

# Zimbabwe Harmonised Elections

30 July 2018



The Commonwealth







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## Letter of Transmittal: Zimbabwe Harmonised Elections

### Commonwealth Observer Group Zimbabwe Harmonised Elections 30 July 2018

Dear Secretary-General,

I am pleased to forward to you the final report of the Commonwealth Observer Group ('the Group') you constituted to observe Zimbabwe's Harmonised Elections on 30 July 2018. It was my privilege to chair this eminent group of experts from different regions of the Commonwealth. We were honoured to accompany the people of Zimbabwe on their democratic journey, following the seminal political developments which precipitated these elections.

We were profoundly appreciative of the warm welcome extended to us by all Zimbabweans we interacted with across the country. Ahead of the elections, we were briefed by key stakeholders in the electoral process, including the Zimbabwe Electoral Commission, political parties, faith-based groups, civil society representatives, media representatives, young people and gender-focused groups, among others. On Election Day, we deployed across the ten provinces of the country, where we continued our interactions with local stakeholders. Our report, therefore, has been informed by these extensive consultations, as well as our observations on all aspects of the electoral cycle which we were able to observe.

In accordance with our mandate, we assessed these elections against the national, regional and international laws and values Zimbabwe has committed itself to, recognising Zimbabwe's past and present political context.

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

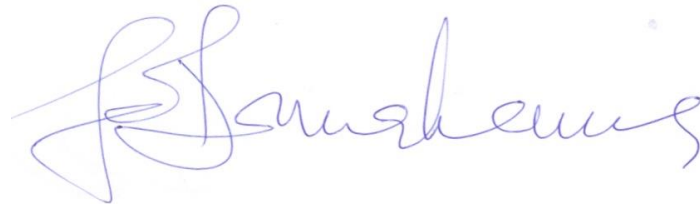
However, the acute bias of the state media in favour of the governing party, persistent allegations of intimidation reported to the Group, and the unfair use of incumbency privileges, tilted the playing field in favour of the governing party. The post-election violence, which resulted in fatalities, and the behaviour of security forces, marred this phase of the elections. For these reasons, we are unable to endorse all aspects of the process as credible, inclusive and peaceful.

We hope our conclusions and recommendations will, above all, be useful to the aforementioned national stakeholders as they collectively contribute to the



consolidation of democracy in Zimbabwe. We also hope that it will be valuable in your ongoing assessment of Zimbabwe's interest to re-join the organisation.

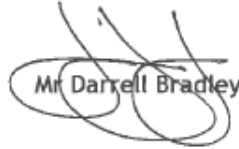
We commend the people of Zimbabwe for their enduring commitment to democracy, reflected in the encouraging voter turnout. It is our hope that their leaders will strive to fully realise their aspiration for a peaceful and prosperous country.



**John Dramani Mahama**  
Former President of the Republic of Ghana  
Chair of the Commonwealth Observer Group to Zimbabwe



Mr Gary Dunn



Mr Darrell Bradley



Rev Mpho MBW Moruakgomo



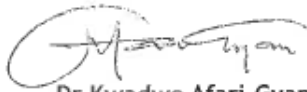
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Mr Jayanta Roy Chowdhury



Judge Margarett May Macaulay



Justice Willy Munyoki Mutunga



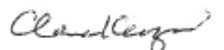
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The Rt Hon Baroness Margaret Jay

  
His Hon David Radford

## EXECUTIVE SUMMARY AND CONCLUSIONS

Zimbabwe's 2018 elections were the first to be observed by the Commonwealth in 16 years. The Commonwealth last observed Zimbabwe's 2002 Presidential Election. As such, this observation mission provided a unique opportunity to accompany Zimbabwe on a critical leg of its democratic journey.

The Commonwealth Observer Group ('the Group') took note of the fact that this observation in a non-member state was possible because Zimbabwe had initiated the process of re-joining the organisation, following its withdrawal in December 2003. The Group was aware that this report would be considered by the Commonwealth Secretary-General in the membership assessment process.

The Observer Group was present in Zimbabwe from 23 July to 6 August 2018. On 25 July 2018, the Group issued an Arrival Statement, which outlined its terms of reference (see **Annex II**). In accordance with its terms of reference, the Group assessed the various aspects of the electoral cycle against the national, regional and international standards for democratic elections that Zimbabwe has committed itself to. In carrying out this task, the Group consulted a range of national stakeholders and other election observer missions in its briefing sessions in Harare and, subsequently, in the ten provinces of Zimbabwe.

These consultations, as well as the Group's observations during the pre-election phase, on Election Day and the period thereafter, informed the Group's observations and its conclusions.

Zimbabwe enjoys a special historical relationship with the Commonwealth: it was in Harare in 1991, that Commonwealth Heads of Government agreed the Harare Commonwealth Declaration committing their countries to a set of core values, including democracy, the rule of law and human rights. These values are reflected in Zimbabwe's 2013 Constitution. It is our hope that our recommendations and conclusions will contribute to their full implementation.

### **The electoral and legal framework**

The legal framework, including the Electoral Act, offers a comprehensive and detailed basis for the conduct of elections in Zimbabwe. These elections were conducted in the context of some positive legal reforms. These include an Electoral Act that mainstreams gender, incorporates an electoral code of conduct for political parties and establishes inter-party dialogue mechanisms, as well as multi-party liaison committees to function as alternative dispute resolution mechanisms during elections.

However, gaps remain and there are also inconsistencies between relevant constitutional prescriptions and provisions of the Electoral Act.

For example, on the declaration of results, while the Electoral Act prescribes that the chairperson of the Zimbabwe Electoral Commission (ZEC) shall declare the results of the Presidential Election ‘not later than five days after the polling day’, the Constitution stipulates that ‘the results of the election or referendum are announced as soon as possible after the close of the polls’. Scrupulous respect for this requirement is vital to maintain public confidence and to enable prompt challenge with expeditious determination thereof. Accordingly, the Electoral Act should be aligned with the Constitution, especially in the light of public concern over delays in the aggregation, tabulation and publication process. Consideration may be given to amending the law to ensure that the aggregation of results is verifiable and transparent, and the declaration of results is made without undue delay.

Another example of inconsistency between the Electoral Act and the Constitution relates to the delimitation of electoral boundaries. The Constitution prescribes that the ZEC must conduct a delimitation of the electoral boundaries as soon as possible after a population census, such that, so far as possible, at the time of delimitation equal numbers of voters are registered in each constituency. By contrast, the Electoral Act merely requires the ZEC to notify the public of its intention to review and fix boundaries and to entertain representations from affected or interested persons. Notably, for the 2018 Harmonised Elections, no process of review or delimitation took place despite the availability of the 2012 census: the boundaries used were those of the 2008 elections. A consequence of this was the significant discrepancies in numbers of registered voters across constituencies throughout the ten provinces.

Given the significant number of political parties in Zimbabwe, the absence of a dedicated Political Party Act to comprehensively regulate political parties is a blatant gap in the legal framework. Additionally, the Political Parties (Finance) Act places no limits on electoral expenditure. Legislation capping electoral expenditure could be introduced before the next elections, thus levelling the field for political parties and candidates.

***Conclusions:** The legal framework for elections in Zimbabwe is largely sound. Recent legal reforms have improved it further. Nonetheless, a review of the electoral framework is required to address the critical gaps, as well as inconsistencies with the 2013 Constitution, and to strengthen it further for subsequent elections.*

### **Management of the electoral process**

Political parties and civil society groups expressed concern that the ZEC missed opportunities to build trust and instil confidence in the electoral process, including the ZEC’s management of same. Instances singled out included the lack of transparency in the ZEC’s handling of the layout and printing of the ballot papers

and the provision of timely access to the final voters' register ahead of the polls. The ZEC's legalistic approach in addressing concerns and political parties' requests was heavily criticised.

As noted below, the well organised process on Election Day itself, including the professional conduct of polling officials, is a testament to the ZEC's operational preparedness and commendable organisational skills across all ten provinces. However, to foster confidence in the ZEC by citizens, its independence and authority may be further bolstered. The Group notes, for instance, that the guarantee of the ZEC's independence is rendered uncertain in the light of its dependency, in practice, on the Minister of Justice and financial allocations from the executive.

*Conclusions: We believe the legal framework provides the ZEC with the flexibility required to build trust in the electoral process. For subsequent elections, we hope the ZEC will take full advantage of this flexibility within the confines of the law. We further recommend a review of the legal framework to tighten the ZEC's financial and operational independence.*

### **The pre-election environment**

The Group was informed that the nature of the campaign for the 2018 Harmonised Elections was influenced by an improved political climate compared to previous elections, and that the political space had widened. There had also been a marked change in the behaviour of security services, who, in a break from the past, had not placed constraints on the freedoms of association and assembly.

The Group commends the decision by all political parties to sign a peace pledge in June, and all stakeholders who initiated and supported this process. Parallel provincial peace pledges were also signed.

Except for a report the Group received that one political party had been refused a permit to organise a rally on 24 July, political parties and their supporters appeared to have enjoyed the freedom to campaign.

Reports of incidents of covert intimidation of potential voters, attributed to the governing party, were therefore regrettable. We urge the ZEC and the governing party to investigate these claims and to take all necessary measures to ensure such vestiges of previous elections are eliminated in subsequent elections.

While inter-party violence had reduced, reports received from civil society groups, later confirmed by the police, showed that intra-party violence rose ahead of these elections. Political parties' commitment to entrenching the values of democracy in Zimbabwe is undermined if they are unable to practice same within their own processes and structures. The Group urges parties to show leadership in this context.

The Group was also informed that the use of social media to propagate hate speech had seen a spike during the campaign period.

In the Group's view, however, two major issues unfairly unlevelled the playing field. The first was the heavy bias of the state print and broadcast media in favour of the governing party. The second was use of incumbency privileges in a manner that unduly disadvantaged opposition parties.

*Conclusions: The Group was encouraged by improvements in the pre-election environment, especially in relation to the respect for freedoms of association and speech during the campaign period. However, the blatant state media bias in favour of the governing party, persisting reports of intimidation and undue use of incumbency privileges unfairly unlevelled the playing field.*

## **Election Day**

On Election Day, Commonwealth observers reported a largely peaceful process that was well managed and transparent. Voters turned out in large numbers, particularly at the outset of voting. Polling officials, who reflected a gender balance, were generally consistent in the application of procedures. Party agents, citizen and international observers were present throughout the country. Voters, a significant number of whom were women, turned out in large numbers, particularly at the start of voting.

In some instances, gendered queues were created. The Group witnessed instances where women with young children, pregnant and lactating mothers, as well as the elderly, were given priority in the queues. We further witnessed incidents of assisted voting for disabled and elderly people. These were largely carried out in accordance with the ZEC's established procedures. We commend the widespread use of polling booths for persons with disabilities in many of the polling stations we visited.

The vote count at the polling stations was transparent, with party agents and citizen and international observers able to follow the process closely. It was, however, a laborious process, carried out by exhausted, yet dedicated and resilient, polling officials and attentive party agents, often in challenging infrastructure.

Although the results process concluded during the Group's period in Zimbabwe, concerns around access, transparency and the lack of clarity on key procedural aspects of this process was a point of note for the Group. Additionally, the lack of clarity and communication on the part of the Electoral Commission on the results declaration process was a source of concern, not only for the electorate but also observers. The Group is of the view that the tallying processes should be streamlined and simplified, while not compromising integrity and transparency of this process.

The Group noted that although the final results were delivered by the Electoral Commission within the legally stipulated timeframe, the communication and engagement strategy of the commission did not foster an atmosphere of confidence or trust. As recommended earlier, given Zimbabwe's history relating to delayed announcement of results, consideration should be given to amending the Electoral Act, including to stipulate a shorter timeframe within which the ZEC should announce results.

***Conclusions:** The voting process, including the count at polling stations, was credible, peaceful and inclusive. With the aim of streamlining the exhausting and laborious counting process, an overall review of the procedures of the ZEC in the conduct of elections, especially on Election Day, should aim to reduce complications and align its prescriptions and practices with the constitutional stipulation in Section 156(a) that 'whatever voting method is used, it is simple, accurate, verifiable, secure and transparent'.*

### **Post-election phase**

Commonwealth observers assess every election in its totality: the pre-election environment, Election Day and the immediate post-election phase while observers are still in the country. The post-election violence that occurred on 1 August, leading to the tragic loss of lives, was regrettable. The conduct of security officers in using excessive force against citizens exercising their right to protest, violated Zimbabwe's democratic values enshrined in the 2013 Constitution, and is a setback for these elections - which had hitherto been conducted in a largely peaceful and much improved environment.

Additional incidents continued to erode citizens' trust and confidence in the electoral process, especially in relation to the participation rights of all stakeholders. These included the raiding of the Movement for Democratic Change (MDC) Alliance's offices and the heavy handedness of the security forces in disrupting the press conference of the leader of the MDC Alliance, even before it had commenced in the same hotel as the Group was located on 3 August.

These incidents, and the protracted manner in which the ZEC released the results, which also fuelled tensions, rendered the post-election environment tense and volatile.

The Group notes that, while its report was being finalised, the leader of the MDC Alliance launched a challenge against the outcome of the Presidential Election in the Constitutional Court on 10 August. The case, which was heard and decided after the Group had departed Harare on 6 August, does not form part of our observation. However, we commend the pursuit of electoral grievances through established legal channels. This reflects leaders' commitment to the rule of law and democratic values. We draw attention to our recommendations in Chapter Three of this report



relating to strengthening the judiciary, particularly in its role in hearing election petitions.

*Conclusions: The post-election environment, within which the results process occurred, was, regrettably, marred by political violence and the heavy-handedness of security forces. The protracted release of results, in a manner that was less than transparent, fuelled tensions. These issues undermined citizens' and observers' trust and confidence in the electoral process.*

### **Overall assessment**

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

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

## Chapter 1

### INTRODUCTION

Following an invitation from the Ministry of Foreign Affairs and International Trade of the Republic of Zimbabwe, the Commonwealth Secretary-General, The Rt Hon. Patricia Scotland QC, constituted an Observer Group for the 30 July 2018 Harmonised Elections in Zimbabwe.

In accepting Zimbabwe's invitation, a departure was made from the Commonwealth's usual practice of observing elections in member countries. This exception was possible because the government had initiated the country's re-admission process in a letter to the Secretary-General in May 2018. Within this context, the Commonwealth's observation of these elections had an added significance. As part of the membership process, the conclusions in this report were to be considered by the Commonwealth Secretary-General in her assessment of Zimbabwe's commitment to the Commonwealth's values.

In line with the Commonwealth's usual practice pertaining to election observation, a pre-election assessment mission was conducted in Zimbabwe from 2 to 7 June 2018. The mission, inter alia, evaluated the pre-election environment, and further ascertained that there would be broad welcome for a Commonwealth Observer Group. On the basis of this pre-election assessment mission's recommendations, the Commonwealth Secretary-General constituted a Commonwealth Observer Group.

The Commonwealth Observer Group was led by Mr John Dramani Mahama, former President of Ghana, and comprised 23 eminent persons. A nine-person staff team from the Commonwealth Secretariat supported the Observer Group. A full list of members is provided in **Annex I**.

#### **Terms of reference**

*The Group is established by the Commonwealth Secretary-General at the request of the Ministry of Foreign Affairs and International Trade of Zimbabwe. The Group is to consider the various factors impinging on the credibility of the electoral process as a whole.*

*It will determine in its own judgement whether the elections have been conducted according to the standards for democratic elections to which the country has committed itself, with reference to national election-related legislation and relevant regional, Commonwealth and other international commitments.*

*The Group is to act impartially and independently. It has no executive role; its function is not to supervise but to observe the process as a whole and to form a*

*judgement accordingly. It would also be free to propose to the authorities concerned such actions on institutional, procedural and other matters as would assist the holding of such elections.*

*The Group is to submit its report to the Commonwealth Secretary-General, who will forward it to the Government of Zimbabwe, the Zimbabwe Electoral Commission, leaders of political parties and to all Commonwealth governments. Thereafter, the Final Report may be used to help inform relevant follow-up activities.*

## **Activities**

The Observer Group was present in Zimbabwe from 23 July to 6 August 2018. On 25 July 2018, the Group issued an Arrival Statement, which outlined its terms of reference (see **Annex II**).

During four days of briefings, the Group met with the Zimbabwe Electoral Commission, political party representatives, the Commissioner-General of Police, civil society groups, women's groups, youth representatives, the media and the diplomatic community, as well as domestic, regional and international observer missions. Members of the Group observed the final rallies in Harare prior to Election Day.

The Observer Group was deployed across the ten provinces of Zimbabwe from 27 July to 1 August (see **Annex III**).

On deployment, teams met with election officials, security services, citizen observers and other stakeholders at the provincial, district and ward levels, as well as members of the public to build a comprehensive picture of the conduct of the process.

On 29 July 2018, the chair of the Group attended a meeting of Heads of international election observation missions, held at the Rainbow Hotel, Harare. The meeting was chaired by the Southern African Development Community (SADC) Electoral Observer Mission (SADC-EOM) and attended by the African Union, the Carter Centre, the Common Market for Eastern and Southern Africa (COMESA) Observer Mission, the Electoral Commissioners Forum of SADC (ECF-SADC), the European Union, the International Republican Institute and National Democratic Institute (IRI-NDI) joint mission, SADC Parliamentary Forum (SADC-PF), and the United Nations Resident Coordinator to Zimbabwe. The observer missions exchanged views on the conduct of the elections.

On 31 July, the chairperson visited the Election Situation Room, which was established by the Zimbabwe Election Support Network (ZESN) and the Election Resource Centre (ERC), in co-operation with more than 40 other civil society organisations.

On the basis of the Group's initial findings and observations, the chairperson issued a Preliminary Statement on 2 August 2018 (see **Annex IV**).

Additionally, following the outbreak of violence in Harare on 1 August 2018, the chairperson and the Heads of other international election observation missions issued a joint statement on 2 August. The statement called for calm and restraint, and condemned the use of excessive force by the security forces to quell protests (see **Annex V**)

The Group's *Final Report* was completed in Harare on 6 August prior to its departure.

## Chapter 2

### POLITICAL BACKGROUND

#### Introduction

In assessing these elections, and in offering our recommendations in subsequent chapters, the Group took account of relevant aspects of the country's past and present political context, and their impact on the 2018 elections. These include Zimbabwe's protracted struggle for independence, which exacerbated geographic and tribal divisions, and the lengthy and repressive regime of President Robert Gabriel Mugabe, who was in office from 1980 to 2017, that led to international isolation and economic decline.

#### From British colonial influence to independence

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

The traditional chiefs provided leadership and influence over their people. The practice of British indirect rule was to use them to support their objectives. The role and influence of traditional chiefs remains strong in Zimbabwe.

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

After years of liberation war and pressure from the international community, and the failed 1978 Internal Settlement between the Smith regime and Moderate African Nationalist Leaders, all major parties in the conflict participated in peace talks, initiated at the 1979 Commonwealth Heads of Government Meeting in Lusaka and finally convened in London, under the auspices of the British government. This led to the Lancaster House Agreement on land, the holding of elections and acceptance

of the principle of black-majority rule. A new constitution was also agreed at Lancaster House. Robert Mugabe and ZANU won the 1980 elections, which the Commonwealth observed. Zimbabwe subsequently declared independence in the same year and it joined the Commonwealth in October 1980.

Zimbabwe hosted the 1991 Commonwealth Heads of Government Meeting in Harare, which resulted in the seminal Harare Declaration setting out the Commonwealth's fundamental political values. Zimbabwe would later be assessed on these values by the Commonwealth Ministerial Action Group (CMAG).

### **Post-independence until the 2000 referendum**

Zimbabwe's new government invested in socio-economic development and education. However, the short-lived peace was destroyed by the Gukurahundi massacres when the North Korean trained 'Fifth Brigade' army was unleashed on the people of Matabeleland and an estimated 20,000 Ndebeles were killed. In 1987, there was a Unity Accord between the leaders Joshua Nkomo of ZAPU and Robert Mugabe of ZANU. Eventually these two parties would merge to become ZANU-PF.

During the 1990s, the economy was in decline as a result of droughts, strikes for improved employment conditions, allegations of corruption and poor governance, and the impact of the International Monetary Fund (IMF) Economic Structural Adjustment Programme (ESAP). Notable during this period was the growing strength of the Zimbabwe Congress of Trade Unions (ZCTU) in challenging government policies and mobilising strike actions. Morgan Tsvangirai, then a ZANU member, was elected as its Secretary-General. He would subsequently become the head of a new opposition party formed in 1999 with support from the trade unions, civil society and commercial farmers - the Movement for Democratic Change (MDC). By 2000, Zimbabwe was in both economic and democratic difficulty.

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

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

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

### **The 2000 and 2002 elections**

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

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

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

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

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

### **The 2008 and 2013 elections**

The 2008 elections took place in a highly constrained political environment. These elections introduced the first real threat to President Mugabe's power in the form of the opposition Movement for Democratic Change (MDC), led by Morgan Tsvangirai, which by then had also suffered a split. The MDC-T (led by the latter and therefore bearing the first letter of his surname), won the first round of the Presidential Election (as none of the parties achieved the 50 per cent plus one threshold). This outcome resulted in the unleashing of violence, allegedly at the hands of Mugabe and ZANU-PF, on MDC-T's members and supporters. Consequently, Morgan Tsvangirai

refused to participate in the second round. The Zimbabwe Human Rights NGO Forum reported significant human rights abuses during this time.

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

In the first Harmonised Elections held under the new constitutional framework in July 2013, Mugabe gained a seventh term in office and his party won three-quarters of the seats in Parliament. The African Union Election Observation Mission noted in its report that ‘the political antecedents that contributed to the post-elections violence of 2008 were feared to still exist’. However, the report said that voting was conducted in an atmosphere ‘devoid of violence, harassment and disturbances’ and ‘from a historical perspective and in comparison to the 2008 elections’ this was generally an improved process.

The Southern African Development Community (SADC) commended the relatively peaceful polls, but also highlighted some irregularities.

Both missions highlighted the polarisation and bias of the media during the elections.

In its report on the elections, ZESN highlighted its concerns about ‘critical factors’ such as ‘inadequate and delayed voter education, an inadequate and flawed voter registration process, failure to provide the voters’ roll to political parties and stakeholders on time, chaotic special voting, and the high numbers of assisted and turned away voters’. ZESN concluded that these challenges ‘seriously compromised the credibility and fairness’ of the 2013 elections. The opposition MDC dismissed the polls as fraudulent.

Notably, the 2013 elections were held under the unreformed electoral framework. Although the 2013 Constitution had been adopted, a Supreme Court judgement in May 2013, directing the government to hold elections by 31 July, did not leave sufficient time for the enactment of electoral reforms, which were being demanded by the opposition and other stakeholders.

## **Lead-up to the 2018 elections**

### ***Changes in ZANU-PF***

Following the missed opportunity of the 2013 elections, reformist elements began to emerge within the ZANU-PF, but were quelled by purges. The first was the



dismissal of the-then Vice President, Joice Mujuru, in December 2014, who was the leader of the party's women's wing. President Mugabe appointed his wife, Grace Mugabe, as leader of the women's wing, giving her automatic membership into the party's politburo and fuelling speculation that she was being positioned to succeed the ageing President.

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

### ***The November 2017 transition***

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

The regional and international community's silence over the nature of the military transition, often referred to in Zimbabwe as the 'new dispensation', provided an opportunity for the Mnangagwa government to pursue a reformist agenda involving a strong re-engagement with the international community. The message of re-integration into the international community, especially to attract much-needed investment for development, was one that appeared to be shared by the MDC opposition during this period.

### ***Tsvangirai's death and emergence of the MDC Alliance***

The MDC-T also experienced its own challenges. The death of its leader, Morgan Tsvangirai, on 14 February 2018, triggered a succession row in the main opposition MDC-T party among three rival leaders: Nelson Chamisa, Elias Mudzuri and Thokozani Khupe. Nelson Chamisa, an appointed Vice President of the party, was eventually appointed its Acting President.

Thokozani Khupe, former Deputy Prime Minister of Zimbabwe from February 2009 to August 2013 (during the Global Political Agreement), and an elected Vice President of the party, challenged Nelson Chamisa for the leadership of the party. She did so on the basis that the party's rules required the acting party president to be an elected leader of the party.

Khupe was subsequently dismissed from the party and she formed her own faction. A legal dispute arose between Chamisa and Khupe over the use of the party name and symbols. In what is seen as a compromise, Khupe's faction retained the MDC-T

name and Nelson Chamisa's faction became the MDC-Alliance. Both were elected presidential candidates for their respective parties for the 2018 elections. Ms Khupe was one of the four women presidential candidates.

For the 2018 elections, the MDC Alliance consisted of Chamisa's MDC-T faction, Transform Zimbabwe, Professor Welshman Ncube's MDC, Zimbabwe People First, the Multi-Racial Christian Democratic Party, the People's Democratic Party and ZANU Ndonga.

### ***Intra-party and inter-party conflicts***

In the earlier part of the 2018 Harmonised Elections, the divisions in the two main parties, ZANU-PF and the MDC Alliance, showed up in their respective political party primaries and the nomination process in the form of tensions and incidents of violence. The June 2018 report of the Zimbabwe Peace Project highlighted a total of 44 incidents of intra-party violence, compared to 20 incidents of inter-party violence. The 23 June explosion that occurred during a campaign of the governing party's presidential candidate in Bulawayo, gave rise to a number of allegations, including that it may have been caused by another ZANU-PF faction.

However, the signing of a peace pledge on 26 June 2018 by 20 political parties committing to promoting peace before, during and after the elections was encouraging, although it had limited enforcement mechanisms. This initiative was also supported by a number of stakeholders, including the National Peace and Reconciliation Commission, all the Chapter 12 Commissions, civil society groups and faith-based organisations.

### **The political landscape and political parties for the 2018 elections**

Some of the above factors rendered the political environment ahead of these elections markedly different from the past. The 'new dispensation' had rekindled hope of socio-economic progress and political inclusion, and was exhibiting greater political tolerance and widening of the democratic space. For the first time, Mugabe and Tsvangirai would not be contesting these elections. In another break from the past, a significant number of international observers and media had been invited to witness these elections, reflecting the administration's re-engagement policy.

Against the above backdrop, the Nomination Courts sat on 14 June 2018 to receive nominations of prospective candidates participating in the 2018 elections. In its observations of the Nomination Court proceedings across Zimbabwe, ZESN found the political environment to be generally peaceful.

A total of 23 presidential candidates were successfully nominated, of which four were women: Joice Mujuru, the previous Vice President, now of the National People's Party (aligned to the People's Rainbow Coalition, which comprises five political parties); Thokozani Khuphe (MDC-T); Melbah Dzapasi (1980 Freedom Movement for Zimbabwe); and Violet Mariyacha (United Democratic Movement).

The number of presidential candidates increased significantly compared to previous elections. In 2008, there were four candidates, while in 2013 there were five (and in both those elections, all candidates were male). In 2018, a total of 1,652 National Assembly constituency candidates were successfully nominated for 210 seats. Fifty-five (55) political parties<sup>1</sup> and 247 independent candidates contested in the 210 National Assembly constituencies. For the local council elections, 7,573 candidates were nominated for the 1,958 local authority wards in Zimbabwe. The list of presidential candidates is provided in Table 2.1.

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<sup>1</sup> While 55 political parties contested the 2018 elections, there are a total of 133 registered political parties. A patent gap in the legislative framework is the lack of legislation regulating the establishment of political parties, who currently register with the Ministry of Labour and Social Welfare. However, the Political Parties (Finance) Act stipulates that political parties that win more than 5 per cent of the seats in the National Assembly are entitled to receive state financing. This is discussed in Chapter 3.

**Table 2.1 Presidential candidates**

	<b>Name of candidate</b>	<b>Political party</b>	<b>Sex</b>
1.	Busha Josepht Makamba	FreeZim Congress	M
2.	Chamisa Nelson	MDC Alliance	M
3.	Chiguvare Tonderai Johannes	People Progressive Party	M
4.	Chikanga Eceristo Washington	Rebuild Zimbabwe	M
5.	Dzapasi Melbah	1980 Freedom Movement Zimbabwe	F
6.	Gava Mapfumo Peter	United Democratic Front	M
7.	Hlabangana Kwanele	Republicans Party of Zimbabwe	M
8.	Hove Mhambi Divine	National Alliance of Patriotic and Democratic Republicans	M
9.	Kasiyamhuru Blessing	Zimbabwe Partnership for Prosperity	M
10.	Khupe Thokazani	Movement for Democratic Change T	F
11.	Madhuku Lovemore	National Constitutional Assembly	M
12.	Mangoma Elton Steers	Coalition of Democrats	M
13.	Manyika Noah Ngoni	Build Zimbabwe Alliance	M
14.	Mariyacha Violet	United Democratic Movement	F
15.	Mnangagwa Emmerson Dambudzo	ZANU PF	M
16.	Moyo Nkosana	Alliance for People's Agenda	M
17.	Mteki Bryn	Independent	M
18.	Mugadza William Tawonezvi	Bethel Christian Party	M
19.	Mujuru Joice Teurairopa	People's Rainbow Coalition	F
20.	Munyanduri Tendai Peter	New Patriotic Front	M
21.	Mutinhiri Ambrose	National Patriotic Front	M
22.	Shumba Daniel	United Democratic Alliance	M
23.	Wilson Harry Peter	Democratic Opposition Party	M

Source: Zimbabwe Electoral Support Network (ZESN)

## Chapter 3

### ELECTORAL FRAMEWORK AND ELECTION ADMINISTRATION

#### Background

On 30 July 2018, Zimbabwe held tripartite elections, with the electorate simultaneously voting for presidential, parliamentary and local authority candidates. Zimbabwe's electoral framework combines the 'first-past-the-post' (FPTP) and proportional representation (PR) systems. Zimbabwe's administrative structure consists of 10 provinces, divided into 210 constituencies and 1,958 wards.

The President is elected to a term of office of five years, without restriction on the number of terms one can serve. According to the Constitution, for a candidate to be successful they must secure 50 per cent plus one of the votes cast. If no candidate secures that majority, then the two leading candidates contest in a run-off.

In Zimbabwe, legislative powers are vested in a bi-cameral Parliament, which comprises the Senate and the National Assembly. The Senate consists of 80 senators, of whom 6 are elected from each of the 10 provinces by a system of proportional representation, using a party-list system. The party-list is a 'zebra' list, which starts with a female candidate to be followed by a male candidate and alternating thereafter.

Additionally, within the Senate, the remaining 20 seats are filled as follows: there are 16 traditional chiefs, two having been elected by the Provincial Assembly of Chiefs from each of the eight provinces other than the metropolitan provinces; there is then the President and Deputy President of the National Council of Chiefs; and finally, two are elected in the manner prescribed in the Electoral Act to represent persons with disabilities. The COG did not observe these elections which took place prior to the mission.

The National Assembly consists of 210 members directly elected by secret ballot from the 210 constituencies into which Zimbabwe is divided. Additionally, for the life of the first two parliaments following the enactment of the 2013 Constitution, 60 women members (six from each of the 10 provinces) are elected through a system of proportional representation based on the total number of votes cast for candidates representing political parties in a general election for constituency members in the provinces.<sup>2</sup> Members of Parliament (MPs) are elected to serve a five-year term, but without restrictions on the number of terms an MP can serve.

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<sup>2</sup> Pursuant to Section 124(1)(b) of the Constitution, for elections subsequent to the 2018 elections there will no longer be an additional 60 seats reserved for women.

## The legal framework

According to its 2013 Constitution (as amended), Zimbabwe is a unitary, democratic and sovereign republic founded on values and principles of constitutionalism, the rule of law, respect for human rights and fundamental freedoms, cultural diversity including religious and traditional values, good governance and recognition of its liberation struggle. In particular, Zimbabwe's Constitution stipulates: a multi-party democratic political system; an electoral system based on universal adult suffrage and equality of votes; free, fair and regular elections; adequate representation of the electorate; the orderly transfer of power following elections; respect for the rights of all political parties; the separation of powers; transparency, justice, accountability and responsiveness; and respect for the people of Zimbabwe, from whom the authority to govern is derived.

The Constitution guarantees equal citizenship and fundamental rights and freedoms, including the freedoms of expression, assembly and association, without discrimination. Zimbabwean citizens of at least 18 years of age are guaranteed political rights to vote in secret and (subject to further age and other requirements) to stand for office. Citizens are further guaranteed political rights to political party formation and related peaceful activity.

The following national legislation provides for the legal and regulatory framework for the conduct of the elections:

- The Constitution of Zimbabwe 2013
- Electoral Act (Chapter 2:13)
- Electoral Regulations
- Political Parties (Finance) Act (Chapter 2:11)
- Public Order and Security Act (Chapter 11:17)
- Access to Information and Protection of Privacy Act (Chapter 10:27)
- The Judicial College Act 1999

Zimbabwe is a member of intergovernmental organisations including the United Nations, the African Union and the Southern African Development Community. On 9 May 2018, Zimbabwe expressed interest in re-admission to The Commonwealth.<sup>3</sup> Zimbabwe has voluntarily accepted international obligations and commitments relevant to democratic governance, including the conduct of elections, with a view to realisation of the fundamental norm that the will of the people shall be the basis of the authority of government. These are stipulated in the following instruments, among others:

- The Constitutive Act of the African Union
- The African Charter on Human and Peoples' Rights

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<sup>3</sup> Accordingly, the Commonwealth's values are relevant in the Group's assessment of these elections.

- The African Union Declaration on the Principles Governing Democratic Elections in Africa
- The SADC Principles and Guidelines Governing Democratic Elections
- The Universal Declaration of Human Rights
- The International Covenant on Civil and Political Rights
- The Convention on the Elimination of all forms of Discrimination against Women
- The International Convention on the Elimination of Racial Discrimination

### **Zimbabwe Electoral Commission**

Chapter 12, Section 238 of the Constitution establishes the Zimbabwe Electoral Commission (ZEC). The ZEC is responsible for the conduct and supervision of the registration of voters, all public elections and referenda.

As one of the Independent Commissions Supporting Democracy, the Constitution guarantees the independence of the ZEC in the exercise of its functions and mandate. Section 235 of the Constitution states that the Independent Commissions ‘are independent and are not subject to the direction or control of anyone; must act in accordance with [the] Constitution; and must exercise their functions without fear, favour or prejudice’. The commission is required to submit a report to Parliament at least once a year on its programme of work through the appropriate minister. Although Section 235(1) prescribes that the commission is ‘accountable to Parliament’ and Section 235(2) prescribes that the state ‘must protect [the Commission’s] independence, impartiality, integrity and effectiveness’, the Minister of Justice holds the commission’s portfolio.

The Zimbabwe Electoral Commission comprises the chairperson and eight other commissioners. The chairperson must be a judge, a former judge or person qualified for appointment as a judge. The President, following consultations with the Judicial Services Commission and the Parliamentary Committee on Standing Rules and Orders, appoints the chairperson. The eight other commissioners are also appointed by the President from a list of nominees submitted by the Committee on Standing Rules and Orders. Commissioners are appointed for a six-year term and may be appointed for an additional term. No person can serve more than 12 years. Justice Priscilla Chigumba, Judge of the High Court of Zimbabwe, was appointed Chairperson of the ZEC on 31 January 2018.

For the management and discharge of the operational aspects of elections, there is a Secretariat which is headed by the chief electoral officer. The chief electoral officer is appointed by the ZEC and is the chief executive, managing the affairs and property of the commission. She or he is the accounting officer of the commission.

The Electoral Act prescribes the decentralisation of the ZEC, on which basis the ZEC has established 10 provincial offices and 63 district offices. For the conduct of elections, the commission seconded additional personnel from the employment of the state. Working with the Health Services Board and the Public Service Commission,

the Zimbabwe Electoral Commission identifies, selects and trains these individuals in order to supplement the staff complement of the ZEC's officials.

### **Eligibility and voter registration**

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

Voter registration in Zimbabwe is based on the digital capturing of a voter's biometric (photo and fingerprints) and biographical data. For the purpose of the 2018 Harmonised Elections, an entirely new voters roll was established. The process for compiling the data for the voters roll occurred in four phases.

On 18 September 2017, the ZEC launched the biometric voter registration (BVR) exercise, which lasted 72 days. In total, 3,000 BVR kits were deployed to the 63 district centres. From 10 January to 8 February 2018, the ZEC conducted another BVR exercise to enable the registration of persons who had missed the first phase and for persons with 'Alien' citizenship status who had been granted the right to register following a High Court order.

Once voting day has been declared, the law indicates that there is a window of 48 hours for any voters to be included on the roll for that election. As registration is continuous, any person registering after this cut-off period can only vote in the next election. This led to some uncertainty about the roll.

A provisional register was displayed from 19 to 29 May 2018; during this period, persons who had registered could inspect and verify their details. On 29 May 2018, the new voters roll was gazetted. For the 2018 Harmonised Elections, there was a total of 5,695,706 voters comprising 3,073,190 women and 2,622,516 men.

### **Candidate eligibility, nomination and determination**

#### ***Presidency***

The election of the President is by direct secret ballot. To qualify as a presidential candidate, one must be: a citizen by birth or descent; at least 40 years old; ordinarily resident in Zimbabwe; and a registered voter. The candidate for President must nominate two persons to stand for election jointly as Vice Presidents. Candidates can contest through a political party or stand as independents.

According to the Constitution, for a candidate to be successful they must secure not less than 50 per cent plus one of votes cast in the first round. If no candidate secures the majority, then the two leading candidates will contest in a run-off.



For the 2018 elections, there were 23 presidential candidates, four of whom were women candidates. One of the 23 candidates withdrew days before the poll.

### ***Senate***

Section 120 of the Constitution and the Eighth Schedule of the Electoral Act set out a system for proportional representation of political parties having obtained votes in the elections for the National Assembly. Candidates are advanced from lists submitted by political parties and are appointed in proportion to the total number of votes obtained by that party in each of the 10 provinces, with 6 senators appointed for each province.

Eighteen seats are reserved for chiefs. Of these, pursuant to Part X (Sections 40-44) of the Electoral Act, 16 are elected from electoral colleges of chiefs established under the Traditional Leaders Act, with two chiefs elected from each of the eight provinces (i.e. not including the metropolitan ones, Harare and Bulawayo) from candidates nominated by other chiefs of the same college. For the processes of nomination and election, the ZEC appoints one of its officers as the presiding officer. In accordance with Section 120(1)(c) of the Constitution, the President and Deputy President of the Council of Chiefs referred to in Section 37 of the Traditional Leaders Act are appointed senators.

There are two Senate seats reserved for persons with disabilities (one female and one male). They are to be elected in accordance with the Seventh Schedule of the Electoral Act, which requires that the candidates should be persons with disabilities elected by the Electoral College for Persons with Disabilities, to be established by the National Disability Board.

### ***National Assembly***

The same nationality and registration criteria as for presidential candidates apply to parliamentary candidates. However, they must be at least 21 years of age. Parliamentary candidates can be sponsored by political parties or stand as independents. The candidate receiving the greatest number of votes is determined to be elected. For these elections, there were 1,652 National Assembly candidates.

### ***Local government authority (councillors)***

The same nationality and age requirements for National Assembly members apply to the candidates contesting local authority seats. However, they must be normally resident in the locality in which they are contesting. The candidate receiving the greatest number of votes is determined to be elected.

For the 2018 election, there were 7,573 candidates for local authorities.

## **Boundary delimitation**

Article 161 of the Constitution empowers the Zimbabwe Electoral Commission to delimit electoral boundaries for the purpose of electing Members of Parliament and local government authorities. In Zimbabwe, a boundary delimitation exercise is carried out following a population census; a census is held every ten years. For the 2018 Harmonised Elections, the constituency and ward boundaries were based on the 2008 delimitation report.

## **Proclamation and election period**

In accordance with Section 144 of the Constitution, the Electoral Act prescribes in Section 38 that ‘the President, after consultation with the Commission’ shall proclaim the elections and fix relevant dates (notably for nominations and the polling day(s)). The polling day shall be a public holiday. The ‘election period’ means the period in time between the calling of the election and the declaration of the result of the poll; in the cases of constituencies and local authorities, the election period ends with the declaration of the result of the last constituency or ward.

## **Political party funding**

The Political Parties (Finance) Act provides for public funding of qualifying political parties from the state’s Consolidated Revenue Fund to be paid on an annual basis. Those political parties having obtained at least five per cent of the total number of votes cast in the most recent general election shall be entitled to the same proportion of total moneys appropriated. Donations are permitted to political parties, members and candidates other than from a foreign source. There appears to be no limitation on the amount of donations a political party, member or candidate may receive.

## **The media**

Sections 60 and 61 of the Constitution guarantee, respectively, freedom of expression and of the media and access to information. State-owned media is to be independent in its editorial content, and is to ‘be impartial, and afford fair opportunity for the presentation of divergent views and dissenting opinions’. Moreover, Section 155(2)(d) prescribes that the state must take all appropriate measures to ‘provide all political parties and candidates contesting an election or participating in a referendum with fair and equal access to electronic and print media, both public and private’. The ZEC is charged with monitoring the media.

## **Complaints, appeals and election petitions**

The Electoral Act provides for a number of conflict management mechanisms, including the Electoral Code of Conduct for Political Parties and Candidates, the Multi-Party Liaison Committees and the Electoral Court.

The Fourth Schedule of the Electoral Act outlines the Electoral Code of Conduct for Political Party and Candidates. The code binds the political parties, candidates and their supporters regarding their conduct throughout the electoral process.

The Multi-Party Liaison Committees are established to resolve disputes, concerns, matters or grievances relating to the electoral process, including disputes arising from allegations concerning non-compliance with the Electoral Code. The committees are established by the ZEC and comprise an electoral commissioner and two representatives of each political party contesting in elections. The decisions of the committee are achieved by consensus.

Section 161 of the Electoral Act establishes the Electoral Court, which is a division of the High Court. The court has exclusive jurisdiction to hear appeals, applications and petitions in relation to the Electoral Act, and to review any decision of the Zimbabwe Electoral Commission. All judgments, orders and directions of the Electoral Court are enforceable in the same way as those of the High Court. However, the court has no jurisdiction to try criminal cases. The court is presided over by two judges of the High Court.

The Electoral Act also outlines electoral offences liable for prosecution. These offences include illegal and corrupt practices, such as bribery; treating; undue influence; impersonation; illegal voting; false statements; and intimidation. These offences are punishable by a fine or imprisonment or both.

Election petitions may be presented for any election. Presidential election petitions are to be presented to the Constitutional Court. Any aggrieved candidate may present a presidential petition. A petition must be submitted within seven days of the declaration of official results. The Constitutional Court has 14 days from the filing of the petition to adjudicate. The court may declare a winner or invalidate an election, calling for a fresh election within 60 days.

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

In addition to the above, prior to the 2018 Harmonised Elections, the National Peace and Reconciliation Commission (established under Chapter 12 of the 2013 Constitution) initiated a 'peace pledge' which was signed by 20 of the 23 presidential candidates, publicly committing to campaign peacefully and tolerantly.

## **Key electoral issues for the 2018 Harmonised Elections**

### ***1. Electoral reform and legal framework***

The legal framework, including the Electoral Act, offers a comprehensive and detailed basis for the conduct of elections in Zimbabwe. One gap is the absence of a dedicated Political Party Act to comprehensively regulate the activities of political parties.

For these elections, there were an estimated 130 political parties in the country, of which 55 parties contested the 2018 elections at some level. Given the breadth and number of existing political parties, a mechanism to regulate and hold accountable the various political parties could only strengthen Zimbabwe's democracy.

The Electoral Act is not fully consistent with prescriptions of the 2013 Constitution regarding elections. For example, Section 161 of the Constitution regarding delimitation of electoral boundaries prescribes that the ZEC must conduct a delimitation of the electoral boundaries 'as soon as possible after a population census' [...] 'such that, so far as possible, at the time of delimitation equal numbers of voters are registered in each constituency' (and the same for each ward). Section 161 of the Constitution details the related procedure. By contrast, the Electoral Law, in Section 37A, merely requires the ZEC to notify the public of its intention to review and fix boundaries and to entertain representations from affected or interested persons. There is no provision for a specific office, body or process within the ZEC to conduct boundary delimitations. As a matter of fact, for the 2018 Harmonised Elections, no process of review or delimitation took place despite the availability of the 2012 census: the boundaries used were those of the 2008 elections.

Another example of inconsistencies between the Constitution and the Electoral Act relates to the declaration of results. While the Electoral Act prescribes in Section 110 that the chairperson of the ZEC shall 'forthwith declare' the results of election to Office of President, and 'not later than five days after the polling day', Section 156(b) of the Constitution stipulates that 'the results of the election or referendum are announced as soon as possible after the close of the polls'. Scrupulous respect for this requirement is vital to maintain public confidence and to enable prompt and pointed challenge with expeditious determination thereof. Accordingly, the Electoral Act should be aligned with the Constitution. Especially in light of public concern over the lack of transparency in the aggregation of results and the delays in the tabulation and publication process, and notwithstanding the fact that the ZEC declared final results about 76 hours after the closing of the polls, consideration may be given to amending the law to ensure the declaration of results without undue

delay and, in any event, within a proposed period of 72 hours of the closing of the polls.

## **2. Zimbabwe Electoral Commission**

The legal framework for the ZEC appears comprehensive and detailed. However, as above, there are inconsistencies and gaps between relevant constitutional prescriptions and provisions of the Electoral Act relating, notably, to the exercise of the ZEC's powers in fulfilment of its constitutionally and legislatively mandated responsibilities, as well as the effectiveness of established standards and rights.

Notably, Section 239(k) of the Constitution empowers the ZEC 'to receive and consider complaints from the public and to take such action in regard to the complaints as it considers appropriate'. Section 4A of the Electoral Act establishes the ZEC as (1) 'a body corporate capable of suing and being sued and, subject to the Constitution and this Act, of performing all acts that bodies corporate may by law perform'. Additionally, (2) stipulates that the ZEC 'shall have power to do or cause to be done, either by itself or through its agents' essentially all foreseen operations and (pursuant to the Sixth Schedule) 'to do all such things as may be necessary, conducive or incidental to the exercise of its powers and the performance of the functions of the Commission'. In spite of these provisions, it appears, nonetheless, that the ZEC is not specifically empowered with effective implementation of all its responsibilities (e.g. pursuant to Section 160J of the Act, to police election-related hate speech or incitement in the media).

This is especially so with regard to decisions it may make over complaints received (other than those foreseen for consideration by specified judicial recourses). In this respect, there is no established mechanism (such as a dedicated committee, as the ZEC is empowered to establish) or published procedures for the receipt or treatment of complaints. Such a mechanism and procedures, broadly publicised, to receive, consider and decide upon complaints (including possible orders), in a timely manner, would be conducive to greater effectiveness and to the promotion of public confidence.

The guarantee of the ZEC's independence is rendered uncertain in the light of its dependency, in practice, on the Minister of Justice, and financial allocations from the executive. The stipulations in the Constitution (Section 235) guaranteeing independence should be aligned with the Electoral Act and practice with the effect that the ZEC reports directly to Parliament and secures its own funding and the financial resources for its mandated responsibilities (i.e. the conduct of elections and referenda) free from undue influence (e.g. to obtain its allocation as part of the Consolidated Funds).

With respect to administration, the provision of full and timely funding of human and material resources prescribed by law or necessary for the fulfilment of the ZEC's mandate would contribute to the effective conduct of elections, including crucial efficiencies on Election Day and in the counting, tabulation and related transparency

and procedures. This would speed up the process and reduce the scope for errors. As the economy develops, the use of more advanced technology may also help. In this spirit, an overall review of the procedures of the ZEC in the conduct of elections, especially on Election Day, should aim to reduce complications and align its prescriptions and practices with the constitutional stipulation in Section 156(a) that ‘whatever voting method is used, it is simple, accurate, verifiable, secure and transparent’.

### ***3. Eligibility, voter registration and candidacy***

The Electoral Act stipulates in Section 133, entitled ‘Special penalty for politically-motivated violence or intimidation’, that a person convicted of such an offence may be prohibited, ‘for a period not exceeding five years from the date of the conviction, of (a) being registered as a voter or of voting at an election; or (b) filling a public office, other than a public office the tenure of which is regulated exclusively by or in terms of the Constitution’. This stipulation is in contradiction with Section 67(3)(a) of Zimbabwe’s Constitution, which guarantees the fundamental right of every Zimbabwean citizen of 18 years of age to vote in all elections. While the limited duration of a disqualification from standing for election or holding office, for strictly limited offences, proportionate to the offence and not exceeding five years, is consistent with democratic norms, the disenfranchisement of citizens is not consistent with the Constitution or applicable international standards. Accordingly, an amendment of Section 133 of the Electoral Act should be considered.

### ***4. The role of the judiciary***

In the light of concerns expressed to the Group about the independence and impartiality of justice and about the capacity of the courts to uphold the rule of law speedily and fully, it is essential that the High Court and the Constitutional Court in particular be assured adequate and secure funding. No party political allegiance should play any part in the selection of the judiciary. Accordingly, consideration should be given to the amendment of Section 180 of the Zimbabwe Constitution, to stipulate these standards with regards to the selection of judges. In any event, we draw attention to the provisions of Section 164 of the Constitution, which stipulates the independence and impartiality of the judiciary in the performance of its functions.

In so far as the effectiveness of available institutions in vindicating rights and efficiently and speedily adjudicating disputes turns in part on the knowledge base of those charged with dispensing justice, it is essential to ensure adequate training on electoral law and practice (including comparative and best practice) for those responsible, notably in the Electoral Court and the Constitutional Court. In this respect, adequate funding should be assured. We note that the Judicial College Act 1999 was enacted to provide proper judicial training.

As regards the timeliness of decisions, election-related disputes should be dealt with expeditiously, including by means of a fast-tracked procedure; in order to avoid decisions being meaningless, such decisions may be delivered with reasons reserved.

### ***5. Complaints, appeals and election petitions***

The availability of the range of judicial and non-judicial mechanisms to resolve disputes should be publicised and equipped with all means for effective operation, especially in the course of an election period and immediately thereafter. This implies adequate human resources, including training, and public information. At points when disputes are manifest, they should be proactively directed to the appropriate mechanism - which should seek to act expeditiously and publicly.

#### **Recommendations**

- Consideration should be given to the adoption of a Political Party Act.
- Consideration should be given to the amendment of the Electoral Act to align it with the Constitution, by requiring declaration of the results of the Presidential Election without undue delay.
- The Electoral Act should be amended to align it with the Constitution to prevent disenfranchisement.
- To guarantee the independence of the ZEC, the Electoral Act should be aligned with Section 235 of the Constitution, with the effect that the ZEC reports directly to the National Assembly and secures its own funding from the Consolidated Fund.
- The ZEC should review its procedures and practices, especially for Election Day, to align them with Section 156(b) of the Constitution, to ensure the voting, counting and aggregation of results 'is simple, verifiable, secure and transparent'.
- In order to address any perceptions of partiality, consideration should be given to amending the Constitution to stipulate appointments of the judiciary and its funding are free from political influence.
- In order to ensure expeditious treatment of disputes, adequate funding of judicial and non-judicial dispute resolution mechanisms should be assured, judicial caseloads should be managed appropriately, and appropriate use of available recourses should be proactively promoted.
- Funding for the judiciary, notably for its training on elections, should be assured, including for the Judicial College as foreseen by law.

## Chapter 4

### PARTICIPATION AND INCLUSION

#### Background

The Commonwealth Charter and international human rights instruments recognise the inalienable right of individuals to participate in democratic processes, in particular through free and fair elections, to shape the society in which they live. Governments, political parties and civil society are responsible for upholding and promoting democratic culture and practices and are accountable to the public in this regard.

Zimbabwe has signed or agreed to some significant regional and international instruments and commitments relevant to the conduct of elections. These include:

- African Charter on Human and Peoples Rights
- African Union Declaration on the Principles Governing Democratic Elections in Africa
- SADC Principles and Guidelines Governing Democratic Elections
- International Covenant on Civil and Political Rights
- Convention on the Elimination of all forms of Discrimination against Women
- Protocol on the Rights of Women in Africa
- Convention on the Rights of Persons with Disabilities

These instruments provide the framework for good governance, citizen participation, gender equality and women's empowerment, and inclusion of youth, the elderly and persons with disabilities (*inter alia*), as a means of achieving sustainable democracy.

#### Gender

##### ***Legal instruments and institutions***

In Zimbabwe, women make up 53 per cent of the total population according to the 2017 UN World Population Prospects. The 2013 Constitution made significant strides in enshrining gender equality and women's rights. Section 80 of the 2013 Constitution guarantees the full and equal dignity of women, including equal opportunities in political, economic and social activities. Sections 120(2)(b) and 124 (1)(b) make legal provisions for the inclusion of women in both the National Assembly and the Senate. The Constitution further attaches a specific electoral quota for women in the National Assembly, for the life of the first two parliaments. The quota system guarantees 30 per cent of parliamentary seats for women in the National Assembly. Thus, the Zimbabwe Gender Commission and other civil society groups are campaigning for the quota system to be extended.



The quota system for the National Assembly Elections provides for 60 women, 6 from each of the 10 provinces, to be elected through a system of proportional representation using provincial party lists, which reflect the votes cast in constituency elections. The remaining 210 National Assembly seats are elected through a first-past-the-post system. In the Senate, where 60 (out of a total of 80) seats are elected using the proportional representation party-list system, male and female candidates are required to be listed alternately, with every list being headed by a woman candidate. Following the 2013 elections, women made up 31.5 per cent of the National Assembly and 47.5 per cent of the Senate.

The Zimbabwe Gender Commission (ZGC) was established in 2017 by law, under Section 245 of the 2013 Constitution. The commission's mandate includes monitoring issues concerning gender equality, the investigation of complaints and violations, and promoting gender equality in public and private institutions. ZGC works closely with the Ministry of Women Affairs, Gender and Community Development and the ZEC, as well as several active gender-focused civil society groups in the country.

### ***Women's participation in the 2018 Harmonised Elections***

Women's participation as voters and polling officials was significantly higher compared to their political participation.

Of the total registered voters, 54 per cent were women, and in most provinces, with the exception of Harare and Bulawayo, women made up more than 70 per cent of the voters roll according to projections by ZESN. Women actively participated in conducting the elections, serving at all levels, including as polling officials, presiding officers and constituency electoral officers. At the commission level, five of the nine ZEC commissioners were women, including the chairperson, Justice Priscilla Chigumba.

The 2018 Harmonised Elections marked the first time women stood as presidential candidates. Of the 23 presidential candidates, four (representing 17 per cent of the total) were women, namely:

- Dzapasi Melbah, 1980 Freedom Movement Zimbabwe
- Khupe Thokozani, Movement for Democratic Change (T)
- Mariyacha Violet, United Democratic Movement
- Mujuru Joice Teurairopa, People's Rainbow Coalition

Overall, there was a notable lack of gender equality with respect to the number of women who stood as candidates for office across all three elections. Under the quota system, women were guaranteed 30 per cent of parliamentary seats in the 2018 elections, but this expires after the life of the incoming ninth parliament (until 2023). The ZGC and others were campaigning for the quota system to be extended, or negotiated in Parliament every five years before its expiration.

Stakeholders raised with the Observer Group concerns that the implementation of the National Assembly quota system resulted in political parties fielding fewer women across all levels for the Harmonised Elections. Parties used the quota as a ‘zero-sum game’ rather than as a benchmark for engaging women as part of the political process. According to reports by the Women in Politics Support Unit (WiPSU) and the African Union, 40 per cent (84 seats) of the 210 National Assembly seats were contested by men only. Moreover, women represented only 15 per cent of the total candidates seeking election at all levels. WiPSU noted an increase from 2013 in the number of women seeking to be elected to the local authorities.

While the two main parties, ZANU-PF and MDC Alliance, had voluntarily committed to having 30 and 50 per cent of women candidates respectively, both parties managed to only field about 10 per cent of women candidates for the three elections. The four parties led by women presidential candidates fielded approximately 20 per cent of women contestants.

Structural barriers to entry, such as the nomination fee imposed by the ZEC and the cost of campaigning, also posed challenges for women considering running. Other challenges that hindered women’s political participation included cultural barriers, the violence associated with elections, violence and abuse against women candidates, and lack of access to resources by women.

### ***Violence against women in elections***

The Group was informed that the 2018 elections were characterised by a rise in violence against women throughout the entire electoral cycle, both in physical spaces and online. The overall shift from inter-party to intra-party conflicts resulted in an increase in violence targeted at women as independent candidates and within political parties. As a result, it was reported to us that women experienced physical violence at the hands of party members, subtle threats, hate speech, misogyny and incidents of election-related violence against women and girls.

According to findings by the International Foundation for Electoral Systems (IFES) in its July 2018 report, ‘women engaging in Zimbabwe’s elections as candidates, voters and journalists experienced devastating sexual extortion, physical violence, harassment and intimidation from their bosses, colleagues, religious leaders and domestic partners’.<sup>4</sup> IFES notes that women were three times more likely to experience online harassment, including threats to their physical well-being, though men received 14 per cent more sexual-violence related harassment.<sup>5</sup> The report pointed out that much of this content came from individuals in urban areas, like Harare, where connectivity to the internet is greater. The report also highlighted that women continue to experience violence, even once elected, making violence

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<sup>4</sup> International Foundation for Electoral Systems (IFES), *Violence Against Women in Elections in Zimbabwe: An IFES Assessment*, page vi, available at: <http://www.ifes.org/publications/new-assessment-violence-against-women-elections-zimbabwe> (accessed 24 July 2018).

<sup>5</sup> Ibid, page viii.

against women a pervasive problem in politics in Zimbabwe. A media investigation supported by the Voluntary Media Council of Zimbabwe noted specific instances of physical violence, including against Thokozani Khupe of the MDC-T party and Zalerah Makari of the ZANU-PF party, in the pre-election period.

In response to repeated attacks on female political leaders, the ZGC established the Gender Observatory in June 2018, to gather evidence and document women's experiences throughout the electoral cycle. The mandate of the Gender Observatory is long term and will work closely with grassroots women-led organisations to develop appropriate strategies to promote women's political participation in Zimbabwe.

While formal dispute resolution and complaint processes existed to report election-related violence, in practice, women remained hesitant to engage these systems, and interviewees in the IFES report expressed doubt as to the effectiveness of these processes. Civil society organisations further noted that response mechanisms needed to be expanded to include intra-party referral systems which would allow women to report violence both in the pre-election and post-election period, similar to existing systems in other jurisdictions like South Africa.

## Recommendations

- The Commonwealth Observer Group recommends the quotas prescribed for women under Section 124 of the 2013 Constitution should be negotiated by the new parliament before its expiration in 2023. For example, in Uganda and Bangladesh, quotas for women are negotiated in parliament every five years before their expiration.
- Given the low participation of women in contested seats in this election, consideration should be given to extending the quota system to the Senate and local authorities.
- Consideration should be given to the creation of women-only seats. The 60 seats could be contested as safe constituencies by women, similar to the situation that pertains in jurisdictions such as Bangladesh and Uganda.
- Noting the important role political parties can play in addressing gender imbalance in political leadership, we urge political parties to adopt and implement special measures, such as voluntary quotas, to achieve gender balance within their own decision-making structures and processes.
- Noting the high levels of intra-party violence and hate speech towards women candidates, as well as physical and psychological violence against women in this election, the Group supports the recommendation by some civil society groups that political parties should consider establishing intra-party referral systems that allow women to report cases of violence within political parties

to the police and law courts, without fear of reprisals. We further endorse the recommendations by some civil society groups that issues of violence against women in elections (VAWIE) are discussed at the multi-party liaison committees.

- To alleviate the weight of the financial burden on women seeking to contest elections and to encourage more women to run for office in Zimbabwe, we urge political parties to consider ways of supporting women candidates, including through the establishment of special funds. Moreover, noting the effect of the increase of candidate nomination fees on certain groups, we urge the Electoral Commission to review the impact of such measures on the inclusiveness of the candidate nomination process in the 2018 harmonised elections, in order to guide the formulation and implementation of future policies or measures.

## Youth

### *Youth participation in the 2018 Harmonised Elections*

Section 20 of the 2013 Constitution mandates ‘the state and all institutions and agencies of government at every level’ to take reasonable measures, including affirmative action programmes, to ensure that young people have opportunities to be represented and to participate in the political, social and economic spheres of society.

According to the Zimbabwe National Statistics Agency’s 2013 report, young people (defined as those between 15 and 35 years of age in the 2013 Constitution) accounted for 60 per cent of the total population. In Zimbabwe, young people represent a critical demographic in the context of politics. Given that nearly 44.5 per cent of the registered voters in these elections were youth, many of whom registered to vote for the first time, these elections represented a significant opportunity to engage young people in a meaningful way in Zimbabwe.

Notably, an Afrobarometer report, issued in June 2018, highlighted a significant distinction between the priorities of young and old voters, with over 65 per cent of young people reporting unemployment as their top issue in the election. Media reports throughout the pre-election period, encouraged political parties across the political spectrum to canvass the youth vote.

### *Political disenfranchisement and youth apathy*

Nelson Chamisa, leader of the MDC Alliance, is one of the youngest political leaders in the country’s history, meeting the qualifying age of 40 (six months prior to Election Day), to contest presidential office. Youth organisations, media and civil society reports credited Chamisa’s leadership with a rise in the engagement of youth during the pre-election process, given his relatability to the issues and perceptions of young Zimbabweans. Some of the Commonwealth observers who attended the MDC Alliance rallies, noted significant numbers of young people in attendance. However, during their briefings to observers, civil society organisations (CSOs)

explained that attendance at the rallies did not necessarily translate into registered voters.

Traditionally in Zimbabwean politics, youth have been largely apathetic and have not exercised their right to vote. Representatives from Zimbabwe's National Association of Youth Organisations noted that young people have felt politically disenfranchised. The youth within political parties were often side-lined, and youth wings were used primarily to add legitimacy to governing policies. This has led to varying levels of frustration, which has translated to young persons deciding to run as independent candidates.

Youth organisations expressed views that previous elections and campaigns in Zimbabwe have been characterised in the context of the liberation struggle and the ethos of black empowerment. This reflects the popular belief of older generations, especially some war veterans, who tend to affiliate good and effective leadership with persons coming out of the liberation movement. Some young people expressed concern that this attitude locks out young people from leadership and decision-making processes, and further illustrates the divide between the priorities of young and older voters.

In the lead up to the 2018 Harmonised Elections, there was a concerted effort from civil society, youth organisations and the ZEC to encourage youth electoral participation and most importantly to improve the electoral literacy of young voters. The ZEC made use of targeted TV commercials and other audio/visual communications to create dynamic messaging across media platforms, including social media. Meanwhile, social media is becoming more prominent among the youth, with an internet penetration rate of 50.8 per cent according to the *International Telecommunication Union 2017 Annual Report on Sub-Saharan Africa*. Social media has allowed many young persons to have direct access to the country's leadership and share important information in a timely manner.

Furthermore, social media has been used as a platform to rally around issues and concerns, while also playing a significant role in capturing the youth vote. In the pre-election period, several organisations like Heal Zimbabwe tried to engage the youth in peace campaigns and peace pledges, using the hashtag #13MilVoices4Peace, encouraging young people to shun political violence. However, in many instances, social media action has not translated into political action. Concerted efforts are required to ensure an increased number of youths are registered as voters and participate in the electoral process.

Despite these efforts, youth leaders from the Youth Empowerment Transformation Trust (YETT) and the National Association of Youth Organisations (NAYO), in their briefing to the Observer Group, expressed frustration with and suspicion of the electoral management system. They further noted that the National Youth Council, which has the mandate to empower young people across the political spectrum, was perceived as biased and partisan and did not broadly reflect the interests of the

youth. This has constrained free speech among young people. Attempts to express opinions are often viewed as rebellious.

Several structural barriers have further prevented youth participation in politics. The discrepancy in age requirements to stand for elections and to vote, reinforces the political marginalisation of the youth. While an individual must be 18 years or older to vote, an individual must be 21 years or older to contest the Local Authority Elections and the National Assembly (lower house) Elections. Meanwhile, individuals must be 40 years or older to be appointed to the Senate (upper house) or to contest the Presidential Elections. Additionally, election candidate registration fees were out of reach for many youths. Campaign costs further posed a real challenge.

The improved pre-election environment following the November 2017 transition gave young people a sense of renewed hope that in a break from the past, their views and concerns would be better represented going forward. With a more engaged youth population, it is critical for the leadership of Zimbabwe to deepen efforts to realise this hope, especially given the high levels of unemployment and significant economic downturn.

## Recommendations

- The Commonwealth Observer Group urges the relevant authorities in Zimbabwe to consider setting the age to stand for office at Local Authority, National Assembly and Senate Elections as the same as the age to vote (18 years), similar to other Southern African countries.<sup>6</sup>
- The Group urges the consideration of a quota system for youth representatives (aged 18 to 35) to the Local Authority and National Assembly Elections, similar to other jurisdictions like Rwanda.
- The Group encourages political parties to create empowered youth-led wings and youth caucuses, designed to actively involve young people in policy and decision-making.
- Noting the participation of young people in electoral and political violence, and/or their susceptibility to be used in such situations, the Commonwealth Observer Group encourages the greater use of peace pledges by CSOs and youth organisations to encourage young people to shun political violence.
- It is recommended that CSOs and the ZEC engage in voter education programmes throughout the electoral cycle, targeting young voters from age 16. This could increase electoral literacy.

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<sup>6</sup> World Atlas, *Legal Voting Age by Country*, available at: <https://www.worldatlas.com/articles/legal-voting-age-by-country.html> 20 August 2018 (accessed 20 August 2018); Youth Policy.org, 'Factsheets per country', available at: <http://www.youthpolicy.org/factsheets/> (accessed 20 August 2018).

- Concerted efforts are required to ensure an increased number of youths are registered as voters and participate in the electoral process.
- Noting the effect of the increased candidate nomination fees on certain groups, the ZEC should consult youth groups to review the impact of such measures on youth participation in the 2018 Harmonised Elections in order to guide the formulation and implementation of such future measures.

### **Persons with disabilities**

According to the 2012 national census, there are more than 817,000 persons with disabilities (PWDs) in Zimbabwe, making up approximately 6 per cent of the country's total population. Efforts have been made to ensure inclusion of persons with disabilities (PWDs) throughout the political process. Specifically, the Constitution compels the state to facilitate voting by persons with a disability or those with special needs. It further requires the Senate to reserve two seats: one male and one female, elected through a first-past-the-post system by an electoral college system designated by the National Disability Board.

The Disabled Persons Act of 1992 enjoins the National Disability Board to prevent discrimination against PWDs, resulting from or arising from their disability. Zimbabwe is also a state party to the UN Convention on the Rights of Persons with Disabilities, which is very clear on the rights of PWDs to effectively and fully participate in political and public life on an equal basis with others, including their right to vote and be elected.

#### ***The impact of political violence on PWDs***

A September 2017 report by the Zimbabwe Peace Project, notes that between 2000 and 2008, pervasive levels of violence within the context of political retribution not only targeted PWDs, but often resulted in disabilities of the victims. The report further notes that this history of violence has not only left physical scars, but also manifested into psychological violence. This entrenched the disenfranchisement of PWDs from the system, with many refusing to campaign or stand for political office. Respondents interviewed in the report were primarily from rural areas, and noted that the perpetrators of violence tended to be ZANU-PF youths. These experiences were further reinforced during the 2018 signing of the National Peace and Reconciliation Commission (NPRC) peace pledges across the country. The National Disability Board was set up in January 2018 to advocate for PWDs.

#### ***Electoral participation in 2018***

In the lead-up to the 2018 Harmonised Elections, various attempts were made to open up the political space for PWDs to effectively participate in the elections. One significant adjustment was the provision of disability-friendly polling booths within polling stations that were lower and more accessible to voters. Likewise, the

provision of the assisted voter programme enhanced the ability for PWDs to be able to exercise their vote in the 2018 elections. More than 55,000 voters were assisted on Election Day. There were, however, some concerns conveyed to the Group about the procedure for assisted voting, with some criticisms and concerns suggesting that this system was being used to intimidate voters.<sup>7</sup>

Not all of the accessibility challenges that faced PWDs were addressed as part of the 2018 Harmonised Elections. In September 2017, Senator Nayamaybo Mashavakure, who served as the representative for PWDs, appealed to the ZEC to employ sign language, and braille voter education and polling materials. However, in May 2018, the High Court dismissed an application seeking to compel the ZEC to make these provisions available and to print braille ballot papers for visually impaired voters, on the basis that the ZEC had already made provision for this through the use of 'assisted voting'. Beyond the civic exercise of voting, political participation by PWDs remains limited and none of the political parties has a comprehensive programme to include PWDs, either as candidates or voters. Notably, of the 23 presidential candidates, one candidate, Elton Mangoma of the Coalition of Democrats, was disabled.

## Recommendations

- The positive legal provisions for the participation of PWDs in Zimbabwe should be followed by adequate resources and effective enforcement. PWDs should be directly and actively involved in any plans and programmes related to their active participation.
- It is not enough to support persons with disabilities to cast their vote on Election Day. Deliberate efforts should be made to facilitate their participation as candidates for elective office, as well as participate as polling officials, local observers, party agents, media monitors and so forth.
- Government and political parties should make their structures more inclusive for PWDs. Particular attention should be paid to women with disabilities, who suffer multiple discrimination.
- As Zimbabwe's democracy and its economy evolve, for future elections, the Commonwealth Observer Group encourages Zimbabwe to develop effective electoral information, education and communication materials tailored for PWDs, using various formats including braille, closed caption and audio. The country could learn from other electoral jurisdictions. For example, South Africa prints larger ballot paper templates for its visually impaired voters.
- The Group urges the ZEC to invest in comprehensive training for its officials on disability and inclusion.

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<sup>7</sup> Assisted Voting is also covered in Chapter 6, in the assessment of Election Day.



## **Elderly persons**

In Zimbabwe, elderly persons comprise just over six per cent of the population, as indicated in the United Nations World Population Prospects 2017. A majority of elderly people live in rural areas, which predominantly have poor infrastructure, with few community gathering spaces and government offices. Despite the small population percentage, elderly persons, particularly older men, continue to be the dominant leaders and hold decision-making power in both traditional and government systems in the country. In 2017, the Office of the President and Cabinet, responsible for oversight of the public sector, strategic and policy direction, and government services delivery, was dominated by persons aged 60 and older.

### ***Legal framework and institutions***

There is both an international and national legal framework which guides the rights of elderly persons in Zimbabwe. Section 21 of the 2013 Constitution outlines the role of the state and institutions of government that are charged with the support and protection of elderly persons, including encouraging their full participation in society and ensuring programmes are in place to provide the opportunity for them to engage in productive activity suited to their abilities.

Additionally, the Older Persons Act (2012), which came into effect in 2016, defines older persons as 65 and above. The Act established a Director of Older Persons and the Older Persons Board, generally responsible for the activities, welfare and well-being of older persons. This is consistent with international instruments. Notably, the United Nations Principles for Older Persons and the Protocol to the African Charter on Human and People's Rights on the Rights of Older Persons in Africa sets out the principles of independence, protection, participation in social and political life, care, self-fulfilment and dignity of older persons; and further recognises the rights of older persons to make decisions without undue influence. Fundamental to these national, regional and international frameworks is the need for infrastructure, institutions and services to be fully accessible, keeping in mind the physical and mental state of some elderly persons.

### ***Elderly persons and the electoral cycle 2018***

In March 2018, the ZESN demographic breakdown of the biometric voters registrations (BVR) roll, showed the percentage of elderly persons was extremely low and concentrated in the rural provinces of the country. Namely, Manicaland, Mashonaland East and the Midlands had the highest percentages of elderly persons as registered voters. Urban areas, such as Bulawayo and Harare, had fewer than 20,000 elderly voters in each city. During the voter registration phase, ZESN noted that while elderly persons were given priority during the registration process, accessibility to registration sites proved a huge challenge for some. Mobile services were not provided and BVR sites were poorly designed and quite a distance away from residential villages. Moreover, many were turned away at registration points for failing to produce government-approved birth certificates.

Elderly people were vulnerable to manipulation and voter intimidation during the pre-election phase by traditional chiefs and leaders, primarily in rural areas. Civil society groups monitoring the elections identified a significant problem, whereby voters' registration slips were retrieved from elderly persons as a precondition to access food aid and agricultural inputs. As a result, many faced high levels of intimidation and undue influence.

A significant majority of elderly voters reside in rural Zimbabwe, where tracking of voter literacy and education was low. Thus, the demographic information on how many elderly persons received or participated in voter education sessions remains unclear.

A positive note on accessibility for older persons at registration and polling stations was the use of SMS and USSD codes on cell phones, which proved effective for individuals without access to the internet.

On Election Day, priority access was provided for elderly persons, with separate queues designated for them at many polling stations across both urban and rural areas. Observers across all ten provinces noted that elderly persons who were illiterate or disabled required assistance, particularly older women, mostly concentrated in rural areas. Observers noted that there was a split between the number of assisted voters who brought an assistant versus those who were assisted by the election officers at the poll. Polling stations exhibited some of the challenges of physical accessibility for elderly persons, including difficult terrain, long distances from residential dwellings, lack of transportation and poor lighting.

## **Recommendations**

- In line with previous recommendations, as Zimbabwe's economy evolves, the Group hopes that efforts will be made to address accessibility challenges, physical and visual, on Election Day and in the pre-election period at the polling station and voter registration sites.
- Consideration should be given to the development of a co-ordinated partnership arrangement, which would enable civil society to support the ZEC through a more targeted and systematic approach in fulfilling its voter education and outreach mandate, especially to reach rural and more remote places in the country.

## **Civil society**

Organised civil society in Zimbabwe dates back to the 1990s and has been a robust and diverse civic community comprising trade unions, associations, think-tanks, charities, community-based organisations, women's groups, youth groups and developmental non-governmental organisations (NGOs), among others. In Zimbabwe, the Private Voluntary Organisations Act is the legal framework that governs civil society sector grants. The Minister of Social Welfare has discretionary

powers on registration and operations of CSOs, as opposed to parliamentary oversight.

Prior to the 2017 government transition, CSOs in Zimbabwe faced a tense and politically challenging environment, and were unable to operate freely without the threat of violence or intimidation from the state police and youth militia. Many CSOs have positively noted throughout the 2018 pre-election period that there was a significant widening of the space for CSOs to operate in and engage directly with voters, as well as an increase in access to information as part of the electoral process. For the first time in the country's history, CSOs were able to participate in programmes like voter education.

### ***Pre-election period and CSO engagement***

For the 2018 Harmonised Elections, the activities of civil society groups covered various thematic aspects of the electoral cycle in a bid to influence a credible and participatory democratic outcome, bearing in mind the country's history of political repression. Engagement processes were visibly organised at the community and national levels, critically auditing each stage of the electoral cycle activities. The Commonwealth Observer Group was briefed by several CSOs in the days leading up to Election Day. CSOs were well informed and had a robust understanding of the political and social contexts within their thematic areas for the elections.

CSOs engaged in a wide range of monitoring and evaluation activities in the lead up to the elections, including those relating to gender, human rights, legal assistance and capacity building of various vulnerable groups, allowing the latter to participate effectively in the electoral process. This was evident in the pre-election period through voter education. For instance, during the biometric voter registration (BVR) phase, which began in September 2017, CSOs worked to ensure that citizens were aware of the BVR process, by providing on-ground education in local communities, supporting transportation to BVR sites, facilitating appropriate documentation for registration, and encouraging the electorate to register to vote.

In several instances, the Zimbabwe Lawyers for Human Rights (ZLHR) represented opposition candidates who filed cases with the Electoral Court citing instances of intimidation by ZANU-PF party supporters.

In June 2018, CSOs under the banner of Crisis in Zimbabwe Coalition, released a joint statement which outlined their outstanding concerns and calls for electoral reform. They noted specifically, 'While Zimbabwe is set to hold elections on 30 July 2018, we raise key concerns around inadequacies on the part of the Zimbabwe Election Commission to administer a credible electoral process, the involvement of the military and traditional leaders in elections remaining unaddressed'. The statement highlighted additional concerns and provided recommendations, many of which were raised through other forums with political stakeholders. These included limited access to the final voter's roll from the ZEC and the blatant political bias towards the incumbent government by the state media.

Prior to and on the Election Day, a group of CSOs operated an Election Situation Room (ESR) in Harare, where citizens could call in to report election-related concerns, which the ESR would then channel to the appropriate authorities. CSOs offered other forms of assistance on Election Day, including ferrying some voters to the polling stations. CSOs were also actively involved in the electoral dispute process.

CSOs expressed a lack of confidence in some areas of oversight by the ZEC. One such area was the voters roll. During the Group's briefings, the National Association of NGOs (NANGO), the Zimbabwe Congress of Trade Unions (ZCTU) and the Zimbabwe Peace Project (ZPP), highlighted scepticism regarding the existence and release of several 'final' versions of the voters roll, the deployment of the postal vote prior to BVR finalisation, and the failure to demonstrate or detail the results management system. Issues raised were those that had the potential of undermining voters' free political will and the overall credibility of the elections.

### ***Citizen observers***

In terms of citizen observers, one of the most systematic, effective and robust civic engagements came from the interventions of the Zimbabwe Elections Support Network (ZESN), a network of 36 organisations formed to co-ordinate activities pertaining to elections in Zimbabwe. The Group confirmed the presence of ZESN officials in almost all the estimated 360 polling stations visited. ZESN deployed more than 2,000 observers for the BVR process and covered all the four phases of the registration exercise. Critical activities included auditing the voters roll, deployment of 210 long-term observers and 6,000 short-term observers, and deploying 420 official mobile supervisors and 25 eminent persons to lead the observer mission: 15 were drawn from the regions and 10 from the local level. Another local citizen observer group, the Election Resource Centre (ERC), a non-partisan think-tank and advocacy institution on elections and democracy, also observed the elections, as did the World Council of Churches and the Zimbabwe Council of Churches.

On Election Day, civic command centres were set up across the provinces to monitor the electoral process, including the setting-up of polling stations, the vote, and the results and tally process. A number of Election Situation Rooms (ESRs) monitoring incidents of violence and election-related issues were established, as indicated above. Commonwealth observers visited a number of the ESRs at both the national and the local levels, to get a sense of the nature and types of incidents being reported in the communities where they were deployed.

## Recommendations

- CSOs play a critical role in ensuring a credible election. Their contribution to promoting a culture of democratic governance in Zimbabwe is historical. The Group encourages the ZEC to provide these organisations with greater access to electoral information to enable them to fully perform their functions.
- CSOs expressed concern about the high accreditation fees for citizen observers. The Group urges the ZEC to ensure that fees for citizen observer groups are not prohibitive, given their important role: citizen observers often have the numbers on ground, as well as local knowledge that international observers may lack.
- The Commonwealth Observer Group encourage CSOs to continue engaging in voter education with all segments of the population, with an emphasis on marginalised groups.

## Faith-based organisations

Religion has a significant influence in culture, society, beliefs and practices among Zimbabweans. The constitutional right to freedom of religion by every Zimbabwean is enshrined in Article 60 of Zimbabwe's Constitution of 2013. Zimbabweans' constitutional rights to equality regardless of religion and rights against unfair discrimination on the grounds of religious belief are protected in Article 56(3) of the Constitution. Further, the rights to freedom of assembly and association are preserved under Article 58 of the Constitution.

Faith-based organisations (FBOs) played a significant role during the 2018 Harmonised Elections. FBOs are systemic as traditional power structures within the Zimbabwean context, and have significant moral authority and influence. The two main bodies of FBOs are the Zimbabwe Council of Churches (ZCC) and the Evangelical Fellowship of Zimbabwe (EFZ). Christianity is the dominant religion in Zimbabwe, with 74.8 per cent of Zimbabweans identifying as Christian. Notably 85 per cent of Zimbabweans are recorded to spend at least one hour a week in churches and other FBOs.

### ***Zimbabwe Council of Churches and Evangelical Fellowship of Zimbabwe***

Religious bodies, namely the EFZ and ZCC, played a mediatory and conciliatory role between political parties before, during and after the elections. These religious bodies hosted political parties, organised prayer sessions, sponsored peace pledges and supported local observers in polling stations across the provinces in Zimbabwe. Church leaders encouraged political parties, including civil society, traditional leaders and security services, to embrace peace and tolerance and to ensure compliance with the Electoral Code of Conduct.

During the pre-election period, FBOs were very much engaged with the electorate in their local communities; they encouraged individuals to register to vote and urged registered voters to vote on Election Day. The church leaders also remained engaged with key actors and the electorate during the post-election phase.

A drawback of some religious FBOs is their patriarchal perception towards women. Nonetheless, religious FBOs have frequently advocated for healing, unity and reconciliation.

### **Recommendations**

- The Commonwealth Observer Group commends the historical role of FBOs in promoting peace and tolerance in elections in Zimbabwe. The Group encourages FBOs to continue its efforts in this respect. In the same vein, the Group urges political parties to denounce sentiments among a minority group of FBOs which, in the context of elections, perpetuate discrimination and exclusion.

## Chapter 5

### ELECTION CAMPAIGN AND MEDIA

#### Campaign period

There is no formal campaign period in Zimbabwe, though campaigns were required to end 24 hours before Election Day as a ‘cooling-off’ period. After the Nomination Court sat on 14 June 2018, the campaign intensity rose markedly. However, some political parties held press conferences on 29 July 2018 (the day before Election Day) and there was limited campaigning witnessed in some parts of the country. The Electoral Act 2005 (Amended 2018) provides that all political parties can campaign freely within the law<sup>8</sup> and outlines penalties, including a fine or imprisonment, for any person who intimidates, prevents or obstructs any political party or candidate’s right to campaign.<sup>9</sup> The amended Electoral Act also incorporated an *Electoral Code of Conduct for Political Parties and Candidates and Other Stakeholders*, which binds all stakeholders to ensure that the political environment is at all times free of violence, coercion and intimidation. It also stipulates that political parties, all candidates, their members and their supporters accept that others have the right to present their political principles and ideas in a peaceful environment, without intimidation or fear of reprisal and must respect that right.

#### Pre-election campaign environment

The Group was informed that the nature of the campaign for the 2018 Harmonised Elections was influenced by an improved political climate, and that the political space had widened. There had also been a marked change in the behaviour of security services, who, in a break from the past, had not placed constraints on the freedoms of association and assembly. The Group was informed that, during the Commonwealth pre-election assessment team’s visit to Zimbabwe in June 2018, evidence of this improved political environment materialised when the Movement for Democratic Change (MDC) Alliance held a demonstration to demand further electoral reforms and was allowed to do so unhindered.

#### Peace pledge and campaign atmosphere

While we did not witness any instances of intimidation and politically motivated violence prior to the elections, we noted with concern reports from civil society groups about such incidents. Of particular note was the bomb blast at a ZANU-PF rally, addressed by President Mnangagwa, in Bulawayo on Saturday 23 June, during which two Zimbabweans were killed.

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<sup>8</sup> Electoral Act (Amended 2018), Section 3(c)(iii).

<sup>9</sup> Ibid, Section 133C.

We further noted that while inter-party violence had reduced, reports received from civil society groups, later confirmed by the police, showed that intra-party violence rose ahead of these elections.

The incorporation of an Electoral Code of Conduct in the Electoral Act (as amended in 2018), and the establishment of inter-party dialogue mechanisms, as well as multi-party liaison committees, to function as alternative dispute resolution mechanisms during elections, assisted in promoting a more favourable campaign environment. The code has been broadened to include other stakeholders, including CSOs, traditional leaders and members of the security services.

Under the Code of Conduct, it was intended that, 12 months before an expected election, a multi-party liaison committee would be established. At the national level, this structure seems to have had limited success. However, members of the COG saw the local equivalents in operation, and it is our observation that they worked effectively and could have contributed to the reduction of inter-party friction. These structures need to be strengthened and made more effective.

We also noted, and commend, the decision by political parties to sign a peace pledge in June, and all stakeholders who initiated and supported this process. Parallel provincial peace pledges were also signed. They included the National Peace and Reconciliation Commission (NPRC), the multi-party liaison committees, all the other Chapter 12 Commissions, civil society groups and faith-based organisations. Twenty (20) of the 23 presidential candidates contesting the 2018 Harmonised Elections signed this peace pledge, binding themselves to a code of conduct that committed them and their parties to campaign peacefully, and also encouraged tolerance among the different political parties.

The NPRC also played a key role in advocating peace messaging during the campaign, by conducting ‘peace caravans’ around the country.<sup>10</sup>

These were the first elections since independence in 1980 to be held without Mr Robert Mugabe being a candidate, and also without the late MDC-T leader, Mr Morgan Tsvangirai. This led to the emergence of new presidential aspirants from the two main parties, after intense intra-party competition. In addition, there were 21 other presidential candidates.<sup>11</sup>

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<sup>10</sup> For the 2018 elections, the NPRC intended to popularise the Electoral Code of Conduct for Political Parties through sensitisation initiatives; setting up an Early Warning Response Hub; advocating dialogue with traditional leaders; engaging with women and youth leaders to harness efforts at community peace-building; supporting the Zimbabwe Gender Commission’s Gender Observatory in its efforts at monitoring women’s political participation; and developing consistent peace messaging for public consumption.

<sup>11</sup> See Chapter 2 for the full list of presidential candidates.



## Conduct of the campaign

### *Campaign methods*

The main methods of campaigning by the better-resourced political parties included rallies, door-to-door campaigning, paid TV and radio advertisements, and promotion through billboards and posters. With the exception of a report we received that one political party had been refused a permit to organise a rally on 24 July, political parties and their supporters appeared to have enjoyed the freedom to campaign. We witnessed a number of rallies, including the final ones of ZANU-PF and MDC Alliance on Saturday 28 July in Harare, which were colourful, robust and well-attended. Those in attendance included large numbers of youth and women.

We noted also that the governing party's visual presence in the campaign was dominant, with the most, and often the largest, billboards and posters, seen around the country.

### *Key campaign themes*

The main campaign themes of the political parties contesting the poll included building the economy, infrastructural development and closer ties with the international community, including the Zimbabwean diaspora.

Specifically, ZANU-PF had as its main campaign themes: leadership, fighting corruption, development of the country, job creation, re-engagement with the international community and national unity. The MDC Alliance, in its manifesto, pledged to build a shared and inclusive economy of US\$100 billion within 10 years,<sup>12</sup> reconstruction of the country's infrastructure, to undertake currency reforms, social justice, and service delivery in healthcare, education and housing. The MDC-T campaigned on the platform of 'Building an Economy to Support Transformation'. The party aimed to address similar key issues as outlined by ZANU-PF, with an emphasis on workers' rights and their place in the economy. The manifestos of the other political parties had similar themes with varying emphases. Transformation of the public enterprise and security sectors, gender parity and environmental sustainability being among some of the other topics raised by other political parties.

Considering the similarity of the party platforms, voters were left to make their choice based mainly on other factors, such as historical voting patterns, the urban-rural divide, and the personality and leadership qualities of the candidates.

There was no televised presidential debate, as both major presidential candidates reportedly refused to participate.

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<sup>12</sup> The 2017 gross domestic product (GDP) of Zimbabwe was \$17 billion.

### ***Role of traditional chiefs***

The National Council of Chiefs of Zimbabwe is a 36-member body which was established pursuant to Section 285 of the Constitution of Zimbabwe. There are 286 chiefs in Zimbabwe.

The chiefs play a significant role in Zimbabwean society, including the protection of the dignity and liberties of their people, ensuring the social security and access to a good livelihood for members of their communities, responsibility for the upkeep of public property, and to ensure there is good conduct and behaviour in the community. Each chief has jurisdiction over an average of 500 village headmen.

The Group was briefed by the President of the Council of Chiefs and he explained that chiefs are expected to be non-partisan and stated that they sit in Parliament to ensure that no law is passed that is not in conformity with traditional values.

While the role of the chiefs in relation to election campaigns is not explicitly defined, the chiefs informed the COG that good governance dictates that they be involved in voter education and public awareness about the need to vote. They claimed their support of political parties is issue-based and non-partisan. They informed the Group, however, that the perception of their alignment with the governing party is because of that party's position in relation to the re-acquisition of land, which is the pillar of existence of their people, and they would support any party that supports the re-acquisition of land as part of their campaign platform. This has, however, led to a perception among stakeholders that the support of the chiefs could be skewed in favour of one party to the detriment of others.

Traditional leaders are entitled to purchase vehicles under a 'Chiefs' Vehicle Revolving Fund', gazetted in 2004. Their vehicles were delivered very close to the election date, which could have created the impression that they were an inducement for loyalty to the incumbent party.

We were informed of another example of the incumbent party possibly benefiting unduly from a government programme, which was the Presidential Inputs Scheme. The Group was informed that seed and fertiliser was distributed during the campaign period, though noted that the main sowing season is from June to August.

### ***Women candidates in the campaign***

The Group was made aware of historic barriers to women's participation in politics in Zimbabwe. This included incidents of intimidation and other forms of abuse. Of particular concern to the Group were reports of hate speech being used against women political candidates during the campaign.<sup>13</sup> Hate speech incites violence or prejudicial action against a protected group or an individual. The Group notes that legislation can be effective in curtailing it, to preserve public order or protect human dignity.

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<sup>13</sup> This issue is examined in more depth in Chapter 4, Participation and Inclusion.

## **Campaign financing**

There is a substantial divide between the finances available to the governing party and other parties. The Political Parties (Finance) Act provides for state funding of a party based on its proportion of representation in Parliament. Only two political parties were eligible for this funding for the 2018 Harmonised Elections. The Political Parties (Finance) Act also prohibits foreign funding to political parties and candidates. Besides this, there were allegations that the incumbent party drew on government resources to augment its campaign.

Currently, there are no laws placing limits on electoral expenditure. Legislation capping electoral expenditure could be introduced before the next elections, thus levelling the field for political parties and candidates.

In order to promote greater transparency and accountability in election funding, there is also a need to enact legislation or a code of conduct regarding the declaration of assets by parties, candidates and Members of Parliament.

## **Recommendations**

- The ZEC should take firm action against those involved in hate speech in its many forms, such as disqualifications or suspensions.
- Measures to enhance the effectiveness of both national and local multi-party liaison committees during the election campaign should be considered.
- Legislation capping electoral expenditure should be enacted before the next elections.
- To promote transparency and ensure greater accountability, consideration should be given to strengthening the Political Parties (Finance) Act through the inclusion of provisions regarding the declaration of assets by parties, candidates and Members of Parliament.

## **Media**

### ***Historical context***

Freedom of the press has been an issue in Zimbabwe from Rhodesia's Unilateral Declaration of Independence in 1965. Several laws were passed making it illegal to print news reports, 'likely to cause alarm, fear, or despondency among readers'. After the Lancaster House Conference in 1979, censorship of the foreign press ended; however, the government retained powers to censor the media at its discretion. After independence, the new Republic of Zimbabwe did not implement proposed media reforms to any great degree. In the 1990s, an independent media

started functioning in the print sector, though the state-run Zimbabwe Broadcasting Corporation (ZBC) remained the sole TV and radio broadcaster.

### ***Current scenario***

Zimbabwe is ranked 126 out of 180 in terms of media freedom by *Reporters Without Borders* (2018), which is a decline from its previous rank of 124 in 2017. This was consequent to the resignation of Mr Robert Mugabe as President in November 2017.

### ***Broadcast media***

Zimbabwe radio and TV remain state-controlled and are the sole broadcast media in the country. Most rural parts of the country do not receive ZBC, the state television. However, TV channels from neighbouring countries, including South Africa, are in fact widely received. In the rural hinterland, the state-run radio is often the sole source of news.

### ***Print media***

The Zimbabwean government also manages two key newspapers, *The Herald* newspaper published from Harare and *The Chronicle* published from Bulawayo. However, a number of private media outlets as well as newspapers have sprung up including *NewsDay*, *The Standard*, *The Independent*, *Daily News*, *The Gazette* and *Zimbabwe Metro*. It was noted by the COG that the government media focuses largely and positively on the government's actions and coverage of the governing party, though it was noted that the state-owned media gave some limited space to the opposition parties in the run-up to the elections. It was also noted that Zimbabwe is extremely polarised, with most of the private papers supporting the opposition parties, often with different emphasis on the same news.

### ***Media monitoring***

Under Section 160(k) of the Elections Act 2005, the Zimbabwe Electoral Commission (ZEC) is given responsibility to monitor the media and promote fair and balanced coverage during election campaigns. For the 2018 elections, the ZEC established a Media Monitoring Committee, with participation from the Broadcasting Authority of Zimbabwe and the Zimbabwe Media Commission. In our view, this Media Monitoring Committee did not monitor the media effectively or encourage media outlets to provide balanced coverage of the election.

A report by the independent Media Monitors on news coverage and advertising during the period of the campaign (31 May to 22 July), which was released on 25 July, concluded that 'ZANU-PF has dominated coverage of this election in all respects, from news reporting, current affairs and advertising. The nature of coverage has largely disadvantaged less-established political parties who have not managed to get much media attention and have failed to take up any offered advertising space to market their parties'. The report notes that ZANU-PF received 53 per cent of mainstream media election coverage compared to MDC Alliance's 20 per cent.

However, the Group noted that most privately-owned newspapers supported the opposition and only one, *Daily News*, took a more independent stance.

### **Social media**

In July 2018, there were 6.7 million internet users in Zimbabwe, which was 40.2 per cent of the population. 53 per cent were active on Facebook, 21 per cent on Pinterest and 18 per cent on Twitter. The remainder were split between Instagram, YouTube and LinkedIn.

Social media channels played an important role in the dissemination of opinions and information during the 2018 election campaign, which could also be attributed to the fact that state-owned mainstream media channels were so heavily biased in favour of the governing party.

The audience for social media channels such as Facebook, Twitter and WhatsApp is mostly the urban and diaspora-based Zimbabwean voter, as they have greater internet access.

One of the noteworthy characteristics of the social media electoral campaign was that it served the primary function of fortifying already existing political positions, by acting as ‘echo chambers’ of already held perspectives. Prominent Zimbabwean ‘Facebookers’ and Twitter celebrities have been posting on social media, indicating which party they support. Hate speech on Zimbabwe’s social media landscape has, however, vitiated the atmosphere, particularly with gender-based death threats. It was reported that four unnamed Zimbabweans were arrested by the police for hate speech on social media.

The Group considers hate speech and its transmission to be unacceptable in any circumstance. In addition to legislation against hate speech, the Group proposes that the ZEC introduces measures to address the problem, such as incorporating it into the Electoral Code of Conduct for Political Parties.

### **Recommendations**

- The ZEC should incorporate a code of conduct for the use of social media into the Electoral Code of Conduct for Political Parties.
- The ZEC’s capacity to monitor the media and ensure balanced coverage should be strengthened, including through the creation of an immediate mechanism to enforce balanced election coverage by broadcast and print media.
- Media outlets should establish an independent, self-regulatory authority to set out standards and codes of behaviour for their organisations, which can rule on complaints from the public about biased news coverage during election campaigns. The self-regulatory authority should also operate independently of the Zimbabwe Media Commission (ZMC).

- The development community should provide training to Zimbabwean journalists to encourage less polarised coverage of election issues.

## Chapter 6

### VOTING, COUNTING AND RESULTS TABULATION

#### Background

On 30 July 2018, voting was scheduled to occur from 0700 hours to 1900 hours in 10,985 polling stations across the country. Polling stations were primarily located within or outside public facilities such as schools, churches and community centres.

For the 2018 elections, according to the Zimbabwe Electoral Commission, 131,000 polling officials were recruited to support the process. On Election Day, polling stations were staffed by a presiding officer and supported by up to ten polling officers. Unarmed police officers were also present to maintain law and order. Party agents, accredited citizen and international observers were authorised entry into the polling stations. Each polling station was to contain three translucent ballot boxes for the colour-coded ballot papers. A fourth box was to be available for any postal votes.

In accordance with recent amendments to the Electoral Act, the voters roll is polling station specific, therefore voters were required to cast their ballots at the station at which they were registered.

The Electoral Act further provides for the assistance of voters with disabilities, and people who are illiterate or infirm. The provision enables the voter to select a person of their choice to assist them. Alternatively, the voter may request assistance from the presiding officer, but the presiding officer is only permitted to render assistance to the voter in the presence of two elections officials and a police officer.

To facilitate the franchise of a category of individuals who are unable to vote at their designated polling station because of special circumstances, the Electoral Act provides for postal voting. Those eligible for postal voting include: members of the disciplined forces or electoral officials; those on duty in the service of the government outside Zimbabwe; or the spouse of a person outside Zimbabwe in the service of the Government of Zimbabwe. In order to vote, these categories of individuals had to apply to the Electoral Commission, to enable the commission to establish a postal vote register. Once these individuals were approved, they were provided ballots and a return envelope. The completed ballots were sent back in the sealed envelope to the Electoral Commission to be included in the final vote count on Election Day.

The Act also required that political campaigning ended 24 hours before the polls opened on Election Day.

## Key observations - Election Day

- The election was generally well organised, with adequate polling stations spread across the country, including in rural and urban areas; adequate deployment of properly trained and professional polling officers; and an adequate supply of election material, including ballots, distributed to polling stations.
- Election materials were delivered two to three days prior to the Election Day. To secure the ballots, police officers and some polling officials had to sleep at the polling stations.
- It was also noted that the 2018 Harmonised Elections were the first elections in which the Zimbabwe Electoral Commission created its own voters roll. The new roll was based on the digital capturing of a voter's biometric (photo and fingerprints) and biographical data. This new roll was seen as a major improvement. It was largely regarded as accurate and credible.
- Following the certification of the final voters roll, political parties did not have adequate opportunity, in advance of Election Day, to review, identify and correct shortcomings on the roll. This is an important step to enable political parties to verify that voters presenting themselves to vote are properly registered.
- The print quality of the ballot was poor, leaving print marks on ballot papers. These print marks could lead to the mistaken impression that a voter had made multiple marks on the ballot or may have voted for more than one candidate. The Group witnessed incidents of ballot papers having to be re-issued because voters complained of these print marks. The ballot also included political parties with very similar names and two political parties with identical emblems.
- The Group received complaints that political parties were not permitted to test the indelible ink used in the voting process. Political parties also complained that they were not given the opportunity to review and comment on the design and layout of the ballot prior to printing, or to observe and monitor the printing, storage and distribution of ballot papers.
- Additionally, concerns were expressed regarding the arrangement of candidates on the presidential ballot into two columns of 14 and 9 candidates respectively, which gave an unfair advantage to the ZANU-PF candidate by placing him at the top of the second column. The explanation provided by the ZEC was that the arrangement followed a specified template format. However, this explanation was not consistent, as the layout and size of the ballots observed varied.



- It was also noted that observation of the postal vote process was neither consistent nor transparent. Party agents were not given a specified time to observe the receiving of postal ballots making it impractical for them to be in a position to observe the process. Additionally, how and where the votes were secured was not clear. In certain voting stations, the number of postal votes was so small that given the fact that the identities of those casting postal votes was recorded and known, the secrecy of the vote was compromised. The lack of communication around the management of the postal vote process was a source of criticism by some stakeholders.

### **Key procedures for opening and voting process**

The key prescribed procedures for opening and voting are as follows:

#### ***Opening of the polls***

- Voting officially commences at 0700 hours.
- Prior to the opening of the polls, the three translucent ballot boxes are shown to all present to confirm that they are empty.
- Two opposite sides are sealed with padlocks, while the other sides are closed with numbered seal straps. The seal numbers are recorded and provided to the party agents present.
- Accredited party agents, citizen and international observers are allowed to be present for the opening.

#### ***Voting***

- **Usher** - As voters line up in queues outside the polling stations, the usher checks that the voter is at the correct polling station, inspects the voter's finger to ensure they have not already voted and checks that the voter has the appropriate form of identification.
- **Voters roll officer** - verifies and confirms the voter's details against the register and then marks the register to signify they have received the ballots.
- **Ballot paper issuer 1** - validates the Presidential ballot with the official stamp, folds the ballot papers and then directs the voter to the next official.
- **Ballot paper issuer 2** - validates the National Assembly ballot with the official stamp, folds the ballot papers and then directs the voter to the next official.
- **Ballot paper issuer 3** - validates the Local Councillor ballot with the official stamp, folds the ballot papers and then directs the voter to the next official.

- **Indelible ink officer** - inspects and marks the small finger of the left hand to confirm receipt of ballot papers and then directs the voter to the voting screen.
- **Voter** - goes behind the voting screen to cast their vote and, once complete, places the ballot in the correct ballot box: Presidential (blue), National Assembly (peach) and Local Government (yellow). The voter then exits the station.

### **Assessment of the opening of the polls and voting**

On Election Day, Commonwealth observers reported a largely peaceful process that was well managed and transparent. Polling officials were generally consistent in the application of procedures. Party agents, citizen and international observers were present throughout the country. Voters turned out in large numbers, particularly at the outset of voting. Each party agent and citizen observer was required to provide their name and ID and to sign a commitment under the Official Secrets Act that they understood that, if they received or acquired information in the course of their duties as Agents or Observers, this could not be divulged or communicated in any way other than for their official duties (which are not defined). Violation constituted a breach of the Official Secrets Act (section 11.9) and the PA or local observer would have been liable for prosecution.

### ***Some key observations of the Group are as follows:***

- Most polling stations observed opened promptly at 07:00hrs and at the opening of polls there were already queues of voters.
- Polling officers were organised, professional and responsive. They appeared to recognise the need for fairness and consistency in the application of election rules, but displayed an appropriate degree of flexibility based on particular circumstances. They also diligently maintained the results slips, incident reports and visitor forms, and were in regular communication with the ZEC local office. Polling officers also consulted their manuals regularly.
- In advance of the elections, it was noted that polling officials and party agents spent the night at their designated polling stations, in some cases from as early as 26 July. The Group was advised that some officials reported that they suffered hardship, because they were not paid their election stipend prior to Election Day.
- The Group also observed that the ZEC's officials regularly visited polling stations throughout Election Day to see that voting was proceeding smoothly, and they responded to requests for more election materials, including additional ballot boxes in some places.

- Voters appeared enthusiastic throughout the voting process. It was also observed that for most of the morning there were large queues at most polling stations. At some polling stations, the officials organised an extra polling booth to reduce waiting times and the ZEC provided additional election personnel to assist with the process.
- It was noted that at some polling stations there were gender-specific queues and priority was given to people with disabilities, lactating and pregnant mothers, and older people. However, this approach was not consistently applied, and an instance was observed when a group of military personnel were given preference over other voters, with the exception of women who were in advanced stages of pregnancy.
- There was no designated time set for polling officials or party agents to vote. Those registered to vote nearby were given time to vote and return, but this was at the discretion of the presiding officer. Some officials who were deployed far away from their designated polling station were unable to vote.
- Police were helpful and professional, and they carried out their election support duties in a restrained manner. The police assisted with queue management and ensured that the '300m/no-campaign' zone was preserved.
- Party agents from the two main political parties, MDC Alliance and ZANU-PF, were present in most polling stations observed. Party agents expressed general satisfaction with the management of the voting process. It was noted that on Election Day, the various political parties appeared collegial towards one another.
- It was noted that party agents did not have copies of the voters roll and so they had to rely on the polling station's roll if they wanted to challenge a voter on the basis that they were not registered at that polling station.
- There were more polling stations in densely populated areas and, to manage the larger numbers of voters, the system of sub-dividing stations was used. Stations were sub-divided based on alphabetical groupings of surnames, the intent being to minimise wait times. However, the Group noted that due to poor signage, voters were confused or unclear as to their appropriate station. This was especially challenging for voters in rural areas.
- The Group observed some voters being turned away because they were at the wrong polling station or their names were not on the roll. Additionally, some of those turned away were those on an 'exclusion list'. In cases where voters were turned away because they were at the wrong station, the presiding officer attempted to redirect them to the correct polling station.

- At the polling stations established within tents, there was inadequate lighting - which was particularly important at the close and counting of votes. Additionally, many of the tents were too small to properly accommodate ease of movement within the polling station.
- The process of supporting assisted voters is commendable. There were some criticisms and concerns raised with members of the COG suggesting that this system was being used to intimidate voters. Such incidents were not witnessed by members of the COG. There were also reports that some presiding officers insisted that the entire complement of persons outlined in the Electoral Provision be engaged in every case of a voter requiring assistance, even if the voter had brought a person of their choosing to assist them.
- Procedures regarding the stamping of the different ballot papers varied. It was noted at some stations observed, some officials stamped an entire ballot booklet at one time and merely checked that the stamp was there when folding and issuing the ballots to a voter, while other officials stamped each ballot paper upon the issuance of the ballot.
- On Election Day, the Group was informed that an MDC candidate in Ward 17 of Hwange East was arrested and charged after he drew the European Union observers' attention to an issue of concern. According to the candidate, the matter of concern involved the apparent registration of up to 30 people from outside the community. The candidate was detained and held overnight, and prepared to appear in court. Prior to the Group's departure from Zimbabwe, the team was informed that the candidate was released without further charges.

### **Key procedures for closing and counting process**

*The stated procedures for the closing and counting process are as follows:*

- The polls close at 1900 hours. However, voters waiting in line at the close of poll will be allowed to vote and voting continues until the last person in line has voted.
- At 1900 hours, the presiding officer is to announce the close of polls inside and outside of the polling station.
- Following the last voter, the presiding officer closes the polling station and starts preparation for the counting of the ballots. Party agents, citizen and international observers are permitted to witness this process.
- The polling station is rearranged to enable additional space and a clear view of the counting process.

- If the station has received postal votes, these are processed prior to the sealing of the apertures of the ballot boxes, as follows:
  - the presiding officer announces to observers and party agents that there are postal votes to process;
  - the presiding officer announces the total number of postal voters on the polling station's postal vote register, and the total number of envelopes received;
  - one at a time, the presiding officer announces the postal voter's name and national ID number as written on the postal vote envelope;
  - the voters' roll officer confirms and marks the voter's records;
  - the presiding officer then opens the envelope and, without unfolding the ballot, stamps each one with the official mark of the station; and
  - the ballots are then placed in the appropriate ballot boxes to be counted with all the other votes.
  
- If the station did not receive postal votes, then the counting and verification phase commences.
  
- The opening of the ballot boxes and the completion of the V11 Results Form are carried out one election at a time.
  
- On sequencing, the Presidential Election ballot box is opened first.
  
- The ballot box seals are cut, and the two padlocks are removed.
  
- The ballot box is emptied onto the table.
  
- The ballot papers are counted face-down, verifying the number of ballot papers matches the number of ballot papers issued.
  
- If a ballot paper from one of the other elections is found during the count, it is placed inside an envelope labelled 'Incorrectly Inserted Ballots'.
  
- The ballots are counted in lots of ten by the counting officer, and then placed in bundles comprising 100 ballots.
  
- The bundles are sorted by candidates and valid votes:
  - **valid votes** are ballots on which the voter has indicated with certainty the candidate of their choice; while
  - **invalid votes** are ballots on which the voter's intention is not clear.
  
- This process is repeated for the two other elections.

- Once the count is completed, the Polling Station Return Form (Form V11) is completed.
- The V11 Form and all documents originating from the polling station must be stamped with the presiding officer's seal.
- A duly complete V11 Form is affixed outside the entrance of the polling station.
- The presiding officer must personally transmit the certified polling station return to the ward elections officer.
- For each election, the marked ballots, unused ballots, the V11 Forms and other materials - such as the voters' register and the gender statistics form - are packed into envelopes then placed in the ballot box.
- The ballot box is sealed and transported to the ward elections officer.

#### **Assessment of closing and counting**

The vote count at the polling stations was transparent, with party agents and citizen and international observers able to follow the process closely. It was, however, a laborious process, carried out by exhausted, yet dedicated and resilient, polling officials and attentive party agents, often in challenging infrastructure, including poor lighting.

#### ***Some key observations of the Group are as follows:***

- The counting process followed a procedure that was fair and generally consistent, including when addressing invalid ballots.
- Spoilt ballots were dealt with fairly. For the instance observed, the ballots were shown to party agents and observers and the decision as to how to treat these ballots was made by consensus.
- The mood at the polling stations observed was generally informal and collegial. However, the counting process was laborious, time consuming and inefficient. Counting occurred around a table and party agents and observers were allowed to view the count without hindrance and were able to ask questions and make suggestions regarding the counting procedure.
- Presiding officers and the other polling officials were very tired after an already long day. This factor posed a risk of inadvertent errors.

- Addressing postal votes took an inordinate amount of time and in some polling stations, due to the stated procedures for addressing postal votes, there was a risk that the secrecy of the vote was compromised.

### **Key procedures for results tabulation process**

*The stated procedures for the results tabulation process are as follows:*

- The ward elections officer receives and checks the following:
  - sealed ballot box;
  - six V11 Forms for each election, completed and signed;
  - that all original V11 Forms show the same information; and
  - all V11 calculations are correct
- The ward elections officer will collate ward results for the Presidential, National Assembly and Local Authority Elections.
- The ward elections officer uses the V11 Forms to complete the Ward Return Forms (V23A) for the three elections.
- For each polling station in the ward, there must be a corresponding V11 attached to the back of the V23A Form.
- The Ward Return Forms (V23A) are complete after the results of every polling station in the ward has been captured.
- The ward elections officer will display the completed and signed V23A Forms outside of the Ward Coalition Centre.
- The ward elections officer must personally transport all the electoral materials to Constituency Command Centre.
- The constituency elections officer will verify that each V23A has the required original V11 Form attached.
- The constituency elections officer will also verify that:
  - each V23A Form has been correctly completed;
  - all original forms show the same information;
  - that all information on every form is legible;
  - all V23A Forms are accurately calculated; and
  - all forms are duly completed and signed by the relevant stakeholders.
- Once satisfied, the constituency elections officer will complete the V23B Form. The V23B contains all the collated results for all the wards in that constituency.

- The V23B Form for the National Assembly Elections will announce the winner of that National Assembly.
- The V23B Form for the Presidential Elections is not announced, but only displayed by the constituency elections officer.

### **Assessment of the results tabulation process**

Although the results process concluded during the Group's period in Zimbabwe, concerns around access, transparency and the lack of clarity on key procedural aspects of this process was a point of note for the Group. Additionally, the lack of clarity and communication on the part of the ZEC on the results declaration process was a source of concern, not only for the electorate but also observers. The Group is of the view that the tallying processes should be streamlined and simplified, while not compromising the integrity and transparency of this process.

### ***Some key observations of the Group are as follows:***

- Reproduction of the V11 Forms by hand took an inordinate amount of time and fostered the risk of inadvertent mistakes on the form. Many of the officials completing the forms were exhausted.
- At the polling stations observed, the V11 Forms were signed by party agents, each of whom was given a copy of the form, while another copy of the form was posted outside the polling station by the presiding officer. The Group was also informed that party agents had been instructed by their party to take their copy of the V11 Forms to senior party officials, in order for the results to be transmitted via WhatsApp or email.
- It was noted that not many party agents were able to accompany the presiding officers with the V11 Forms and ballot boxes to the ward office. This suggested that it might have been difficult for the political parties to monitor the official tabulation process from the polling station to the ward to the constituency office.
- Additionally, it was noted that at the ward and constituency offices, it was not possible to obtain or make copies of the results forms that had been submitted to them.
- The tabulation, collation and results verification process was slow and cumbersome. During the writing of this report, the ZEC had not yet provided a comprehensive breakdown of the results by polling station or constituency on any of the available platforms. The Group was informed that some of the factors contributing to the delay were distances, poor road conditions and insufficient vehicles to move materials.



- The Group noted that although the final results were delivered by the ZEC within the legally stipulated timeframe (in approximately 77 hours), the communication strategy of the ZEC did not foster an atmosphere of confidence or trust.
- The approach of the ZEC only seemed to promote suspicion, mistrust and allegations of rigging. For example, the response of the ZEC chairperson to calls for the expeditious release of election results was to warn the public against the transmission of uncertified results, as this was a criminal offence.
- The Group observed that the use of electronic or digital technology was limited to mobile phones for communication among the ZEC's staff, as well as computers for the recording of information. While there may be trust issues attached to the use of technology in electoral management processes, particularly around results management, there are systems that could be put in place that would enhance transparency and efficiency as Zimbabwe's economy develops.

#### **Key observations - post-election period**

*Following a largely peaceful Election Day witnessed by the electorate, party agents, citizen and international observers, the Group felt it important to highlight a series of disconcerting events that ensued:*

- On 1 August, two days after the elections, six reportedly unarmed people were shot in the streets of Harare by the Zimbabwe Army. Three died at the scene and three died of their injuries over the next two days. The President and Leader of the Opposition both called for an independent enquiry.
- On 2 August, according to media reports, the Zimbabwe Police raided the Harare-based headquarters of the MDC Alliance, pursuant to a search warrant issued by a city magistrate asserting that Nelson Chamisa (party leader and presidential candidate for the MDC Alliance) and several others were suspected of 'possession of dangerous weapons' and 'public violence'. The warrant also authorised police to search for and confiscate any evidence, including computers and documents. Sixteen MDC workers were taken away for questioning. They have since been charged, appeared in a Magistrates Court and were, at the time of writing, bailed to appear again at a later date.
- On 3 August, Nelson Chamisa called a press conference in the gardens of the Brontë Hotel, where the Commonwealth Observer Group was based. In advance of the press conference, Commonwealth observers, together with members of the international media, saw police in full riot gear, armed with batons and tear gas, enter the hotel grounds and forcefully instruct journalists

to leave. The journalists resisted, and the police eventually withdrew outside the hotel fence.

- It was reported in the media that President Mnangagwa had sent a senior ZANU-PF official, Senator Simon Khaya Moyo, to the hotel to request the withdrawal of the police. After about an hour, the police trucks drove away. Mr Chamisa arrived, and the press conference started.
- Later in the day, President Mnangagwa stated on television: ‘The scenes today at Brontë Hotel have no place in our society and we are urgently investigating the matter to understand exactly what happened’.

## Presidential results

Candidate	Results	Percentage
Busha	17,540	0.36%
Chamisa	2,151,927	44.39%
Chikanga	13,132	0.27%
Dzapasi	1,890	0.04%
Gava	2,858	0.06%
Hlabangana	9,460	0.20%
Kasiyamhuru	7,016	0.14%
Khupe	45,626	0.94%
Madhuku	2,692	0.06%
Mangoma	2,431	0.05%
Manyika	2,681	0.06%
Mapfumo	1,546	0.03%
Mariyacha	1,673	0.03%
Mhambi	4,405	0.09%
Mnangagwa	2,456,010	50.67%
Moyo	15,172	0.31%
Mteki	2,732	0.06%
Mugadza	5,898	0.12%
Mujuru	12,823	0.26%
Munyanduri	4,498	0.09%
Mutinhiri	4,107	0.08%
Shumba	3,905	0.08%
Wilson	4,895	0.10%
<b>Total Votes Rejected</b>	<b>72,316</b>	<b>1.49%</b>
<b>Total Valid Votes Cast</b>	<b>4,774,917</b>	<b>98.51%</b>
<b>Total Votes Cast</b>	<b>4,847,233</b>	<b>100.00%</b>

Source: Zimbabwe Electoral Commission (ZEC)

## Recommendations

- To avoid operational or implementation delays, confusion and potentially conflicting provisions, international good electoral practice advocates that there should not be substantive changes to the legal and electoral framework 6 to 12 months prior to an election.
- To promote transparency and a level playing field, the ZEC should consider adopting a more communicative and collaborative approach with the various election stakeholders. Opportunities and aspects of the electoral process that do not contravene the legal framework, such as stakeholder comments on the design of ballot papers prior to printing, should be seen as a constructive and positive means for engagement.
- The variance in population size across Zimbabwe's constituencies remained an issue of concern to some stakeholders. To ensure fairness and equal access, a review of the boundaries should be undertaken in an inclusive, non-partisan and transparent process, with a view to standardising the numbers of voters across constituencies to ensure fair and equal representation.
- The Group notes some of the infrastructural challenges observed, such as polling station locations without basic facilities (e.g. inadequate lighting or water) to enable the smooth and efficient management the elections. These are issues which are not exclusive to Zimbabwe, but familiar in a number of developing democracies. As they impact inclusivity and access, as well as the transparency of the process, it is the Group's hope that as Zimbabwe prospers, the infrastructure for elections, which is often the same as that for development, such as schools and community centres, will be given due consideration.
- To avoid fatigue and thereby minimise human errors, it is recommended that the the ZEC considers deploying its officials in shifts, whereby the presiding officer and polling officials hand over the counting process to a counting officer and counting staff. In addition, it is suggested that consideration be given to reducing the volume of paperwork used at the polling station.
- The Group encourages the ZEC to consider streamlining the counting, collation and tabulation process to reduce redundancy and to minimise human errors, without compromising the integrity and accuracy of the process.
- The Group recommends that the ZEC ensures that underlying information from each polling station, which enables the tabulation of results for Ward, Constituency and Presidential Elections, are available throughout the process such that the aggregation of results is carried out in a transparent manner.

- To ensure greater consistency in the application of electoral procedures, strengthening and lengthening the duration of the training for polling officials is recommended.
- To ensure consistency in the application of procedures, while maintaining the dignity and the secrecy of their vote, a review of the procedures and approach for assisted voters should be conducted by the ZEC.
- A review of the current Secrecy Declaration should be conducted, as it seems too broad in scope.
- To promote and enable greater participation, it is recommended that consideration be given to waiving the fees for citizen observers.
- Consideration should be given to a review of the process for casting and counting postal votes, to ensure efficiency while guaranteeing the secrecy of the vote.
- The Group commends the ongoing civic education campaigns, especially those targeting women, youth and people who are illiterate. We recommend the prioritisation of such campaigns to ensure increased participation of these groups.
- To continue to strengthen voter confidence in the electoral process, a more robust civic awareness and voter education programme - designed and implemented by the ZEC, political parties and all relevant stakeholders - is encouraged.
- At the conclusion of the electoral period, a review of policies, procedures and staff capacity is recommended to identify the successes, challenges and lessons that can be learned to build and strengthen the capacity of the Zimbabwe Electoral Commission for future elections.

## Annex I: BIOGRAPHIES OF CHAIRPERSON AND OBSERVERS

**Mr Gary Dunn (Australia)** is a senior government business expert. He was former Deputy Secretary-General of the Commonwealth Secretariat in London, and Deputy Secretary DFAT and Deputy Director-General AusAID in Australia. He has over thirty-five years' public sector experience mostly at the senior executive level. Gary specialises in international development, social services and corporate affairs and has deep experience in organisational renewal, corporate governance, executive management, strategic planning, policy development and program management. Gary currently has his own business as a senior executive consultant.

**Mr Darrell Bradley (Belize)** is a Belizean attorney, lecturer, and politician. Darrell currently practises in the areas of corporate, property and administrative law and he is an adjunct faculty at the University of the West Indies (Belize). Darrell previously served as a two-term Mayor of Belize City, Vice President of the Belize Bar Association, Director of the Central Bank of Belize, President of the Belize Mayors Association, and Vice Chairman of the Commonwealth Local Government Forum.

**Rev Mpho MBW Moruakgomo (Botswana)** is President, Botswana Association of Local Authorities, and Chairperson of CLGF. He first became a councillor in 2004; from 2006-2009 he was council chairperson in Kgatlen District, having previously been chair of finance. He is an economist and theologian by training and has worked in local government and rural development, youth and health. From 1997-2001 he was Executive Director of the Botswana National Youth Council and from 2001-2004 Programme Technical Officer for the United Nations Population Fund responsible for reproductive and sexual health policy. He has served on a number of government and national councils, task forces and reference groups including the National Vision Council, Social Values Advisory Committee, Botswana Council of Churches, Police Council and National Children's Council. As President of the Botswana Association of Local Authorities he is also a member of the United Cities and Local Governments Africa Executive Committee.

**Dr Samuel Azu'u Fonkam (Cameroon)** holds a combined Honours Degree in Law and Economics from the University of Yaoundé, and an LL.M. and Ph. D in Law from the University of London. Dr Fonkam has taught Law for over twenty-five years at the University of Yaoundé and was previously Chair of the Cameroon Electoral Commission, Elections Cameroon, a position he held for eight years. Before leaving ELECAM, he served as Technical Adviser at the Presidency of the Republic of Cameroon and Deputy Secretary General (Deputy Clerk) of the Cameroon National Assembly. He is currently a Member of the Steering Committee of the Commonwealth Electoral Network (CEN), Vice President of the Réseau des Compétences Électorales Francophones (RECEF), Member of the Executive Committee of the Association of African Election Administrations (AAEA) and Member of the Audit and Oversight Committee of the Association of World Election Bodies (A-WEB). He has led Elections Observer Missions for the African Union, the

International Organization of the Francophonie, the Economic Community of Central African States (ECCAS) and the Electoral Institute for Sustainable Democracy in Africa (EISA).

**Ms Sabrina Grover (Canada)** currently works with Nutrition International as a policy and advocacy officer to advance nutrition and food security. NI works to transform the lives of vulnerable people, especially women, adolescent girls and children by improving their nutritional status. Previously Sabrina has worked in government relations. Sabrina also serves as part of the executive team of the Young Diplomats of Canada focused on business development and strategic partnerships for the organization. Additionally, Sabrina is currently serving as the co-chair of the Youth 7 (Y7) summit which serves as the formal side engagement to the G7 as part of Canada's 2018 G7 presidency.

**Prof Frederick John Packer (Canada)** is Director of the Human Rights Research and Education Centre and Neuberger-Jesin Professor of International Conflict Resolution in the Faculty of Law at the University of Ottawa (Canada). He previously taught at the Fletcher School (Tufts University, USA) and the University of Essex (UK), held Fellowships at Cambridge and Harvard Universities, and has lectured at academic and professional institutions around the world. Over his 30-year career, he was an inter-governmental official for 20 years (UNHCR, ILO, OHCHR, UNDP, OSCE) and has advised numerous governments, communities and other actors in over fifty countries. In 2012-2014, he was the Constitutions Expert on the UN's Standby Team of Mediation Experts. The focus of his research and practice is at the inter-section of human rights (including minority rights) and security, notably conflict prevention and quiet diplomacy, international mediation, transitional arrangements, and institutional developments at domestic and multilateral levels.

**Dr Kwadwo Afari-Gyan (Ghana)** taught political science at universities in the United States, Nigeria and Ghana before becoming an election administrator. In 1992 he served on the committee that drafted proposals for Ghana's current constitution. He was chair of the Electoral Commission of Ghana from 1993 to 2015. He has served on several election observation missions on behalf of various international organisations.

**Mr Jayanta Roy Chowdhury (India)** is currently Senior Editor with The Telegraph. He has been journalist for about three decades. Jayanta specializes in writing on Politico-Economic and international issues, but has a wide range of interests ranging from history to security issues to fiction. He has earlier worked for the United News of India and The Pioneer. He has also been part of India-Bangladesh Track 2 dialogues. An Economics Graduate from Delhi University in the 1980s, Jayanta was also Chevening Fellow in Development Economics in 2010. He has also been a guest on television and radio shows as an expert analyst and a guest lecturer at the Indian Institute of Mass Communications.

He is also currently Honorary Secretary of the International Executive Committee of the Commonwealth Journalists' Association.

**Judge Margarette May Macaulay (Jamaica)** is an Attorney-at-Law in private practice in Kingston, Jamaica with over 40 years' experience. She is also a Commissioner of the Inter-American Commission of Human Rights and its current President. The Commission's mandate encompasses all the Organisation of American States in the Americas.

She is the Commission's Thematic Rapporteur on Women's Rights and the Thematic Rapporteur on the Rights of Afro-Descendants and against Racial Discrimination, as well as the Country Rapporteur for six countries in the Americas.

She was formerly a Lecturer of Law-Constitutional, Company, Trusts, Commercial and Real Property Laws in Jamaica for three years but then decided to concentrate on her private practice. She was later an Adjunct Professor on Women's Rights in the Inter-American System of Human Rights at UPEACE in Costa Rica and at the American University in Washington DC, United States of America.

She has presented countless papers at international, regional and national conferences on human rights on a myriad of human rights issues and has written and is still writing weekly in both main national daily newspapers in Jamaica, which number in the thousands articles on legal rights and available remedies. She is an honouree and is listed for her contribution to women's human rights and for the elaboration of the Elements of Crime and the Rules of Evidence and Procedure of the International Court Criminal Court, on the Legacy Wall at the United Nations Building in New York and will be so listed on the permanent wall in the International Criminal Court's new building in The Hague.

**Justice Willy Munyoki Mutunga (Kenya)** is the former Chief Justice & President of the Supreme Court of Kenya. He has been a law lecturer, a leader in the human rights and other social and political movements in Kenya and East Africa. Before joining the Judiciary in 2011 he served as the Regional Representative of the Ford Foundation's Eastern Africa Office. Justice Mutunga has published books, scholarly articles, and given lectures in various countries on the transformation of judiciaries in the Global South. Justice Mutunga remains engaged in two critical issues of developing progressive jurisprudence for Africa; and the growth of Africa's alternative political leaderships.

**Advocate Mary-Ann Ooi Suan Kim (Malaysia)** is a Barrister, Commissioner for Oaths, Certified Compliance Professional, Entrepreneur and is Principal of O S Kim & Associates where Kim provides legal solutions on corporate, commercial and family law. Kim is featured as one of the *LexisNexis Asia PG Corporate Experts* in Company Law and is the Founder of Builders Biomass, an integrated bioenergy solutions provider modelled upon the 3Ps of sustainability. Recognition came in the form of awards as *Outstanding Woman Entrepreneur in STEM* in the ASEAN Summit 2016,



*The British Council Entrepreneur Study UK Alumni Award 2017 and The Prime Minister's Best Innovation Award in Green Technology.* An ardent believer of empowering women in business to engage in the global markets, Kim is Vice-President of the International Women's Federation of Commerce and Industry, Malaysia. As an influencer, Kim is regularly invited to present papers and shares her thoughts globally as speaker, moderator and panellist at international conferences and summits.

**Dr Francis Agius (Malta)** is a medical doctor by profession with two Masters Degrees, one in Public Health from Wales University and a more recent one in Ophthalmology from University College, London. He has been a Member of Parliament from 1996 till 2013, being returned from his constituency in four consecutive elections. He served as Minister in various legislatures, having varied portfolios ranging from the Elderly to Agriculture and Fisheries. He represented his country on the Council of Europe leading the Parliamentary Delegation for ten years. He was also elected to the Chair of the Bills Committee of the House of Representatives. He is a Consultant in Public Health, being the National Co-ordinator on rare diseases and sits also as a Director (non-executive) on the Malta Tourism Authority.

**Mr Tim Barnett (New Zealand)** is Chief Executive of an anti-poverty organisation in New Zealand. He has a background in elected politics - as a Borough Councillor in London between 1982 and 1988, and as a Member of Parliament in New Zealand 1999 to 2008. For the last three years in Parliament he was the Government Senior Whip. He was also the sponsor of the Prostitution Reform Bill, which passed into law in 2003 as his members bill. He has led human rights, legal rights, volunteering promotion and HIV charities, and worked for an iwi (Maori tribe) in New Zealand.

**Ms Andie Fong Toy (New Zealand)** is a Pacific regional development professional with extensive experience in economic governance, trade, private sector, security, political governance, human rights and good governance. Ms Fong Toy has held senior leadership positions including the Deputy Secretary General for the Pacific Islands Forum Secretariat. She has conducted research on Pacific legal issues; participated in election observation missions; and worked in a civil society organisation. Ms Fong Toy has also undertaken consultancy work on enhancing Pacific leadership with a focus on Pacific youth and women; labour mobility; and regional geo-political security. She has a LLB and a Masters in International Relations.

**Ms Clare A Keizer (St Vincent and The Grenadines)** is Editor-In-Chief of Searchlight newspaper of St. Vincent and the Grenadines and Chief Executive Officer of Interactive Media Ltd., the company that publishes Searchlight. Ms Keizer holds a Bachelor of Science degree in Computer Science and Physics from the University of the West Indies, a Master of Science degree in Computer Science from the University of Western Ontario, Canada, and holds certificates in journalism from the University of the West Indies, the Commonwealth Press Union and the Commonwealth Trust. Prior to working in the media, Ms Keizer worked for several years as the director of

technology at a large data processing company and before that as a project manager and a teacher. Ms Keizer is Chairman of IM Holdings Inc, Deputy Chairman of Invest SVG (the national investment promotions agency), a Director of Interactive Media Ltd. and Company Secretary and Director of SVG Publishers Inc, the company that prints all three national newspapers in St Vincent and the Grenadines.

**Ms Marcella Samba-Sesay (Sierra Leone)** is a young political analyst, dedicated to enacting change and ensuring that governance is pro-poor and citizens' rights directed. She is chairperson National Election Watch (NEW) leading a coalition of 375 international and local organizations charged with the responsibility of promoting Accountability and transparency in Public Elections in Sierra Leone.

She is member of the Board of Directors of Millennium Challenge Corporation and previously Board Chair Media Matters for Women Sierra Leone, a local Organization which builds innovative communication networks reaching rural women and girls. As the current Head of Programmes for the Campaign for Good Governance (CGG) she has extensive experience building capacity in local communities for democratic participation and engaging government and other public and private officials in sustainable dialogue for democratic governance reforms. Such engagements have helped institute a human right's culture in a post-war Sierra Leone, mobilizing women for political participation and making sure that services are adequately delivered to communities. She became a compelling voice for the acceptance of the Elections Result in the just concluded 2018 Elections in Sierra Leone.

**Ms Janet Love (South Africa)** was appointed Commissioner of the Independent Electoral Commission (IEC) in 2016. An anti-apartheid activist from the 1970s, Ms Love was involved in negotiating for South Africa's democracy from 1991 until the first democratic elections. She was an MP in the Mandela Parliament from 1994 to 1999. She subsequently served in various government and civil society institutions, including working in the South African Reserve Bank for five years as head of strategic analysis in the Currency Department and as National Director of the public interest law firm, the Legal Resources Centre. She served a seven-year term (2009 to 2016) as a part-time member of the South African Human Rights Commission. Ms Love studied through the University of the Witwatersrand and the University of London and has post-graduate qualifications in public administration, development management and economics.

**Mr Nikoli Edwards (Trinidad and Tobago)** is a Youth Advocate, Social Activist and Media Practitioner. Appointed as the youngest Temporary Independent Senator in his country, he serves as the youngest member of the Procurement Board of Trinidad and Tobago. He served as Vice Chairperson Policy, Advocacy and Projects of the Commonwealth Youth Council and works as a Motivational Speaker and Facilitator supporting students' volunteerism efforts across the Caribbean. Nikoli graduated from the University of the West Indies with a BA Communication Studies and a PG Diploma in Mediation Studies. He is currently an MSc Mediation Studies student. Nikoli has served as an active student leader and is affiliated with several local and

international Civil Society Organisations. He is the Founder and Chairman of the Trinidad and Tobago Youth Convention.

**Professor Sylvia Tamale (Uganda)** is a leading African feminist who teaches law at Makerere University in Uganda. Her research interests include “Women in Politics,” “Gender, Law & Sexuality” and “Feminist Jurisprudence” and she has published extensively in these areas. She has served as Visiting Professor in several academic institutions globally and serves on several international human rights boards.

**Lord Robert Hayward (United Kingdom)** is a British politician and elections/polling analyst. He was an elected MP from 1983-92 and has been a member of the House of Lords since 2015. He recently served on the Lords select committee on Political Polling and Social Media. Lord Hayward regularly appears in the media undertaking pre-election analysis or post-election commentary, his reputation having been established by correctly forecasting the surprising outcomes of the British General Elections in 1992 and 2015 and the Brexit referendum in 2016.

Beyond elections Lord Hayward specialises in the voluntary and charity sectors. He is the only serving British politician ever to have received a civilian honour not for political services. He was co-founder of Gulf Support Group for relatives and friends of the hostages at the time of Iraq invasion of Kuwait in 1990 for which he was made awarded the Order of the British Empire. He has also served as a senior office holder in organisations such as the YMCA and Dignity in Dying and was the founder chairman of the world’s first gay rugby-Kings Cross Steelers RFC.

**The Rt Hon Baroness Margaret Jay (United Kingdom)** is a Privy Councillor and Labour member of the House of Lords in the UK. She has previously served in Government as a Minister of Health, Minister for Women and Leader of the House of Lords. She has also had a career in business and the media; as a non-executive director of major companies such as British Telecom and the Independent News and Media. As a political journalist she has worked for the BBC and other British and American television organisations.

**His Hon David Radford (United Kingdom)** retired as a Senior Circuit Judge in 2017 but currently sits as a Deputy Circuit Judge from time to time when needed to do so. He was the Senior Judge at the largest Crown Court in England and Wales for over 14 years and sat from time to time for 12 years as an Additional Judge of the Court of Appeal, Criminal Division He is a Master of the Bench of Gray’s Inn. When a practicing Barrister in the 1970s and early 1980s he was a Parliamentary Candidate for and an active member of the Liberal Party.

## Annex II: DEPLOYMENT PLAN

NO.	PROVINCES	DISTRICTS	TEAMS
1	Harare	Harare	President Mahama (Chair) Katalaina Sapolu Neil Ford Yvonne Apea Mensah Clara Cole Temitope Kalejaiye
2	Harare	Harare	Linford Andrews Hilary McEwan Tiffany Chan
3	Harare	Harare	Willy Mutunga Margaret Jay
4	Masvingo	Masvingo	Sylvia Tamale Francis Agius
5	Midlands	Gweru	Tim Barnett Margaret Macaulay
6	Bulawayo	Bulawayo	Marcella Samba Sesay John Packer Kemi Ogunsanya Jayanta Chowdhury
7	Mashonaland Central	Bindura	Samuel Fonkam Andie Fong Toy
8	Mashonaland West	Kadoma	Clare Keizer Gary Dunn
9	Matabeleland South	Gwanda	Janet Love Nikoli Edwards
10	Mashonaland East	Marondera	David Radford Mpho Moruakgomo
11	Matabeleland North	Hwange	Robert Hayward Sabrina Grover
12	Manicaland	Mutare	Kwadwo Afari-Gyan Mary-Ann Ooi Suan Kim Darrel Bradley

## Annex III: ARRIVAL STATEMENT



### COMMONWEALTH OBSERVER GROUP IN ZIMBABWE

Arrival Statement by the Chair,

John Dramani Mahama, former President, Republic of Ghana

25 July 2018

I am honoured to have been invited by the Secretary-General, the Rt Hon Patricia Scotland QC., to lead the Commonwealth Observer Group for the general elections that will take place in Zimbabwe on 30 July.

The Observer Group constituted by the Commonwealth Secretary-General consists of 23 eminent people from across the Commonwealth, including representatives from Africa, Asia, Europe and the Pacific. We are here until 6 August at the invitation of the Government of Zimbabwe.

The observers have a great depth of knowledge and experience - not only of electoral and political processes, but of civil society, human rights, gender, media and youth issues.

The Commonwealth last observed elections in Zimbabwe in 2002. The first election it observed in this country was in 1980.

As independent observers, our mandate is to consider factors that affect the credibility of the electoral process and report on whether the vote has been conducted according to the national, regional, and international standards to which Zimbabwe has committed itself. We will perform our role with impartiality, independence and transparency.

It was here in Harare, in 1991, that Commonwealth Heads of Government issued a seminal declaration committing their countries to a set of principles, including democracy, the rule of law and the independence of the judiciary, just and honest government; and fundamental human rights.

It is noteworthy that, for the first time in Zimbabwe's electoral history, women are among the presidential candidates: four are standing for election.

The Commonwealth Observer Group urges citizens, particularly women and youth, to participate in this election, and all stakeholders to play their part in ensuring a peaceful and credible process.

Over the next three days, we will consult a wide-range of election stakeholders including, the Zimbabwe Election Commission, political parties, citizen observers, civil society and media representatives.



On 28 July, I will deploy observers to ten provinces, where they will observe preparations ahead of the vote. On election day, they will observe the opening of polls, voting, closing of polls, counting of votes and the tabulation of results.

We will issue a Statement of our preliminary findings following the elections.

The final report will then be prepared and submitted to the Secretary-General, who will share it with the Government of Zimbabwe, leaders of political parties, the Zimbabwe Election Commission, and thereafter to all Commonwealth governments. It will also be made available to the public.

The final report will be considered in the Commonwealth Secretary-General's assessment of Zimbabwe's interest in being readmitted to the organisation.

On behalf of the Group, I wish the people of Zimbabwe well as they prepare to exercise their democratic right to vote.

For more information, or to organise media interviews, please contact:

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Zimbabwe mobile: 0774725998

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### **Note to Editors**

The Commonwealth is a voluntary association of 53 independent and equal sovereign states. It is home to 2.4 billion citizens, of whom 60 per cent are under the age of 30. The Commonwealth includes some of the world's largest, smallest, richest and poorest countries, spanning five regions. 31 of its members are small states, many of them island nations.

Also important to note that the members of the Commonwealth Observer Group are selected in their individual capacity and are independent of the Commonwealth's 53 member countries.

Visit [www.thecommonwealth.org](http://www.thecommonwealth.org)

## Annex IV: INTERIM STATEMENT



### Zimbabwe Harmonised Elections on 30 July 2018

#### **Preliminary Statement by John Dramani Mahama Former President of the Republic of Ghana Chairperson of the Commonwealth Observer Group: 2 August 2018**

Members of the media, ladies and gentlemen.

Thank you for coming to this Commonwealth Observer Group Press Conference.

Let me start by expressing the Commonwealth Observer Group's profound sadness at the outbreak of violence by supporters of the opposition and the excessive use of force by the security services in the last 24 hours.

Tragically, this has resulted in a number of fatalities and injuries. We extend our sympathies to the families and loved ones of all those affected by these deeply troubling incidents.

We categorically denounce the excessive use of force against unarmed civilians and wish to urge all parties to exercise restraint.

Ladies and gentlemen, we are presenting our preliminary statement at a critical juncture in the electoral process.

While this statement should, under normal circumstances, cover just the three completed phases - the pre-election environment, Election Day and the count and tally process - we are compelled to reflect on these latest events and their impact on the entire electoral process.

The progress achieved so far could be undermined if all parties and their supporters do not remain peaceful and tolerant and respect the rule of law.

The electoral process is yet to be concluded. The greatest test of leadership is called for now. All parties must exercise patience and restraint while we await the announcement of full results. We urge the Zimbabwe Electoral Commission to expedite the announcement of all election results, without further delay.

Grievances must be pursued through due process, with the use of all available conflict resolution mechanisms.

Preliminary Statement of the Commonwealth Observer Group  
Zimbabwe Harmonised Elections  
2 August 2018

Political leaders should be magnanimous in victory and gracious in defeat.

As the results phase draws to a close, it is our fervent hope that the wish of all Zimbabweans for a credible, peaceful and democratic process will be realised.

It has been sixteen years since the Commonwealth observed elections in Zimbabwe. We were last here for the 2002 Presidential Election. This election, therefore, is of great significance to us. It is a privilege to be here, in support of the people of Zimbabwe, at another milestone in their democratic journey. Again, we express our hope that peace prevails.

This Preliminary Statement of the Commonwealth Observer Group is issued while the results tabulation process is still underway. As such I propose to now hand out the full preliminary statement and to take your questions.

Our full assessment of the entire process, including any recommendations for improvement, will be contained in our final report, which will be made available to the public.

This watershed moment for Zimbabwe should not be squandered.

The Commonwealth stands in solidarity with the people of Zimbabwe.



## Annex V: JOINT STATEMENT



### 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*