization drives for voter registration and Election Day participation, peace campaigns to combat electoral violence and intimidation, and election observation. Several CSOs, including the Election Resource Center (ERC), the Zimbabwe Election Support Network (ZESN), ZimRights and the Counselling Services Unit (CSU), monitored various aspects of the electoral process, while the Media Monitoring Project of Zimbabwe (MMPZ) and the Media Institute of Southern Africa – Zimbabwe (MISA-Zimbabwe) conducted extensive media monitoring of election coverage.

Election Day and Announcement of Results

Zimbabweans came out on July 30 and voted in great numbers. Voter turnout was approximately 85 percent and demonstrated the populace's desire for democratic governance and enthusiasm to participate in the electoral process. The polls were administered in general accordance with prescribed procedures, and the environment was peaceful. Both MDC Alliance and ZANU-PF had party agents present at almost all polling stations and citizen observers deployed widely across the country.

In the densely populated urban areas of Harare, there were long lines at some polling centers with confusion among voters about where to vote, resulting in high numbers of voters being rejected and not permitted to vote. In addition, citizen observers reported high-levels of assisted voting nationwide, which could have compromised the secrecy of the ballot.

The process was seriously marred on August 1, two days after voting, by excessive use of force and tragic loss of life. Delays by the ZEC in reporting presidential results led to opposition supporters protesting in Harare. Initially, Zimbabwe Republic Police (ZRP) responded, but later ZDF soldiers were deployed and opened fire on opposition protesters with live ammunition, resulting in 6 people killed and another 14 wounded. In response to international demands, the government established a commission of inquiry.

The ZEC released provincial and aggregate presidential results on August 3, showing President Mnangagwa, of the ruling ZANU-PF, with 50.8 percent of the vote and Chamisa, the presidential candidate of the opposition MDC Alliance, with 44.3 percent. A parallel vote tabulation (PVT) by ZESN found ZEC's announced presidential results to be within a credible statistical range, although the PVT could not definitively determine whether there should be a runoff or not.

Beyond the presidential election, the parliamentary results gave the ruling party, ZANU-PF, exactly two-thirds of the seats in the National Assembly – the number required to unilaterally amend the Constitution. At the local government level, the MDC Alliance won control of 26 local authorities and ZANU-PF 61 local authorities, with no party winning a majority of seats for two local authorities.

Post-Election Period

In addition to the events of August 1, the immediate post-election period was further tainted by a crackdown on opposition activists in certain parts of the country, including opposition activists being subjected to beatings and threats that forced some into hiding. In addition, warrants were issued for the arrests of senior opposition officials.

On August 10, Chamisa submitted a court petition challenging the ZEC's announcement that Mnangagwa had won the election. Chamisa argued *inter alia* that he should have been declared the election victor or, at the very least, that a runoff was required since Mnangagwa did not receive the requisite 50 percent plus one vote once the disputed results were removed from the vote totals.¹ On August 22, the Constitutional Court held a hearing to review Chamisa's challenge. The hearing was televised for the public, which provided transparency to the process. During the hearing, both sides were meant to be able to present their arguments. Concerns were raised, however, that the seven-day period provided by the legal framework for challengers to collect evidence and submit petitions may restrict their ability to adequately prepare petitions. The Court unanimously ruled on August 24 that Chamisa's petition did not meet required evidentiary standards.

Both MDC Alliance and ZANU-PF filed a total of 16 petitions challenging the outcome of various parliamentary elections. Most notable was the case of Chegutu West constituency where the MDC Alliance candidate received the most votes, but results were mistakenly transposed resulting in the ZEC initially announcing the ZANU-PF candidate as the winner. Despite the ZEC, ZANU-PF and MDC all acknowledging that the MDC Alliance candidate received the most votes, the court threw out the MDC Alliance candidate's petition on technical grounds.

President Mnangagwa was sworn in as president on August 26. The new Parliament was seated on September 18, with 17 petitions challenging the outcome of various parliamentary elections still outstanding at the time. Despite a constitutional provision requiring parity, even with 60 reserved seats, female members comprise only 31 percent of the National Assembly and only 14 percent of ward councils.

Priority Recommendations

Zimbabwe's 2018 harmonized elections presented the country with a historic opportunity to break with the past 18 years of political crisis and mark the beginning of a genuine democratic transition. ZIEOM notes several improvements to the electoral process compared to Zimbabwe's past elections, though equally important shortcomings give rise to deep concerns that the process did not make the mark. Incremental improvements in the electoral environment during the pre-election period were insufficient to establish broad confidence among the political competitors and Zimbabwe's sharply divided populace.

¹ The petition was filed against the president-elect, the other 21 presidential candidates, the ZEC, its chairperson, and the chief elections officer. The MDC Alliance request for relief was framed as follows: "[Nelson Chamisa, in whose name the case is brought] submit that the evidence placed before the court shows gross irregularities which affect the validity of the election and its outcome. That being the case, I submit that the entire process must be declared invalid and accordingly set aside. As is borne out by the results on the ZEC server, I won the election and won it resoundingly. The court is therefore in a position in which it can declare the fact of my victory. This is also clear when the manufactured results given to first respondent are excluded from the final computation. Alternatively, the court has to order a fresh poll simply because the data that ZEC has is just too compromised to be made the basis of anything."

Drawing on its observations of the electoral process, IRI and NDI's comparative experience and in the spirit of international cooperation, the ZIEOM respectfully offers the following 11 priority recommendations to promote elections that are more credible as well as to expand democratic space in the future:

Legal Framework

- Continue to align the Electoral Act with the 2013 Constitution.

Leveling the Playing Field

- Create enforcement mechanisms for ensuring government resources do not serve partisan interests.
- Introduce effective mechanisms to enforce the constitutional provision prohibiting traditional leaders from engaging in partisan activities.

Transparency

- Adopt more transparent and consultative procedures to build public trust in the ZEC and ensure ZEC is widely perceived to be a credible institution.

Universal suffrage

- Complete a constituency delimitation exercise not less than one year prior to the next election.
- Foster a national debate regarding the issue of voting by Zimbabweans living outside the country.

Elections Management

- Adopt and publicize transparent procedures for the tabulation, transmission, and announcement of results.

Media Environment

- Foster a diverse, independent media environment representing a variety of political perspectives.

Complaints Mechanisms

- Prosecute perpetrators of violence and other forms of political coercion.

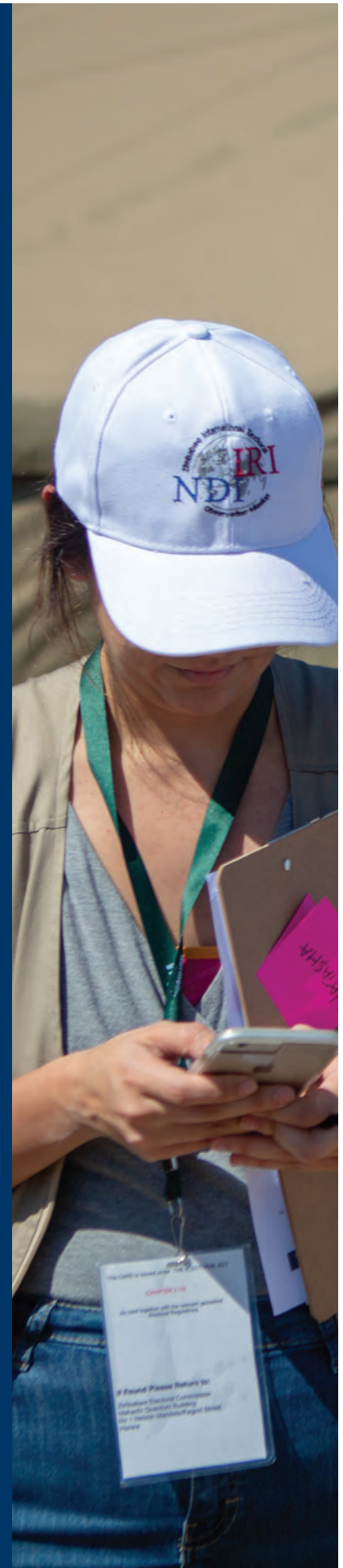
Party Conduct

- Create an environment for women to participate equally in the electoral process—free from intimidation and harassment.
- Institutionalize MPLCs as forums for dialogue and dispute resolution among and between political parties and ZEC.

Methodology

The ZIEOM methodology was based on systematic, comprehensive gathering of information for fact-based, politically impartial analysis that is presented in the mission's findings and recommendations, both here and in statements made by the mission throughout the electoral period. In carrying out its duties, ZIEOM was guided by the *Declaration of Principles for International Election Observation and Code of Conduct*, which was launched at the United Nations in 2005 and has been endorsed by 55 international and regional organizations. The mission conducted its observations with reference to the African Union's (AU) *Declaration on the Principles Governing Democratic Elections in Africa*, the Southern African Development Community's (SADC) *Principles and Guidelines Governing Democratic Elections* as well as Zimbabwe's Constitution (adopted in 2013), Electoral Act (as amended through 2018), and other relevant laws. The mission carried out its activities in conformity with the laws of Zimbabwe and in compliance with Zimbabwe's *Electoral Code of Conduct for Political Parties and Candidates*.

The 2018 harmonized elections took place against a backdrop of an 18-year political crisis. During that period, political space was severely limited and a series of fundamentally flawed elections were characterized by widespread violence and weakened public confidence in governing institutions and the electoral system. Extraordinary steps were therefore required to break with the country's past, restore public trust, and set the country on a new trajectory. For the 2018 harmonized elections to be broadly viewed as inclusive, transparent, and accountable, the election process needed to do more than adhere to the letter of the law, show more than just incremental improvements, and result in more than a generally peaceful outcome.





Background

Zimbabwe's ongoing political crisis (and related economic crisis) began in the late 1990s. Mismanagement of government finances by the ruling Zimbabwe African National Union – Patriotic Front (ZANU-PF) led to economic decline, popular protests, and ultimately to the formation of the Movement for Democratic Change (MDC) as a broad-based opposition party with trade unionist Morgan Tsvangirai as its leader. However, ZANU-PF was able to retain political power by closing political space and through fundamentally flawed elections in 2000, 2002, 2008, and 2013.

As President Robert Mugabe grew older, tensions heightened within ZANU-PF over succession, with the party becoming further factionalized. Efforts to position his second wife and leader of the G40 faction, Grace Mugabe, as his heir apparent brought infighting within ZANU-PF to a head, resulting in Vice President Emmerson Mnangagwa, leader of the Lacoste faction, being discharged and fleeing the country. However, military intervention and popular protests resulted in President Mugabe being forced from power and Mnangagwa becoming president in November 2017.

Political repression by the government, as well as tensions arising over the failure to gain political power, led to repeated splits within the MDC. Throughout, Tsvangirai remained the most viable opposition leader. When Tsvangirai died in February 2018, Nelson Chamisa emerged as the leader of the newly formed MDC Alliance (which brought together the main MDC formation with a number of MDC splinter parties and several other opposition parties).

A long-time ZANU-PF senior party operative implicated in past government repression, President Mnangagwa undertook a strategic effort to win international support. He declared four days of national mourning following Tsvangirai's death; travelled throughout the region to meet with various heads of state; and attended the World Economic Forum – a first for a Zimbabwean president. President Mnangagwa also granted a series of relatively candid interviews to respected international journalists in which he pledged political and economic reforms and a “new Zimbabwe.”



Preparations for the 2018 elections were already underway, including a biometric voter registration (BVR) process, which started in October 2017 when President Mnangagwa assumed office. Breaking with his predecessor, President Mnangagwa publicly committed himself to holding credible elections and invited a wide array of international observers, including organizations that had previously not been accredited. In February, just six months before the election, he appointed Justice Priscilla Chigumba as the new chairperson of ZEC. On May 30, he declared the elections would be held on July 30, making them Zimbabwe's first ever without Mugabe on the ballot, and the first since the political crisis began without Tsvangirai as the main opposition candidate.

The 2018 elections provided a unique opportunity for the new government to demonstrate that the country was on a new trajectory toward consolidating the norms and institutions of democracy. As a sign of public interest in reform, a 2017 Afrobarometer public opinion survey revealed that most Zimbabweans “prefer democracy over any other political system.”² However, in the context of decades of flawed electoral processes, some Zimbabweans had doubts that the 2018 elections would meet the minimum threshold for elections that reflect the genuine will of the citizens of the country.³ Therefore, extraordinary measures were necessary to inculcate the electorate with confidence in the electoral process.

² Afro Barometer, Zimbabwe Round 7 Summary of Results, 2017, <http://afrobarometer.org/publications/zimbabwe-round-7-summary-results-2017>

³ Afro Barometer, April/May 2018. 29 percent of respondents doubted that their vote would be counted while 44 percent believed that incorrect results would be announced. http://afrobarometer.org/sites/default/files/zim_r7_presentation_07062018.pdf

Mission Overview

In response to President Mnangagwa's invitation to observe the 2018 elections and with encouragement from political parties and civil society organizations (CSOs), the International Republican Institute (IRI) and the National Democratic Institute (NDI) jointly formed the Zimbabwe International Electoral Observation Mission (ZIEOM) to demonstrate the international community's continued interest in and support for democratic change in Zimbabwe while providing Zimbabwean citizens, election and government officials, civic organizations, and other stakeholders with an objective assessment of the electoral process and practical recommendations for the future.

Starting on May 17, the ZEC accredited ZIEOM to observe the voter roll inspection process. While historically accreditation was introduced only for Election Day due to restrictions in who can be present at polling stations, the ZEC had previously taken a narrow view that accreditation was required for observers to witness any aspect of the electoral process. By May 29, the period for voter roll inspection ended and parliament passed final amendments to the Electoral Act to better align the law with the 2013 Zimbabwe Constitution.⁴ The following day, May 30, President Mnangagwa announced that the elections would take place on July 30, which was within the constitutionally prescribed window for scheduling the national elections.

From June 2 to 8, ZIEOM conducted a high-level Pre-Election Assessment Mission (PEAM) led by Dr. Brigalia Bam, former chairperson of the South African Independent Electoral Commission; Hon. David Dreier, former United States congressman; Senator Catherine Noone, Deputy Leader of the Irish Senate; and Barry Jackson, former chief of staff to the speaker of the U.S. House of Representatives. The PEAM delegation issued a statement providing its assessment of the state of electoral preparations and recommended 13 practical actions that the Government of Zimbabwe and, in many cases, the ZEC could take to instill public confidence in the electoral process prior to the July 30 elections.⁵ The recommendations touched on a variety of issues, including the release of the preliminary and final voters roll, promoting the secrecy of the ballot and permitting observation of the ballot printing process.

ZIEOM deployed 14 long-term observers (LTOs) to Bulawayo (covering Bulawayo and Matabeleland South provinces), Masvingo (Masvingo province), Mutare (Manicaland province), Harare (covering Harare, Mashonaland Central and East provinces), Chinhoyi (Mashonaland West province), Gweru (Midlands province), and Bulawayo (Matabeleland North province) in June. The 14 LTOs included six women and eight men, and were nationals of 11 countries, including Benin, Canada, Ghana, Kenya, Malawi, Nigeria, Peru, Portugal, Uganda, United Kingdom, and the United States.

From July 25 to August 2, an international delegation of short-term observers (STOs) joined the ZIEOM core team in Zimbabwe. The delegation members hailed from 11 countries and were co-led by former Liberian President and Nobel Peace Prize Laureate Ellen Johnson Sirleaf and former Interim President of the Central African Republic Catherine Samba-Panza. The leadership

⁴ The amendments mainstreamed gender in all aspects of elections, shortened the closure of the voters roll to two days after the proclamation day, limited the surplus of ballot papers to 10 percent per polling station, excluded voter registration slips from the valid documents for election day, and extended the allowable period of residency in a constituency from 12 to 18 months before being removed from the voters roll. The amendments also introduced a broader definition of intimidation, further defined the Code of Conduct for Political Parties, repealed the prohibition on foreign contributions to voter education providers, and shortened the deadline for deciding on electoral petitions to six months and three months for the appeal of decisions.

⁵ See Appendix A for PEAM Statement.



team also included U.S. Congresswoman Karen Bass, and former U.S. assistant secretaries of state for African affairs, Ambassador Johnnie Carson and Constance Berry Newman.⁶ Prior to Election Day, the ZIEOM deployed 60 observers to 10 provinces throughout Zimbabwe, who witnessed the election's administration, voting, counting, and the overall atmosphere. The ZIEOM observers visited more than 210 polling stations and submitted periodic reports to the ZIEOM command center in Harare. On August 1, ZIEOM issued a preliminary statement that provided an assessment of pre-election and Election Day processes.⁷ Following the tragic events of August 1 that claimed the lives of six people, ZIEOM issued a joint statement denouncing the violence in partnership with other international observer groups.

On and immediately following Election Day, ZIEOM observers also analyzed the vote counting, tabulation, and transmission process as well as the announcement of the election results. ZIEOM observers analyzed the overall results management process and the post-election environment. During this period, a systematic crackdown on opposition leaders and activists occurred in Harare and elsewhere. ZIEOM issued an August 9 statement expressing deep concern over the reported

⁶ NDI Senior Associate and Director of Electoral Programs Patrick Merloe, IRI Vice President for Programs Scott Mastic, IRI Regional Director John Tomaszewski, and the ZIEOM co-directors Larry Garber (NDI) and Jessica Keegan (IRI) accompanied the leaders.

⁷ See Appendix B. The delegation noted "several improvements to the electoral process compared to Zimbabwe's past elections, though equally important problems give rise to deep concerns that the process thus far has not made the mark."

assaults, detentions, and abductions of opposition supporters and leaders in certain regions of Zimbabwe.⁸

In the post-electoral period, more than 30 petitions were filed with the Zimbabwe courts challenging the announced results of the elections including, most notably, the Constitutional Court petition filed by Chamisa challenging the results of the presidential election. ZIEOM observers tracked the petitions and witnessed the Constitutional Court proceedings.

From September 4-7, ZIEOM organized a high-level post-election delegation, which included two co-leaders from the ZIEOM short-term observation delegation.⁹ The purpose of the mission was to assess the formation of a new national government; the potential for inclusive governance and the role of civil society in promoting a reform agenda; the post-election security environment; and provide recommendations to improve future electoral processes. The delegation met with a variety of stakeholders, including members of civil society, political party leaders, and the international community, and convened a roundtable discussion with a range of civil society organizations.

The ZIEOM's approach to election observation included assessments of all three phases of the electoral process: pre-election; Election Day (including voting, counting, tabulation, and announcement of results); and the post-election period. The ZIEOM office was established in April 2018, employed more than 30 staff and, in October 2018, closed operations concurrent with the end of the post-election observation period. During the seven-month observation period, ZIEOM issued seven statements.

⁸ See Appendix E.

⁹ Former assistant secretaries of state, Ambassador Johnnie Carson and Constance Berry Newman.

Legal Framework and Electoral System

Legal Framework

Zimbabwe adopted a new constitution in 2013 following a negotiated process (primarily between the ruling ZANU-PF party and the MDC-Tsvangirai faction of the MDC) and was approved by the public through a referendum. The 2013 Constitution significantly enhances personal freedoms over the previous constitution. However, many elements of the 2013 Constitution have yet to be realized in practice either due to the continued existence of legislation that contradicts the new constitution or government practices that do not conform to the new constitution. For example, the draconian Public Order and Security Act (POSA) and the Access to Information and Protection of Privacy Act (AIPPA) have been neither repealed nor amended, undermining constitutional protection of freedom of assembly and information. Similarly, media freedom remains curtailed as the authorizing agency has only approved private electronic media licensees for pro-ruling party outlets.

The 2013 Constitution required the alignment of subsidiary electoral legislation. After considerable debate in Parliament over the course of several years, the 2018 Electoral Amendment Act was gazetted on May 28, just two months before the July 30 elections. The 2018 Electoral Amendment Act contained a number of improvements compared to the previous law, including the provision of a BVR system, the extension of the allowable period of non-residence in a constituency from 12 to 18 months before removal from the voter registry, repeal of the requisite channeling of foreign funding for voter education initiatives through ZEC, the establishment of Multi-Party Liaison Committees (MPLCs), the establishment of additional polling stations and the capping of excess ballot papers to 10 percent per station, for example.

While the amendments sought to bring the relevant provisions of the Act in line with the letter and spirit of the electoral principles enunciated in the 2013 Constitution, a number of CSOs, including Zimbabwean Lawyers for Human Rights (ZLHR) and Veritas, maintained that the reforms were inadequate to achieve the requisite alignment. In addition, the Electoral Amendment Act was passed very close to Election Day, which was not in accordance with best practice. Concerns also persist about the ability of Zimbabweans living outside the country to exercise their right to vote; repressive laws such as AIPPA and POSA that curtail Zimbabweans ability to fully realize their constitutional rights; and provisions in the Electoral Act that could undermine the independence of the ZEC and judiciary.

Zimbabwe has a well-established judicial system, with four High Courts, a Supreme Court, a Constitutional Court and more than 200 Magistrate Courts. Electoral Courts were constituted by the Electoral Act as a division of the four High Courts around the country. Serious concerns have been raised about the independence of the judiciary historically and during the electoral period. The Electoral Act does not contain administrative complaints mechanisms except as they pertain to voter registration. Therefore, election-related disputes are resolved by the judiciary, which does not prescribe an expedited timeline to adjudicate election-related cases before Election Day. Though best practices dictate that electoral disputes be properly investigated and resolved in a timely manner, many electoral-related cases filed during the pre-election period were not resolved due to the absence of time limits for hearing and delivering of judgments, and did not always provide an effective legal remedy for petitioners.

For politically motivated violence and intimidation cases, the Judicial Service Commission designated more than 50 magistrates to prioritize cases of political violence with assistance from

the prosecutor-general and the commissioner general of police. For cases petitioning the results of the presidential elections, the Constitutional Court has exclusive jurisdiction to adjudicate challenges to the presidential elections results.

Zimbabwe has acceded to most major international and regional treaty standards for elections, including the African Union *Declaration on the Principles Governing Democratic Elections in Africa* and the *SADC Principles and Guidelines Governing Democratic Elections*.

Electoral System

The current electoral system is multi-party, relies on universal suffrage and equality of votes, and prescribes an orderly transfer of power following elections. Presidential, parliamentary, and local elections are harmonized and required (at least) every five years with the precise date set by the president.

The presidency is decided through a direct vote, and the winning candidate must obtain 50 percent +1 of the valid votes cast. If no candidate achieves the requisite votes, a runoff election is held, contested by the two candidates with the highest number of votes in the first round. The president is elected to serve a five-year term and is eligible for reelection for a second five-year term.

Zimbabwe has a bicameral Parliament (National Assembly and Senate). The National Assembly/Lower House consists of 270 members of Parliament (MPs). Of these, 210 MPs are elected directly in single-member constituencies through a first-past-the-post system. The remaining 60 seats in the National Assembly comprise a quota for women who are chosen indirectly based on proportional representation (PR), with each province allocated six women PR seats regardless of population size. The quota was introduced for the 2013 and 2018 parliaments as an affirmative action measure to promote women's presence and participation in politics and in Parliament. However, the 60-seat women's quota will sunset following the 2018 election.

The Senate/Upper House consists of 80 senators. Sixty senators are elected through the PR system, with 6 elected from each of the 10 provinces; their election is based on the number of votes obtained by each party in the National Assembly election by province, and the party list must ensure that female and male candidates alternate to ensure gender equality. Eighteen of the 80 Senate seats are reserved for traditional chiefs, indirectly elected through a chiefs-only electoral college (with no gender requirement). The final two seats are reserved for representatives of persons living with disabilities (PWDs).

Pre-Election Period

Election Administration

Under the 2013 Constitution, the ZEC is one of several independent commissions established to support democracy.¹⁰ An independent and impartial election management body (EMB) is one that functions transparently and professionally, ensures that citizens are able to participate in the electoral process, and upholds international human rights obligations pertinent to the electoral process.¹¹ During the pre-election period, there were several significant improvements in the administration of elections, including introduction of a fresh voters roll and biometric voter registry; polling station-based rather than ward-based voters rolls; a hotline and website where voters could verify their registration; and the welcoming of international observers. To accommodate the switch from a ward-based voters roll to a polling station-based voters roll, to its credit, the ZEC increased the number of polling stations, capped the number of registered voters assigned to each station at 1,000 and limited the printing of excess ballots to 10 percent.

However, during the elections process, the ZEC took an extremely “legalistic” approach to comply with the requisite minimum standards for administration rather than employing its discretion to maximize public confidence in the process. Throughout the process, concerns were raised about its level of inclusiveness and transparency, leading to accusations that the ZEC was politically biased. In addition, provisions of the Electoral Act, which vests the minister of justice, legal, and parliamentary affairs with oversight authority over the ZEC and approval power over regulations adopted by the ZEC, led to concerns about the institution’s autonomy.¹²

The ZEC has nine commissioners who hold office for terms of six years and may be reappointed for a further six years. According to the law, the chairperson of the ZEC “must be a judge or former judge or person qualified for appointment as a judge.”¹³ After the resignation of the previous chair, President Mnangagwa nominated Justice Priscilla Chigumba to serve as chair in February 2018. Following a parliamentary nomination process that included, as its final phase, presidential appointment, Chigumba assumed her role as chair and, in every practical sense, became the public face of the ZEC. Chigumba’s alleged partisanship became a source of opposition complaints throughout the campaign and in their post-election petition to the Constitutional Court.

The Electoral Act obliges the ZEC to “promote transparency and accountability” in its procedures and the performance of its functions.¹⁴ Initially, the ZEC took several steps toward more active stakeholder engagement, including outreach to civil society and facilitating the government’s decision to accredit international election observers. However, many of the ZEC’s decisions were

¹⁰ As prescribed in the 2013 Constitution, the ZEC’s mandate is as follows: to prepare for, conduct, and supervise elections and referendums; register voters, compile the voters roll, and ensure proper maintenance of the voters roll; delimit constituencies, wards, and other electoral boundaries; conduct and supervise voter education; accredit observers for elections and referenda; receive and consider complaints from the public; and take such action in regard to the complaints as it considers appropriate. Other such bodies include the Zimbabwe Human Rights Commission (ZHRC), the Zimbabwe Gender Commission (ZGC), the Zimbabwe Media Commission (ZMC), and the National Peace and Reconciliation Commission (NPRC).

¹¹ UNHRC, CCPR, GC 25, 20 requires that “[a]n independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially, and in accordance with established laws that are compatible with the covenant.”

¹² *Constitution of Zimbabwe*; [Chapter 12, Part 2]; s. 238(2)

¹³ *Constitution of Zimbabwe 2013*; [Chapter 8, Part 2]; s. 187

¹⁴ *Electoral Act*; [Chapter 2:13]; s. 192(6)

made behind closed doors, with limited effort to build consensus among the political parties and interested CSOs. The opposition parties complained repeatedly and vociferously about the lack of consultation of the parties by the ZEC, which the parties claimed undermined confidence in ZEC's role as an independent arbiter.

On July 11, following a large rally in Harare, the MDC Alliance submitted a petition to the ZEC cataloguing many of its concerns. One of its chief concerns was the lack of consultation with the parties regarding the design of the presidential ballot and the lack of meaningful observation of ballot production, storage, and transportation processes. The MDC Alliance never received a formal response to the petition, nor was it satisfied that the issues raised were adequately resolved.

The ZEC regulations specify that the names on the presidential ballot should be arranged alphabetically and the names should appear in a single column.¹⁵ However, as printed, the presidential ballot included 14 of the 23 candidates' names in one column and nine names in a second column, starting with Mnangagwa. The ZEC explanation for the ballot design was that a ballot with all 23 names in one column was unwieldy and expensive, that 14 names were all that could fit in one column and that it was just coincidence that Mnangagwa was the 15th name in alphabetic order. The ZEC has the legal responsibility to design and procure the ballots, however, its decision to arrange the presidential ballot in two columns with Mnangagwa, the incumbent president, at the top of the second column was highly controversial. Moreover, the fact that there was no public discussion fueled suspicions that the lopsided ballot design represented an attempt to provide a clear advantage to the incumbent.

The observation of the ballot printing process was also highly contentious. Though the



Inventory check and sorting of ballots by ward, Bulawayo Province

Photo by Sonia Mickevicius

¹⁵ *Electoral Act* [Chapter 2:13]; s. 7(2)

ZEC organized an event for political parties and observers to witness the printing of ballots, the event did not provide an adequate level of transparency to ensure confidence in the process. For example, ZIEOM observers noted that when attending the “balloting printing observation” event on June 29, ballot printing had already commenced and there was not full visibility into the process. On July 28, the ZEC issued a notice that included the list of polling stations, the number of registered voters, and the total number of ballot papers printed per polling station. Notably, and marking an improvement over past elections, the ZEC printed the minimum 3 percent more contingency ballots than the voting population for the 2018 elections, whereas during the 2013 elections, 35 percent more contingency ballots were printed than the voting population (6.4 million).¹⁶

The ZEC refused the opposition’s requests to test the quality of the indelible ink used on Election Day to mark voters’ fingers to prevent multiple voting, as well as requests to audit the security safeguards built into the production of the ballot papers. The no-bid contracts awarded for procurement of such sensitive materials also eroded confidence in ZEC’s ability to administer credible elections. When presented with these concerns, the ZEC often fell back on a narrow interpretation of its legal authority without appreciating the steps required to overcome distrust emanating from Zimbabwe’s long history of seriously flawed elections.

Postal voting was another point of contention for which the ZEC failed to provide an adequate response. By law, postal voting was made available to police, diplomats, and others on official duty. By June 28, the ZEC had received some 7,800 postal vote applications, which represented 0.13 percent of total registered voters. The ZEC rejected 200 applications because the applicants were not on the voters roll or incorrectly submitted their requests. Controversy emerged when police officers were reported to be postal voting in “groups” at various police stations.¹⁷ As the ZEC had not informed parties and observers that the postal voting process was underway, nor explained the procedures associated with this process, there was an immediate outcry that the process compromised the secrecy of the vote and was clearly demonstrative of the ZEC’s lack of transparency. The High Court of Mutare dismissed a petition by the MDC Alliance seeking to nullify postal voting that had taken place in Bulawayo on the basis that the MDC Alliance had failed to submit evidence that police officers had been forced to cast their votes in the presence of their superiors in violation of the Electoral Act.

Direction from the ZEC on the orientation of the voting booths was also an issue. Originally, the ZEC decided to position the voting booths so that officials could ensure that voters were not taking pictures of their ballots, which could then be used as part of a vote-buying scheme. However, when presented with information and concerns from civil society and political party stakeholders that the proposed orientation of voting booths could compromise the secrecy of the vote, the ZEC reversed their decision and reinstated the more traditional polling station layout.

From an operational standpoint, there were large gaps in the ZEC’s capacity and, more importantly, in its willingness to promote transparency, accountability, and stakeholder confidence. At times, the ZEC (and by extension Justice Chigumba) adopted a reclusive and defensive posture when faced with criticism and feedback. An acknowledgement of election irregularities in the country’s recent past and the adoption of a robust engagement strategy that emphasized transparency for all stakeholders might have tempered much of the criticism. Whether it was the

¹⁶ ZEC printed 6,150,950 ballots for the presidential and national assembly for 5,695,706 registered voters and 6,036,250 local authority ballot papers were printed for 5,590,044 registered voters.

¹⁷ Majoni, Tawanda. “Postal Votes Scam and Forgotten Postman,” *The Standard*. July 15, 2018. <https://www.thestandard.co.zw/2018/07/15/postal-votes-scam-forgotten-postman/>

release of the voters roll, the procurement process for ballot printing, or observation of the printing of the ballots, the ZEC repeatedly and consistently chose the path of opacity. This failure to provide sufficient public information is contrary to international standards that require transparency for elections to be free and fair.¹⁸ Moreover, these failures damaged public confidence in the ZEC and its ability to administer the polls in an impartial manner.

Constituency Delimitation

Equal suffrage is an essential element of an election.¹⁹

While true equality in the delimitation of electoral boundaries may not always be possible, best practices maintain that variances should rarely exceed 10 percent. Section 161 of Zimbabwe's constitution reinforces the principle of equality of suffrage by delimiting, as far as possible, an equal number of registered voters in each constituency and caps the permissible deviation at 20 percent. For electoral purposes, Zimbabwe is divided into 10 provincial constituencies, 210 National Assembly Constituencies, and 1,958 ward level constituencies.

The Constitution stipulates that once every 10 years, the ZEC must conduct a delimitation of electoral boundaries exercise. Unfortunately, the last boundary delimitation process occurred before the 2008 elections and therefore, constituency delimitations do not represent the most recent census figures. Therefore, significant deviations exist in the size of constituencies for National Assembly elections. For example, in 106 out of 210 constituencies, the number of registered voters varied by more than 20 percent. The redrawing of constituencies would have represented an important step forward in holding democratic elections in alignment with international best practices and respecting, *inter alia*, the principle of equal suffrage.²⁰ Prior to the 2023 elections, constituency delimitation must be carried out to ensure that all eligible citizens have equal opportunity to participate in the electoral process.



¹⁸ Para. 19 of the 2011 UNHRC General Comment 34 to Article 19 of the ICCPR calls on states' parties to proactively provide access to information on issues of national importance.

¹⁹ International and regional treaties state that elections must respect equal suffrage. See paragraph 21 of the 1996 United Nations Human Rights Committee General Comment 25, which provides that "[t]he drawing of electoral boundaries and the method of allocating votes should not distort the distribution of voters or discriminate against any group and should not exclude or restrict unreasonably the right of citizens to choose their representatives freely." See also the Code of Good Practice in Electoral Matters, I.2.2: "Equal voting power: seats must be evenly distributed between the constituencies. [...] iv. The permissible departure from the norm should not be more than 10%, and should certainly not exceed 15% except in special circumstances (protection of a concentrated minority, sparsely populated administrative entity)." ACHR, art. 23.

²⁰ The total number of registered voters for the 2018 elections was 5,683,936. The average number of voters per constituency should therefore have been 27,066 voters. The permissible (though undesirable) variation of 20 percent has the result that the maximum and minimum number of voters in each constituency should not exceed 32,479 registered voters per constituency or be less than 21,653. The distribution of voters on the 2018 roll is such that out of 210 constituencies, 104 are within the permissible deviation margins and the remaining 106 are either over or underrepresented. For instance, the total number of eligible voters in the largest constituency in the country, Harare South, equals 76,425 voters and is more than five times that of the smallest constituency, Gutu North in Masvingo, which has 14,198 voters.

Voter Registration

International standards call on states to have an electoral roll that is accurate, comprehensive, and current, thereby ensuring that the right to vote is extended to all eligible citizens. Moreover, states must proactively place information regarding voter registration in the public domain. Under Zimbabwean law, every citizen who is 18 years old and possesses an identification document qualifies to register as a voter. The last census was completed in 2012, indicating some 7.2 million eligible voters in the country out of a total population of 12,973,80.²¹

In September 2017, the ZEC conducted a fresh voter registration exercise that used, for the first time, a biometric system.²² The decision to use an entirely new voters roll was a positive step as the previous voters roll had been widely criticized during the 2013 elections. This followed a change in the law moving the responsibility for generating a voter register from the Zimbabwe Registrar General's office, which in past elections was widely perceived to be partisan, to the ZEC. The introduction of the BVR system was a welcome development toward building a more reliable and accurate voter register.

However, the BVR system did not address questions about the registration rights of eligible voters living outside the country. Though the 2013 Constitution provides that "every Zimbabwean citizen who is of or over 18 years of age has the right to vote in all elections and referenda," the Election Law limited registration to those who resided in a particular constituency for a continuous period of 12 months. In October 2017, a petition was brought before the court challenging the constitutionality of this election law provision on behalf of three Zimbabweans living outside the country. In May 2018, the Constitutional Court rejected the challenge, ruling that restricting registration to those residing in the country was consistent with the Constitution's emphasis on a constituency-based political system.

Overall, the voter registration process went relatively well, creating a roll of 5,695,706 registered voters, 54 percent of whom are women. The Harare metropolitan province has the largest number of voters (900,728), followed by Midlands (761,982) and Manicaland (733,370) provinces.²³ However, the urban areas of Harare and Bulawayo achieved lower registration rates than rural areas as a percentage of the estimated total eligible voting population. Apathetic urban voters, a more aggressive mobilization effort in rural areas, and a lower number of registration kits distributed in urban areas may have all contributed to the relative under-registration rates among urban youth. Some of the rural districts of Matabeleland North and South also demonstrated under-registration. Ultimately, the ZEC fell short of its stated target of registering 80 percent of eligible voters. To bolster registration, a mobile registration process was implemented in certain regions of the country.

During the BVR process, fingerprints and a facial image (photo) of the voter were captured by the BVR kit and stored in a central system. The BVR kits were used solely for voter registration and were not utilized on Election Day for voter identification. According to reports by the Zimbabwe Elections Support Network (ZESN) and the Election Resource Center (ERC), violations noted during the registration process included harassment and intimidation of registrants who were asked to submit serial numbers on their registration slips to traditional leaders or to ZANU-PF

²¹ Zimbabwe National Statistics Agency, Census 2012, Preliminary Report, December, 2012. https://unstats.un.org/unsd/demographic-social/census/documents/Zimbabwe/ZWE_CensusPreliminary2012.pdf.

²² The ZEC conducted pilot BVR runs during 2015 by-elections.

²³ Chigumba, Priscilla. "Final Brief To Accredited Observers By The Chairperson Of The Zimbabwe Electoral Commission On The State Of Preparedness For The 2018 Harmonised Elections ." July 23, 2018, Harare, Zimbabwe Electoral Commission.

supporters. Other violations included threats of withdrawal of food aid and agricultural inputs. These violations were allegedly committed by war veterans, traditional leaders, and ZANU-PF members including its local leadership, ward chairpersons, councilors, and youth officers.²⁴

With the aim of increasing the accuracy of the voters roll, the ZEC used the data obtained from the BVR for both alphanumeric and biometric deduplication exercises. The deduplication process sought to remove duplicate names from the voters roll. The data was compiled centrally and processed using Automated Fingerprint Identification System (AFIS) software. The software provides automated fingerprint search capabilities, electronic image storage, and electronic exchange of fingerprints. An alphanumeric deduplication exercise was carried out prior to the biometric deduplication because the equipment for the latter arrived late. The ZEC stated that examples of the errors found in the data cleaning exercise included voters assigned to the wrong polling stations, duplicate IDs, and typographical errors. As a result of the exercise, some 11,000 voters were excluded from the voters roll, hence the discrepancy between the number of voters registered during the BVR process and those on the official voters roll.

Between May 19 and 29, the ZEC implemented a voters roll inspection exercise, which allowed voters to confirm their registration status and the accuracy of the information in the provisional voters roll. In addition, for the first time, the ZEC established a mechanism by which citizens could verify their registration information via mobile phones and a website, in addition to in-person visits to inspection centers. When political parties and CSOs sought access to the provisional voters roll, the ZEC declined to distribute the provisional version in an electronic format, claiming that distributing the provisional roll, which included many mistakes, would undermine confidence in the process. This decision was broadly criticized and subject to a court challenge, which succeeded in the High Court but was reversed by the Supreme Court.

While the ZEC refused to provide copies of any of the preliminary voters roll, on June 18, the ZEC made available what was described as the “final” voters roll in electronic and analyzable format. This version contained the name, age, ID number, and place of registration for each voter who registered prior to June 1 and who was therefore eligible to vote in the July 30 elections (though the voters roll did not include information on the date of registration). The ZEC provided copies of the voters roll in a non-modifiable PDF format, which then had to be downloaded on to a personal flash drive. A revised final voters roll was only released days before Election Day, which limited the ability of parties and civil society to conduct robust verifications.

Two voter roll audit reports were released. One by ZESN and another by Team Pachedu, which described itself as an ad hoc group with various areas of expertise. The ZESN report headline was “2018 Voters Roll an Improvement Over 2013 Preliminary Voters Roll.”²⁵ By contrast, Team Pachedu’s report was more critical, concluding that “the voters roll ZEC has released to the public contains anomalies that make it unfit for use in the upcoming 2018 Harmonized Election” and recommended “the election to be held on 30th July 2018 be postponed pending resolution of the

²⁴ “Biometric Voter Registration Update.” ZESN, Zimbabwe Election Support Network, Feb. 8, 2018, www.zesn.org.zw/.

²⁵ *Biometric Voter Registration (BVR) Human Rights Violations Report*. Heal Zimbabwe Trust, www.healzimbabwetrust.org/wp-content/uploads/2018/02/BVR-Human-Rights-Violations-Report.pdf.

issues identified in this report.”²⁶ ZEC responded with a full-page newspaper rebuttal of the Team Pachedu claims.²⁷

The ZEC printed polling station voter rolls for identification of voters inside each polling station. Regrettably, no additional printed voters rolls were furnished or posted outside of the polling station, allegedly due to lack of resources. This omission caused unnecessary confusion as some voters waited in the wrong queue at polling locations with multiple sub-stations.

Political Parties and Candidate Nomination

During the pre-election period, the question of who should control the MDC-T party name was the subject of litigation in courts and there were constant talks among leaders of the MDC Alliance and MDC-T regarding reuniting the fragmented alliance. As the matter was not resolved by the time of the Nomination Court sitting on June 14, the faction led by Chamisa registered its candidates under the MDC Alliance. Meanwhile, supporters of Thokozani Khupe registered candidates as MDC-T, raising questions about whether voters could make an informed choice on Election Day or whether the ability to distinguish between MDC Alliance and MDC-T would create confusion among the electorate.

Even after the June 14 submissions to the Nomination Court,²⁸ rumors of the formation of a grand coalition of opposition parties led by the MDC Alliance persisted. The grand coalition would have potentially brought together such parties as the People’s Rainbow Coalition (PRC), led by former vice president and presidential candidate Joice Mujuru; the National Patriotic Front (NPF), formed by members of the ZANU-PF faction that supported Grace Mugabe and that broke away from the ruling party after President Mugabe’s ouster; and ZAPU, which represented the remnants of the pre-merged ZANU and ZAPU parties. According to the April/May Afrobarometer pre-election baseline survey, 56 percent of Zimbabweans felt that a coalition of opposition parties would achieve better results than separately contesting.²⁹ However, the grand coalition did not form, and only ZAPU formally aligned with MDC Alliance prior to the election.

A total of 23 presidential candidates, including four women and one independent candidate, registered to contest the July 30 election.³⁰ This represented a significant increase from the five candidates who contested in 2013, which did not include any women or independent candidates.³¹ However, even before the nominations were formalized, most analysts viewed the presidential election as a two-person contest between Mnangagwa and Chamisa.

ZANU-PF primaries were held in late April 2018 with reruns transpiring in several constituencies where results were contested. The first round was marked by logistical difficulties, lack of capacity to print and deliver accurate ballot papers on time, failure to secure and adequately equip voting centers with ballot boxes and voters’ registers, flawed verification and missing names of

²⁶ *Zimbabwe 2018 Elections Biometric VotersRoll Analysis*, July 16, 2018, <https://www.teampachedu.org/mainreport.pdf>.

²⁷ *Zimbabwe Election Support Network: Report on the Inspection of the Voters Roll*, July 19, 2018, <http://www.zesn.org.zw/wp-content/uploads/2015/10/ZESN-Report-on-the-Inspection.pdf>.

²⁸ Manayiti, Obey, “Mujuru, Dabengwa ready to join Chamisa,” *Newsday*, May 25, 2018 <https://www.newsday.co.zw/2018/05/mujuru-dabengwa-ready-to-join-chamisa/>

²⁹ Afro Barometer, Findings from a Pre-Election Baseline Survey in Zimbabwe, April/ May 2018, http://afrobarometer.org/sites/default/files/zim_r7_presentation_07062018.pdf

³⁰ On 24 July, presidential candidate Divine Hove of the National Alliance of Patriotic and Democratic Republicans announced his withdrawal from the race.

³¹ *Zimbabwe Election Support Network Report on the 31 July 2013 Harmonised Elections*, 2013.

candidates, allegations of vote-buying and the use of members of the Zimbabwe Republic Police (ZRP) to conduct party primaries. A number of ZANU-PF “political heavyweights,” including several war veterans, were defeated in the initial voting. The ZANU-PF politburo resolved to conduct reruns in 17 constituencies on May 14, 2018.

The opposition primaries were held in mid-May 2018 in constituencies where, in most cases, candidates were not designated through consensus. Like with ZANU-PF, the opposition primaries were chaotic, with allegations of fraud, vote rigging, imposition of candidates, intimidation, and, in some cases, physical clashes occurring between supporters of different aspirants. Fueling the tension was that some MDC-T officials opposed the agreed-upon seat-sharing formula and fielded their own candidates in constituencies reserved for smaller coalition parties. In 13 constituencies, multiple MDC Alliance-affiliated candidates submitted nomination papers to contest the national elections, which led to a split in the MDC Alliance vote in a number of constituencies. The PRC, MDC-T, and NPF also had double nominations in a number of constituencies.

On June 14, the Zimbabwe Nomination Courts processed application documents from aspiring candidates for presidential, National Assembly, Senate, women’s quota, and Provincial Council races. Notably, the process was marked by a record number of candidates contesting the presidency, of political parties fielding candidates, and of aspirants contesting as independent candidates.³² The Nomination Courts remained open beyond the official deadline of 4:00 p.m. in order to accommodate the numerous candidates. Some candidates were asked to correct their documents or resubmit different credentials by midnight on June 14.

One of the challenges raised by some candidates and parties before nomination day was the unavailability of the voters roll, which would have allowed political parties and candidates to verify if nominees were actually on the voters roll. Candidates were required to present documents proving they had obtained the requisite signatures of support to run for office. However, the lack of a published voters roll did not lead to significant issues in practice, and no prospective candidates were rejected because their nomination papers did not include those on the voters roll. Incorrect and incomplete documentation was the most common reason given for rejection of nominations.

There are no specific regulations regarding the formation of political parties. As a result, 133 parties announced their intention to contest in the 2018 harmonized elections. However, only 55 parties ultimately fielded candidates for the National Assembly races.³³ There were also 246 independent candidates competing for National Assembly seats; in many cases, these independents were former incumbents, who lost in their party’s primaries. In addition, 6,576 candidates contested for local authority seats.

Voter Education

The Electoral Act mandates ZEC to oversee voter education initiatives conducted by non-state actors, including civil society, churches, community-based organizations, and others.³⁴ For the

³² Equitable treatment of candidates and parties during elections is important to protecting the integrity of democratic elections and the right of every citizen to be elected.

³³ According to the Extraordinary Government Gazette June 22, 2018, of the 133 parties registered with the Zimbabwe Electoral Commission (ZEC), only 55 fielded candidates, however, it should be noted that the ZEC didn’t issue an updated candidate list after the withdrawal/dispute period ended following the initial registration deadline.

³⁴ Veritas challenged provisions of the Electoral Act, which have the effect of giving ZEC a monopoly over voter education. Although ZEC lawyers acknowledged in court the unconstitutionality of several legislative provisions that Veritas was challenging, the court on June 27 dismissed the case. The court’s reasoning behind this judgment was based generally on the lack of legal capacity for Veritas, since it is a trust not a legal person.

July 30 elections, the ZEC accredited 78 CSOs to conduct voter education, and, for the first time, established a call center for citizens to access voter information. Many civic groups stepped in to meet public demand and encouraged citizens to get-out-the-vote at numerous rallies, roadshows, and radio programs in the weeks preceding elections. However, the ZEC required all CSOs conducting voter education initiatives be accredited to distribute voter education information, potentially stymying the timely dissemination and diversity of material.

With support from the Electoral Institute for Sustainable Democracy (EISA) and the United Nations Development Program (UNDP), the ZEC engaged in a robust voter education campaign and made concerted efforts to inform prospective voters about the voting process including deploying “voter educators” throughout the country. The ZEC used a variety of mediums including billboards, radio advertisements, Short Message Service (SMS), television, radio, and print media to disseminate targeted messages to various voter groups and, according to EISA, developed material in 13 local languages.



Voter Educators in Bikita, Masvingo Province

Photo by Peter Penar

However, the ZEC conducted its voter education campaign just two weeks prior to Election Day, and ZIEOM observers noted that there was insufficient educational material disseminated about the secrecy of the ballot, among other inadequacies. Furthermore, ZEC’s dissemination process was marred by delays in releasing materials, inadequate distribution of materials for PWDs,³⁵ opacity in the ballot design, and changing directives regarding the layout of the polling station, which potentially confused voters. While a few public forums were held to inform the electorate of the policy positions of particular parties, generally the campaign did not feature candidate debates or other events that allowed the public access to information about party or candidate policy positions.

³⁵ Voter education material in Braille to accommodate the visually impaired existed, but it is unclear whether distribution of materials addressing the needs of blind voters reached its intended beneficiaries.

Campaign Environment

Campaigning by political parties began several months prior to the May 30 proclamation of the election date, but party activity formally commenced with the sitting of the Nomination Court on June 14. In some areas, campaign activities were slow to start and intensified with greater visibility for candidates and parties as Election Day approached. As in previous elections, parties implementing campaign activities remained subject to POSA, which required parties to obtain police permission at least four days prior to any event in which more than 12 people would be gathered. Notably, unlike in previous elections, this law was not enforced in a manner to prevent parties and candidates from organizing political events during this election campaign period.

Campaign activities included large and small-scale rallies, community meetings, door-to-door canvassing, distribution of leaflets, posters and billboards, sponsorship of sporting or cultural events, and the use of media and social media. Overall, ZANU-PF had greater visibility throughout the campaign period due to an abundance of resources and a highly disciplined organizational structure.

Both ZANU-PF candidate Mnangagwa and MDC Alliance candidate Chamisa held large rallies throughout the country, while smaller parties, as a result of limited financial resources, tended to concentrate on door-to-door campaigning and small cluster gatherings to foster close connections with voters. Most rallies and campaign events observed by ZIEOM were peaceful, festive, and without inflammatory language or intimidation. Candidates also participated in public forums and panels organized by CSOs and other stakeholders where they could present their manifestos and key messages and answer questions from the public in various locations around the country.³⁶

Political parties and candidates, including those from the opposition, were generally free to campaign across the country and express their political views without the widespread violence and harassment of past elections—with the exception of a grenade attack at a June 23 rally of President Emmerson Mnangagwa at White City Stadium in Bulawayo, which injured at least 49 people were injured, including the country's vice president, and killed two people.

On June 26, the National Peace and Reconciliation Commission (NPRC), a constitutional body, initiated a National Peace Pledge aimed at encouraging candidates and political parties to commit to observe peace and abide by the electoral code of conduct. All 23 presidential candidates or their representatives pledged to observe peace during the campaign period and the subsequent post-electoral period, which was a positive new development in the 2018 elections. In all ten provinces, political parties and candidates willingly participated, and the NPRC held well-attended public events deploying mobile caravans along the way.

Though the freedom to organize and speak freely during the campaign period was a welcome new development during this election cycle, unfortunately the overall environment was compromised by widespread intimidation. ZIEOM observers received multiple reports of intimidation, threats, and physical violence directed at opposition candidates and/or supporters. For example, in Mt. Darwin in Mashonaland Central, ZANU-PF supporters prevented opposition candidates from campaigning. Methods of intimidation included reminding citizens of the violence that took place during the 2008 elections and the lingering threat of similar violence in the event of a runoff or if the ruling party were to lose. Other threats involved destroying homes or the loss of land for those living in resettlement areas without title deeds. Reports of military personnel in civilian clothing

³⁶ E.g. Silveira House, Jesuit Social Justice and Development Centre, National Multiparty Interface: Promoting Peace and Mutual Respect in a Multiparty Zimbabwe on July 19, 2018; E.g. ZESN, *Making Elections Make Sense* on April 26, May 30, June 21, July 5, July 12, July 19, 2018



MDC Rally, Gweru, Midlands Province
Photo by Edward Bagnall



ZANU-PF Gathering, Getu, Masvingo Province
Photo by Yomi Jacobs

using politically motivated threats to influence voters were also prevalent. As the violence and intimidation of past elections remained fresh in the minds of many voters, these subtle or so-called “soft intimidation” methods affected voter confidence in the secrecy of the ballot and subverted the electoral process more broadly. Less serious offences were also noted, such as widespread complaints involving the destruction, defacement, and removal of campaign posters of many political parties and candidates throughout the country.

In terms of campaign financing, there was an evident resource disparity between the ruling party and all opposition parties, which affected the presence of opposition parties in the provinces, their campaign activities, and their ability to recruit, train, and deploy party agents to observe Election Day proceedings. Under the Political Parties (Finance) Act, political parties that obtained 5 percent of the vote in previous elections qualified to receive state funding proportional to the amount of votes their candidates received.³⁷ Still, the electoral playing field was severely imbalanced and the ruling ZANU-PF party relied heavily on the advantage of the incumbency, campaigning with little differentiation between the state and the party.

Misuse of State Resources

At this time, the Electoral Act does not address the use of state resources for campaign purposes. The misuse of state resources is detrimental to the electoral process as it disrupts the playing field, creates an unfair advantage for incumbent parties, and undermines public trust in the legitimacy of the process. ZANU-PF’s reliance on government school buildings, supplies, personnel, and vehicles during the campaign exacerbated the resource disparity among ruling and opposition parties and reinforced the perception of state and party interconnectedness.

During the electoral cycle, attempts were made to curb the misuse of state resources through the courts. For example, on June 28, the High Court of Masvingo ruled that ZANU-PF should stop using students, teachers, and school property in pursuit of private political interests.³⁸ The court granted the petitioners’ request that schoolchildren should not be forced to attend political rallies; political parties should not use school property to pursue private political interests; and teachers should not be forced to fund and participate in private political activities. ZANU-PF appealed the decision to the Supreme Court, which automatically suspended the High Court’s decision. After a few important campaign weeks, where ZANU-PF reportedly continued the same behavior, the Supreme Court set aside the High Court judgment and dismissed the case without detailed reasoning.

The distribution of food aid or agricultural inputs, such as seeds, fertilizer, and livestock, through the Presidential Inputs Scheme³⁹ was commonly used as a method of influencing or coercing voters in rural areas. In some cases, distribution was conducted along partisan lines, excluding those believed not to support ZANU-PF. In other cases, input distribution or other community

³⁷ Of the three parliamentary parties, only ZANU-PF and MDC-T qualified for state funding. ZANU-PF received U.S. \$6.1 million, while MDC-T received \$1.87 million. Despite receiving this funding, MDC Alliance reported resource challenges, as did other opposition parties that did not receive any state funding. Political party recruitment and training of party agents was funded by some international donors; however, the total number of agents that parties were able to deploy on Election Day was still insufficient to provide observation coverage of all polling stations.

³⁸ *Amalgamated Rural Teachers Union of Zimbabwe v. ZANU PF and the Ministry of Primary and Secondary Education*

³⁹ The Presidential Inputs Scheme began in June, which is several months earlier than the normal timeframe of October/November. “Presidential Inputs Scheme in early launch,” *The Herald*, June 15, 2018, <https://www.herald.co.zw/presidential-inputs-scheme-in-early-launch/>; “Presidential inputs distribution begins,” *The Herald*, July 9, 2018, <https://www.herald.co.zw/presidential-inputs-distribution-begins-2/>.



Fertilizer distribution in Gutu village, Murehwa, Mashonaland East
Photo by Edward Bagnall

development projects were conflated with campaign events, during which the ZANU-PF candidate or party were promoted. The politicization of food aid for electoral gains tended to be focused in rural areas where ZANU-PF has traditionally held a strong base of support.

Traditional Leaders

Article 281 of the 2013 Constitution⁴⁰ explicitly forbids traditional leaders from engaging in political affairs, yet unlawful partisan involvement of traditional leaders and chiefs persists. More generally, the conduct of traditional leaders in elections and their perceived alignment with ZANU-PF creates an unlevel playing field and raises concerns regarding undue influence on ordinary citizens.

Prior to the July 30 elections, efforts were undertaken to limit the partisan participation of traditional leaders in political campaigns. For instance, the president of the Chiefs Council, Fortune Charumbira, urged traditional leaders to support ZANU-PF in the 2018 elections, and the High Court ordered him to retract his statement on May 9. However, on June 18, missing the deadline to retract his statement, Charumbira requested a retrial, claiming that he had not known about the case. As a result of his filing for a retrial, the case was placed on hold pending a final decision, which was not forthcoming prior to Election Day. Similarly, on May 16, the High Court in Masvingo ruled that Charumbira was prohibited from making partisan political statements or engaging in campaign activities. An additional application filed with the Electoral Court on June 28 by MDC-T sought to prohibit ZANU-PF from obtaining the support of traditional leaders or influencing them to

⁴⁰ Constitution of Zimbabwe 2013, s. 281 provides: “Traditional leaders must not a. be members of any political party or in any way participate in partisan politics; b. act in a partisan manner; c. further the interests of any political party or cause; or d. violate the fundamental rights and freedoms of any person.”

act in support of ZANU-PF and President Mnangagwa. However, the case was dismissed based on Mnangagwa's immunity as president and not as a political candidate.⁴¹

As the rulings in favor of the opposition were largely unenforced and the latter case was dismissed, they were seen as doing little to deter the behavior of traditional leaders as the election process moved forward. In addition, the lack of enforcement of the law and continued engagement with traditional leaders was perceived by some to be an indication of lack of political will on the part of the government and ruling party to enforce constitutional provisions, which had been explicitly designed to reduce the role of traditional leaders in partisan politics. Others argued that ZANU-PF was unwilling to speak against the partisan activities of traditional leaders as they benefited from the practice.

In rural areas, traditional leaders and local chiefs were observed exerting influence over their respective communities by telling citizens whom to vote for, forcing people to attend ZANU-PF campaign events and threatening banishment from a village if a voter failed to vote for ZANU-PF. Traditional leaders also played a role in the partisan distribution of food aid and contributed to fears about the lack of secrecy of the vote by recording voters' registration serial numbers and suggesting this information and data collected through the BVR process allowed their vote to be known.

It should be noted that traditional leaders did not uniformly support ZANU-PF. While the vast majority did, there were some cases of independent traditional leaders who did not take sides and a few who supported the opposition. In Masvingo, for example, some traditional leaders encouraged voters to select the candidate of their choice and contributed to educating citizens about the secrecy of the vote. In addition, a handful of chiefs invited one of the smaller parties to campaign in their communities. In Masvingo, Mashonaland West, and Mashonaland East, some traditional leaders privately supported the opposition, even as they outwardly displayed support for the ZANU-PF out of fear of reprisals, such as loss of position or government resources.

Multi-Party Liaison Committees (MPLC)

The Electoral Act provides for the establishment of MPLCs at the national, provincial, constituency, and local authority levels. The main aim of these committees is to provide a forum for dialogue regarding election-related matters and to ensure observance of the Code of Conduct for Political Parties and Candidates. For the July 30 elections, the MPLCs were established after the close of the nomination process at national and local levels.⁴²

At the national level, the MPLC met only four times prior to the July 30 elections. These four meetings were largely focused on party grievances with the ZEC and election administration, such as the integrity of the voters roll, the printing of ballot papers, and the positioning of the voting booths, and did not consider violations of the Code of Conduct.

While the first national MPLC meeting held on June 22 was interrupted, the remaining three proceeded without significant impasse or conflict. However, some stakeholders expressed frustration over the infrequency and lack of regularity of meetings as well as the duration of time between the second and third meeting, which amounted to three weeks. In addition, concerns were raised that those in attendance, both ZEC officials and party representatives, were unable to

⁴¹ *MDC v. E.D. Mnangagwa, ZANU PF, Chief F. Charumbira and Chief A. Tome*. The court ruled that it had no jurisdiction over the president, who is not liable for civil or criminal proceedings for actions in his capacity as president.

⁴² *Electoral Act* [Chapter 2:13], s.160B (1),

make substantive decisions. While many stakeholders recognized the importance of dialogue to address issues of concern, there was considerable frustration with the MPLC at the national level.

At the sub-national level, MPLC meetings proceeded in a non-uniform fashion within and across provinces. In some places, meetings were held on a regular basis while in others they were called ad-hoc or in response to issues that arose in particular areas. In addition, while most were well attended by candidates, political parties, and civil society, in some areas it was noted that more outreach was necessary to ensure the attendance and participation of smaller parties.

Most stakeholders believed the sub-national MPLCs to be more effective than those at the national level. However, while in some cases the sub-national MPLCs provided an effective platform for parties to express concerns and raise issues relating to both the electoral process and violations of the Code of Conduct, others considered them to be primarily a platform for ZEC or ZRP to deliver announcements to parties rather than to serve as a true forum for dialogue. Notably, the level of discussion and participation depended upon who served as the MPLC chair. In some cases, parties were reluctant to bring issues forward due to mistrust of the ZEC. In other cases, the ZEC did not present a clear direction for redressing concerns, resulting in redundancies in the plenary at successive MPLC meetings. In addition, it was unclear whether the issues raised at the local level were shared with higher levels of the ZEC.

Inclusion in Political Processes

Significant barriers continue to exist to the full and equitable political participation of women and other marginalized groups. Despite Zimbabwe enacting a progressive constitution that calls for gender parity in all political positions, including to elected and appointed offices,⁴³ little has been done to enforce the provision. Women were nominated in 126 out of 210 constituencies for the National Assembly, with ZANU-PF fielding 22 female candidates and MDC Alliance fielding 18 candidates, exclusive of the quota seats. While women comprise 54 percent of the electorate, only 18 percent of candidates presented by political parties in the 2018 harmonized elections were women.

Politically active women, including party activists, presidential, parliamentary, and ward-level candidates, faced high levels of abuse and intimidation, and media attacks against female candidates were common.⁴⁴ Traditional and social media coverage about female candidates focused on superficial attributes such as appearance, and politically active women were often cast in a biased, derogatory, and pejorative manner. For the first time in Zimbabwe's electoral history, four female candidates contested the presidential elections, but faced high levels of harassment and intimidation. Female presidential candidates received a disproportionate amount of negative press, undermining their credibility as viable candidates. The ZEC chair, who also is a woman, was similarly criticized based on her gender.

Due to a number of patriarchal, social, financial, and political barriers to entry, established political parties provided few constructive channels for women to run for political office, notably, the absence of internal structures for gender mainstreaming, and a number of women previously

⁴³ Constitution of Zimbabwe 2013, s. 17(1)(b)(ii): *"The State must promote full gender balance in Zimbabwean society and in particular ...must... take all measures including legislative measures needed to ensure women constitute at least half of the membership of all commissions and all elective and appointed governmental bodies established by or under this Constitution or any Act of Parliament."*

⁴⁴ ZIEOM observers received numerous reports that violence, including harassment, intimidation, psychological abuse, and sexual and physical assault against politically active women occurred throughout the electoral period.

affiliated with established political parties turned to running as independent candidates. Contesting as an independent candidate provided access to the ballot, though for many female candidates, raising the resources necessary to campaign proved to be extraordinarily difficult outside of the party context.

Zimbabwe has an established PR system for women parliamentarians that has been in effect since 2013 and that reserves 60 of the 270 seats in the National Assembly, elected based on the proportion of votes each party obtains for the National Assembly, for women. The PR system, which will sunset before the 2023 elections, has been effective in increasing women's presence in political spheres, but has had the inverse effect on political parties fielding female candidates apart from the PR seats.⁴⁵

More than 75 percent of Zimbabweans are under the age of 35,⁴⁶ and 60 percent of registered voters in the general elections were between the ages of 18 and 40.⁴⁷ While young people were recognized as an important voter base, they were not readily supported by political parties to run as candidates. Those who wished to take on leadership roles or independently contest in elections were often constrained to fundraise for public office and run a campaign with little or no party support.

During the pre-election period, many youth actively participated in door-to-door canvassing, attended candidate rallies, and distributed campaign posters. Notably, the liberalization of the campaign environment contributed to a high number of youth reporting strong enthusiasm to participate in the elections. Young men and women, particularly those who recently came of age to vote, were also the target of various voter education efforts by the ZEC, civil society, and even some parties. On Election Day, young women and men were well-represented as domestic observers, poll workers, and in some cases, as presiding officers. The use of youth as the instruments of violence and intimidation during election periods, however, continues to remain a concern.

The 2013 Constitution explicitly provides for the rights and protection of PWDs against discrimination but falls short of guaranteeing specific political rights. Though Zimbabwe acceded to the Convention on the Rights of Persons with Disabilities in 2013, it has yet to align domestic law with commitments in the Convention that could provide guarantee of extended franchise to PWDs.⁴⁸

Two seats in the upper house are reserved for senators as representatives of those with disabilities, and the office of the president has an advisor dedicated to addressing issues affecting PWDs. However, during the campaign period and on Election Day, there were many obstacles for PWDs. Several political parties and independent candidate manifestos included campaign pledges to improve the lives of Zimbabweans living with disabilities, but inadequate access to voter education materials as well as fear of political violence impeded PWDs from fully participating in

⁴⁵ From 2008 to 2013, the number of directly elected women representing constituencies decreased from 34 to 26. Women's representation is still on the decline, having had only 25 women directly elected to the National Assembly in the 2018 harmonized elections. RAU (2017), *Policy Brief No. 2. Increasing women's political participation*. Harare: Research & Advocacy Unit

⁴⁶ ZimStat (2012), *Census 2012. National Report*. Harare: Zimbabwe National Statistics Agency.

⁴⁷ "60 Percent of Zimbabwe's 5.3 Million Registered Voters Are Between 18-40: Justice Chigumba," *Pindula News*, February 26, 2018, <https://news.pindula.co.zw/2018/02/26/60-percent-zimbabwes-53-million-registered-voters-18-40-justice-chigumba/>

⁴⁸ The 1992 Disabled Person Act outlines welfare provisions for PWD versus civil and political rights.



political and electoral processes. Though some voter education materials were produced in braille, the extent to which the material was developed and disseminated is unknown.

Section 59 of the Electoral Amendment Act provided, for the first time, that illiterate or physically handicapped people can be assisted by persons of their choice when casting their votes, however, some concerning omissions in the law pertaining to the right to a secret ballot (especially for the visually impaired) remain.⁴⁹ At the polling stations that ZIEOM observed, the ZEC provided lowered voting booths to facilitate access for voters using wheelchairs but overall access for PWDs at polling centers remained a challenge.

Eighty percent of Zimbabweans are Shona speakers; Ndebeles, Zimbabwe's largest minority group, make up approximately 20 percent of the total population. The majority of the voter education materials circulated by the ZEC were in Shona, Ndebele, and English, and civil society groups made a concerted effort to provide voter education material in other officially spoken languages. The Ndebele people were victims of government massacres in the 1980s and while MDC and ZANU-PF have sought to include Ndebeles as party vice presidents and in other senior party positions, concerns remain that Ndebeles remain marginalized by both parties.⁵⁰

⁴⁹ Section 59 (5)(a) provides that in the case of a voter who is visually impaired, the presiding officer shall observe the casting of the vote in order to ensure that the voter's intention is respected by the person assisting him or her. In May 2018, ZLHR filed an urgent chamber application with the High Court on behalf of Mr. Abraham Mateta, a human rights lawyer who is visually impaired, seeking to compel the ZEC to ensure secrecy of the ballot, especially for visually impaired voters, by providing ballot papers in braille. He argued that the provision in the Electoral Act providing that visually impaired people could bring a person of their choice or be assisted by electoral officers was not sufficient to ensure secrecy of the ballot as provided for in Section 67(3) of the Constitution. The court dismissed the application on the basis that the Electoral Act provided adequate provisions.

⁵⁰ Some Ndebeles expressed concerns in the MDC Alliance selection of Nelson Chamisa, as Shona, over Thokozani Khupe, a Ndebele, as its presidential candidate, fueling the perception that only a male Shona speaker could run for president.

Security Sector

Section 207 of the 2013 Constitution defines four key security institutions: the Zimbabwe Republic Police (ZRP); the Zimbabwe Defense Forces (ZDF); the Zimbabwe Prisons and Correctional Services; and the Central Intelligence Organization (CIO). The Constitution stipulates that the military must be apolitical, yet ZDF generals have historically played a controversial role in electoral politics. In the context of past elections, which were marred by election-related violence and widespread intimidation, serious concerns still exist about the role of the military in Zimbabwean politics. While law provides for a role of the ZRP in the electoral process,⁵¹ in previous elections, security force involvement included ZDF soldiers campaigning for ZANU-PF in rural areas, partisan regulation of campaign events by the police and CIO, and even the abduction or murder of known opposition figures.⁵² In particular, the CIO has been identified by a number of human rights organizations as a main perpetrator of state-sponsored violence and associated human rights abuses during the 2000, 2002, 2008, and 2013 elections.⁵³

Notably, the CIO plays an ancillary role in elections administration. The Electoral Act mentions the CIO's involvement through seconding one representative to the 10-member observer accreditation committee (OAC), whose mandate is to recommend accreditation for election observers to the ZEC. CIO involvement and the significant number of former military personnel serving in ZEC management positions ultimately undermines trust in the ZEC as a fully autonomous and independent institution.

While stakeholders recognized improved conduct by members of the security services in the pre-election period, including restraint and impartiality during political campaigning, ZIEOM observers noted that during the pre- and post-election period, a vast number of citizens reported that they felt intimidated (particularly those known or suspected to be opposition supporters) by the assumed presence of members of the CIO who usually operated in civilian clothes. Widespread reports of intimidation and coercion by plain-clothes security forces undermined citizens' ability to cast their vote secretly and freely.



⁵¹ As prescribed in the Electoral Act, the ZRP plays a prominent role in maintaining the peace during voter education, voter registration, polling, and results transmission procedures. The same law allows police officers to be inside polling stations, but prohibits them from involvement in the actual administration of voting processes. The police are also responsible for the safekeeping of ballot materials and voting returns until election dispute resolution processes are completed.

⁵² McGreal, Chris. "This Is No Election in Zimbabwe. This Is a Brutal War." The Guardian, Guardian News and Media, June 21, 2008, www.theguardian.com/world/2008/jun/22/zimbabwe1.

⁵³ *The Elephant in the Room Reforming Zimbabwe's Security Sector Ahead of Elections*. Human Rights Watch, 2013, www.hrw.org/sites/default/files/reports/zimbabwe0613webwcover_0.pdf.

Media

The media landscape in Zimbabwe is dominated by state-owned entities, and private media is only available in print. The Zimbabwe Broadcasting Corporation (ZBC), a state-run entity, has a monopoly over television broadcasting. Several radio stations exist and have received licensing from the Minister of State for Information and Publicity, however, all are owned by entities controlled by the state or linked to the government. Notably, since enactment of the Broadcasting Services Act in 2001, not a single community radio station has been issued a license to operate.

Section 160J of the Electoral Act⁵⁴ outlines the required legal framework for media coverage of elections, including conduct of the media, access to broadcasting and print media, and the ZEC's responsibility to monitor media coverage during the election cycle to ensure every citizens' right to access to information as enshrined in the Constitution.⁵⁵ During an election period, broadcasters and print publishers must ensure that all political parties and candidates are afforded equal media coverage. Yet, coverage of the 2018 harmonized elections reflected the extremely polarized nature of Zimbabwe's media landscape and a systematic and extreme bias in state media that consistently failed to provide fair and equitable coverage of all parties.

Zimbabwe operates in a mixed zone of state- and industry-led self-regulation. The Zimbabwe Media Commission (ZMC)⁵⁶ and the Broadcasting Authority of Zimbabwe (BAZ)⁵⁷ oversee the actions of the media. In addition, the Voluntary Media Council of Zimbabwe (VMCZ) is a self-regulatory body set up in 2007 by Zimbabwean journalists.⁵⁸ However, during an election cycle, the responsibility for monitoring and regulating political media falls under the ambit of the ZEC.

The ZEC established a Media Monitoring Committee (MMC) to assess whether candidates and parties were granted equal access in an attempt regulate political media.⁵⁹ However, due to lack of resources and ZEC's refusal to work with CSOs to fill capacity gaps, the MMC ultimately proved ineffectual.⁶⁰ Although operational, the MMC failed to report to the public about broadcasting violations during the pre-election period and to address complaints arising from when presidential candidates Mnangagwa and Chamisa, on July 29, violated the campaign silence period by

⁵⁴ Electoral Act [Chapter 2:13] s.

⁵⁵ Zimbabwe's Constitution provides for fundamental rights to media and the right to access public information.

⁵⁶ ZMC is a constitutional body, which administers the Access to Information and Protection of Privacy Act (AIPPA). It has the mandate to receive and process license applications from media houses. It is also tasked with accrediting journalists as well as enforcing good journalistic practices and ethics in the media.

⁵⁷ BAZ is a commission created by the 2001 Broadcasting Services Act (BSA) to regulate the airwaves in Zimbabwe. Its mandate includes issuing of broadcasting licenses and frequencies, developing best practices for the broadcast media, protecting children from harmful broadcast content, and promoting fair and accurate coverage as well as encouraging diversity in control of broadcasting services in Zimbabwe.

⁵⁸ The independent Voluntary Media Council of Zimbabwe (VMCZ) is a self-regulatory body for all types of media that is supported by a majority of print outlets, has continued to develop its scope of activities, and has heard numerous formal complaints and adjudicated disputes over media content. It seeks to ensure that journalists uphold media ethics, ensure fair and accurate coverage, and promote media independence, freedom of expression, research on trends in the sector, capacity building, and training.

⁵⁹ Broadcasters are required by law to allocate four hours of available airtime during election season for election advertisements, which is to be allocated on an equitable basis.

⁶⁰ On July 21, MISA-Zimbabwe, a prominent media monitoring CSO, filed an urgent High Court application challenging the constitutionality of the ZEC's Media Monitoring Committee. In an open letter to the ZEC, MISA-Zimbabwe suggested that, in the interest of a healthy media environment, the ZEC collaborate with other stakeholders from civil society that have the resources and technical capacity to successfully monitor the Harmonized Elections. However, ignoring MISA-Zimbabwe's request, the ZEC chose to partner with ZMC and BAZ instead. Thus, ZEC missed a critical opportunity to increase transparency and boost public confidence in the process.

broadcasting advertisements. No penalties were applied to either the offending candidate nor to the media publisher.⁶¹

Media Monitors Zimbabwe (MMZ), a CSO that provided objective analysis of the media landscape during the entire election period, found that coverage of political parties followed historical trends in favoring ZANU-PF. Despite instruction from ZEC to the BAZ to provide equal coverage to all political parties, MMZ concluded that ZANU-PF commanded the biggest share of coverage with 53 percent of the total coverage allocated to political parties. By comparison, the MDC Alliance received only 20 percent, while the remaining 27 percent was distributed among 120 political parties and independents. The unequal representation of parties in the media,⁶² which favored ZANU-PF and its presidential candidate, led to a highly polarized environment dominated by state-owned or government controlled media.

ZIEOM noted that social media played a significant role during the election period. Overall, digital media was more balanced than traditional media. Candidates utilized social media to publish their policies, however, attacks on political opponents and disinformation campaigns were also prevalent, and the overall environment was negatively affected by hate speech and an excessive focus on personalities versus substantive policy positions.

The 2018 election saw an increase in instances of intimidation against women in elections on social media. In particular, the MDC Alliance was responsible for numerous documented attacks against women in elections. For example, independent candidate Jesse Majome was exposed to verbal abuse and intimidation after she was forced to leave MDC Alliance and run as an independent candidate; MDC-T Presidential candidate Thokozane Khupe was abused following her split from the Alliance; and Chairperson of the ZEC Justice Priscilla Chigumba was the subject of criticism in matters pertaining to her private life, among other attacks. There were no repercussions for the political parties or journalists involved.

Civil Society and Domestic Observation

During the 2018 elections cycle, numerous CSOs, non-governmental organizations (NGOs), and community groups monitored the harmonized elections with more freedom to operate than in past elections. This was seen as a positive step toward increasing the democratic space and a healthy indicator of progress toward competitive multi-party elections whereby CSOs could objectively and impartially operate and monitor the process unfettered.

Zimbabwe's active CSO community contributed to the 2018 electoral process in various ways, including through voter education, monitoring, voter registration drives, and conflict mediation. The Election Resource Center (ERC), the Zimbabwe Election Support Network (ZESN), Heal Zimbabwe Trust, Habbakuk Trust, and Veritas were among those that were election focused, while Media Monitors Zimbabwe and the Media Institute of Southern Africa (MISA) concentrated on the media aspects of the elections. These organizations conducted various monitoring, voter mobilization, and voter education activities during the period preceding the July 30 elections and deployed teams of citizen observers on Election Day.

⁶¹ The law requires that the MMC produce a final report, but to date ZIEOM noted a report was not published.

⁶² ZANU PF was dominant in the political advertising space with 6,483 seconds on television, 774 seconds on national radio, and 22 adverts in *The Herald* (23 in the private press). Independent candidates were next with 71 seconds on national television, 284 seconds on national radio, and 2 adverts in the private press.

The largest observer group was coordinated by the Zimbabwe Election Support Network (ZESN), which deployed more than 6,500 observers countrywide.⁶³ ZESN implemented a comprehensive monitoring effort, which began long before Election Day and included examination of the BVR process, the deployment of 210 long-term observers, and implementation of a successful PVT (referred to as an SBO).

Faith-based groups like the Zimbabwe Council of Churches (ZCC), through its *I Pray I Vote Campaign*,⁶⁴ deployed 226 observers in the country's 10 provinces. ZCC also conducted a pre-election assessment,⁶⁵ which highlighted citizens' increased interest in electoral participation but a deteriorating confidence in the ZEC. The ZCC also deployed an additional 1,000 observers to join ZESN. Another church group, the Evangelical Fellowship of Zimbabwe (EFZ) assigned 800 observers to ZESN in addition to its own 100 observers. The EFZ was also a key member of the Election Situation Room (ESR) established by ZESN. During the electoral process, the EFZ and ZCC issued various statements calling for peaceful participation, which was an important contribution to the post-electoral peace and reconciliation process.⁶⁶

⁶³ ZESN 2018 Harmonised Election –Preliminary Statement. ZESN, July 31, 2018, www.zesn.org.zw/wp-content/uploads/2018/07/ZESN-Preliminary-Statement-on-the-30-July-Harmonised-Elections.pdf

⁶⁴ “#Iprayivote.” *Iprayivote*, Zimbabwe Council of Churches, iprayivote.co.zw/.

⁶⁵ Zimbabwe Council of Churches Election Research Report. Global Ministries, 2018, www.globalministries.org/zimbabwe_council_of_churches_election_research_report

⁶⁶ A Church Plea for Peaceful Transition in Zimbabwe. Election Situation Room, Aug. 18, 2018, www.zimelectionsituationroom.org/index.php/2018/08/18/a-church-plea-for-peaceful-transition-in-zimbabwe/



Election Day

Voting and Counting

Eighty-five percent of registered Zimbabweans turned out on Election Day, demonstrating overwhelming interest in, and support for, participatory democracy. The polls were generally well administered in accordance with procedures, and more than 100,000 polling officials seemingly having received the requisite training. Poll workers also worked diligently in the presence of observers and political party agents, including a large number of women, many of whom served as presiding officers. The police performed their duties commendably. Non-partisan civil society monitors were also present in large numbers where the ZIEOM observed, in addition to party agents from both the ZANU-PF and MDC Alliance being present in most polling stations.

ZIEOM observed a total of 210 polling stations and a summary of opening reports indicated that all stations opened on time with a smooth and orderly process following ZEC procedures.⁶⁷ There were no reports of voters in line at the close of the polls or not being permitted to vote. ZIEOM observers noted that the polling station layout allowed for transparency of the counting process despite lighting issues in polling tents in several areas. The ZIEOM observers noted that the layout of most polling stations appeared to safeguard voting secrecy. Overall, 79 percent of the observers said that election officials followed procedures.

However, in the densely populated urban areas of Harare, observers noted long lines in some polling centers, with confusion among some voters who could not find their polling stations. That resulted in some people leaving the lines, including women with babies and those who had left children at home unattended. There were also examples of people waiting in line for hours and finding out that they were in the wrong polling station or sub-station, which could have been mitigated had electoral lists been posted outside the stations. In some polling stations, the official list of voters who were turned away for various reasons showed significant numbers. ZESN reported that at 6 percent of polling stations nationally, 26 or more people were turned away from voting, while in Harare 19 percent of polling stations had such numbers of voters turned away.⁶⁸ They also noted instances of assisted voting in accordance with procedures, albeit high numbers of assisted voting in some areas.⁶⁹

The ZRP deployed approximately 71,000 police officers across the country to maintain peace and order at all polling stations and collation centers. Per ZEC procedures, at least five police officers were present at each polling station visited by ZIEOM observers. Voting by the military on Election Day was largely in compliance with the Election Law, as most soldiers had registered as voters either at polling stations in their home areas or at such polling stations adjacent to army barracks. The ZIEOM did not witness any polling stations set up in army barracks.

⁶⁷ Eighty-five percent of teams reported the environment as calm, with the remaining 15 percent reporting a crowded but peaceful environment. A mid-day report based on call-ins from 16 observer teams indicated that overall, election officials seem to be following the voting procedures, although there appeared to be issues with overcrowding and seemingly minor deviations from the official procedures. Fifty-two percent of polling stations were reportedly calm with no crowding, while 46 percent were crowded but remained peaceful. A closing report based on call-ins from 14 polling stations indicated that 54 percent of the polling stations were calm, 38 percent were deserted, and 8 percent were crowded but peaceful.

⁶⁸ Zimbabwe Election Support Network, *ZESN 2018 Harmonized Elections Preliminary Statement*, July 31, 2018, <http://www.zesn.org.zw/wp-content/uploads/2018/07/ZESN-Preliminary-Statement-on-the-30-July-Harmonised-Elections.pdf>

⁶⁹ ZIEOM observers noted 3 out of 5 voters in polling stations observed in Masvingo Province required assisted voting.

Domestic monitoring groups created an Election Situation Room (ESR), which brought together 41 CSOs from across Zimbabwe to receive election-related updates and document incidents of violence and irregularity. The ESR was convened by ZESN and provided a platform for effective citizen monitoring and domestic observation of electoral processes, where key stakeholders and the general public could feed information and receive timely updates on key electoral processes. The participating organizations had accredited observers, monitors, and peace ambassadors. A key monitoring feature of the ESR was the establishment of a call center where members of the public could call in to report any incidents observed. The ESR therefore became a platform for aggregating election-related incidents from various sources, processing them and distributing to both the public and relevant institutions charged with resolving relevant issues.

The counting process, though slow in many places, generally went well in the polling stations observed by the ZIEOM. The count went late into the night in many locations. No examples of party agents refusing to sign tally sheets were observed, though tally sheets were not posted publicly at some polling stations, even though this is required by law. Notably, the overly onerous paperwork required for recording results led to frustration at some polling stations by officials, party agents, and observers.

On August 1, events dramatically changed when military and police quelled protesters who had gathered at ZEC offices and the National Results Collation Center in response to the slow transmission and announcement of the presidential results. Soldiers used live ammunition against unarmed civilians, resulting in numerous injuries and six deaths. The violence was not only a reminder of state-sponsored violence that marked elections past, but had very serious implications for the overall credibility of the elections.

Tabulation and Announcement of Results

The ZEC announced provincial and aggregate presidential results on August 3, which showed that President Mnangagwa of ZANU-PF received 50.8 percent of the vote, and Nelson Chamisa of the MDC Alliance received 44.3 percent of the vote.⁷⁰ A PVT conducted by ZESN found the ZEC's announced results to be within the credible statistical range—though the PVT could not definitely determine whether there should have been a run-off.

The ZEC provided stakeholders with a free CD-ROM copy of the presidential results in a protected excel format with a breakdown per polling station, which provided a level of transparency to the process. However, the initial results provided by ZEC contained errors and inaccuracies, which raised questions regarding their reliability and the competency of ZEC. The ZEC acknowledged some errors, which it attributed to double counting of some wards and transcription mistakes. After correcting the errors, ZEC released revised results, which showed a slight drop in the percentage for Mnangagwa and a similar increase for Chamisa, but not enough to affect the announced results.

ZIEOM monitored results tabulation, transmission, and announcement through multiple mechanisms and noted irregularities in the method of results aggregation and the transmission of results. Most notably, there was a complete lack of traceability of the signed ward-level polling station returns forms (V11) and aggregate collation of the ward-level results onto V23 forms and opacity in ZECs provision of the final results tabulation per polling station.

⁷⁰ The incumbent, Emmerson Mnangagwa received 2,460,463 votes while his principal opponent, Nelson Chamisa, obtained 2,147,436.

On 2 August, the ZEC completed the announcement of the National Assembly results. Out of 210 contested seats in Parliament, ZANU-PF received the majority of seats with 145 against 63 seats for MDC Alliance. The remaining two seats were won by the National Patriotic Front's Masango Matambanadzo in Kwekwe Central and independent candidate Temba Mliswa in Norton. The parliamentary results gave ZANU-PF exactly two-thirds of the seats in the National Assembly, the approximate number required to amend the constitution. Sixty-two percent of the members of the National Assembly are newly elected (167 of 270).

Despite a constitutional provision requiring parity, women won far fewer than half of legislative or local authority seats. In the National Assembly, women won 25 of 210 constituency based seats or 11.9 percent. This is one less seat than women won in the 2013 harmonized elections. With the 60 reserved seats, women comprise only 31.5 percent of members of the National Assembly (85 of 270). In the Senate, women were elected to 34 of the 60 seats allocated on a proportional basis. Women captured a large number of seats because of "zebra striping," requiring every other candidate on the party lists to be female. Notably, not one of the 18 seats reserved for traditional leaders was won by a woman. One of the two seats for PWDs was won by a female candidate. In total, 43.8 percent (35 of 80) of the members of the Senate are women.⁷¹ Overall, women make up just 120 of the total 350 MPs in both houses, or 34.3 percent. At the local government level, women won 270 of 1,949 ward council seats or 13.9 percent. Women comprise 31.0 percent of local councilors in Bulawayo Province, but only 6 percent of local councilors in Mashonaland Central Province.

⁷¹ In the Senate, 58.7 percent of Senators are newly elected.

Distribution of National Assembly Seats

| PARTY | CONSTITUENCY SEATS | WOMEN'S QUOTA SEATS | TOTAL SEATS | % |
|--------------|--------------------|---------------------|-------------|-------------|
| ZANU-PF | 145 | 35 | 180 | 66.3% |
| MDC ALLIANCE | 63 | 24 | 87 | 32.2% |
| INDEPENDENT | 1 | | 1 | 0.4% |
| MDC-T | | 1 | 1 | 0.4% |
| NPF | 1 | | 1 | 0.4% |
| TOTAL | 210 | 60 | 270 | 100% |

Distribution of Senate Seats

| SENATE COMPOSITION | NO. OF SEATS | % | FEMALE | MALE |
|--|--------------|-------------|--------------|-------------|
| ZANU-PF | 36 | 45.0% | 20 | 16 |
| MDC ALLIANCE | 23 | 28.7% | 13 | 10 |
| MDC-T | 1 | 1.3% | 1 | 0 |
| CHIEFS | 18 | 22.5% | 0 | 18 |
| PLWDS | 2 | 2.5% | 1 | 1 |
| TOTAL | 80 | 100% | 35 | 45 |
| GENDER DISAGGREGATION BY PERCENTAGE | | | 43.8% | 56.3 |

At the local government level, ZANU-PF won control of 60 local authorities, MDC Alliance won 27, and two independent candidates won a majority. ZANU-PF won control of 57 of 60 rural local authorities while MDC Alliance won control of 25 of 29 urban local authorities.

| WINNING PARTY PER LOCAL AUTHORITY BY PROVINCE FOR 2018 LOCAL AUTHORITY ELECTIONS (1,949 of 1,958 Wards) | | | | |
|---|--------------|-----------|----------|-----------|
| PROVINCE | MDC ALLIANCE | ZANU-PF | TOSS UP | TOTAL |
| Bulawayo | 1 | | | 1 |
| Harare | 3 | | | 3 |
| Manicaland | 3 | 6 | 1 | 10 |
| Mashonaland Central | 1 | 8 | | 9 |
| Mashonaland East | 2 | 9 | | 11 |
| Mashonaland West | 5 | 8 | | 13 |
| Masvingo | 1 | 7 | 1 | 9 |
| Matabeleland North | 4 | 5 | | 9 |
| Matabeleland South | 2 | 8 | | 10 |
| Midlands | 5 | 9 | | 14 |
| TOTAL | 27 | 60 | 2 | 89 |

| WINNING CANDIDATES FOR THE 2018 LOCAL AUTHORITY ELECTIONS BY PROVINCE AND GENDER (1,949 OF 1,958 WARDS) | | | | |
|---|---------------------------|-------------------------|--------------------------|-----------------------------|
| POLITICAL PARTY | FEMALE WINNING CANDIDATES | MALE WINNING CANDIDATES | TOTAL WINNING CANDIDATES | % FEMALE WINNING CANDIDATES |
| Bulawayo Province | 9 | 20 | 29 | 31.0% |
| Harare Province | 10 | 68 | 78 | 12.8% |
| Manicaland Province | 37 | 223 | 260 | 14.2% |
| Mashonaland Central Province | 14 | 218 | 232 | 6.0% |
| Mashonaland East Province | 28 | 201 | 229 | 12.2% |
| Mashonaland West Province | 38 | 193 | 231 | 16.5% |
| Masvingo Province | 25 | 217 | 242 | 10.3% |
| Matabeleland North Province | 28 | 161 | 189 | 14.8% |
| Matabeleland South Province | 32 | 132 | 164 | 19.5% |
| Midlands Province | 51 | 244 | 295 | 17.3% |
| TOTAL | 272 | 1,677 | 1,949 | 14.0% |

Post-Election Period

Amid public calls for a thorough investigation into the August 1 violence and killings, President Mnangagwa, on August 29, announced the formation a seven-member Commission of Inquiry to independently investigate the circumstances surrounding the incident.⁷² Led by former South African President Kgalema Motlanthe, three international experts and three Zimbabwean experts, the commission was given three months to investigate the incidents and issue a report of its findings.⁷³ While several of the international members of the commission were perceived as impartial, civil society and opposition leaders questioned the neutrality of some members; notably, one of the Zimbabwean members, political science professor Charity Manyeruke, is a member of the ruling ZANU-PF party.⁷⁴

In the weeks following the election, a crackdown by security forces on opposition leaders further deteriorated the post-election environment.⁷⁵ Citizens were harassed by security forces in the Central Business District, and 29 opposition leaders were arrested including Tendai Biti, former minister of finance and MP for Harare East, on allegations of violating the Electoral Act, among other charges. Biti immediately went into hiding before crossing the border into Zambia where was denied asylum. He was deported back to Zimbabwe, where he was charged and then released on bail. His challenge to the underlying charges was heard between August 10 and 15, which effectively eliminated him from participating in the opposition's preparation of the Constitutional Court petition.

⁷² This is the second Commission of Inquiry on the conduct of the Zimbabwe National Army in 30 years. The commission is expected “to consider whether the degree of force used was appropriate to the ensuing threat to public safety, law and order; to ascertain extent of damage/injury caused thereof; to investigate any other matters which the Commission of Inquiry may deem appropriate and relevant to the inquiry; to make suitable recommendations; and to report to the president in writing, the result of the inquiry within a period of three months from the date of swearing-in of the Commissioners.”

⁷³ The commission is also comprised of international law expert Rodney Dixon QC from the United Kingdom, former Commonwealth Secretary-General Chief Emeka Anyaoku from Nigeria, and former Chief of Defence Forces of the Tanzania People's Defence Forces General (Retired) Davis Mwamunyange, in addition to three Zimbabweans, University of Zimbabwe (UZ) lecturers Professors Charity Manyeruke and Lovemore Madhuku and Former President of the Law Society of Zimbabwe (LSZ) Vimbai Nyemba.

⁷⁴ “Kgalema Motlanthe to Lead Zim's Commission of Inquiry into Post-Election Killings.” *Zimbabwe Situation*, 30 Aug. 2018, www.zimbabwesituation.com/news/kgalema-motlanthe-to-lead-zims-commission-of-inquiry-into-post-election-killings/.

⁷⁵ During this period, specific incidents of threats and acts of intimidation were directed against opposition candidates and party agents, and in some case voters who were believed to have supported the opposition. The police appeared impotent to act, even when cases were brought to their attention. In Mashonaland West, ZIEOM observers reported that at least five people received threats and left their homes because they feared “something bad would happen.” The Midlands observers reported that across the province, party agents were in hiding because of threats by ZANU-PF supporters. In Manicaland, a war veteran reportedly gathered people at a local school and informed them that he knew who voted for the MDC Alliance and that they would be kicked out of their homes; in one notable case, the house of an MDC Alliance party agent was burnt, with the allegation being that it was a politically motivated act. In Harare, ZIEOM received reports of opposition members being attacked in their homes in the middle of the night.

Constitutional Court Petition

On August 10, within the constitutionally prescribed seven-day period, the MDC Alliance submitted a petition challenging the ZEC's proclamation of Mnangagwa as the elected president of Zimbabwe. The MDC Alliance argument was based on three principal components:

1. The MDC Alliance alleged specific constitutional law breaches, including a lack of ZEC independence, the ZEC's failure to conduct the elections transparently and in accordance with the law, the failure of state-owned media to perform in accordance with the constitutional requirements, and the partisanship of the military;
2. The MDC Alliance argued that throughout the campaign there were violations of specific provisions of the election law; and
3. The petition questioned the actual numbers of votes received by Mnangagwa. The MDC Alliance presented a number of anomalies related to vote counting and tabulation, which it argued established that Mnangagwa did not receive the requisite 50 percent of the vote.

After the submissions of written arguments by the relevant parties on an expedited schedule, the Constitutional Court held an unprecedented all-day hearing on August 22, which was broadcast live by ZBC in a transparent manner. The parties presented their respective arguments to the nine justices designated to hear the case, as well as to the broader population. The principal argument was whether the MDC Alliance had called into question enough votes to reduce Mnangagwa's total below the 50 percent plus one threshold.⁷⁶

Two days later, Chief Justice Malaba read the Court's unanimous decision, which rejected Chamisa's petition stating that the applicant failed to provide "clear, sufficient, direct, and credible evidence." The Court concluded that the MDC Alliance had not shown that the alleged constitutional and election law violations had definitively affected the outcome and that the claim that the results were inaccurate had not been established.⁷⁷ President Mnangagwa was sworn in to a new term as president on August 26.⁷⁸ The new parliament was seated on September 18, with 16 petitions challenging the outcome of the parliamentary elections still outstanding.

Other Election Challenges

ZIEOM observed electoral complaints at the four Electoral Courts (Harare, Masvingo, Mutare, and Bulawayo) and other election-related cases at the general division of the High Courts. The total number of challenges was less than anticipated given the broad range of public complaints that the opposition made regarding the results of the National Assembly elections. The Harare Electoral Court received a total of 41 electoral cases, 14 before Election Day and 27 after Election Day. Sixteen cases challenged the results for National Assembly seats, eight cases challenged the result for Local Council seats, and one challenged the result for the Provincial Assembly of Chief's seat. The Bulawayo Electoral Court received a total of five electoral cases, with two

⁷⁶ MDC Alliance alleged that a number of mathematical errors affected the validity of the results, including a difference of more than 40,000 more votes cast for the president than for the National Assembly election; differences between V11 and V23 forms in favor of the incumbent; more than 100 percent voter turnout in some polling stations in favor of the incumbent by 31,204 votes; lack of results being posted at 21 percent of polling stations and double tabulation of results at some stations.

⁷⁷ Notably, the Court did not impugn the ZEC, claiming ZEC provided sufficient evidence to refute all allegations. The Court ultimately dismissed the petition with costs, as prescribed by law, to the applicant.

⁷⁸ allAfrica, "Angolan Vice-President at Zimbabwe's Mnangagwa Inauguration," August 2018, <https://allafrica.com/stories/201808270521.html>

challenging the results for National Assembly seats. The Mutare Electoral Court received a total of three cases, with one filed to challenge the results for one National Assembly seat. The Masvingo Electoral Court received only one electoral case, which was filed before Election Day. The ZIEOM noted that for a number of pre-election cases, allegations of electoral malpractice were not investigated in a timely manner nor were judgments rendered before Election Day, undermining international conventions for citizens' right to effective dispute resolution and remedy.

A total of 20 petitions were filed challenging the outcome of parliamentary elections: nine by the MDC Alliance, four by ZANU-PF, three by independent candidates, two by MDC-T, one by NPF, and one by PRC.⁷⁹ Of greatest note is the case of Chegutu West. For this election, the ZEC initially announced the ZANU-PF candidate, Dexter Nduna, as the winner. However, the ZEC later reversed itself admitting it had made an error and had inadvertently recorded the votes for the winning MDC Alliance candidate, Gift Konjana, as those for the losing ZANU-PF candidate and vice versa. While ZANU-PF acknowledged that a transcription error had been made and that its candidate did not receive the largest number of votes, the party challenged the ZEC's decision to reverse itself, arguing that only the courts could change the outcome. As a result, the ZANU-PF candidate was declared the winner despite the ZEC, MDC Alliance, and ZANU-PF all agreeing that it was the MDC Alliance candidate who received the most votes. The MDC Alliance filed a petition challenging this result, but it was thrown out by the courts on technical grounds and the petition was not heard.

President Mnangaga was sworn in as president on August 26 following the Constitutional Court's decision dismissing Chamisa's petition challenging the election results. Parliament opened on September 8 with members of Parliament (MPs) for both the National Assembly and the Senate (including the Council of Chiefs) being sworn in as well.

⁷⁹ ZANU-PF is respondent in twelve petitions, MDC Alliance in five, and NPF in one. The two remaining petitions were lodged by the MDC-T and pertain to the proportional allocation of seats in the Senate and the women's quota to the National Assembly.

Role of International Community

The 2018 Zimbabwe elections were observed by several international organizations. In addition to the joint IRI/NDI ZIEOM effort, others included the European Union (EU), the African Union (AU), SADC (as well as several teams representing different organs of SADC and organizations within SADC), Common Market for Eastern and Southern Africa (COMESA), and the Commonwealth. In addition, the Carter Center deployed technical teams throughout the process.

The EU arrived in Zimbabwe soon after President Mnangagwa's proclamation of an election date. The EU deployed more than 140 observers throughout the country. The EU's chief observer was Elmar Brok, a long-standing member of the European Parliament from Germany.

The other observer teams deployed their long-term observers in July. The delegation leaders included former Ethiopian Prime Minister Hailemariam Desalegn for the AU; Angolan Secretary of State for Foreign Affairs Antonio Tete for SADC; and former Ghana President John Mahama for the Commonwealth. In addition, from July 19 to 21, Kofi Annan led a pre-election visit of the Elders that included Mary Robinson and Lakhdar Brahimi. According to ZEC figures, it accredited 1,007 international observers and 11,019 domestic observers.

On the day preceding the election, the principal sub-regional organization, SADC, convened a meeting for the leaders of the principal international observer groups to share impressions of the pre-election period. A similar gathering was organized by the AU for the day following the elections to compare notes regarding Election Day observations. Most groups agreed to schedule post-election press conferences on August 1, except the Commonwealth, which issued a statement on August 2.

By mid-August, most of the international observers had departed Zimbabwe, with the exception of the ZIEOM long-term observers and the core teams of ZIEOM, EU, and AU. The legal analysts from ZIEOM, EU, and AU all observed the August 22 Constitutional Court hearing and were present when the Court issued its decision on August 24.



Conclusion and Detailed Recommendations

Zimbabwe's 2018 harmonized elections presented the country with a historic opportunity to break with the past 18 years of political crisis and mark the beginning of a genuine democratic transition. ZIEOM notes several improvements to the electoral process compared to Zimbabwe's past elections, though equally important shortcomings give rise to deep concerns that the process has not made the mark. Incremental improvements in the electoral environment during the pre-election period were insufficient to establish broad confidence among the political competitors and Zimbabwe's sharply divided populace.

To that end, the ZIEOM has formulated 28 recommendations to promote more inclusive, transparent, and accountable elections. The ZIEOM's specific recommendations include:

Legal Framework

Continue to align the Electoral Act with the 2013 Constitution and secure the status of ZEC as a fully independent constitutional commission. Amend the Electoral Act in such a manner that the ZEC has expanded responsibilities to regulate its own affairs as an independent authority and in accordance with international covenants⁸⁰ including for voter registration processes and accreditation of observers and to remove the minister of justice, legal, and parliamentary affairs from responsibility for representing ZEC before parliament.

Leveling the Playing Field

Create enforcement mechanisms for ensuring government resources do not serve partisan interests. The ZEC, in accordance with international covenants and principles of equality,⁸¹ should ensure clear distinction between activities of the party in power and activities of the government to avoid abuse of state resources. The ZEC should be legally empowered to enforce provisions within the Electoral Act that strictly prohibit the politicization of food aid, agricultural inputs, and other social welfare benefits including penalties for misuse of state resources and the involvement of public officials in political activity. The ZEC and relevant bodies should also reinforce that the distribution of land titles, food aid, and farm implements by traditional leaders must be done through bureaucratic means and away from any campaign-related activity through intensive and continuous educational outreach about the limits of traditional leadership in the political environment.

Introduce effective mechanisms to enforce the constitutional provision⁸² prohibiting traditional leaders from engaging in partisan activities. New provisions in the Electoral Act should be introduced to penalize traditional leaders and civil servants who transgress the Constitution, including fines and potentially the loss of traditional leader status.

⁸⁰ ICCPR GC 25, Article 20. ACDGE Article 17.1; SADC Principles and Guidelines Governing Democratic Elections, Article 5.1.4

⁸¹ ICCPR GC 25; UNCAC Article 17; ACHPR Article 13(2) and (3); SADC Parliamentary Forum, Norms and Standards for Elections in the SADC Region, parts 2 and 3

⁸² Constitution of Zimbabwe 2013, Section 281(2) requires neutrality for traditional leaders; Section 200(3) requires the neutrality of district administrators.

Transparency

Adopt more transparent and consultative procedures to build public trust in the ZEC and ensure the ZEC is widely perceived to be a credible institution. The ZEC should employ a proactive communications strategy to provide critical information to stakeholders and that reinforces public confidence in its impartiality throughout the electoral process. To build public confidence, the ZEC should also go beyond a “legalistic” approach to sharing information with political parties and other groups. While the law does not require specific actions, the ZEC should concern itself with building public confidence in its impartiality through provision of timely and accurate public communication about the ZEC’s work, and strengthen its capacity to anticipate and rapidly respond to concerns and issues as they arise.

Amend the Political Parties (Finance) Act to promote transparency in political party financing. This includes regulations on reporting and expenditures and that are in line with international conventions.⁸³

Universal Suffrage

Complete boundary delimitation exercise no less than one year prior to the next election. According to the 2013 Constitution, no constituency should have more than 20 percent variation in registered voters. To ensure inclusive consultation to increase public confidence in the boundary delimitation process, an independent, ad hoc, or permanent commission in charge of drawing the electoral constituency boundaries could be established.

Engage in regular cleaning and deduplication of the voter roll. In alignment with international best practices that ensure the principle of universal suffrage,⁸⁴ the ZEC should amend its regulations for voter registration and undertake routine deduplication and data cleaning exercises for the existing voters roll to eliminate the problems identified by the audits completed before the July elections, including repeated addresses, similar ID numbers, and similar data for two different voters.

Publish preliminary and final voters roll in an analyzable format that allows for an independent audit and verification in a timely manner. The ZEC should establish clear timelines for the production and distribution of the preliminary and final voter rolls, which provide meaningful opportunities for a serious audit of the quality of the voters list and which should be made available prior to the nominations process. The ZEC should release a provisional voter roll during the inspection process in an electronic analyzable format and continue to enhance citizen-access to the inspection process through more localized inspection centers or list of registered voters at specific polling stations.

Implement steps to facilitate identification of polling stations on Election Day. In order to ensure voters can easily and quickly identify, queue, and vote at the correct polling or sub-polling station, the ZEC should post the voter roll specific to each polling and sub-polling station in an accessible location, including outside of the polling station on Election Day, for easy voter reference. The posting of the voter roll will mitigate unnecessary confusion, frustration, and high voter rejection rates on Election Day, particularly in urban areas with polling stations very near each other or where sub-polling stations are present.

⁸³ ICCPR GC 25, 19; UNCAC Article 7.3; ACHPR Articles 13(2) and (3); SADC Political Forum, Norms and Standards for Elections in the SADC Region Part 3 (6).

⁸⁴ UDHR Article 21 (3); ICCPR Article 25 GC 25 (b)

Align domestic law with the Convention on the Rights of Persons with Disabilities⁸⁵ to ensure the right of all citizens to participate in political life.

Foster a national debate regarding the issue of voting by Zimbabweans living outside the country. This debate should incorporate the experiences of other countries that have recently considered this issue.

Elections Management and Administration

Ensure ballot design and production is consistent with legal and regulatory framework. The presidential ballot is required by law to be arranged alphabetically, and regulations require that the candidates' names appear in a single column. The ZEC must ensure that ballot design is within the law and that changes to the design of the ballot are done in a consultative, transparent manner and do not provide a clear advantage to any single candidate. The ZEC should also permit the meaningful observation of ballot printing, storage, and distribution processes.

Prohibit the misuse of assisted voting. While actions to record instances of assisted voting to allow for an assistant of the voter's choice were positive developments in the 2018 elections, challenges to the secrecy of the vote and concerns over misuse of the accommodation remain. The ZEC should review and refine the regulations and procedures for assisted voting to limit the practice to very specific circumstances (such as for the visually-impaired) where assisted voting is permitted.

Develop an ongoing, comprehensive voter education strategy. Voter education efforts conducted by the ZEC must incorporate and liberalize its regulation of the complementary efforts of civil society to educate citizens on their rights and responsibilities in a participatory democracy. The ZEC should refine the regulations governing voter literacy such that education initiatives are implemented on a continual basis and in line with international covenants on citizens' right to information, including access for those who are disabled or illiterate.⁸⁶

Clarify and publicize the process for voting for those on official duty on Election Day. The ZEC should ensure that the process for voting, before or on Election Day, by individuals required to be on official duty (i.e. police, election workers, diplomats, and other government officials) are clearly outlined, including publicizing timelines and processes for requesting and completing postal ballots.

Provide data on participation of marginalized groups in electoral processes. To increase participation by marginalized populations and to address barriers to electoral participation, the ZEC should systematically collect and publicly release data on the participation of men, women, youth, and disabled voters in the electoral process including voters, candidates, poll workers, observers, and party agents.

Results Management

Adopt and publicize transparent procedures for the tabulation, transmission, and announcement of results. In order to enhance public confidence in the transmission and tabulation process, the ZEC should articulate the results management process in a fully

⁸⁵ Zimbabwe acceded to the Convention on the Rights of Persons with Disabilities in 2013, but no legislation has been introduced to align Zimbabwe's Disabled Persons Act with commitments in the Convention.

⁸⁶ ICCPR Article 19; ICCPR GC 25m Article 12; ACHPR Article 9; SADC Principles and Guidelines Governing Democratic Elections, Article 4.1.10

transparent manner, verify the provisional results in real-time and release results in a timely fashion according to international standards.⁸⁷ This should be complemented by political party and non-partisan observation of the results tabulation process. The ZEC should also establish clear procedures to permit transmission of polling site forms directly to Harare and publish polling station-level results for all elections, including the publication of V11 and V23a/b forms for presidential elections.

Due Process

Foster an independent judiciary that endeavors to adjudicate fairly and justly through due process of law. To combat perceptions of political bias, the judiciary should implement reforms in line with the Bangalore Principles adopted in 2002. These principles provide standards for ethical conduct for judges and guidance to courts in developing frameworks for regulating judicial conduct. Electoral petitions should be fully adjudicated (including all appeals) in a timely fashion with written explanations of court decisions.

Establish time limits for the adjudication of pre-election petitions and a framework for proceedings that are filed at the High Court and Electoral Courts for judgments to be rendered before Election Day and to ensure that allegations of electoral malpractice are investigated promptly, thoroughly, and effectively.

Complaints Mechanisms

Prosecute perpetrators of violence and other forms of political coercion. This includes the individuals responsible for the August 1 shootings of protesters. The chief of police should be required to report on the steps taken to ensure that full investigations are conducted in response to complaints of politically motivated violence, threats, and acts of retribution. Activate the provisions for an Independent Complaints Mechanism as enshrined in the Constitution to allow citizens to have a pathway for recourse if affected by the unprofessional conduct of the security services.

Strengthen the Electoral Act to provide effective complaints mechanisms. This should enable citizens and civil society organizations to file petitions with the ZEC challenging the results of the elections and administrative complaints beyond voter registration issues, in accordance with regional and international conventions on citizens' right to effective remedy.⁸⁸

Media

Eliminate laws that impede constitutionally protected freedoms. Relevant bodies should initiate legal reforms to eliminate laws such as the Access to Information and Protection of Privacy Act (AIPPA) and the Public Order and Security Act (POSA) that contravene the provisions in the 2013 Constitution guaranteeing freedom of expression and assembly, free media, and access to information.⁸⁹

Foster a diverse, independent media environment representing a variety of political perspectives. To fulfill Section 160J of Zimbabwe's Electoral Act, which states that broadcasters and print publishers must ensure that all political parties and candidates are afforded equal media coverage during an election period, adequate media monitoring and enforcement mechanisms

⁸⁷ ICCPR GC 25, Article 20

⁸⁸ ICCPR Article 2(3)(a); African Union Declaration on the Principles Governing Democratic Elections in Africa, IV, 6

⁸⁹ Constitution of Zimbabwe 2013, s.61 and s.62.

must be established and implemented. The ZEC must be provided with the resources for and be held accountable to establishing an effective Media Monitoring Committee to fairly assess media coverage of political parties and candidates in the election period.

The ZEC Media Monitoring Committee, the Zimbabwe Media Commission (ZMC) and the BAZ, and self-regulating bodies, such as the Voluntary Media Council of Zimbabwe (VMCZ) must exercise their respective authorities to sanction offending media outlets. Within the electoral period and beyond, relevant governing authorities should liberalize the framework for the licensing of radio and television stations, especially licenses for community radio stations by the Broadcasting Authority of Zimbabwe (BAZ) while also supporting the capacity development and professionalism of Zimbabwean journalists and editors in objective and investigative reporting.

Party Conduct

Create an environment in which women can participate equally in the electoral process, without fear of intimidation and harassment. This includes the greater acceptance and promotion of female candidates and in all aspects of governance. Political parties should improve internal democratic structures and rules governing the selection of leaders and candidates, including the conduct of party primaries. Parties should aspire to mainstream women in the party hierarchy and facilitate their recruitment, training, and support as candidates for elected office.

Enforce the Electoral Code of Conduct for Political Parties and Candidates. The inclusion of an expanded Code of Conduct was a notable improvement to the Electoral Law under the May 2018 amendments. However, to support a more level playing field for political aspirants and an environment where citizens are free to vote without undue influence or coercion, enforcement of the Code of Conduct is essential.

Institutionalize MPLCs as forums for dialogue and dispute resolution among and between political parties and the ZEC. MPLCs should provide political parties with the opportunity to raise concerns and for the ZEC to offer clear direction for redressing concerns at the national and local levels. Given the importance of MPLCs as a forum for dialogue and as a form of Alternative Dispute Resolution (ADR)—which can be essential to reducing conflict and defusing tension—it is important to clarify and expand within the law a specific timeline for MPLCs to regularly meet. Officials with the authority to make decisions, such as the ZEC chairperson and the commissioner-general of the police, should attend the MPLC meetings to hear the parties' concerns, expedite resolution for any issues raised, and increase trust in both the MPLC as an important tool to prevent conflict and as a means of including all parties in the electoral process.

Build capacity of political parties to institutionalize processes for monitoring elections. Ensure the effective recruitment and training of party agents with emphasis on developing mechanisms for the conduct of effective parallel vote tabulations and the party agent's role in obtaining copies of tally sheets following the completion of the counting process at polling stations.

Build capacity of political parties to effectively compete in elections and participate in governance processes. Build the capacity of political party leaders in the areas of campaign techniques, data analysis and planning, internal democracy, constituent engagement, and policy development (including the role of opposition parties in governance) while broadening parties' knowledge of electoral rules and rights to ensure that political parties, both ruling and opposition, fulfill their roles as democratic institutions.

IRI and NDI in Zimbabwe

IRI began working in Zimbabwe in 1993, collaborating with CSOs, political parties, and elected officials to create a more transparent and open political environment and to institutionalize principles of democratic governance. Since 2012, IRI's work with locally-elected leaders, traditional leaders, residents' associations, CSOs, and citizens has facilitated engagement and enhanced local government responsiveness to citizen priorities.

With support from the U.S. Agency for International Development (USAID), IRI provided capacity-building support to ensure the inclusion of pro-democracy voices in the Zimbabwean political process and worked with individual Zimbabwean parties to prepare them for participation in democratic contests. IRI has also conducted numerous the National Endowment for Democracy (NED)-funded programs in Zimbabwe seeking to strengthen local government systems, inform citizens of the 2013 Constitution, and to bring local government officials and constituents together to understand and address constituent priorities.

IRI is working to ensure Zimbabweans, including those living in the diaspora, are educated on the 2018 electoral process and remain engaged in any post-election reforms. In addition to traditional in-country voter education through local organizations, this project works closely with the diaspora community on voter education, outreach, and ultimately the mobilization of their families and contacts living in Zimbabwe, with the goal of increasing turnout of informed voters on Election Day.

NDI has conducted programs in Zimbabwe since 1998, with the support of USAID, NED and the U.S. State Department's Bureau of Democracy, Human Rights and Labor (DRL). Initial activities focused on electoral reform and promotion of dialogue between government and opposition political parties and between parliament and civil society partners. NDI provided technical assistance to civic and political leaders, helping develop policy papers and draft legislation that promoted reform in Zimbabwe's electoral and political structures, including a draft electoral law. The Institute also has worked with numerous civil society organizations on various elections monitoring efforts. Beginning in 2000, NDI engaged in a wide range of activities to strengthen the capacity of the Zimbabwe Election Support Network (ZESN) to conduct a statistically based observation of both the 2008 and 2013 elections.

Acknowledgments

This report is based on information gathered through the joint IRI/NDI ZIEOM, which was present in Zimbabwe from April to October 2018. While many individuals participated in the ZIEOM's activities, the Institutes take full responsibility for the content of this report and presents the information provided herein with the hope that it contributes to Zimbabwe's democratic transition.

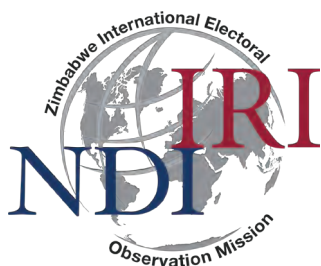
A comprehensive election mission is, by its very nature, a complicated exercise. IRI and NDI thank the Zimbabwean people for the warm welcome that they provided the ZIEOM. The citizens of Zimbabwe have experienced an extraordinary series of events during the past 12 months, and the ZIEOM has been privileged to witness the enthusiasm for democracy that has been evident throughout this period.

Many Zimbabwean government officials, political party leaders, civil society activists, and representatives of the international community met with our pre-election, Election Day, and post-election delegations, as well as our long-term observers and analysts on multiple occasions; they were always ready to share information and concerns. We are grateful for their generous donation of time and their contribution to our understanding of Zimbabwean political dynamics.

The Institutes also express sincere appreciation for the critical contributions of the more than 30 volunteer observers who participated in the pre-election, Election Day, and post-election delegations. In particular, we would like to recognize Dr. Brigalia Bam, Hon. David Dreier, Barry Jackson, and Sen. Catherine Noone, who participated in the pre-election assessment mission; former President Ellen Johnson Sirleaf, Interim President Catherine Samba Panza, Rep. Karen Bass, Hon. Constance Newman and Amb. Johnnie Carson, who led the Election Day delegation; and those who returned to lead the post-election delegation. The IRI and NDI rely on the considerable experience and generosity of individuals such as these to fulfill our responsibilities as international election observers.

Appendices

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| Appendix A: | <u>Joint IRI/NDI Election Observation Mission Pre-Election Assessment Statement, June 8, 2018</u> |
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IRI-NDI Pre-Election Assessment Mission Statement – Zimbabwe 2018 Harmonized Elections

June 8, 2018

Introduction

In response to President Mnangagwa's public welcoming of international observers as well as requests from political leaders and civil society organizations, the International Republican Institute (IRI) and the National Democratic Institute (NDI) are jointly observing Zimbabwe's 2018 harmonized elections for president, parliament, and local government. IRI and NDI have observed collectively over 200 elections in more than 50 countries during the last 30 years. The IRI-NDI observation is being conducted in accordance with the Declaration of Principles for International Observers, in conformity with the laws of Zimbabwe, and in reference to international and regional standards for elections – including the Southern African Development Community (SADC) Guidelines and Principles for Democratic Elections and the African Union (AU) Charter on Democracy, Elections and Governance.

The mission's core team of election analysts began to arrive on April 22, 2018 and will continue to observe the electoral process, including the collation and announcement of results. For the July 30 election, the mission will be supplemented by an additional 26 short-term observers, who will be deployed throughout the country.

From June 2-8, IRI and NDI jointly deployed a pre-election assessment mission as part of the long-term observation effort for the upcoming elections. The delegation is comprised of: **Dr. Brigalia Bam**, former Chairperson of the South African Independent Electoral Commission; **Hon. David Dreier**, former United States Congressman; **Senator Catherine Noone**, Deputy Leader of the Irish Senate; **Barry Jackson**, former Chief of Staff to the Speaker of the US House of Representatives; **Elizabeth Lewis**, IRI Deputy Director for Africa; **Sandra Pepera**, NDI Director for Gender, Women, and Democracy; **Larry Garber**, Co-Mission Director, NDI; and **Nicolas Teindas**, Co-Mission Director, IRI.

The purposes of the pre-election delegation were to: provide an independent and impartial assessment of the election preparations; establish benchmarks in assessing the overall process; offer practical recommendations (as appropriate) to enhance the inclusiveness, transparency, and accountability of the process; and demonstrate the international community's continuing interest in credible elections in Zimbabwe. At the same time, the delegation recognizes that ultimately it is the people of Zimbabwe who will determine the credibility of the election process.

The IRI-NDI delegation met with a wide array of election stakeholders, including the Chairperson of the Zimbabwe Election Commission (ZEC), political party leaders, candidates, civil society representatives, leaders of citizen observer groups, the Chief Justice of the Constitutional Court, the Minister of Justice, Legal and Parliamentary Affairs, the Commissioner General of Police, the Senate President, media representatives, political analysts, and representatives of the international

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community. The delegation appreciates the warm reception received from numerous stakeholders engaged to date and benefited measurably from their insights.

Summary

Zimbabwe's 2018 harmonized elections will take place against a backdrop of 18 years of political crisis. During this period, severe limits on political space and a series of elections, some characterized by violence, and widely perceived as flawed, weakened public confidence in democratic institutions and the electoral system. These elections will take place less than a year after the military intervention that led to Robert Mugabe's removal from power after 37 years and the appointment of Emmerson Mnangagwa as president.

The IRI-NDI delegation heard a clear and unambiguous message of hope for a new future from all the Zimbabweans they came into contact with. It received unanimous reports that the country's political climate has changed markedly since last November. It is the responsibility of all the election actors to take the steps necessary to build confidence with the people that these elections can usher in a new democratic dispensation.

However, concerted efforts will be required to restore the public's faith in the country's institutions and set the country on a new trajectory. Therefore, the 2018 harmonized elections must break with the past and be widely perceived as inclusive, transparent and accountable. To achieve this objective, the reforms must do more than just adhere to the letter of the law, show more than just incremental improvements, and result in more than just peaceful elections. This standard is consistent with the SADC guidelines, which call for elections to be peaceful, but also "free and fair, transparent, and accountable", while at the same time accounting for the cumulative effect of nearly two decades of flawed elections.

The IRI-NDI delegation found notable improvements in the political environment and electoral preparations as compared to prior elections. However, a number of significant opportunities to break with the past and restore confidence in advance of the polls have been missed thus far. As a result, concerns remain about the fairness of the process.

Given Zimbabwe's history and the fact that the current government assumed power not through a normal election process but through a military intervention, extraordinary steps are required to achieve the widespread perception of fairness, which is as important as the realization of fairness itself. These steps should be based on the premise that the credibility of the upcoming elections are the responsibility of political parties and candidates running for office, the institutions mandated to provide oversight, and all those who vote on election day. With seven weeks remaining to election day, the opportunity still exists to take constructive steps to enhance the inclusiveness, transparency, and accountability of the electoral process.

Notable Improvements

The IRI-NDI delegation recognizes that several positive developments have occurred since Zimbabweans last went to the polls to vote in a national election in 2013. In the period after

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November 2017, important rhetorical, symbolic and tangible steps have made the political space more open. Notable improvements include:

- *Committing to Credible Elections* – President Mnangagwa has publicly and repeatedly committed to holding credible elections. Further, he signed the AU Charter on Democracy, Elections and Governance (though it still needs to be ratified by parliament). These represent important departures from the past and the conduct of the former president when it came to elections. However, despite the president’s public commitment, some ruling party officials and representatives of state institutions have made statements inconsistent with a genuine commitment to holding credible elections.
- *Improvements in the Political Climate* – The delegation received messages from Zimbabweans that the country’s political climate has markedly improved, with opposition parties already holding rallies around the country and citizens expressing their political views more freely. One sign of the improved political space was the ability of the Movement for Democratic Change (MDC) Alliance to hold a June 5 rally in central Harare and the decision by the police to deny a permit on the same day for a competing ZANU-PF rally to avert clashes. Another is the response of Zimbabweans – particularly women, young women and men, and first-time voters - to the opportunity to register to vote in 2018; given their numbers, these population groups will have a significant political role in the outcome of the elections.
- *Welcoming International Observers* – President Mnangagwa has welcomed a broad range of international organizations to observe elections in Zimbabwe, including many that were previously prevented from doing so. The IRI-NDI mission received accreditation to observe the May 19-29 inspection process and has received assurances from the Chair of the ZEC that the Mission will receive accreditation to observe the July 30 elections. The law does not require accreditation of international observers prior to the proclamation of elections, and the discretionary accreditation of our mission for voter roll inspection demonstrates the goodwill of the ZEC to welcome observers for the 2018 electoral process.
- *Creating a Fresh Voters Roll* – Citizens and citizen observer groups applauded the implementation of the Biometric Voter Registration (BVR) process, which resulted in more than 5.3 million Zimbabweans registering to vote. There have long been longstanding concerns about the accuracy of the voters roll. Independent analysis of the 2013 preliminary voters roll showed a clear pattern of over-registration in rural areas, under-registration in urban areas and among young voters, and the presence of a large number of names of deceased persons still registered. Stakeholders agreed that a new roll was needed and many noted that this is the first voters roll not managed by the Office of the Registrar General. The reputation of the ZEC was enhanced by the successful administration of this process.
- *Enhancing Citizen Access to the Inspection Process* – For the first time, the ZEC established a mechanism by which citizens could verify their registration information via mobile phones and a website in addition to in-person visits to inspection centers. The Commission reports that approximately 900,000 people checked their voter registration details (though not their biometric information) using their cell phones. The ZEC also reports that almost 1.5 million people visited inspection centers to verify their details (including their photos). While these

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tools do not allow political parties and other stakeholders to assess or audit the overall quality of the voters roll, they give voters the opportunity to verify that their personal registration details were recorded correctly.

- *ZEC Outreach and Communications* – The delegation heard from many groups that the ZEC, under its new chairperson, is doing more to engage constructively with both political parties and civic organizations. The ZEC is meeting with political parties on a regular basis and, while there is no formal platform for regular interactions between the ZEC and civil society organizations, the delegation notes that the Commission has also held periodic engagements with citizen observer groups. However, significant concerns were raised by a wide array of stakeholders about the ZEC providing insufficient or conflicting information concerning the specifics related to various technical aspects of the electoral process.
- *Barring Traditional Leaders from Partisan Politics* – Traditional leaders have long been accused of engaging in politics to benefit the ruling party. The 2013 Constitution bars traditional leaders from engaging in partisan politics, but this has not stopped the practice. However, the High Court ruled on May 16 that all traditional leaders must refrain from engaging in partisan politics and required a public retraction from the President of the Zimbabwe Council of Chiefs, who publicly pledged his support to the ruling party.
- *Reducing Opportunities for Multiple Voting* – There have long been concerns about individuals voting multiple times in Zimbabwe. Under the previous ward-based voters roll system, every voters' name appeared on the voters roll for each polling station in the ward. Additionally, each polling station in the ward was stocked with a large number of ballot papers because it was not known precisely how many voters would vote at any single polling station on election day. The new polling station-based voters roll system, mandated by the 2013 Constitution, requires voters to cast their ballots at assigned polling stations. Thus, if the new system is promptly implemented, no voter's name should appear on the voters roll at more than one polling station and the number of ballot papers supplied to polling stations should be dramatically reduced, as the maximum number of voters per polling station is known in advance. Reducing the number of excess ballots (currently mandated by law to be no more than 10 percent) is an important measure to increase confidence in the vote.
- *Enacting a Political Party Code of Conduct* – In recent months, the ruling and opposition parties represented in parliament, together with ZEC, agreed to strengthen the existing code of conduct, which was included in the Electoral Amendment Act, enacted on May 28, 2018. These revisions strengthen the enforcement mechanisms of the code and extend its applicability to all actors engaged in formal or informal political activities, including traditional chiefs and security personnel. Political parties are also now required to inform their members about the code of conduct and to initiate disciplinary measures against members who fail to comply with the code. Both national and provincial multiparty liaison committees have been tasked with monitoring and resolving disputes related to the code of conduct.
- *Improving the Integrity of Assisted Voting* – The issue of assisted voting was a serious problem during the 2013 harmonized elections. Citizen observers reported that unusually

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large numbers of voters, and not just those authorized by law, were assisted in voting. Under the Electoral Amendment Act, voters can now select a person of their choosing to assist them, as opposed to being required to have the police and election officials do so, reducing concerns that the secrecy of their votes will be compromised.

Significant Opportunities Missed Thus Far

While all of the above referenced improvements are significant, the IRI-NDI delegation notes that important opportunities are being missed to enhance the public confidence that Zimbabweans will be able to participate without fear in a credible electoral process. These missed opportunities include:

- *Strengthening the Independence of ZEC* – Under the 2013 Constitution, ZEC is the mandated independent commission responsible for conducting elections. This is an improvement over the previous arrangement, in which the Office of the Registrar General, which is not an independent body, played a major role. Stakeholders have also generally welcomed the appointment of a new chairperson for the ZEC. However, the constitution also vests the Minister of Justice, Legal, and Constitutional Affairs with oversight authority over the Commission, leading to concerns about the institution's autonomy.
- *Information on Biometric Voter Registration (BVR)* – The ZEC provided national and provincial level updates on the number of registrants throughout the BVR process. While useful, this information was insufficient for stakeholders to evaluate the effectiveness of the BVR process. Data disaggregated by age and gender is required to best assess the BVR by registration center. This information is particularly important given that the problems with the 2013 voters roll related not to the overall number of registrants, but the distribution of registrants by geography and age. The provision of more detailed information throughout the multiple BVR phases would have enhanced transparency and allowed for more effective civic and voter education efforts.
- *Opportunities for Urban Voters to Register* – Concerns were raised throughout the BVR process about the insufficient numbers of BVR kits being deployed to Bulawayo and Harare. For example, according to official figures, 34 percent of outstanding registrants at the start of the so-called mop-up exercise were in Bulawayo and Harare while the ZEC assigned only 6 percent of the BVR kits to these provinces. Though the commission should have deployed more BVR kits to rural areas to reduce the distances citizens must travel to register, sufficient BVR kits should also have been available for urban areas to provide citizens living there a reasonable opportunity to register. As a result, the registration rates for Bulawayo and Harare are significantly lower than the rest of the country.
- *Audit of the Voters Roll* – The ZEC has announced that overall approximately 5.5 million people have registered to vote. This is a significant achievement. However, a true assessment of the quality of the voters roll requires an audit involving both computer and field tests. Such audits can be conducted by election commissions or commissioned by them, or by independent groups on their own initiative. Thus far, the ZEC has not commissioned an external group with recognized expertise to conduct an audit and has not provided political

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parties or citizen observers with a copy of the preliminary voters roll in a format that would allow them to conduct their own independent audit.

- *Failure to Respond to Concerns Regarding Registration Slips* – While stakeholders agree that the political climate has improved, serious concerns remain about voter intimidation. Exacerbating these concerns are incidents of voters who have been asked to produce their voter registration serial number by unauthorized officials, which according to the June 7 Afrobarometer report was 31 percent of registered voters.
- *Secrecy of the Vote* – All Zimbabwean elections dating back to 2000 have been characterized by widespread concerns about the secrecy of the vote. While the law prescribes secrecy, the delegation heard from many groups about efforts to compromise the public's belief in the secrecy of the vote by taking advantage of limited understanding of the BVR and balloting processes. The ZEC missed several opportunities early in the process to explain the purpose of the registration slip and to inform voters not to disclose it to unauthorized individuals, and thus far has not mounted a broad publicity campaign reassuring citizens about vote secrecy.
- *Diaspora Voting* – Three million Zimbabweans are estimated to be living outside the country, many due to the ongoing political and economic crises. Many activists thought that the issue of diaspora voting was resolved by the 2013 Constitution's guarantee of the right to vote for all citizens. However, the Constitutional Court decided on May 29 to deny the petition to allow Zimbabweans outside the country to vote in future elections. While there is no international standard that citizens outside a country must be enfranchised, the trend is to expand the franchise to include citizens living abroad by one of several means.
- *Inclusive Elections* – While current figures indicate that women and youth (aged 18-40) comprise 54 and 45 percent of the voters roll respectively, insufficient efforts have been made by political stakeholders to secure the full participation of women and marginalized groups. This is evident in the failure to implement of the constitutional provision for gender parity in all elected and appointed offices. Further, women and youth faced particular challenges in accessing party primaries and many have decided to compete as independent candidates; while independent candidacies increase opportunities for political competition, funding and running campaigns without party support constrain such efforts. The consequence of these developments is that the number of women represented in the House of Assembly will decline in 2018.

Insufficient adjustments have been made to ensure the full and equitable participation of persons with disabilities in all aspects of the election – as voters, candidates or polling officials. Stakeholders pointed to polling station accessibility as an ongoing challenge, as well as the provision of voting materials (such as braille ballots) to enable voters with visual and hearing impairments to vote without assistance and, thus protect the secrecy of their vote. Given the history of intimidation and coercion of voters, and electoral violence in Zimbabwe, insufficient information about key aspects of the electoral process have led to misunderstandings and a persistent vulnerability to vote manipulation among these groups.

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- *Freedom of Assembly* – It is widely held that the political climate has improved significantly from previous elections. However, the Public Order and Security Act (POSA) remains on the books. This legislation has been widely criticized for placing undue burdens on the freedom of assembly and has been used in past elections to prevent opposition parties from campaigning and conducting ordinary party activities. As this legislation has not been repealed, amended, or suspended, it remains a potential threat to the ability of all parties to participate freely in the elections.
- *Polling Stations* – The new polling station-based voters roll system is an improvement over the ward-based voters-roll system of past elections, as each polling station now has a maximum number of 1,000 voters. An analysis of the list of inspection centers reveals that the national average of registrants per polling station is currently 503. However, for Harare the average number of registrants per polling station is 753. While a higher number of registrants per polling station is expected in urban areas, this is a significant discrepancy. It is particularly concerning given the history of insufficient polling stations in Harare, which led to long queues and voters not being able to cast their ballots.
- *Acceptance of Results* – While stakeholders have welcomed President Mnangagwa's repeated public commitments to hold credible elections, concerns remain about whether the military will accept the outcome of the presidential election. Senior military figures have historically made public pronouncements implying that they would only recognize a president from the ruling party and with liberation struggle credentials. Similar statements by government officials have again been made in advance of the upcoming polls.

Recommendations

With seven weeks until election day, there are a number of steps that can be taken to help Zimbabwe make a clear break with its history of flawed elections. Changing Zimbabwe's electoral trajectory will require pro-active and concerted efforts to instill public confidence. In the spirit of international cooperation, the IRI-NDI delegation offers, respectfully, the following recommendations:

- *Focus Voter Education on the Secrecy of the Vote* – Just as President Mnangagwa has publicly and repeatedly called for credible elections, he and other senior officials in key positions should publicly and repeatedly affirm that the secrecy of the ballot cannot be compromised and that voters should vote their conscience. The ZEC should approve voter education materials with this message and engage in a widespread voter education campaign on this issue. Civic organizations and church groups should be funded and empowered to conduct voter education efforts around the secrecy of the ballot. These campaigns should employ television, radio, social media, print media and public events to spread this message.
- *Ensure Military Respect for Election Outcome* – Senior officers of the Zimbabwe Defense Forces (ZDF) should make public and unambiguous statements that all branches of the military will loyally serve the winner of this and future elections. Military officers and government officials should refrain from any statements suggesting that the military would not accept the outcome of the election. Additionally, police personnel deployed on election

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day, while essential for maintaining public order, should not interfere in the process and should follow instructions from the polling officials.

- *Release Both the Preliminary and Final Voters Rolls in Electronic Format* – The Electoral Act requires the ZEC to release the final voters roll, and the ZEC chairperson has publicly committed to doing so. However, given serious concerns with the voters roll from past elections, the ZEC should release both the preliminary and final voters rolls in an analyzable electronic format to all candidates immediately following the completion of the nominations process.
- *Provide Equal Access to Media and Information for Opposition Candidates and Citizens* – The opening of space and provision of equitable coverage for opposition political parties and candidates on both state-run and private media outlets is one of the most significant ways to ensure an informed electorate, and a free and fair campaign. While equal coverage and access has not been provided to date, there is still an opportunity to address this critical weakness in the pre-election environment. The Media Monitoring Committee, to be established within ZEC, should engage with other government institutions and media outlets to ensure equitable access and coverage. The government has publicly committed to not impeding access to social media or the internet on or around election day, and we encourage the government to fulfill this pledge.
- *Announce Final List of Polling Stations* – The amendments to the Electoral Act passed on May 28 vest ZEC with the authority to establish additional polling stations in order to alleviate lines at polling stations with high numbers of registrants. While the creation of new polling stations to reduce lines and more efficiently process voters on election day is a welcome development, concerns exist about the ad hoc establishment and late announcement of new polling sites, limiting opportunities for the parties to designate party agents. The Commission should publicly commit to using the authority provided by the new legislation to establish only sub-stations in places where polling sites have too large a number of registered voters.
- *Permit Observation of Ballot Printing, Storage and Distribution Processes* – Various stakeholders raised concerns with the procurement and printing of ballot papers. This process should be transparent to provide the public confidence that the proper number of ballot papers are being printed and meet defined technical specifications. The ZEC chair has committed to allowing the political parties to observe all aspects of this process, but this must be translated into meaningful observation, pursuant to a dialogue between the Commission and the political parties.
- *Hold Parties Accountable to the Political Party Code of Conduct* – The inclusion of a revised political party code of conduct in the recently passed amendments to the Electoral Act was a positive development. In advance of elections, domestic and international stakeholders – including the public - must support an environment whereby adherence to the code of conduct is upheld. This requires political parties to sanction their own members for breaches of the

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code and the police and judicial system take seriously their role in prosecuting intimidation and violence.

- *Address Violence Against Women in Elections* – The violence that has historically marred Zimbabwe’s politics and elections has had a differentiated impact on women’s willingness to participate. A number of stakeholders indicated that violence, including harassment, intimidation, psychological abuse, and sexual and physical assault, is both a symptom and indicator of more generalized electoral violence. Opening a safe space for women’s participation will enhance the inclusion of all marginalized groups, as will strong messaging on the secrecy of the ballot and enforcement of the Code of Conduct. Other specific measures include the conduct of gender-sensitive policing throughout the electoral cycle, and the creation of a coherent mechanism linking civil society organizations to the police and political stakeholders to report, refer and respond to any violence that occurs.
- *Special Voter Education Targeting First-Time Voters* – According to the ZEC’s registration figures, approximately 750,000 voters aged 18 to 29 will participate in the upcoming elections. Many will be casting a ballot for the first time. The ZEC should work in partnership with civil society organizations to develop a specific voter education campaign aimed at first-time voters with an emphasis on engagement via mobile phones and social media.
- *Accredit Observers in a Timely and Efficient Manner* – As required by law, the ZEC should continue to play the lead role in accrediting both domestic and international observers. The process should be streamlined and the fees associated with such accreditation should be commensurate with the ability of the organizations to pay. Moreover, the process for receiving accreditation should be simplified to ensure that organizations can effectively recruit and deploy observers throughout the country on election day without requiring each observer to travel to Harare or a provincial capital to obtain his/her credential.
- *Ensure Responsible Political Party Behavior* – The parties should encourage the conduct of free, fair and credible elections throughout the process, while avoiding casting doubts on the electoral process in a manner that undermines public confidence in the process. Moreover, parties should recruit, train and deploy party agents in a manner that enhances the integrity of the electoral process, particularly with respect to the tabulation of results.
- *Adopt and Publicize Transparent Procedures for the Tabulation and Announcement of Results* – The ZEC should provide political parties and observers with detailed plans for the tabulation and announcement of results well in advance of election day. The ZEC should fully test all aspects of the tabulation system and allow political party representatives and observers to witness this simulation exercise. The Commission website should provide not only aggregate results, but also polling station level results for the presidential, parliamentary, and local government elections immediately after announcing the official results.
- *Promote a Well-Publicized Peace Pledge* – The political parties should join, preferably by the end of June, in expressing their commitment to conduct a violence-free campaign and to accepting the results of credible elections through a well-publicized pledge witnessed by leading domestic and international personalities. Further, senior officers of the Zimbabwe

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Defense Forces (ZDF) should make public and unambiguous statements that all branches of the military will loyally serve whoever wins this and future elections. The pledge should be monitored by the ZEC and other independent commissions established under Chapter 12 of the Zimbabwean Constitution, including the Human Rights Commission, the Gender Commission, the Media Commission and the National Peace and Reconciliation Commission.

The delegation hopes that the observations and recommendations presented in this statement contribute positively to the election process in the 52 days remaining before the July 30 polls. The IRI-NDI mission will continue to observe the process and to support the efforts of those working to achieve open and peaceful elections in Zimbabwe, and a long-awaited open and democratic dispensation.



PRELIMINARY STATEMENT

Harare, August 1, 2018

This Preliminary Statement is offered by the joint International Republican Institute (IRI) and National Democratic Institute (NDI) Zimbabwe International Election Observation Mission (ZIEOM) to the 2018 harmonized elections. The election is presently incomplete; the ZIEOM will therefore continue its observation and may issue further statements as warranted.

An international, bipartisan delegation of short-term observers joined the ZIEOM over the voting period. The delegation members, which hailed from 11 countries, was co-led by: former Liberian President and Nobel Peace Prize Laureate Ellen Johnson Sirleaf and former Interim President of the Central African Republic Catherine Samba-Panza. The leadership team was further comprised of U.S. Congresswoman Karen Bass, and former U.S. Assistant Secretaries of State for African Affairs, Constance Berry Newman and Ambassador Johnnie Carson. NDI Senior Associate and Director of Electoral Programs Patrick Merloe, IRI Vice President for Programs, Scott Mastic, IRI Regional Director John Tomaszewski, and ZIEOM co-directors Larry Garber (NDI) and Jessica Keegan (IRI) accompanied the leaders. Through this delegation, NDI and IRI seek to: express the international community's interest in and support for credible, peaceful elections in Zimbabwe; provide an accurate and impartial report on the character of the election process to date; and offer recommendations appropriate at this interim point to improve the electoral process.

The delegation visited Zimbabwe from July 25-August 1, 2018, as part of IRI/NDI's long-term election observation mission that began in April and will continue until the election process reaches its conclusion and the rightful winner of the presidential election assumes office. The ZIEOM fielded approximately 60 observers to the country's 10 provinces to observe in a mix of urban and rural areas. This statement addresses the election process within its broader context. It builds upon the findings of NDI/IRI's pre-election assessment conducted from June 2-8 and benefits from the ongoing analysis conducted by the ZIEOM long-term observation. The mission is being conducted in accordance with the Declaration of Principles for International Observation, in conformity with the laws of Zimbabwe, and in reference to international and regional standards for democratic elections. These standards include the Southern African Development Community (SADC) Guidelines and Principles for Democratic Elections and the African Union (AU) Charter on Democracy, Elections and Governance.

The delegation is grateful for the warm welcome and cooperation it received from all Zimbabweans with whom it interacted, including the Zimbabwe Electoral Commission (ZEC) Chair and election officials around the country, the leading presidential candidates, political party leaders, citizen election monitors, other civil society leaders. IRI/NDI recognize that it is the people of Zimbabwe who will ultimately determine the credibility of their elections.

Summary of Initial Observations

The mission would like to stress that it is only two days since polling took place and the results are not yet certified. The period for potential legal challenges to the results has not begun, and the law presents the possibility of a presidential runoff election on September 8. It is crucial to see the electoral process to its conclusion, including monitoring any electoral challenges, and installing the legitimate winner to office. It is also important to note that the elections, while vitally important, are themselves an indicator of the nature of the broader transitional process in Zimbabwe. The ZIEOM therefore will continue to observe electoral developments as they unfold.

If a solely relativistic approach is applied, simply acknowledging improvements over a history of deeply marred elections could suffice. However, relative improvements are not the same as meeting Zimbabwe's constitutional principles for democratic electoral participation. It is important to view relative improvements in light of such principles.

Context: Every election must be seen in its context. Zimbabwe's 2018 elections are taking place in the context of 18 years of repressed political rights, deepening economic pain, and a history of rigged elections, including the use of wide-spread electoral violence in 2008. Violence and the threat of it were used to a lesser extent in other elections. Exceptional efforts were therefore required to convince the populace that citizens are actually free to make political choices through a ballot that is secret in a process that respects the will of the people and ensures no retributions for choices made. Otherwise, voters could be haunted by the ghosts of past elections. This is all the more important as Robert Mugabe's 37-year rule ended as a result of military intervention.

Current Process: Zimbabwe's July 30 elections present the country with an historic opportunity to break with the past 18 years of political crisis and mark the beginning of a genuine democratic transition. The delegation notes several improvements to the electoral process compared to Zimbabwe's past elections, though equally important problems give rise to deep concerns that the process thus far has not made the mark. The people came out to vote in great numbers, demonstrating their desire for democratic governance. The process was peaceful and relatively well administered, which underscores the need for all stakeholders to act peacefully and work diligently to honor the people's will through and beyond the elections.

Incremental improvements in the electoral environment during the pre-election period were insufficient to establish broad confidence among the political competitors and Zimbabwe's sharply divided populace. Thus, no matter what the outcome of the harmonized (general) elections, including a possible presidential runoff, those who legitimately assume office and those in opposition will need to marshal the will and demonstrate concerted efforts to unify the country, if progress is to be made. Civil society and the international community will need to support such efforts while critically reviewing them to ensure their sincerity and effectiveness. Such vigilance in support of genuine democratic progress and credible, peaceful elections is equally important as the presidential election unfolds in the days ahead.

Campaigning

Political parties and candidates, including those from the opposition, were generally free to campaign across the country without the widespread violence and harassment of the past. This was the most notable improvement over past elections. The most noticeable incident of

violence was a grenade attack at the June 23 rally of President Emmerson Mnangagwa in which at least 49 people were injured, including the country's Vice President, and two people later died from their injuries. The police are still investigating that deplorable incident.

To their credit all presidential candidates entered into a well-publicized Peace Pledge. The top two candidates, Emmerson Mnangagwa of ZANU-PF and Nelson Chamisa of MDC-A, sent surrogates on their behalf. All sides managed to avoid large-scale confrontations, although they were not held accountable to the code of conduct for various violations that took place, such as localized intimidation, tearing down of campaign posters, and other infractions.

Unfortunately, campaign freedom was significantly offset by: numerous incidents of distributing food and agricultural assistance in politically partisan manners that favored the ruling party (ZANU-PF) and other overt uses of state resources for electoral advantage; partisan activities by some traditional leaders in contravention of constitutional requirements for their political neutrality; and extreme bias in state media, including television and radio (which is the main source by which Zimbabweans get political news). As a consequence, the campaign playing field was unfairly balanced. Digital media was more open than traditional media, though the social media environment was negatively affected by hate speech, including attacks against women candidates for president and other offices, as well as excessive focus on personalities over the substantive issues concerning voters.

Voters' Free Political Choice

Universal and equal suffrage is guaranteed under Zimbabwe's constitution. The relatively free campaigning allowed citizens to make comparisons to past elections and gain information about the choices before them. Voter information campaigns, including assurances of ballot secrecy conducted by the election commission and civil society organizations provided positive messages on voter rights. However, the improvements were likely insufficient to build broad public confidence that voters could make a choice adverse to the ruling establishment without fear of violence or other retribution should the opposition prevail.¹

Credible reports to ZIEOM's long-term observers and reports of various credible citizen groups, including the Zimbabwe Electoral Support Network (ZESN),² We the People of Zimbabwe (WTPZ),³ and others, demonstrated that there were coercive actions around provision of government food and other assistance; so-called "soft-intimidation" (such as reminding citizens in threatening ways of the 2008 violence and its return unless the ruling party wins); lack of widespread publicity campaigns on state radio and other media that the military would accept a ruling party loss; incidents of citizens being coerced into attending ZANU-PF rallies; numerous incidents of ruling party or government officials demanding to see citizens' voter registration slips and saying that the new voter registration system would allow them to know how the person voted; and incidents of military personnel in civilian clothing conducting politically intimidating activities. Such incidents undermine voters' free

¹E.g., a reputable public opinion survey by the Afrobarometer just a month before the election indicated that 44 percent of Zimbabwe's population believed that the country's security forces would not accept a ruling party loss. [Afrobarometer Dispatch No. 223](#), survey commissioned by the Institute for Justice and Research (South Africa), and field work conducted between June 25 and July 6, 2018.

²E.g., ZESN Long-Term Observation Report: [Issue One](#); [Issue Two](#); and [Issue Three](#).

³E.g., WTPZ Brief: [Electoral Malpractices Pre Election](#): May30-24July, 2018, report Date 25 July 2018.

political choice, particularly given the widespread use of electoral violence as a form of intimidation and retribution in Zimbabwe's 2008 elections.

Inclusive Elections

Zimbabwe's constitution requires inclusive elections, equality of the vote, and full gender equality in all agencies of government. However, there are no similar requirements established for political parties to achieve gender equality. Women comprise 54 percent of the electorate, yet only 18 percent of candidates presented by parties in the 2018 harmonized elections were women. Four of the 23 presidential candidates are women, and some women stood for election as independents. Standing as an independent gains access to the ballot, though raising the resources necessary to campaign is extraordinarily difficult outside of the party contexts.

Politically active women, including party activists, presidential, parliamentary and ward-level candidates, faced high levels of abuse and intimidation during the electoral period. In particular, media attacks against female candidates were common. Traditional and social media coverage about women candidates focused on superficial attributes such as appearance, and politically active women were often cast in a biased, derogatory and pejorative manner. For example, the four women presidential candidates received a disproportionate amount of negative press undermining their credibility as viable candidates. The ZEC Chair, who also is a woman, has been similarly targeted with criticisms based on her gender.

The Constitution provides that all Zimbabwe citizens have the right to vote. There are approximately three million Zimbabweans living outside the country, many fleeing the harsh conditions of the last 18 years. A petition was filed seeking to allow them to vote in their countries of residence, but the Constitutional Court, on May 29, 2018, denied the petition.

Young women and men, particularly those who recently came of age to vote, were the subject of numerous voter education campaigns by the ZEC, civil society, and even some parties. Youth participation in rallies and other campaign events was fairly wide spread and, the notable liberalization of the campaign environment contributed to a high number of youth reporting strong enthusiasm to participate in elections.

The Constitution provides that persons with disabilities (PWD) and other persons with special needs must be accommodated so they may fully participate in political life. Though voter education material to accommodate the visually impaired existed, it is unclear whether distribution of materials addressing the needs of blind voters reached its intended beneficiaries. In addition, while many stations featured special voting booths designed to accommodate voters in wheelchairs, many polling centers lacked sufficient ramps for disabled voters and universal access remained a challenge.

Election Administration

The ZEC has taken a number of steps to open the electoral process, including establishment of Multi-Party Liaison Committees (MPLCs) at the national and provincial levels, early outreach to civil society, and cooperatively facilitating the government's decision to accredit international election observers from beyond the region for the first time since 2002. In many cases, the regional MPLCs have provided useful forums for party interaction, though the national MPLC was convened by the ZEC on only four occasions with some difficulties. The

ZEC also successfully recruited approximately 130,000 polling officials to staff Zimbabwe's 10,985 polling stations and smoothly conducted training for those officials.

Opposition parties consistently accused the ZEC of being politically biased. Further fueling those concerns was a lack of consultation with the parties on the design of the presidential ballot, and there was not meaningful observation of the ballot production, storage and transportation processes.

The presidential ballot is legally required to be arranged alphabetically, and regulations require that the candidates' names appear in a single column.⁴ However, the presidential ballot had 14 of the 23 candidates' names in one column, and the second column of only nine candidates started with incumbent President Mnangagwa. The lopsided ballot layout provided a clear advantage to the incumbent, though the exact magnitude of the advantage is impossible to measure.

The ZEC refused the opposition's requests to test the quality of the indelible ink used on Election Day to mark voters' fingers to prevent multiple voting and refused their request to randomly audit the security safeguards built into the ballot papers. The no-bid contracts awarded for procurement of such sensitive materials also did not build confidence in the ZEC's impartiality. The ZEC fairly consistently took a "legalistic" approach, saying that since the law did not require a certain action it need not do it, and its public communications were weak. It did take some discretionary actions however, such as changing the positions of voting booths so that voters' backs would face officials. After opposition parties and civil society organizations protested the change, the ZEC brought the issue to the MPLC and upon party agreement reversed that decision.

Significantly, ZESN and others involved in Zimbabwe's Election Situation Room (a platform of civil society groups) noted on July 28, that ZEC did not sufficiently present details on transparency and safeguards for its results tabulation and transmission process. For example, timely publication of polling station level results in addition to the aggregated presidential result would allow parties, citizens, and citizen groups to verify copies of official tally sheets given to party agents and posted publicly at polling stations. The ZEC should be commended for adopting the practice of providing such copies. Plus, it informed the ZIEOM and other international actors that it planned to publish on its website polling station results, though it committed late to that change and did not widely communicate the decision.

New Voters Registry

Another major effort of the ZEC was creating a new voters registry using biometric voter registration (BVR) that included photos and fingerprints of eligible voters. This was a result of moving production of the voters registry to the ZEC's authority rather than the Registrar General's office, which was widely perceived to be biased in past elections. The registration process went relatively well, creating a roll of 5,695,706 registered voters, 54 percent of whom are women.

Unfortunately, the ZEC did not release publicly the preliminary voters registry for independent verification and confidence building. The ZEC explained that it was not legally

⁴ E.g., Open Parly Zimbabwe, [ZEC wrong on ballot paper design](#): [Veritas](#), article date, July 18, 2018; and Veritas, [Election Watch 34-2018 - Presidential Ballot Paper](#), July 18, 2018.

required, so it could not do so even though the preliminary voters registry was released in the 2013 elections. In addition, upon registration citizens were given slips that contained their identification number, and incidents of party activists demanding to see such slips undermined confidence of some voters in the secrecy of the ballot.

The final voters registry was released very close to Election Day, which limited the ability of parties and civil society to conduct robust verifications. ZESN and an anonymous team of volunteers known as Team Pachedu did verifications nonetheless. Team Pachedu found the registry to be unacceptable. ZESN, which employed well-known and reliable methodologies, found that the voter registry was a major improvement over the disputed 2013 registry, though there were still some weaknesses. The weaknesses included underrepresentation of youth and an 11 percent underrepresentation of eligible urban populations. Inadequate allocation of registration resources to urban areas and a degree of disinterest among urban populations could have been among the contributing factors for urban underrepresentation.

Legal Framework and Quality of Justice

The legal framework for Zimbabwe's elections provided by the Constitution, Electoral Act, and regulations could provide the basis for a credible electoral process. The framework was amended on May 28, 2018, just two days before the elections were officially set. While the amendments in some respects opened the electoral process, several key points from inter-party negotiations concerning independence of the ZEC were omitted. The MPLCs also added a dimension for resolving disputes and potentially reducing tensions without turning to the courts, though the performance of the national level MPLC did not provide a consistently effective resolution mechanism. Also, the electoral law provides for expedited processing of cases of politically motivated violence and intimidation, and more than 50 magistrates were designated to address such cases. This was a significant development.

The courts demonstrated some capacities during the pre-election period to act independently of political bias, although key decisions were reversed on appeal. The example of rulings concerning use of schools, their transportation resources, and compelling school children to participate in ZANU-PF rallies illustrate this matter, with restraints ordered by a High Court being dismissed by the Supreme Court. Such examples have been cited as evidence of judicial bias favoring the ruling party, including by those who note that the Chief Justice, Deputy Chief Justice, and Judge President of the High Court, though constitutionally appointed by the president, have ties to the military and ruling party, which may present conflicts of interest when adjudicating electoral-related cases. Nonetheless, it is crucial that those with electoral grievances seek redress through the judicial process even while advocating for improved quality of justice. This is an essential element of upholding the rule of law even as elections are also judged in the court of public opinion.

ELECTION DAY

Zimbabweans turned out on Election Day in great numbers, demonstrating their desire for democratic governance, and the electoral environment was peaceful. The polls were generally well administered in accordance with procedures, and over 100,000 polling officials seemed experienced and appeared to work diligently in the presence of political party agents from different camps, who for the most part cooperated throughout the process. Included among the officials were a large number of women, many of whom served as presiding officers. The police performed their duties commendably. Nonpartisan civil society monitors were also present in large numbers where the ZIEOM observed.

In the densely populated urban areas of Harare, observers noted long lines in some polling centers, with confusion among some voters about which sub-polling place was theirs. That resulted in some people leaving the lines, including women with babies and those who had left children at home to be attended. There were also examples of people waiting in line for hours and finding out that they were in the wrong place, which perhaps could have been mitigated had voters lists been posted outside the stations. In some polling stations the official list of voters who were turned away for various reasons showed significant numbers. ZESN reported that at six percent of polling stations nationally 26 or more people were turned away from voting, while in Harare 19 percent of polling stations had such numbers of voters turned away.⁵ The problems just noted did not appear as frequently to observers around the country.

Our observers noted that the layout of most polling stations appeared to safeguard voting secrecy. ZIEOM observers noted instances of assisted voting in accordance with procedures. Assisted voting occurred infrequently except in one rural area where more than 50 voters had been assisted before midday.

The counting process, though slow in many places, generally went well in the polling stations observed by ZIEOM. The count went well into the night in many locations. No examples of party agents refusing to sign tally sheets were observed, though tally sheets were not posted publicly at some polls even though that is required by law.

RECOMMENDATIONS

Appreciating that the electoral process is presently incomplete, the ZIEOM will consider offering further recommendations as appropriate in the days ahead and in its final report. In the spirit of international cooperation and demonstrating support for Zimbabwe's continuing process, the delegation offers the following recommendations.

- 1) The ZEC should take immediate steps to ensure the public of its independence and political impartiality by completing the vote tabulation process for all presidential, parliamentary, and local elections in an open and transparent manner that is verifiable by the parties and the public. The ZEC should publish and timely update its Excel spread sheet populated with polling station results as the ZEC's Chair said the commission will do.
- 2) If a presidential runoff is required, the ZEC should promote substantive and peaceful dialogue with the two presidential candidates throughout the runoff election period, for example in person and through more effective use of the MPLCs and civil society. Concerned international actors should promote open dialogue concerning matters that need to be addressed to conclude the process credibly and peacefully.
- 3) The candidates of the two major political parties should recommit personally and in public to their Peace Pledge and lead meaningful dialogue to complete credible, peaceful elections. Whether or not there is a runoff in the period ahead, such leadership will be important for safeguarding democratic rights, and sustaining peaceful political competition beyond these elections.

⁵ ZESN [2018 Harmonized Elections Preliminary Statement](#), July 31, 2018.

- 4) The Zimbabwe Defence Forces should reassure the public that it will accept the legitimate result of the election process no matter who is the winner and that it will be politically neutral as that result is transparently and credibly determined, including during a presidential runoff election should one be declared.
- 5) The electoral contestants should pledge to pursue any electoral complaints and grievances only through peaceful means, including through judicial processes, while the judiciary should fulfill its constitutional obligations to act impartially and in a timely manner to address electoral challenges and provide redress for complaints that are lodged.
- 6) The people of Zimbabwe, having the most at stake in these elections and having demonstrated their hopes by turning out to vote in great numbers, also must meet their responsibility going forward to demand that government and political leaders honor the voters' will and deliver peace and personal security throughout the electoral period.
- 7) The international community, particularly the African Union and SADC, should actively encourage the government of Zimbabwe, the candidates, and political parties to deliver a credible, peaceful conclusion to the 2018 harmonized election process, including through a presidential runoff if it is called, and encourage stakeholders to work beyond the elections to take the country forward on a genuine democratic path.
- 8) The media, including government-controlled communications media, should uphold the constitutional provisions for impartial treatment of electoral contestants and follow journalistic principles for honest and accurate electoral coverage.
- 9) The ZEC, political parties, and civil society should work diligently to advance the constitutional principles for inclusive elections, particularly for greater participation by women, youth, and people with disabilities.
- 10) Civil society organizations that are monitoring the electoral process, including conditions in the broader electoral environment, should be encouraged to vigorously continue their efforts throughout the electoral period and to advocate for reforms and other improvements that they identify as a result of their monitoring.

No matter who wins the elections, those who seek to establish a democratic Zimbabwe will have to unite the country and find a way to work effectively with their political opposition and civil society. The 2018 elections are but one critical step in taking that path. The overall health of Zimbabwe's democratic transition requires a strong multi-party system, a free and vibrant press, and for Zimbabweans to actively engage in creating a responsible and accountable government. The ZIEOM will continue to observe the electoral process, and IRI and NDI stand ready to help.



JOINT STATEMENT BY INTERNATIONAL ELECTION OBSERVATION MISSIONS TO ZIMBABWE'S HARMONISED ELECTIONS 30 JULY 2018

2 August 2018

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

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

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

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

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

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

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

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

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



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

His Excellency Hailemariam Dessalegn Boshe, Head of the African Union Election Observation Mission (AUEOM)

His Excellency John Dramani Mahama, Head of the Commonwealth Election Observation Mission

His Excellency Tete Antonio, Secretary of State for External Relations of the Republic of Angola and Head of the SADC Election Observation Mission

Justice Dr Patrick Matibini, Head of the SADC Parliamentary Forum Election Observation Mission

Judge Semistocles Kaijage, Head of Mission, ECF - SADC

Ambassador Ashraf Rashed, Head of COMESA Election Observation Mission

Elmar Brok, Head of the European Union Election

Masa Janjusevic, Head of the Carter Centre Election Observation Mission

Joint International Observation Delegation of IRI and NDI



Joint IRI/NDI Election Observation Mission Statement on Zimbabwe Election Commission Results

August 5, 2018

Harare, Zimbabwe—The joint International Republican Institute (IRI)/National Democratic Institute (NDI) Zimbabwe International Election Observer Mission (ZIEOM) acknowledges that the Zimbabwe Election Commission (ZEC) announced results of the presidential election as an aggregate of the provincial votes in the early morning of August 3. Within 24 hours, the ZEC shared polling station level results data in a CD-ROM format in accordance with the recommendations included in the August 2 joint communique issued by the heads of international observer missions in Zimbabwe. The ZIEOM hopes that the candidates and Zimbabwean observers received the same information.

Based on this data, the political contestants and nonpartisan observer groups are now in a position to compare the results released by the ZEC with the results collected by their party agents and domestic monitors on election night. They may also conduct other verification checks.

The ZIEOM also notes that the Zimbabwe Electoral Support Network (ZESN), a respected Zimbabwean domestic monitoring group, released its statistical-based assessment of the results and found them to be consistent with the results released by the ZEC. However, the ZESN assessment also does not preclude the possibility of a presidential runoff election, as the projected number for Mnangagwa ranges from 48.7 to 52.7 of the valid votes cast, and thus any number falling within that range is credible.

The period for filing legal challenges is now underway. Should challenges be filed within the proscribed period of seven days from announcement of the result, the Constitutional Court would have 14 days from the filing to resolve such challenges. Accordingly, ZIEOM will continue to monitor this phase of the electoral process with reference to Zimbabwe's laws and procedures and to international standards for due process of law.

Per the aforementioned joint communique, the ZIEOM denounces the use of excessive force, which can result in injuries and loss of life, and it condemns electoral-related violence and vandalism. The ZIEOM further expresses deep concerns about police interference with the August 3 press conference organized by the MDC Alliance and calls on the authorities to fully respect the constitutional right to peaceful assembly and expression, while protecting citizens' personal security and property. Finally, the ZIEOM asks all sides to use restraint and to ensure that the election process is brought to a peaceful outcome.



**Joint IRI/NDI Election Observation Mission
Statement on Crackdown on Opposition Leaders and
Supporters**
August 9, 2018

Harare, Zimbabwe—The joint International Republican Institute and National Democratic Institute Zimbabwe International Election Observer Mission (ZIEOM) expresses deep concern over the reported assaults, detentions and abductions of opposition supporters and leaders in certain regions of Zimbabwe. The ZIEOM decries politically motivated attacks on freedom of assembly, freedom of association, freedom of speech, and intimidation of opposition party leaders and supporters based on their political beliefs, and calls on the government to respect the political rights and guarantee the personal security of all Zimbabweans.

On August 7, 2018, the government of Zimbabwe called for the arrests of senior MDC Alliance officials on charges, among other things, of organizing an illegal demonstration. The senior MDC Alliance officials included Tendai Biti, Morgan Komichi, Happymore Chidviza, Jim Kunaka, Paddington Japajapa, Mafaiti Mubaiwa, Jeff Tafadzwa Chaitezvi, Lovejoy Chitengu, and Chamunorwa Madya.

On August 8, 2018, MDC Alliance senior official, former Minister, and recently elected legislator for Harare East, Mr. Tendai Biti, was arrested at the border between Zimbabwe and Zambia and held in custody until released on bail today. The ZIEOM joins those calling on the Government of Zimbabwe to ensure the safety of any political leaders who may be detained and to fully safeguard their constitutionally recognized human rights.

As noted in the August 2 joint communique with other international election observation missions, the ZIEOM condemns the excessive use of force by security agencies and all electoral-related violence and vandalism. With respect to the anticipated MDC Alliance petition challenging the election results, ZIEOM, consistent with its mandate, will monitor the judicial process concerning Zimbabwe's laws and procedures and for adherence to international standards for due process of law.



Joint IRI/NDI Zimbabwe Election Observation Mission Statement on the Constitutional Court Decision

August 25, 2018

Harare, Zimbabwe—The joint International Republican Institute and National Democratic Institute Zimbabwe International Election Observation Mission (ZIEOM) acknowledges that the Constitutional Court of Zimbabwe has issued its decision on the petition of Nelson Chamisa challenging the announced presidential election of incumbent Emmerson Mnangagwa. The ZIEOM monitored the Constitutional Court proceedings with reference to Zimbabwe’s laws and international standards for due process. As international observers, the ZIEOM would not substitute its judgement for that of the Court concerning the merits of the arguments presented. It is for the people of Zimbabwe to weigh the Court’s ruling in light of the overall electoral process to determine the credibility of the election.

On August 22, 2018, the Constitutional Court held a hearing to review the petition challenging the presidential election result. That hearing was televised for the nation as a demonstration of transparency. The sides, in addition to their respective written submissions, were able to present their arguments and address questions from the Court. The proceedings were conducted in an orderly and respectful manner.

The legal framework requires a petition challenging the presidential election result to be lodged with the Court within seven days of the declaration of the results by the Zimbabwe Electoral Commission (ZEC). The Court must make its determination within 14 days of the petition being filed, as was done in the present case.

On August 24, the Court issued its ruling, with the full reasoning to follow in due course. The court determined by unanimous decision to dismiss the petition because, in its view, the applicant failed to provide “clear, direct, sufficient and credible evidence” that the irregularities materially affected the outcome of the elections. The Court further declared Emmerson Mnangagwa the winner of the July 30 presidential election. The legal challenge has therefore concluded, and an inauguration should happen within 48 hours as required by the constitution.

Judicial independence is a central pillar of democracy and serves to safeguard the individual liberty of the people, including in the electoral context. However, the court ruling, and even Election Day itself, are but two parts of an overall election process. A full assessment of this electoral process must also consider the election’s broader historical context. For Zimbabwe, this context includes 18 years of political intolerance, electoral violence, and exceptionally limited opportunities for political competition. Extraordinary measures were required to overcome hindrances to electoral

integrity and to establish confidence among the electorate that voters could cast a ballot freely without coercion or fear of retribution, and that contestants would compete on a relatively level playing field.

As noted in the ZIEOM's August 1 Preliminary Statement, the pre-election period did not make that mark. Election Day was peaceful and relatively orderly, though problems were noted, which require attention in such close elections. The immediate post-voting period was seriously marred by the actions of security forces on August 1 in Harare and by other acts of repression directed against opposition leaders. In an August 2 joint statement, the principal international observer missions present in Zimbabwe, including ZIEOM, emphasized that, "excessive use of force, including the killing of six people and wounding of 14, is deplorable. Arrests and retribution reported against opposition supporters also cause deep concern."

The ZIEOM therefore calls on all sides to rely on peaceful expression and to avoid acts or threats of retribution against political rivals following the Constitutional Court's decision. The security forces, meanwhile, must refrain from use of excessive force during this politically sensitive period.

The tremendous turnout of voters on Election Day demonstrated their will for a tolerant, peaceful and prosperous country. The country's political leaders should honor those aspirations and recognize that the divided vote emphasizes the need for reconciliation and inclusive, responsive governance. Moreover, to address the flaws identified in the 2018 electoral process, steps are required to rebuild confidence in electoral institutions; to enhance the mandate and resources available to those bodies that can play a constructive role in investigating human rights violations and in promoting tolerance; and to ensure prompt and serious police investigations of allegations related to politically-motivated violence.

Zimbabwe has not yet demonstrated that it has established a tolerant, democratic culture that enables the conduct of elections in which parties are treated equitably and citizens can cast their vote freely. ZIEOM will continue to observe the immediate post-election environment and will issue its final report in the near future detailing specific recommendations for consideration by Zimbabweans as part of their deliberations about adopting a reform agenda.



Joint IRI/NDI Statement on Post-Election Observations in Zimbabwe

September 10, 2018

Harare, Zimbabwe—The joint International Republican Institute (IRI) and National Democratic Institute (NDI) Zimbabwe International Election Observation Mission (ZIEOM) hosted a six-person post-election delegation to Harare on September 4-8, 2018. As part of its comprehensive effort to observe the July 30, 2018 harmonized elections, the ZIEOM's post-election delegation was co-led by Ambassador Johnnie Carson and Constance Newman both former U.S. Assistant Secretaries of State for African Affairs. The delegation also comprised John Tomaszewski, IRI Regional Director for Africa, Richard L. Klein, NDI Senior Advisor for Electoral Processes, Jessica Keegan, ZIEOM Co-Director, and Amanda Domingues, ZIEOM Inclusion Analyst.

Elections are not a one-day event, but a process that begins well before Election Day and extends through the tabulation and announcement of results, resolution of electoral disputes, and the taking of office by winning candidates. Recognizing this, the ZIEOM began its observation in April 2018 and will conclude its mission in October. As part of its observation effort, the ZIEOM deployed a core team of election analysts starting in April; a pre-election delegation in June; long-term observers across all ten provinces from June through September; an Election Day delegation with approximately 60 observers across the country; and this post-election delegation. The ZIEOM has carried out all of its activities according to the Declaration of Principles for International Observation, in conformity with the laws of Zimbabwe, and in reference to international and regional standards for democratic elections.

The 2018 harmonized elections took place against a backdrop of 18 years of political crisis. During that period, political space was severely limited and a series of fundamentally flawed elections characterized by widespread violence and weakened public confidence in governing institutions and the electoral system. Extraordinary steps were therefore required to restore public trust and set the country on a new trajectory. The 2018 harmonized elections needed to break with past practices to be broadly viewed as inclusive, transparent, and genuine. For the election process to achieve this, it requires more than just adhering to the letter of the law, showing more than only incremental improvements and resulting in more than a generally peaceful outcome.

With regard to the pre-election period, the ZIEOM found that while there had been some notable improvements, they were insufficient to establish strong confidence among political competitors and Zimbabwe's divided populace. Improvements noted by the ZIEOM included a public commitment to credible elections, advances in the political climate, welcoming of international observers, and a fresh voters roll. However, a number of issues caused serious concern, including: credible questions raised about the independence of the Zimbabwe Election Commission (ZEC),

inordinate media bias, intimidation of voters, partisan actions of some traditional leaders, politicization of food aid, the low number of women candidates fielded, false information circulated to undermine confidence in secrecy of the vote, under registration of urban voters, and failure to provide the preliminary voters roll in electronic format. As noted in the ZIEOM's August 1 Preliminary Statement, overall, the pre-election process did not meet the mark.

Zimbabweans came out on Election Day in great numbers. The voter turnout of approximately 85 percent demonstrated the populace's desire for democratic governance and enthusiasm to participate in the electoral process. The polls were generally administered in accordance with procedures, and the voting environment was peaceful. In the densely populated urban areas of Harare, the ZIEOM noted long lines at some polling centers with confusion among voters about which sub-polling place was theirs resulting in voters being turned away and not permitted to vote. In addition, citizen observers reported high-levels of assisted voting, which could compromise secrecy of the ballot. Comparative electoral experience shows that such problems may have significant impacts, particularly on close elections.

The immediate post-election period was seriously marred on August 1 by the excessive use of force, when the Zimbabwe Defence Forces opened fire killing six individuals as it sought to quell protests over the ZEC's delayed reporting of presidential election results. Further tainting the immediate post-election period were credible reports to the ZIEOM of reprisals against opposition activists in certain parts of the country, and calls for the arrests of senior opposition officials. Among those arrested were newly elected Member of Parliament (MP) and opposition youth leader Happymore Chidziva and MP-elect and former Minister Tendai Biti, who was forcefully removed from Zambia where he sought political asylum. The disposition of criminal cases such as Biti's are still pending.

The ZEC released presidential election results in the aggregate on August 3 and within 24 hours provided polling station level results on CD-ROMs to stakeholders, which was an important act of transparency that allowed independent analysis of the results. Statistical analysis by citizen observers, who also noted pre-election and Election Day problems, found that the ZEC's announced presidential results to be within a credible statistical range, though the margin of error indicated that a presidential runoff election was also within that range. The leading opposition candidate Nelson Chamisa challenged the ZEC's announcement that incumbent President Emmerson Mnangagwa had won the election with just over 50 percent of the vote, narrowly avoiding a runoff.

On August 22, the Constitutional Court held a hearing to review the challenge to the announced presidential election results. The televised proceedings provided transparency, and the sides were allowed to briefly present arguments and address questions from the Court in a respectful and orderly process. The ZIEOM was concerned that the seven-day period provided by the legal framework for challengers to collect evidence might restrict the ability to prepare petitions adequately. Nonetheless, as international observers, the ZIEOM did not offer assessments on the merits of the matters weighed by the Court. On August 24, the Court unanimously determined that the petition did not meet the required evidentiary standards. It declared that Emmerson Mnangagwa was the winner of the presidential election and ruled that the petitioners had to pay the court costs of the other parties.

The ZIEOM notes that the number of women elected as Members of Parliament (MPs) has

decreased compared to the 2013 parliament, falling well below the 50 percent required by the Constitution. The parliamentary results currently give the ruling party ZANU-PF exactly two-thirds of the seats in the National Assembly—the number required to amend the Constitution. However, the electoral courts have yet to rule on 17 petitions challenging the results to legislative elections. Of particular note, while the ZEC initially announced the ZANU-PF candidate the winner of the Chegutu West parliamentary seat, the commission has since confirmed in writing that the MDC Alliance candidate received the most votes. The court has yet to rule on a petition challenging this result.

This delegation traveled to Zimbabwe approximately five weeks after Election Day, following: the initial announcement of the presidential results by the ZEC; the Constitutional Court's decision on the petition challenging the presidential results; the inauguration of the president and two vice presidents; and the announcement of a Commission of Inquiry into the violence of August 1. While the delegation was in the country, the swearing in of the members of the Ninth Parliament occurred and President Mnangagwa announced a new cabinet. However, the process is not yet complete. The Constitutional Court has yet to release its full written ruling on the presidential petition, the electoral courts have yet to hear challenges to the results of several parliamentary and ward councilor elections, and the August 1 Commission of Inquiry has yet to be sworn in and conduct its work.

As noted in the ZIEOM's August 25 statement, Zimbabwe has not yet demonstrated that it has established a tolerant, democratic culture that enables the conduct of elections in which parties are treated equitably and citizens can cast their vote freely. As a consequence, Zimbabwe's democratic trajectory is not certain, and the international community should remain vigilant and engaged in supporting the people's call for a genuine transition.

Building on its observations of the electoral process over the past five months and in the spirit of international cooperation, the ZIEOM has formulated recommendations to promote elections that are more credible and to more broadly expand the democratic space in Zimbabwe.

In regards to promoting more inclusive, transparent and accountable elections, the ZIEOM's recommendations include:

- Implement reforms to ensure the ZEC is widely perceived to be an independent election management body capable of administering credible elections.
- Promote substantive dialogue amongst political parties, including through more effective use of the multiparty liaison committees.
- Create an environment for women to participate equally in all aspects of the electoral process—free from intimidation and harassment—including through greater acceptance and promotion of women candidates.
- Enforce the constitutional mandate that prohibits traditional leaders from engaging in partisan activities.
- Enforce existing laws that prohibit the politicization of food aid, agricultural inputs, and other social welfare benefits.
- Strictly protect the constitutional right of citizens to peacefully assemble and protest.
- Prevent the use of excessive force by state security in maintenance of public order.
- Develop precise, transparent, accountable mechanisms for the timely transmission of election results.

- Enforce clear guidelines and regulations to ensure equal media access for all major candidates and parties, especially in the government controlled press.
- Amend presidential petition process to ensure sufficient time for litigants to collect information and the development of appropriate legal standards for adjudicating petitions

The ZIEOM recognizes that the people of Zimbabwe will ultimately determine the nature of the country's elections and its democratic trajectory. The next five years provide an opportunity for Zimbabwe to take the extraordinary steps needed to build broad-based confidence in the country's elections. At the same time, there are also significant steps that Zimbabwe can take now to progress the expanded political openness demonstrated during the pre-election period and ensure that the country achieves an authentic democratic transition. The following are recommendations to develop the democratic space towards those ends:

- Encourage and maintain an environment of free political expression and tolerance for opposing views and multi-party democracy.
- Ensure parliamentary rules and positions provide meaningful roles for the opposition MPs and parties in the legislative process and the discussion of issues of national importance.
- Enforce the constitutional requirement to achieve gender parity in government institutions and develop measurable strategies for involving women in all aspects of governing, including ending all forms of violence against women in politics and removing barriers to their meaningful participation.
- Foster a diverse media environment with independent print, electronic (in particular radio), and social media representing a variety of perspectives.
- Develop consultative mechanisms with civil society and stakeholders from across the political spectrum to create and implement public policies that are beneficial for all Zimbabweans, not just a select few.
- Redouble efforts to inspire an educated and informed citizenry through robust civic education that focuses on rights and responsibilities in a democratic society.
- Develop an anti-corruption and responsible governance agenda that root out the sources of misuse of state resources and ensure that people and their issues are priorities.
- Reduce the involvement of the military in the normal civilian and commercial activities of the country.
- Foster an independent judiciary that endeavors to adjudicate fairly and justly through due process of law.
- Prosecute perpetrators of violence and other forms of political coercion directed against opposition activists and supporters, including those responsible for the August 1 shootings of protesters by Zimbabwe Defence Forces.

Those who seek to establish a democratic Zimbabwe will have to unite the country and find a way to work effectively with their political opposition and civil society. The ZIEOM recommendations are but one critical step in taking that path. The overall health of Zimbabwe's democratic transition requires a robust multi-party system, a free and vibrant press, and for Zimbabweans to engage actively in creating a responsible and accountable government. The ZIEOM will produce a final report in October drawing on the observations of its core team of analysts, long-term observers, and pre-election, Election Day, and post-election delegations.

