



TRANSPARENCY  
INTERNATIONAL  
ZIMBABWE



2018 ANNUAL STATE OF  
CORRUPTION REPORT

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**ELECTORAL INTEGRITY  
IN ZIMBABWE**





“*fraud can be costly because it produces unintended and violent domestic outcomes such as protest and violence from angry citizens who view the race as illegitimate that one or both parties may want to avoid*”

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**James Long, 2010**



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ISBN 978-1-77929-946-8

**2018 Annual State of Corruption Report (Electoral Integrity)**

A publication by Transparency International Zimbabwe (TI Z)  
96 Central Avenue,  
Harare  
[www.tizim.org](http://www.tizim.org)

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Cover Design:  
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## Acronyms

<b>ACDEG</b>	African Charter on Democracy, Elections and Governance
<b>ACHPR</b>	African Charter on Human and People's Rights
<b>AIDS</b>	Acquired Immune Deficiency Syndrome
<b>AIPPA</b>	Access to Information Privacy Protection Act
<b>ANC</b>	African National Congress
<b>ASCR</b>	Annual State of Corruption
<b>AU</b>	African Union
<b>AUEOM</b>	African Union Electoral Observation Mission
<b>BAZ</b>	Broadcasting Authority of Zimbabwe
<b>BVR</b>	Biometric Voter Registration
<b>CBD</b>	Central Business District
<b>CDF</b>	Constituency Development Fund
<b>CRPD</b>	Convention on the Rights of Persons with Disabilities
<b>CPI</b>	Corruption Perception Index
<b>CSOs</b>	Civil Society Organisations
<b>DCC</b>	District Collation Centre
<b>DRC</b>	Democratic Republic of Congo
<b>ECOWAS</b>	Economic Community of West Africa States
<b>EIP</b>	Electoral Integrity Project
<b>EMBs</b>	Election Management Bodies
<b>EOM</b>	Electoral Observer Missions
<b>ERC</b>	Election Resource Centre
<b>ESC</b>	Electoral Supervisory Commission
<b>EU</b>	European Union
<b>EU EOM</b>	European Union Election Observer Mission
<b>FGDs</b>	Focus Group Discussions
<b>GNU</b>	Government of National Unity
<b>GPA</b>	Global Political Agreement
<b>ICCPR</b>	International Covenant for the Civil and Political Rights
<b>IDASA</b>	Institute for Democratic Alternatives in South Africa
<b>IDEA</b>	Institute for Democracy and Electoral Assistance
<b>IG</b>	Inclusive Government
<b>IEC</b>	Independent Electoral Commission
<b>IFES</b>	International Foundation for Electoral Systems
<b>INGO</b>	International Non-Governmental Organisation
<b>IRI</b>	International Republican Institute
<b>JSC</b>	Judicial Service Commission



## Acronyms

<b>PEI</b>	Perception of Electoral Integrity (PEI)
<b>MDC - A</b>	Movement for Democratic Change - Alliance
<b>MDC - M</b>	Movement for Democratic Change - Mutambara
<b>MPLCs</b>	Multi-Party Liaison Committees
<b>NAYO</b>	National Association of Youth Organisation
<b>NDI</b>	National Democratic Institute
<b>NGO</b>	Non-Governmental Organisation
<b>OAS</b>	Organization of American States
<b>OAU</b>	Organisation of African Union
<b>OSCE</b>	Organization for Security and Co-operation in Europe
<b>OSISA</b>	Open Society Initiative for Southern Africa
<b>PAPM</b>	Pan African Parliamentary Mission
<b>PEI</b>	Perception of Electoral Integrity
<b>POSA</b>	Public Order Security Act
<b>PPFA</b>	Political Parties Finance Act
<b>SADC</b>	Southern African Development Community
<b>SEOM</b>	State-Owned Media
<b>TI</b>	Transparency International
<b>TI Z</b>	Transparency International Zimbabwe
<b>UANC</b>	United African National Council
<b>UDHR</b>	Universal Declaration of Human Rights
<b>UK</b>	United Kingdom
<b>UN</b>	United Nations
<b>US</b>	United States
<b>USA</b>	United States of America
<b>YETT</b>	Youth Empowerment and Transformation Trust
<b>VRP</b>	Voter Registration Process
<b>WiPSU</b>	Women in Politics Support Unit
<b>ZANU PF</b>	Zimbabwe African National Union Patriotic Front
<b>ZAPU PF</b>	Zimbabwe African Peoples Union Patriotic Front
<b>ZBC</b>	Zimbabwe Broadcasting Cooperation
<b>ZCTU</b>	Zimbabwe Congress of Trade Unions
<b>ZEC</b>	Zimbabwe Electoral Commission
<b>ZESN</b>	Zimbabwe Election Support Network
<b>ZHRC</b>	Zimbabwe Human Rights Commission
<b>ZMC</b>	Zimbabwe Media Commission
<b>ZTV</b>	Zimbabwe Television
<b>ZUM</b>	Zimbabwe United Movement



## Acknowledgements

The 2018 Annual State of Corruption Report: Electoral Integrity in Zimbabwe was made possible due to the support of the Swedish Embassy. Without this support this report would not have been accomplished.

We also wish to thank our contributor's Dr. Lawrence Mhandara, Mr. David Hofisi, Mr. Tamuka Chirimambowa and Mr. Shollah Manuel for their comprehensive input into this report.

This Report would not have been possible without the support and assistance of the entire staff at the TI Zimbabwe secretariat. They worked tirelessly to ensure the success of the report.

In addition, we also thank Dr. Ashtom Murwira and Dr. Hardlife Zvoushe for providing expert review comments to the chapters and proposed policy recommendations and Samuel J. Matikiti; Farai S. Mutondoro & Nqobani Liberty Tshabangu for their contribution in developing the overview.

TI Z appreciates and acknowledges all the authors cited in this report who provided a wealth of information on Electoral Democracy in Zimbabwe and other cited countries. Certainly, previous studies by the various authors who have explored on Electoral Integrity in Zimbabwe and in other countries which provided a firm scholarly and policy foundation on which the report is grounded. This Report could not have successfully explored the different dynamics of electoral transparency and accountability in Zimbabwe if it was not for the insights and knowledge of various individuals and institutions that were consulted during the research process.

We are particularly grateful to Tinashe D. Kavumbura for his indispensable Book Design.

A special thanks goes to the individuals and institutions who participated in throughout the research.



## 2018 ANNUAL STATE OF CORRUPTION REPORT

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# ELECTORAL INTEGRITY IN ZIMBABWE

## Executive Summary

The 2018 Zimbabwe Annual State of Corruption Report (ASCR) interrogates the impact of corruption on electoral democracy in Zimbabwe and the extent to which corruption greatly impedes upon electoral transparency, accountability and integrity.

Elections are an integral part of democratic governance. They have far reaching implications towards the governance framework of any country and constitutionalism. Elections form part of the political mechanisms for the selection of a government that is accountable to the electorate. Sadly, as has been observed in the past, with elections there are often high political and personal stakes involved. Elections in Zimbabwe have since the independence elections in 1980, been heavily contested and marred by allegations of vote rigging. Similarly, the 2018 elections were also fraught with a myriad of challenges which culminated in a Constitutional court challenge over the presidential election results. Driven by the urgent need to proffer recommendations on how to enhance transparency and integrity in Zimbabwe's electoral processes, TI Z's 2018 Annual State of Corruption Report centred on Electoral Integrity. Transparency and integrity within the context of electoral conduct is key in the anti-corruption agenda.



The main objective behind the study was that of analysing the efficiency of electoral processes in Zimbabwe against the measurements of electoral integrity standards with the aim of preferring recommendations that will enhance transparency and integrity in Zimbabwe's electoral processes in line with global best practices.

In examining the nuances around electoral integrity, this report presents an analysis of the concept from the following thematic areas:

- i. Citizens' Perceptions on Electoral Integrity in Zvishavane: Case of the 2018 Harmonized Elections;
- ii. Mapping Impediments to Electoral Transparency, Accountability and Integrity in Zimbabwe;
- iii. Transparency in Political Party Financing and Degenerating Electoral Conflict in Zimbabwe; and
- iv. Contradiction and Complexities to Law, Justice, Legitimacy and Electoral Integrity in Zimbabwe.

As TI Z, the value of the information we present in this study should be measured against its ability to influence the review of current policies or laws and development of collective actions that are relevant to promote electoral transparency and integrity in Zimbabwe as well as the ability of this study to influence further studies on this subject. The ASCR on electoral integrity analyses structural and process-oriented issues related to elections conduct in Zimbabwe and the data generated and presented in this paper is largely qualitative. The study methodology was informed by the methodological framing adopted from the Electoral Integrity Project (EIP). TI Z utilised both qualitative and quantitative research approaches but with a huge bias towards qualitative approaches considering the phenomenon being studied. As part of the methodology there was a huge review of secondary data in the form of electoral laws, policies, and previous studies on the same and related topics, court records and statements by electoral observer missions. More so, focus group discussions and key informant interviews with targeted key actors in the electoral cycle were instrumental as part of data collection.

Overall, the ASCR revealed that throughout the electoral cycle elections in Zimbabwe have been heavily contested and marred by allegations of vote rigging such as ballot stuffing, intimidation of the opposition and its supporters, gerrymandering of constituencies, abuse of state resources, arson, vote-buying which cuts across the political divide, unfair media coverage, murder and sexual violation of women by suspected ruling party members or state agents. With regards to political party financing, the report notes that there is a lack of transparency and accountability in political party financing due to weak legislation and enforcement thereof. There is no direct mechanism to control private funding and the transparency pattern is weak in respect of all forms of funding. There



is no piece of legislation that allows for disclosure of private funding which has made political players to become reticent in as far as their source of funding and expenditures are concerned. Several progressive measures have also proven to be susceptible to manipulation, with the effect of undermining the integrity they sought to secure.

Against this backdrop, the study makes a number of recommendations chief among them include:

- The eradication of the culture of violence has to begin from the political parties within their structures. The starting point would be to disband the youth militia groups in political parties. In addition, the leaders should lead by example and shun the culture of violence and destabilization in any way.
- On preventive measures, the government should introduce provisions in the law that reduce the demand for private funding through introducing bans and limits on sources of funding (not just foreign funding) and spending.
- Make all polling stations accessible to persons with mobility challenges.
- Electoral management body, the Zimbabwe Electoral Commission should review the 2018 general elections and implement reforms suggested by all stakeholders to avoid the same issues recurring in the forthcoming elections.



## CHAPTER ONE

# Overview of Electoral Transparency, Accountability and Integrity in Zimbabwe

**The Annual State of Corruption Research of 2018 reflects on Electoral Integrity in Zimbabwe. Transparency and accountability within the context of electoral conduct is key in the anti-corruption agenda.**

Evidently, countries with limited systems of checks and balances, weak institutions, and low democracy levels also tend to have high levels of corruption. Upholding high levels of electoral integrity ensures that elections are held in accordance with domestic tenants based on universal values, standards, and principles. The study comes on the backdrop on the contested elections in 2018 in Zimbabwe. The elections were marred with cases of violence, allegations of misconduct from political parties, and a controversial judicial case. Whilst the study identifies these gaps and other gaps in the conduct of elections, it offers a holistic approach and measures the tenants of good electoral processes. Such tenants are largely influenced by the Perceptions of Electoral Index. These include an analysis of the electoral laws, voter registration, party registration, and campaign financing.

Strong institutions that monitor and promote transparency in the electoral processes are fundamental in any representative democracy. The establishment of such systems and institutions that provide for transparency, accountability and integrity is the greatest



measure of the quality aspect of any governance system. The lack of systems providing for and allowing these principles is indicative of a weak governance system. The study underlines the importance of electoral institutions and transparency in all the electoral processes. It identifies gaps and opportunities of intervention in processes such as political financing, voter registration, media independence and controversial issues such as postal/ special voting.

## BACKGROUND TO THE STUDY

Globally elections have been dented with a series of flaws, compromising the legitimacy of the results and often resulting in violence and legitimacy crisis. Uberti Luca and Jackson, David (2018) contends that while about 90% of all elections around the world were free and fair in the 1980s, this share had declined to about 60% by the 2010s. In newly democratizing countries, electoral contests are often (though not always) plagued by procedural flaws, intimidation, violence, and all sorts of irregularities (ibid). Norris (2019) argues that many elections around the world are flawed by problems of corruption and violence-sometimes both. Problems of electoral fraud, ballot stuffing, and violence commonly occur with elections around the world so that the quality of contemporary contests fails to meet international standards (Norris, 2014). These malpractices are deeply troubling for electoral integrity and liberal democracy and in particular limit women's representation in politics (Norris, 2019). Norris and Gromping contends in the 2019 Electoral Integrity Worldwide report, a report informed by the Perceptions of Electoral Integrity dataset (PEI-7.0), that electoral malpractices continue to undermine contests around the world, from overt cases of violence and intimidation to disinformation campaigns, cybersecurity threats, barriers to voting, and the under-representation of women and minority candidates.

In Africa when compared to the rest of the world. The 2015 Electoral Integrity in Africa report examined the thirty elections that were held in 28 African countries from the second half of 2012 to the end of December 2014 using the methodology of the Perceptions of Electoral Integrity dataset, over the period 2012. The report concluded that when compared to other world regions, Africa exhibits lower overall levels of electoral integrity, the continent's average PEI score is 58, while the global average is 64. According to the report, only one country (Tunisia) could be considered to have very high levels of electoral integrity. Tunisia was evaluated with a PEI Index of 74 with more than two standard deviations above the regional mean (58).

Post this assessment by Electoral integrity, there is a growing trend of electoral malpractices in Africa that have had a far-reaching implications on the legitimacy of elected Governments, social cohesion and peace, economic development as well as public trust in key institutions.

Figure 1 below presents a snapshot of some of these electoral malpractices in 5 African countries that conducted elections between the period 2015 to 2019 .



Figure. 1: Facts About Elections Around Africa

# FACTS ABOUT ELECTIONS AROUND AFRICA



## MALAWI

21 May 2019

- 3 February 2020, the Constitutional Court annulled the presidential election results due to evidence of irregularities, and ordered fresh elections be held
- supporters of the opposition accused the results of being rigged by Mutharika and Jane Ansah i.e correction fluid - known by the brand name Tipp-Ex - had been used on some of the tallying forms sent in by polling stations.
- The Court ruling nullified the results of the presidential election, concluding they had not met the standards of a free and fair election and that the Malawi Electoral Commission had failed to uphold its constitutional responsibilities
- Since the disputed results were announced last May, there have been regular anti-government protests. Some of these have resulted in looting and the destruction of property, including government offices.
- Two people - one police officer and one civilian - are known to have been killed during the demonstrations, 70 arrested after protests (protests on allegations of rigging).



## MOZAMBIQUE

2019

- EU observers detected numerous irregularities and malpractice both ahead of election day and during polling, counting and the tabulation of results. Irregularities included the unconcealed inflation of the voter register and an under-registration of voters in other provinces, and the restriction of independent monitoring by opposition party agents and established independent national observer groups
- EU observers also noted ballot-box stuffing, organised multiple voting, intentional invalidation of votes for the opposition, altering of polling station results with the fraudulent addition of extra votes, unlikely turnout figures, major results deviations between polling stations in the same polling centre, and many cases of poll workers, civil servants, electors, and observers found with ballot papers outside of polling stations.
- This resulted in protests in some parts of the country between Renamo forces and Frelimo.



## D. R. CONGO

30 December 2018

- The Constitutional Court in the Democratic Republic of the Congo (DRC) has ruled that Felix Tshisekedi won the recent poll. But the runner-up Martin Fayulu has rejected the court's decision. He claims that he has been robbed of victory under a secret deal between Tshisekedi and the outgoing president Joseph Kabila and has declared himself president.
- Dishonesty and lack of integrity. Fraudulent results, non-existent or fraudulent qualifications, murder and intimidation of people with different views, corruption and theft of funds
- The United Nations Security Council published a report of "major security incidents including attacks against civilians, security forces and United Nations peacekeepers in many provinces," as well as illegal importation of military materiel. Human Rights Watch have reported violence, widespread irregularities and voter suppression during the election.
- Widespread irregularities, voter suppression, and violence significantly marred elections.
- More than a million Congolese were unable to vote when voting was postponed until March 2019 in three opposition areas. Other voters were unable to cast votes because of the last-minute closure of more than 1,000 polling stations in the capital, Kinshasa, problems with electronic voting machines and voter lists, and the late opening of numerous polling places across the country.



## KENYA

08 August 2017

- Kenya's 2017 general electoral process was marred by incidents of unrest and violence throughout the extended electoral period and by harsh attacks by top political leaders on electoral and judicial authorities that seriously undermined the independence of the country's democratic institutions and the rule of law.
- The opposition leader, Raila Odinga, pulled out of the re-run and urged his supporters to boycott it. Mr Kenyatta was also declared the winner in the August vote, which was annulled because of irregularities.
- The unprecedented decision from the Supreme Court cancelling the result did not attribute any blame to President Kenyatta's party or campaign.
- Mr Odinga boycotted the re-run because he said that no reforms had been made to the Independent Electoral and Boundaries Commission (IEBC) after the Supreme Court found irregularities and illegalities in the original poll.
- About 50 people are reported to have died in violence since Mr Kenyatta was declared the winner of August's election.
- Questions of legitimacy of the poll
- Manipulation of the Electoral Commission of Kenya and subsequently the presidential results announced were fraudulent.



## GABON

27 August 2016

- Presidential elections - Incumbent President Ali Bongo Ondimba ran for re-election and was challenged by former Minister of Foreign Affairs Jean Ping. On 31 August, the electoral commission proclaimed Bongo's re-election with a margin of less than two percent. Protests broke out in the capital Libreville after the results were announced.
- Following the announcement of official results, protests broke out in Libreville on 31 August, with attempts made to storm the election commission's offices
- Accusation of opposition leader Jean Ping of a massive fraud.



## GAMBIA

- Longtime controversial Gambian President Yahya Jammeh rejected the results of the presidential election, raising the potential for tension across the country.
- Certain figures were inadvertently transposed. Instead of adding the total number of votes for [President-elect Adam] Barro in the Basse area and other areas, the IEC [Independent Elections Commission] made several errors in several areas.
- Investigations also revealed that in some cases, voters were told that the opposition has already won and there was no need for them to vote and so they returned home without voting.



The 2017 Kenyan Presidential elections conducted on the 8th of August 2017 resulted in bloodshed protest and a legitimacy crisis and this culminated in a constitutional court ruling which annulled the elections. Upon the announcement of Uhuru Kenyatta as the elected president on August 11 2017, demonstrations broke out in Nairobi, the coast, and the Western counties of Kusumu, Siaya, Migori, and Homabay. The Kenya National Commission on Human Rights reported that the police had killed at least 24 people nationwide, including one in Kisumu and 17 in Nairobi (*Human Rights Watch, 2017*). The 2018-19 Malawi elections were annulled after a Constitutional court ruling.

Zimbabwe has not been an exception in as far as electoral malpractices are concerned. Zimbabwe was ranked so low of 38 on the 2012 to 2018 Perception of Electoral Index (PEI), an index that ranks countries on a scale on 0 to 100 in relation to the perceived level of integrity by key electoral experts. The lower the score reflects the weaker the extent of electoral integrity. Figure 2 below shows some of the electoral malpractices that have marred Zimbabwean elections since 1980 and the impact of this.

The 2018 elections in Zimbabwe resulted in a Constitutional court case petitioning the result of the elections. Elections in Zimbabwe and in particular the 2008 and 2013 elections were fraught with a myriad of electoral malpractices and there both result in blood shed protest. In the 2013 election international observers were not permitted to observe the elections, Western observers were barred from the election. Monitors from the African Union (AU) and the Southern African Development Community (SADC) praised the poll for being peaceful but still noted several irregularities. (*BBC News, 2013*) The 2018 elections resulted in the official killing of 6 people (*Human Rights Watch, 2018*). This is all despite the fact that the Zimbabwean Constitution of 2013 under section 155 (d) clearly states that elections should be, “free from violence and other electoral malpractices”.

## MAIN RESEARCH QUESTION

The key research question arising from the evidence in Figures 1 and 2 is how electoral malpractices can be mitigated and prevented. To provide answers to this research question, TI Zimbabwe invested in an action-oriented research study on electoral integrity in Zimbabwe.

Figure 2: Trend Analysis on Electoral Malpractices in Zimbabwe



# ELECTION HISTORY IN ZIMBABWE

## ■ 1980 – 1995

1980, 1985, 1990, 1995

- In all these elections organised violence and intimidation of the opposition have played central and it is only the degrees of intensity that have differed depending on the context of the elections. The 1980 elections had the elections environment tilted favourably towards Bishop Muzorewa's UANC
- Vote Buying – food and beer, entertainment, activities at rally offered supply transport to ferry people to and from and there would be draw to win six cars by United African National Council led by Bishop Muzorewa. In 1980, ZANU PF as an opposition party approached the courts to seek redress concerning the alleged issue of voter malpractices.
- In 1995 the High Court declared the election results invalid in one of Harare's constituencies, lending credence to opposition claims of widespread electoral malpractice.

## ■ 2000

June 24–25, 2000

- The electoral field changed in the year 2000 with the birth of a strong opposition party (MDC) which was to change the political landscape with a bid to challenge the one-party state that Mugabe's hegemonic regime had established
- Characterized by a lot of malpractices ranging from use of violence, vote buying, ballot stuffing and involvement of the military which has eroded the integrity of these elections such that they have attracted a lot of condemnation both within and outside the country.
- The election had irregularities in the voter's roll, an unfair constituency delimitation exercise, attacks of opposition candidates, seizure of identity documents from suspected MDC supporters so they could not be allowed to vote and the restriction of the number of observers allowed at polling stations.

## ■ 2002 Presidential Elections

March 9-11, 2002

- There was the enactment of draconian legislation; Public Order Security Act (POSA) and Access to Information Privacy Protection Act (AIPPA) to control people's freedoms of association and expression.
- Elections were characterised by systematic undermining of electoral integrity ranging from use of violence, biased state media and disfranchisement.
- The Human Rights NGO Forum, (2010) captured the death of more than thirty people at the hands of the state and ZANU PF paramilitary, displacement of more than four hundred thousand farm workers and destruction of homesteads of opposition supporters across the country.
- There was also increased involvement of military in the electoral process. Military chiefs brazenly pointed out that they would not salute anyone without liberation credentials.

## ■ 2005

March 31, 2005

- Increased political repression and human rights violations from 2002 and violence was unleashed towards both MDC Parliamentary members and supporters, which seriously undermined the credibility of the whole electoral process
- The delimitation process which happened in 2004 in preparation for the elections resulted in gerrymandering in favor of the incumbent. There are allegations that, it increased seats in ZANU-PF strongholds, with a corresponding reduction in areas where the MDC enjoyed majority support (Morgan: 2005).
- Inter- Parliamentary Union Committee (2004), notes that there was widespread arrest of MDC Members of Parliament with about 28 of them being subjected to torture and detention.
- The outbreak of famine and widespread hunger towards the 2005 elections gave ZANU PF a carte blanche to politicize the distribution of government handouts for political benefits.

## ■ 2008

March 31, 2005

- The elections defied all national, regional and international statutes which governs the conduct of elections in a democratic state.
- The state media was compromised and used to the benefit of the incumbent alone (Zanu-PF). The government used the state media to issue out propaganda and relentlessly attack the opposition mainly MDC, in addition of enjoying more than 80% of the slots from ZTV.
- Zimbabwe Electoral Commission (ZEC) delayed beyond the legal 48 hours to announce the Parliamentary results and took 5 weeks to release the Presidential election results.
- There was a Run-Off since none of the candidates had reached the constitutional requirement of 50%+1 of the votes casted.
- Continual violence and intimidation of opposition members and officials led to Tsvangirai withdrawing from the election and Mugabe went ahead and won.
- The presidential run-off elections, ZANU PF and the military were accused of initiating a bloody campaign through "Operation makavotera papi" (Operation whom did you vote for) According to the Zimbabwe Doctors for Human Rights, it claimed to have documented 900 victims of organised violence and torture including 22 deaths as of the 08th of May 2008.
- Elections were marred with intimidation, rigging, gerrymandering, delay in announce of election results, media bias in favor of ruling Zanu-PF, torture,
- First election which was condemned by African Union and SADC.

## ■ 2013

March 31, 2005

- These were the first elections after the formation of inclusive government. Even though there was less violence in 2013 elections as compared to those of other previous years, the scars of the previous elections were still haunting the population and could seriously influence the results in favor of the perpetrators of violence.
- This issue can be accentuated by the increased number of assisted voters particularly in the rural areas.
- Though state media had largely improved, some sections of the society argued that elections were supposed to be conducted after all political reforms were implemented.
- The elections went ahead, and ZANU PF won resoundingly and in response the MDC launched a court petition seeking to nullify the results.

## ■ 2018

July 30, 2018

- This was the most peaceful election ever held in Zimbabwe, held without Mugabe on the ballot. However, peacefulness of elections doesn't translate to integrity, integrity is a wholesome process which needs many ingredients.
- Electoral integrity was highly compromised with the conduct of ZEC which produced three different presidential results. The results uploaded on its website, announced and those used in the court case were different, hence necessitating the opposition's view that election was rigged. Capture of State Institutions (Involvement of military, ZEC compromised)
  - All electoral observer missions including Commonwealth and European Union concluded that the elections failed the credibility test.



## OBJECTIVE OF THE STUDY

The main objective of the study is to analyse the efficiency of electoral processes in Zimbabwe against the measurements of electoral integrity standards.

### Specific Objectives

- To provide evidence that leads to a reform of the electoral process in Zimbabwe in line with the global best practices.
- To establish the link between political party financing and electoral transparency.
- To proffer recommendations that enhances electoral transparency, accountability, and integrity so as to improve electoral democracy in Zimbabwe.

## THE CONCEPT OF ELECTORAL INTEGRITY

Electoral integrity is a topic of increasing concern, yet electoral integrity is notoriously difficult to measure, and hence taking stock of the available data is important (Van Ham, 2015). Rittberger et al, 2017 that electoral integrity is a central building block for the quality of democracy in general, and for electoral freedom and fairness in particular. The electoral integrity concept has gained much traction primarily as a result of research materials produced under the Electoral Integrity Project (EIP). Norris and Coma (2014) argue that the concept of electoral integrity in the EIP refers to international standards and global norms governing the appropriate conduct of elections. These standards have been endorsed in a series of authoritative conventions, treaties, protocols, and guidelines by agencies of the international community, notably by the decisions of the United Nations (UN) General Assembly, by regional bodies such as the OSCE, the Organization of American States, and the African Union, and by member states in the UN (*Norris and Coma, 2014*).

Transparency and accountability are key principles to electoral integrity elections. Openness about the rules and procedures, outcomes, and decision processes used by electoral authorities builds public trust, improves policymaking and facilitates accountability (*Norris, 2017*). Norris and Nai. (2017) assert that “to be effective in strengthening the integrity of electoral governance, transparency ideally needs to be accompanied by accountability (identifying the underlying reasons for any incidents of electoral maladministration and responsibility for any flaws that occur) and also mechanisms ensuring compliance to improve performance (including the use of incentives and sanctions)”.

In this study, transparency will be defined according to Vishwanath and Kaufmann (1999), as the “increased flow of timely and reliable economic, social and political information, which is accessible to all relevant stakeholders”. (*Bellver and Kaufmann 2005*) underscore that the information provided should also be accessible, relevant, of good quality and reliable. According to Transparency International, Accountability is the concept through which individuals, agencies, and organizations (public, private, and



civil society) are held responsible for reporting their activities and executing their power properly. Hood (2013) notes that Accountability also includes responsibility for money or other entrusted property and without accountability, information about electoral flaws and failures can be ducked by bureaucrats and politicians through blame avoidance.

Schedler, (1999) further noted that accountability can be 'vertical', in that it is demanded from below by citizens, mass media or civil society, or 'horizontal' in that institutions of the state check for abuses by other public agencies and branches of government and impose a requirement to report sideways. According to BBC Media Action (2012), answerability relates to the obligation of governments to provide information on (and explain) what they are doing. 'Enforcement' refers to the capacity of a principal, either an individual citizen or a collective force such as mass media or civil society, to impose sanctions on power holders who have violated their public duties (Schedler, 1999).

This two-dimensional definition of accountability implies forcing power holders to justify their decisions and actions and obliging them to exercise power in transparent ways (answerability) and subjecting power holders to the threat of sanctions (enforcement). Integrity, on the other hand, relates to behaviour and action consistent with a set of moral or ethical principles and standards, embraced by individuals as well as institutions that create a barrier to corruption (Transparency International). Thus, integrity is about honesty and moral values. It is about reliability, trust and truthfulness of individuals, institutions, organization and countries. The establishment of systems that provide for, require and enable transparency, accountability and integrity is the greatest measure of the quality aspect of any governance system. The lack of systems providing for and allowing these principles, is indicative of a governance system that can be interpreted as undemocratic. Providing transparency in an election helps establish trust and public confidence in the process, as voters have the means to verify that the results are an accurate reflection of the will of the people (National Democratic Institute, 2013). A transparent election process is one in which each step is open to scrutiny by stakeholders (political parties, election observers and voters alike), who are able to independently verify the process is conducted according to procedures and no irregularities have occurred (ibid). TI Z thus used conceptual lenses of EI as proposed by the electoral integrity project to understand nuances on electoral integrity in Zimbabwe.

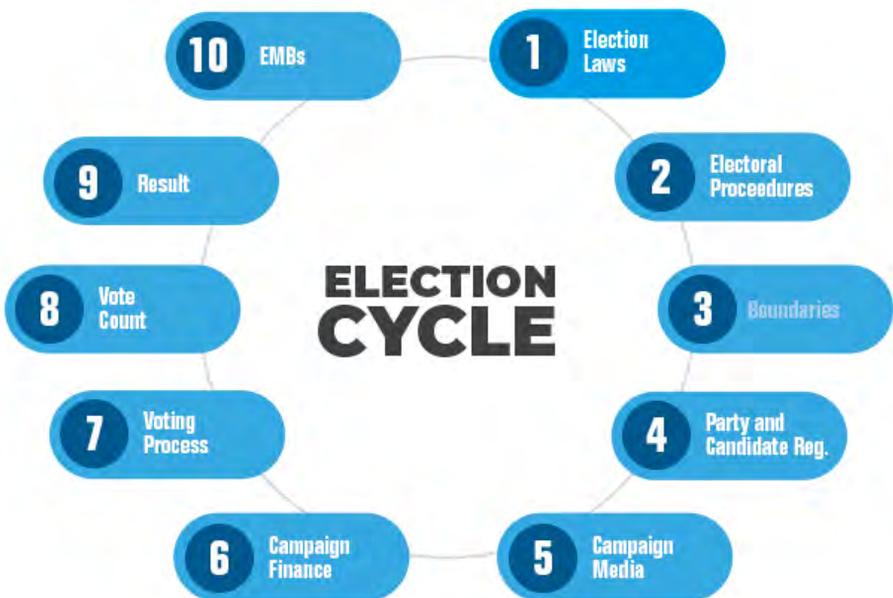


## METHODOLOGY

The study methodology was informed by the methodological framing adopted from the Electoral Integrity Project (EIP), which is a research project that produces innovative and policy-relevant research comparing elections worldwide. Figure 3 below outlines the electoral integrity cycle developed by the Electoral Integrity Project on Perception of Electoral Integrity (PEI) that informed the TI Z Electoral integrity study.

*Figure 3: The PEI Electoral Cycle*

Source: Electoral Integrity Project. 2014. *The expert survey of Perceptions of Electoral Integrity, Release 2.5 (PEI-2.5)*.



Guided by this methodological framework, TI Z examined nuances around electoral integrity in Zimbabwe in as far as it intersects with political party financing, legality and constitutionalism, citizens perspectives on the process and outcome of these elections and impact of these elections on social cohesion and peace. To gather this data, TI Z utilised both qualitative and quantitative research approaches but with a huge bias towards qualitative approaches considering the phenomenon being studied. Qualitative data was collected through the consultative workshop and validation workshop which served the purpose of also collecting data from key stakeholders in the electoral cycle. As part of the methodology there was a huge review of secondary data in the form of electoral laws, policies, previous studies on the same and related topics, court records and statements by electoral observer missions. More so data was also collected



through Focus Group Discussions and key informant interviews which targeted key actors in the electoral cycle. Data on citizens' perspectives was collected through a questionnaire which was rolled out to participants from Harare, Zvishavane, Mutare, Bulawayo and Masvingo.

## CHAPTER SUMMARIES

This report presents findings of the State of Corruption in Electoral processes in Zimbabwe. The report is divided into five chapters. This chapter gave the introduction to the study and laid the groundwork through contextualizing the study, defining its scope, objectives and analytical framework.

**Chapter 2** of this study presents perceptions by citizens on electoral processes in Zimbabwe. Using the universal benchmarks of electoral integrity, the study assesses stakeholders and citizens views on free and fairness of elections. Participants of this study rate and discuss transparency and integrity from pre to post elections. The study therefore further gathers perceptions of citizens on key political events in 2018 such as Motlanthe Commission and Supreme court ruling. Additionally, the study manages to indicate the urban and rural divide which has been one of the topical issues on electoral processes in Zimbabwe.

**Chapter 3** of this report focuses on the impediment to electoral transparency, accountability and integrity in Zimbabwe. The chapter examines impediments in two elections, 2013 and 2018. Elections that were held in Zimbabwe from 1980 to 2008 are capsuled with primitive rigging tactics which include, ballot stuffing, intimidation of opposition parties, gerrymandering, and abuse of state resources. 2013 and 2018 elections have evidence of technical manipulation. The chapter argues that there has been a shift from crude or primitive forms of electoral rigging to more 'subtle and benign' means of retaining political power. Such forms include, weak or captured electoral management bodies, crooked voter registration process, biased voter education, opaque voter counting and result transmission processes. This chapter identifies potential gaps of electoral rigging and they intrinsic value of investing in such in order to realize electoral integrity.

**Chapter 4** explores political party financing and its impact on electoral integrity. There are glaring gaps that inhibit transparency and integrity of elections. The chapter suggests legal reforms and improved political parties conduct to reduce cases of electoral conflict in Zimbabwe. The chapter examines political parties in Zimbabwe and their ability to disclose and report their finances, preventative measures on private financing and overall monitoring compliance and enforcement.



One of the glaring gaps identified in political party financing has been the non-disclosure and limited transparency on the existing sources of funding political candidates. The argument is that such limited transparency can be used as means of buying access to politicians thus resulting in undue influence in the decision-making processes.

**Chapter 5** explores the contradiction and complexities to law, justice, legitimacy and electoral integrity in Zimbabwe. The chapter assesses the effectiveness of legal reforms in ensuring electoral integrity. Efforts of ensuring electoral integrity are inhibited by electoral a conservative electoral management body and an equally circumspect judiciary system. Drawing examples from the 2018 harmonised elections, the chapter indicates the gaps and further risks that need to be addressed to enhance government legitimacy in the upcoming elections.

## KEY RECOMMENDATIONS

The study makes the following recommendations:

### ***GOVERNMENT REFORM***

The Government should reform the law to ensure that the distribution and management of public funding is assigned away from the Ministry of Justice, Legal and Parliamentary Affairs to and Independent ZEC.

### ***IMPLEMENTATION***

There is need for all the stakeholders to implement the electoral reforms required in Zimbabwe so that the country improves on electoral integrity. This includes; the alignment of the electoral laws with the constitution, electoral financing, the timely addressing of grievances raised by stakeholders, strengthening of government institutions, and restoration of integrity in electoral management institutions to regain public trust.

### ***INSTITUTIONAL INDEPENDENCE***

The government is an element of the state. It is an anomaly that the government administers the ZEC and all the other institutions created to promote democracy. Therefore, these institutions must be independent of the government so that they fully execute their mandates in an uncompromised manner. Government should not be involved in their appointments and funding so that they are able to safeguard democracy.

### ***UNITY***

Despite differences in areas of specialization, civil society should unite and have a clear mandate which feeds into nation building without being partisan. This will help the state and citizens to understand them, how to deal with them and how to perceive them i.e. whether as partners or enemies.



## ***PARTICIPATION OF WOMEN***

Political parties should encourage women to participate in politics by ensuring affirmative action within their structures. The promotion of women participation should also be done on the basis of merit not appointments of patronage. If possible, they should be voted for so that they have the full support of their fellow female members.

## ***CULTURE OF NON-VIOLENCE***

The eradication of the culture of violence has to begin from the political parties within their structures. The starting point would be to disband the youth militia groups in political parties. In addition, the leaders should lead by example and shun the culture of violence and destabilization in any way.

The government should reform the law so that the distribution and management of public funding is assigned away from the Ministry of Justice, Legal and Parliamentary affairs to an independent ZEC. In addition, an inclusive formula for eligibility to access public funding, preferably matching funds with a ceiling, should also be adopted to promote plural politics.

Disclosure requirements are the linchpin of transparency in political finance. The existing laws empower the Minister of Justice to make regulations in respect of public finance disclosure, but such regulations do not exist. In respect of both public and private funding, the government needs to reform the existing legal framework and make provisions for political parties and candidates to: keep books of accounts, asset registers and debts; to have specific personnel responsible for party or candidate accounts; subject finances to external auditing; disclose sources of funding with sufficient detail on the date of receipt, amount raised from each source, nature of donation and purpose of donation; make it clear as to who should report on both incomes and expenses to which regulatory authority; specify the format of the reports; specify the frequency of disclosures to the regulatory authority; and publicly disclose finances.

**ZEC distances itself from any association with the security services** or is legally barred from doing so;

**ZEC uses its discretionary power to be more open, engaging and transparent; The Electoral Act should be amended** in order to:

- a) give the time within which the voters roll should be made available in searchable format prior to the election;
- b) make provision for design of the presidential ballot paper when the number of candidates necessitates more than column of candidates;
- c) make provision for consultation on and verification of ballot printing;
- d) make voter education a continuous process;
- e) Give ZEC powers to enforce the requirement for impartiality by the media,



- f) allow for observation of postal voting;
- g) require political parties to have policies to promote the nomination of women and youth as candidates; youth as candidates;

**Political Parties (Finance) Act [Chapter2:11] is amended** in order to

- a) require disclosure of campaign contributions;
- b) place limits on campaign spending;
- c) prohibit abuse of state resources.

**Provide for voter secrecy** by the visually impaired;

**Make all polling stations accessible** to persons with mobility challenges;

**Ensure a comprehensive delimitation exercise** before the 2023 elections

## Citizens' Perceptions on Electoral Integrity in Zvishavane: Case of the 2018 Harmonized Elections

The triumph of liberal democracy over all other political ideologies in the 21st century has a significant impact on elections as elections are now held with more regularity across the globe. Elections are the cornerstone of all democratic societies, for it is through elections that people express their wishes concerning who should govern them.

As such, the integrity of elections and electoral process is of paramount importance for without integrity elections will fall short of legitimacy as have been witnessed in various countries such as Cambodia, Mexico, Zimbabwe (2002-2018) and Malawi (2019). Elections are seen as providing legitimacy to elected leaders but as long as they are conducted fairly with integrity as noted by Levin & Alvarez (2014). When analyzing electoral integrity issues, it is important to always bear in mind that elections in themselves are a process hence the pre-, during-, post-election environment is important in determining the integrity of the outcome. This is due to the fact that, the toolbox of electoral rigging which affects electoral integrity is vast and can be deployed well before the polling day, during or after the poll. Given the motivation above, this study analyzes citizens' perceptions on the 2018 Harmonized Elections in Zvishavane (Maglass Township and



Vhugwi District) in Zimbabwe with evidence. Perception of Electoral Integrity (PEI) will be used to measure the extent to which elections in Zimbabwe pass the international benchmarks by analyzing how the elections were organized throughout the electoral cycle. A mixed research design was employed for this study and household surveys, key informant interviews and focus group discussions were conducted in both peri urban and rural Zvishavane to gather the perceptions of citizens on electoral integrity. Secondary sources such as reports from Observer Missions, electoral research think tanks, publications from scholars on elections in Zimbabwe, media publications and archives were used to inform this study/chapter. This chapter shows that there are mixed reactions as to whether the 2018 elections passed the integrity test. However, the majority of the respondents from 89 household survey respondents and 2 focus group discussions show that the 2018 elections to a larger extent did not pass the integrity test. In light of such discord, it is evident that Zimbabwe needs political and electoral reforms in order to improve on electoral integrity as observed by Electoral Observer Missions. This article will also attempt to assess electoral integrity and bring to the fore challenges, progress and options that can inform future elections and enhance integrity and legitimacy of any future governments in Zimbabwe.

*Key words: Elections, electoral integrity, transparency, legitimacy, democratic transition in Zimbabwe*

## INTRODUCTION

Upon attainment of independence in 1980, for Zimbabwe, there was a great optimism for self-rule, adherence to freedom based on human rights, progress and social development. The reconciliation proclaimed by Robert Gabriel Mugabe united the nation between the former colonial whites and the black citizens. In fact, there was a national consensus during the liberation struggle about what the country wanted and amongst them was a democratic Zimbabwe where elections would determine how citizens are governed. Nevertheless, the independence euphoria and hope that citizens had begun to evaporate after barely a decade of self-rule due to attempts to establish a one party state in the 1980s to 1990s. In the 1990s, new seeds of opposition sprouted under the wave of liberal democracy which in turn intensified the use of electoral malpractices by Zimbabwe African National Union – Patriotic Front (ZANU PF) against the Movement for Democratic Change (MDC). Such precursors provide a bedrock through which we will begin analyzing electoral integrity in Zimbabwe. Without delving much into the

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**“...the birth of strong opposition politics further aggravated the challenge of electoral integrity...”**

historical conflicts along political and tribal lines, it is important to note that these were landmark events with some indelible marks which we use to understand electoral integrity challenges in Zimbabwe. In addition, the birth of strong opposition politics further aggravated the challenge of electoral integrity and the following paragraphs will provide a narrative and analysis of electoral integrity challenges, progress and options.



## GLOBAL NARRATIVE OF ELECTORAL INTEGRITY

Electoral integrity has become the buzzword on issues to do with elections in the 21st century and cornerstone of electoral analysis both in the global north and south. Norris, Frank and Coma (2016) in their Electoral Integrity Project define electoral elections. These standards have been adopted and popularized through various treaties and conventions by international organizations such as the United Nations (UN), African Union (AU) and SADC Member States. The integrity of elections around the world has been varying with wide margins ranging from 'free and fair elections' and façade election which are marred by manipulation and fraud Ham (2015). The latter is much associated with competitive authoritarian regimes which just hold elections in a bid to tick the box for conformity in a bid to get acceptance in the international community. According to Norris, as cited by Zeynep, (2018), the problems of electoral integrity has been least in fully established democracies for there are established managerial bodies working on professional basis whilst in developing democracies with little confidence in public officials, legal institutions and electoral management bodies, any threat to electoral integrity may lead to critical damage such as lawsuits against officials or protests. This can best be exemplified using the United States and Zimbabwean cases. In the 2016 elections in the United States of America (USA), there were a lot of allegations of fraud by Donald Trump the current President of the USA on issues to do with his involvement of the Russians during his election campaigns . This is a contested issue around the electoral process in the 2016 elections which threatened the integrity of elections, however, the issue did not spill into the courts neither did it create social unrest. This was further proven by the acquittal of Donald Trump from the impeachment charges in 2020. However, in 2007 and 2018 elections in Zimbabwe, the allegations of voter fraud resulted in mass protests and court cases which were brought by the MDC which in turn created social and political cleavages after the opposition refused or failed to acknowledge the results as genuine.

To determine electoral integrity, a number of internationally accepted standards and principles such as the Universal Declaration of Human Rights, International Covenant for the Civil and Political Rights and guidelines by Organization for Security and Cooperation in Europe (OSCE) Election Observation Handbook, adopted by both European Union (EU) and USA have been agreed and standardized in measuring electoral integrity across the globe.



To determine electoral integrity, a number of internationally accepted standards and principles such as the Universal Declaration of Human Rights, International Covenant for the Civil and Political Rights and guidelines by Organization for standardized in measuring electoral integrity across the globe. Zeynep (2018) points out that these standards are hinged on transparency, fairness, impartial and independence of elections while allowing equal opportunity to electoral rights and associated freedoms and rights. This means, lacking any of these fundamentals then the integrity of such an election will be under threat.

The issue of electoral integrity is not a challenge in the global south alone but also evident in the global north as well and even in those countries where democracy is embedded like USA. However, it is important to note that challenges over electoral integrity are very prominent in Africa than any other region in the world due to the fact that Africa is still a young democracy and some have a hybrid system where democracy and autocracy are both used in governance and democracy. In the 2016 United States elections, a lot of allegations which affected the integrity of the election were raised by different sections of the society. Issues around fraud, erosion of confidence in public media and Russia's meddling in the election affected the <sup>1</sup>on Turkey in terms of 2015 and 2017 elections has been pathetic with 48 points which is between low and very low ranges, (Zeynep, 2018).

This has been largely attributed to lack of domestic monitoring organizations in Turkey serve for a single and some few non-governmental organizations such as the Human Rights Association, Mesopotamia Cultural Center, ARI Group, a secular group established in 1994 to promote democracy and good governance in Turkey; Araştırma ve Kurtarma Derneği, and Search and Rescue Association. As such, the erosion of electoral integrity is a global issue which undermines the development of democracy and such anomalies point to the fact that democracy and integrity are not absolute but relative terms as they are largely determined by the context in which they are being analyzed.

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<sup>1</sup> The electoral integrity measures assess the quality of national elections on eleven sub-dimensions: electoral laws; electoral procedures; district boundaries; voter registration; party registration; media coverage; campaign finance; voting process; vote count; results; and electoral authorities. These items sum to an overall Electoral Integrity Index scored from 0 to 100. In this case 0 is the worst while 100 is the best.



## LOCALIZING ELECTORAL INTEGRITY MEASUREMENT IN ZIMBABWE

Many elections across the globe and particularly in Africa are inconclusive and disputed which sometimes lead to deaths due to protests which will turn bloody, Zimbabwe is a case in point. The integrity of the elections will be challenged based on allegations of malpractices, fraud and irregularities.

However, many political scientists have been grappled by the need to seek understanding and differentiate between genuine claims and false allegations from losers who do not want to concede defeat and confer legitimacy upon the winner. To clear this issue, Norris et al, (2018) in their Electoral Integrity Project came up with new data set and evidence to measure electoral integrity by comparing how national elections across the globe are meeting international standards of electoral integrity. This model uses eleven categories which assess whether or not each national parliamentary and presidential contest meets international standards during the pre-election period, the campaign, polling day, and its aftermath, (Norris et al;2018). The validity of this model is that it draws much from international statutes already in place signed and adopted by many countries across the globe, such as the guidelines by OSCE Election Observation Handbook and SADC's Guidelines and Principles Governing Democratic Elections. Another strength of this model is the realization that elections are a process in themselves hence the need to measure them in wholesome from pre-election period to the aftermath of the election.

The eleven categories used to measure electoral integrity are established as, Electoral Management Bodies, Election Laws, Election Procedures, Boundaries, Voter Registration, Party and Candidate Registration, Campaign Media, Campaign Finance, Voting Process, Vote Count, and Results, (Norris et al 2016). This information or categories are used to establish what is known as Perceptions of Electoral Integrity Index, which is standardized with 100 points in which elections are categorized into high, moderate and low levels of integrity. For instance, Electoral Management Body or Election Laws of a particular country are assessed to understand the extent to which they conform to the regional and international standards. The same is undertaken on Campaign Media, for instance all electoral statutes around the world states that state media should be impartial and accord equal opportunities to all parties during election time. However, one could find that in Zimbabwe the situation is very pathetic since the election in 1980 until the last election in 2018 in which even the courts which are normally criticized of being partisan ruled that the State media was biased towards ZANU PF during the election period, this affected the integrity of the electoral outcome.



It is also important to note that before the establishment of Electoral Integrity Index, there were other methods to measure integrity, however with some weaknesses. These methods include in-depth assessments by regional and international, including domestic non-governmental organizations, forensic autopsies, field experiments and opinion polls which examines the extent of public confidence in the whole electoral processes. However, there were some loopholes in these methods, for instance there is a challenge in relying on assessment by non-governmental organizations alone for these organizations are now many and produce divergent reports which are difficult to consolidate. Some critics also point out that some of the organizations are funded by autocrats and they just masquerade as independent non-governmental organizations in a bid to neutralize 'real assessment reports. For instance, in Africa Elections observer missions from AU and SADC mainly produce reports which indicates electoral integrity and credibility but international missions such as the Commonwealth would be condemning same elections as not credible. The SADC endorsed all elections while the EU Observer Missions cited some irregularities and such a contested terrain only magnifies the politics of observer missions.

## REGIONAL PERSPECTIVE ON ELECTORAL INTEGRITY

As have already alluded to in one of the sections above, the problem of electoral integrity highly manifests in Africa as a region regardless of the fact that various principles and conventions have been adopted to regulate the conduct of elections. During the wave of independence in Africa around 1960s, military coups were prominent ie North-West Africa while in countries where elections were held, electoral integrity was largely a rare phenomenon due to irregularities such as electoral fraud in Gambia in 2016. Several election observer mission and international NGOs such as the Human Rights Watch and the EU Observer Mission together with local election watchdogs in West Africa revealed that in Africa, coups were as frequent as breakfast especially in West Africa in countries such as Nigeria, Ghana, Togo and Gambia, only to mention a few. For instance, from 1965 up to 2000, in West Africa the standard of political transition was military coups with Cape Verde and Senegal being the only two countries which never experienced any coup out of 52 countries in Africa, (Aggad and Miyandazi;2015) As time progressed, there was a wave of democratization which saw the demand for democracy in many African countries resulting in conducting of periodic elections. However, electoral integrity was and is still under great threat in Africa such that solutions are still needed to assist Africa to achieve institutions which are strong to sustain electoral integrity. This created fertile ground for the establishment and adoption of African Charter on Democracy, Elections and Governance of 2002 which was adopted in Ethiopia, in January 2007. Article 2 of the Charter establish the basis of electoral integrity in Africa. This is captured in the objectives of the Charter with Article 2 (3) promoting the holding of free and fair elections to institutionalize legitimate authority. This is accentuated by Article 2(13) which advocates for the promotion of the, 'best practices in the management of elections for purposes of political stability and good governance'. It is of paramount



importance to note that this Charter came into being after noting the weaknesses of the earlier efforts to promote electoral integrity and prevent the frequency of coups in Africa. The shortcomings of the 1999 Algiers Declaration on Unconstitutional Changes of Government and the 2000 Lomé Declaration for an Organization of African Union (OAU) Response to Unconstitutional Changes of Government necessitated the creation and adoption of the African Charter on Elections.

Statutes on electoral integrity in Africa has also been established and adopted by different Regional Economic Communities (RECs) such as Economic Community of West African States (ECOWAS) and Southern African Development Community (SADC), however, the issue of electoral integrity remains a challenge which has resulted in a lot of disputed elections across the continent. In West Africa, ECOWAS adopted the Protocol on Democracy and Good Governance in Dakar, 2001 which regulates how elections should be done in that region in a bid to promote their integrity and foster legitimacy. In terms of Article 1 (b) of the Protocol, accession to power must be done through free, fair and transparent elections alone. To promote this, Article 12 of the Protocol establishes Monitoring mechanisms whereby a member state can request for assistance in monitoring of its elections or ECOWAS may simply dispatch a monitoring team to any of its member states during national elections.

Southern Africa is not left when it comes to the establishment of statutes which promote electoral integrity. SADC member states adopted the Principles and Guidelines Governing Democratic Election in 2004, with one of the objectives being the promotion of the holding of regular free and fair, transparent, credible and peaceful democratic elections to institutionalize legitimate authority of representative government, as captured in Article (2.1.3) of the protocol. The issue of electoral integrity has been well captured in the protocol with Article (4.1.5) noting the importance of promoting and respecting the values of electoral justice which include integrity, impartiality, fairness; professionalism, efficiency and regularity of elections.

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**The challenge facing electoral integrity in Africa is that in majority of disputed elections, the AU together with Regional Economic Communities are quick to declare elections as being free, fair and credible...**

The challenge facing electoral integrity in Africa is that in the majority of disputed elections, the AU together with Regional Economic Communities are quick to declare elections as being free, fair and credible yet the International Community and International Non-Governmental Organizations will be condemning the outcome as failing to pass the credibility test. One of the quick reactions to such disharmony



between African Observer Missions and the international relates to the sentiments by African countries that they seek African solutions for African problems.

The 2018 Democratic Republic of Congo's election is a case in point. The outcome of the Elections was announced after some long delays which prompted various segments of the society both local and international to allege that the results were being manipulated. SADC initially emphasized on vote recount since there were disputes over the outcome of the elections, however it suddenly backtracked and encouraged the International Community to respect the outcome of the elections for the sake of political stability. This may mean that, credibility and integrity of elections was sacrificed at the alter of political expedience under the cloak of stability. Salihu (2019), notes that AU's call for a recount of the votes – a call that was uncharacteristic of the AU, which rarely criticizes election results was not genuine but a political grandstanding strategy only meant to dramatize that they are able to handle African affairs without the hand of the outsiders. One of the presidential candidates Fayulu, launched a high court application seeking for the recount of ballots arguing that there was fraud in the handling of the election, to which the court dismissed his application and upheld the results in favor of Tshisekedi. It is also imperative to understand that even Independent Monitoring groups in DRC condemned the electoral results indicating lack of credibility.

The DRC's Catholic Church also indicated that the results obtained by its 40 000-strong monitoring team revealed a different outcome than announced by the electoral commission, as captured by Salihu, (2019). Recently, the Elections in Malawi have been marred by allegations of fraud and manipulation which compromise the integrity of the elections. Kondowe, (2019), notes despite the fact that voting process appeared to be well-managed, peaceful and transparent, the handling of the results has been chaotic with allegations of forgery of result sheets. The Electoral Commission of Malawi went on to declare the incumbent Mutharika the winner, this prompted widespread protest which ended up being violent in nature. As a result, two opposition candidates for the presidential post, Chilima and Chakwera approached the courts for redress. This is regardless of the fact that the regional and continental bodies had already endorsed the election results while the western observer mission pointed out political irregularities such as skewed media in favour of the incumbent. However, this is despite the fact that the SADC Principles and Guidelines Governing Democratic Elections has managed to define credible elections as, "electoral processes enjoy considerable support and confidence of the citizenry and international or regional community, leading to mutually agreeable results from competing entities that participate actively in the electoral process."

Using this yardstick set by the SADC, the elections in DRC and Malawi cannot pass the litmus test of credibility and integrity hence SADC was not supposed to endorse out rightly and evidence has proven in Malawi by the Supreme Court Judgment that overturned the victory on Mutharika in the 2019 elections in 2020 that the elections



had failed the integrity test. EU Observer missions and independent election observer mission such as IRN and ZESN points out that it is difficult if not impossible for SADC or AU to condemn an election is one of its member states, for the two are just clubs made up of ruling parties under the guise on head of states. The heads of state, most of them know that at their home country they will also fail to conduct credible electoral processes and outcomes hence no confidence to condemn any malpractice in another state. This resonates well with the old cliché which says one cannot start throwing stones when they also stay in glass houses.

## ZIMBABWEAN ELECTIONS AND ELECTORAL INTEGRITY

Zimbabwe has a fertile history of electoral malpractices which has in turn affected the integrity of the whole electoral processes, producing a domino effect to the legitimacy of the elected candidates. The issue of contested electoral outcomes and disputes around electoral processes started with the 1980 elections which ushered in the independence of Zimbabwe. After winning resoundingly in the 1980 general elections, ZANU PF went on to perfect the instruments of electoral malpractices especially when ZANU PF was alleged to have silenced the Zimbabwe United Movement (ZUM) under Tekere who challenged the then President Robert Mugabe. However, the issue of electoral integrity has been largely affected since the establishment of the Movement for Democratic Change in 1999. This has resulted in the electoral field not being only unfair but risky and very dangerous. As such, successive elections which have been conducted in Zimbabwe since 2000 are all imbued with allegations of fraud and malpractices, real and imaginary resulting in a cycle of political crises around legitimacy issues.

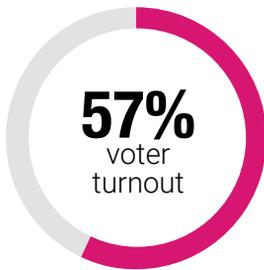
### ELECTORAL PROCESS AND ELECTORAL INTEGRITY: 1980 TO 1996

In 1980, ZANU PF as an opposition party approached the courts to seek redress concerning the alleged issue of voter malpractices by the United African National Council (UANC) led by Bishop Muzorewa. According to Magaisa, (2018) ZANU PF's argument was that the UANC was bribing voters with food, entertainment and other activities at rallies, especially the Huruyadzo rally which would run for four days. The UANC was enjoying the advantages of the incumbent including financial disposal, to an extent that at Huruyadzo the party committed to provide plentiful beer and food, supply transport to ferry people to and from, and there would be draws to win six cars. This did not go down well with ZANU PF which thought the provision of food, drink and entertainment and the draw at the rally was unfair, Magaisa, (2018). However, the judge's ruling was a balancing one, the ruling allowed the UANC to from holding a car draw as that would amount to vote buying. Regardless of this sound judgement the electoral playing field remained tense and uneven to the extent that Nkala, one of Mugabe's allies was barred from contesting in the election by Lord Soames. The dangerous and uneven political field resulted in two attempts on Mugabe's life within two weeks of his return to Zimbabwe, as such this prompted ZANU PF to threaten that they would return to war if they lost the election Magaisa, (2018). The first democratic elections in Zimbabwe were marred with violence and malpractices, creating fertile

grounds for the genesis of contestations around the electoral processes in Zimbabwe and the subsequent erosion of integrity and credibility in the following elections.

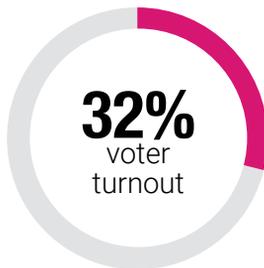
*Figure 4: Comparison of Voter Turnout between 1995 and 1996 Elections.*

#### 1995 General Election



*The second presidential election of 1996 were much more competitive with more than ten political parties, hence the incumbent had to use dirty tactics ranging from use of violence to vote buying...most of the other opposition parties boycotted the elections claiming that the playing field was uneven citing vote buying and violence.*

#### 1996 Presidential Election



Various elections had been conducted in Zimbabwe since 1980 until the 1996 presidential elections, though Zimbabwe had never precluded the multiparty electoral opportunity, the structures of power has limited such opportunities by maintaining and perpetuating a one-party psychology for the first eleven years of independence, as espoused by ZANU PF maintained its electoral hegemony regardless of the elections being contested by various political parties such as the MDC T led by Tsvangirai, MDC M led by Welshman Ncube and Patriotic Front Zimbabwe African People's Union. During all these elections, the Proportional Representation was the electoral method which only changed in 1985 in favor of a winner takes all or First Past the Post system which was used during the colonial system. This system had to define and shape all the subsequent Masipula and Makumbe, (1997). General elections were held in 1985, 1990 and 1995 whilst presidential were conducted in 1990 and 1996, however in all elections until those of 2018. Masipula and Makumbe, (1997) points out that the Proportional Representation method was initially adopted for security reasons since delimitation of constituencies entailed in single member district electoral systems very difficult and hazardous due to the military contestation between Rhodesian system was seen as a ploy to prevent an outright electoral victory by African nationalists.

In 1985, the zero-sum concept of power (winner takes all) was first used in the general elections in which six political parties contested, although

without much contestation and different from the outcomes of the 1980 election, except that the PF ZAPU of Nkomo lost five seats. Masipula and Makumbe, (1997) had to explain this loss arguing that it happened mainly in Midlands province where the Shona-Ndebele mix is substantial, and where, in turn, the 1985 constituencies had presumably been gerrymandered. This shows that there were some malpractices around the general elections which in turn affects the integrity of the outcome. In 1990 general elections, the real threat from opposition came from ZUM since ZANU and PF ZAPU had merged into one political arty. ZUM was electorally quashed and only obtained two seats from Manicaland but obtaining 18% of the popular vote, had it been



a Proportional Representation system, ZUM could have obtained 20 seats, (Masipula and Makumbe;1997). This is the period when political violence began to be a serious weapon which shape Zimbabwean politics which was both an inherited syndrome from the white settler regimes and a power retention and reproduction mechanism in the face of growing power contestations. Massive electoral violence was ushered in against ZUM candidates resulting in the shooting of Kombayi who had challenged Muzenda in Gweru seat. The general election of 1995 was pathetic in that it was the first election to be boycotted and with a poor voter turnout of 57% which means half of the voting population did not participate in the election. The elections were marred with malpractices which greatly affected its integrity, for instance Margret Dongo broke away from ZANU PF and contested as an independent candidate and lost the election amidst allegations of fraud. She approached the courts which granted a re-run in which she then resoundingly won.

Thus, from the above examples one may note that the issue of electoral integrity has been a challenge to the Zimbabwean political landscape since 1980. The first presidential election in Zimbabwe was held in 1990 after the amendment of the constitution in 1987. In the maiden election, there were only two candidates, Mugabe and Tekere, as such Mugabe walked easily over his opponent and won with 83% of the total votes. The second presidential election of 1996 were much more competitive with more than ten political parties, hence the incumbent had to use dirty tactics ranging from use of violence to vote buying. This was accentuated by Masipula and Makumbe, (1997) who notes that most of the other opposition parties boycotted the elections claiming that the playing field was uneven citing vote buying and violence. Even those which registered their participation such as Muzorewa and Sithole later withdrew their candidatures on similar grounds. However, just like what happened in the rerun of 2008 presidential elections, the elections went on as Mugabe won with 93% of the total votes casted voter turnout was very pathetic with only 32% out of an estimate of five million registered voters.

## **INTEGRITY OF ELECTIONS FROM 2000-2018**

Following the formation of Movement for Democratic Change (MDC) in 1999, elections in Zimbabwe have been characterized by a lot of malpractices ranging from use of violence, vote buying, ballot stuffing and involvement of the military which has eroded the integrity of these elections such that they have attracted a lot of condemnation both within and outside the country.

### **2000 AND 2002 ELECTIONS**

The formation of MDC in 1999 and the subsequent defeat of the ZANU PF government on the referendum sent a strong message to the incumbent that a real threat to its political power was now imminent. As a result, the government adopted the realist maxim of consolidation of state power for survival, and began to dismantle established institutions, human rights violations and systematically undermined the rule of law, as noted by IDASA, (2008).



The electoral field changed in the year 2000 with the birth of a strong opposition party which was to change the political landscape with a bid to challenge the de-facto one-party state that Mugabe's hegemonic regime had established. The MDC was led by Morgan Tsvangirai, then Secretary General of the Zimbabwe Congress of Trade Unions (ZCTU). A quick analysis of this election using one of the 11 PEI indicator the election had irregularities in the voter's roll, an unfair constituency delimitation exercise, attacks of opposition candidates, seizure of identity documents from suspected MDC supporters so they could not be allowed to vote and the restriction of the number of observers allowed at polling stations. The head of the EU monitoring team expressed that, "Free and Fair elections is not applicable in these elections", (Stiff, 2002, 458). The 2002 Presidential election was no different. In addition to the old modus operandi, there was the enactment of draconian legislation; Public Order Security Act (POSA) and Access to Information Privacy Protection Act (AIPPA) to control people's freedoms of association and expression. The AU described the election as transparent, credible, free and fair. However, the leader of the Commonwealth team recommended that the Commonwealth should not accept the results. In addition, Presidents of Ghana and Senegal also condemned the poll. The ANC delegation from South Africa called it credible, but not free and fair, (Stiff 2002, 459). The discord can be attributed to the politics of strongmen and club of dictators in Africa.

As such there was systematic undermining of electoral integrity ranging from use of violence, biased state media and disfranchisement. The Human Rights NGO Forum, (2010) captured the death of more than thirty people, displacement of more than four hundred thousand farm workers and destruction of homesteads of opposition supporters across the country. The Election Management body was largely compromised, politicized and militarized in favor of ZANU PF. Though ZANU PF won the election with a margin of 62 seats against 57 of MDC, it was indeed a pyrrhic victory. As such dirtier tricks were to be used in the presidential elections in 2002 due to the fear of losing state

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power. Violence increased towards and during the presidential elections which led to the death of more than fifty people at the hands of the state and ZANU PF paramilitary. There was also increased involvement of military in the electoral process. Military chiefs brazenly pointed out that they would not salute anyone without liberation credentials. Rupiya, (2010), points out that this amounts to preemptive coup as Zimbabweans could not vote freely and have their vote count, which erode electoral



integrity. In addition, just before the election the government introduced two statutes which curtailed important political rights of freedom of expression and association. Public Order and Security Act passed in January 2002, limited freedom of association and many political activities. while Information and Protection of Privacy Act (AIPPA) limited free flow of information and campaigning messages. Though Mugabe was declared a winner, the electoral process draws much criticism from both home and the EU, US, Canada and other interest groups such as the Human Rights Watch. The opposition candidate challenged the results at High court whilst Crisis in Zimbabwe Coalition pointed out that the results did not reflect the will of the Zimbabwean people due to violence and a lot of electoral irregularities.

## 2005 AND 2008 ELECTIONS

There was increased political repression and human rights violations from 2002 until 2005, predicated on this, ZAPU PF emerged a winner in the parliamentary elections. The delimitation process which happened in 2004 in preparation for the elections resulted in gerrymandering in favor of the incumbent. There are allegations that, it increased seats in ZANU-PF strongholds, with a corresponding reduction in areas where the MDC enjoyed majority support (Morgan: 2005). Violence was unleashed towards both MDC Parliamentary members and supporters, which seriously undermined the credibility of the whole electoral process. Inter- Parliamentary Union Committee (2004), notes that there was widespread arrest of MDC Members of Parliament with about 28 of them being subjected to torture and detention. The outbreak of famine and widespread hunger towards the 2005 elections gave ZANU PF a carte blanche to politicize the distribution of government handouts for political benefits, a clear example of quid pro quo. Due to this uneven electoral playing field, ZANU PF again trounced the main opposition MDC.

## 2008 AND 2013 ELECTIONS

According to the Media Monitoring Project of Zimbabwe (2008), Zimbabwe's March 29 2008 harmonized elections and the June 27 2008 presidential run-off elections are the most controversial in the country's history; for they embodied the most calculated assault on the constitutionally guaranteed rights of Zimbabweans to freely elect leaders of their choice. The elections defied all national, regional and international statutes which governs the conduct of elections in a democratic state. Towards the elections, the state media was compromised and used to the benefit of the incumbent alone. The government used the state media to issue out propaganda and relentlessly attack the opposition mainly MDC, in addition of enjoying more than 80% of the slots from ZTV as noted by Masunungure, (2008).

In the 2008 elections, Zimbabwe Electoral Commission (ZEC) delayed beyond the legal 48 hours to announce the Parliamentary results and took 5 weeks to release the Presidential election results. There was a Run-Off since none of the candidates



had reached the constitutional requirement of 50%+1 of the votes casted. Continual violence and intimidation of opposition members and officials led to Tsvangirai withdrawing from the election and Mugabe went ahead and won. SADC, AU and the Pan African Parliamentary Mission condemned the election results saying they; did not represent the will of the people, fell short of accepted AU standards and were not free, fair and credible, (Coltart, 2016, pgs 472-474) The political conflict was resolved through mediation by Thabo Mbeki, former South African President which led to the signing of a Global Political Agreement between ZANU PF, MDC T and MDC M, thereby forming a Government of National Unity.

Hence, the credibility, autonomy and professionalism of the ZEC was seriously interrogated and whatever confidence and faith people had invested in it was eroded. The results were later announced without an outright winner, though Tsvangirai had beaten Mugabe with 47.9%, he had not garnered enough votes to be declared an outright winner. This prompted a rerun, which was the most catastrophic electoral process ever conducted in Zimbabwe. There was increased militarization of the process with senior military personnel and the incumbent Mugabe threatening war if people vote for MDC in the run-up election. Many opposition supporters were killed under a violent operation dubbed, 'Operation makavhotera papi'. Cleaning up of those who were deemed as opposition supporters through displacements and killing. Literally Zimbabwe was at war with itself, this prompted the MDC leader to withdraw his candidature and flee into exile, nevertheless elections proceeded, and Mugabe was declared the winner in the 'mono race'.

The electoral integrity was heavily compromised such that the West condemned it including SADC and AU, for the first time. This necessitated the creation of the GNU between ZANU PF and two MDC-T and MDC-M. This resulted in the holding of elections under relatively peaceful environment in 2013, though some scholars like Mandaza (2018) argued that it was just 'peace of the graveyard'. Even though there was less violence in 2013 elections as compared to those of other previous years, the scars of the previous elections were still haunting the population and could seriously influence the results in favor of the perpetrators of violence. This issue can be accentuated by the increased number of assisted voters particularly in the rural areas. Though state media had largely improved, some sections of the society argued that elections were supposed to be conducted after all political reforms were implemented. The elections went ahead, and ZANU PF won resoundingly and in response the MDC launched a court petition seeking to nullify the results citing a lot of electoral irregularities such as voter bussing, intimidation and vote buying. However, this did not help since as usual SADC and AU had already accepted the results describing the environment free and fair.

## 2018 ELECTIONS

This was the most peaceful election ever held in Zimbabwe as observed during the pre-election period which was held without Mugabe and Tsvangirai on the ballot. This



was a façade by the new dispensation who attempted to attribute violence to Robert Mugabe as then proven by August 1 violence that the pre-election peacefulness was unreal. However, peacefulness of elections doesn't translate to integrity, integrity is a wholesome process which needs many ingredients. The peaceful environment which existed before election ushered in by the so-called 'new' dispensation fronted by Mnangagwa show an increased number of presidential candidates to twenty-three simply because, one can say, of the optimism that Mugabe was finally out, while other schools of thought are of the view that the increase in candidates was a creation by the ZANU PF to create a fake political competition. The election results announced by ZEC declared Mnangagwa the winner with 50.67% against Chamisa who garnered 44.39%. However, the opposition petitioned the Constitutional court seeking to overturn Mnangagwa's victory citing some electoral irregularities such as improper collation and tabulation of data. The court handed its judgement in support of ZEC's declarations. Electoral integrity was highly compromised with the conduct of ZEC which produced three different presidential results where they announced three different figures of 50,59%, 50,67% and 50,80% for President Emmerson Mnangagwa's victory . The results uploaded on its website, announced and those used in the court case were different, hence necessitating the opposition's view that election was rigged. In addition to that, State media was biased in favor of the ruling party, this was also highlighted through a High Court judgement handed down in September 2019. All electoral observer missions including Commonwealth and EU concluded that the elections failed the credibility test, except for SADC and AU which quickly endorsed the results and encouraged the international community to respect the court judgement. The Commonwealth Observer Mission Group cited a lot of irregularities including state media bias, use of incumbency privileges, behavior of security forces and the post elections violence, hence it found itself in a position unable to endorse all aspects of the process as credible, inclusive and peaceful.

## CITIZEN PERCEPTION ON ELECTORAL INTEGRITY

The citizen's perception on Electoral Integrity varies from one country to another as well as from one election to another. Perception of electoral integrity can also affect voter turnout as well as candidate participation. In the Zimbabwean context, citizen's perception has affected many elections which have been held since independence. In 1996 presidential elections, the citizens had a negative perception on the integrity of the electoral process, this led to a very low voter turnout of about 32% of the total

Electoral integrity was highly compromised with the conduct of ZEC which produced three different presidential results for Emmerson Mnangagwa

**50,59% | 50,67% | 50,80%**



registered voters. As such, voter apathy is one of the ways in which citizens of a given country register their concerns about the integrity of the electoral process. When the level of voter apathy is very high, it's a clear indicator that the perception of citizens upon the electoral process will be very negative, hence to them it would be a mere wastage of time to participate in such an election as their votes would not count.

Level of candidate participation in any electoral process also to some extent indicates a positive narrative from the citizens concerning the way they see the integrity of the electoral process. In 1996 presidential elections, sensing the lack of electoral integrity due to a lot of malpractices, Muzorewa and Sithole withdrew their candidatures from the race. Nevertheless, the election went ahead with their names on the ballot. In 2008 during the rerun election, Tsvangirai also withdrew his candidature amid highest level of violence ever witnessed in any election in Zimbabwe. The level of violence and other malpractices had already threatened the essence of conducting election in any democratic society.

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**Regardless of some improvements, leaders from the Youth Empowerment Transformation Trust (YETT) and National Association of Youth Organizations (NAYO) were frustrated and suspicious about the electoral management system.**

*The Commonwealth Observer Report, (2018)*

In addition, the perception of citizens towards any election can be obtained from various civil societies and trade unions which represent various members. The Youth organizations in Zimbabwe provided some perception of the electoral process of 2018 in which they pointed out an improved pre-election environment which saw a sudden increase of youth who registered as voters, albeit some reservations. The sudden increase was attributed to the desire to change

the government after the fall of Robert Mugabe the former president through a “military assisted transition” and the participation of Nelson Chamisa of the MDC Alliance as a presidential candidate. The Commonwealth Observer report, (2018) points out that regardless of some improvements, leaders from the Youth Empowerment Transformation Trust (YETT) and National Association of Youth Organizations (NAYO) were frustrated and suspicious about the electoral management system. On the other hand, the Crisis in Zimbabwe Coalition, as a representative of various civils societies with diverse membership produced a statement in which they tasked the electoral management body to implement some reforms before the elections to achieve electoral credibility and integrity. In their statement as noted by Commonwealth, (2018), they raised concerns around inadequacies on the part of ZEC to administer a credible election and highlighted the involvement of military and traditional leaders in the electoral process.

## METHODOLOGY

The research design was a mixed approach and a case study. The research population



was drawn from Zvishavane Ngezi and Zvishavane Runde Constituencies in wards 8 and 15, respectively, representing the rural and urban populations. The qualitative population was drawn from media practitioners, academia, political party candidates, and civil society organizations. Primary sources of data collection included community survey interviews, key informant interviews, focus group discussions and observations. The sample size was 103 households and 8 key informants. Secondary data was retrieved from included newspapers, and 2018 election reports from the Zimbabwe Electoral Commission, ZESN, ERC, SADC, African Union and European Union.

## FINDINGS

The electoral process in Zimbabwe includes delimitation of boundaries, voter registration, nomination of candidates, voter education, accreditation of observers, voting and counting of votes. The research also used the electoral cycle to measure electoral integrity in Zimbabwe as the cycle also includes the processes. Analysis of data was clustered into the three stages of the Electoral Cycle, namely, pre-electoral, electoral period and post-election period. The pre-electoral period includes processes such as the legal framework, planning and implementation training and education and voter registration. The second stage is the electoral period. This includes voting operations on the actual Election Day and the verification of results. The third and last stage is post-election period. This looks at the various activities and processes that happen after the elections.

### Free, Fair and Credible Election

The study sought to assess the citizens' views on whether the 2018 Harmonized Elections were free, fair and credible. One Lecturer in the History Department in Zvishavane stated that, 'for any election to be free, fair and credible in the pre-electoral period; candidates must be free to campaign at every level, that is from the ward level, parliamentary and the national level, media coverage should be fair, particularly state-media because it is bankrolled by the citizens'. He however pointed out that polarization in the media where the Herald and the Sunday Mail were biased towards the ZANU PF party while the Private media was also biased towards the MDC Alliance (Key Informant Interview 2: 27 October 2019). Where the state media coverage was skewed towards the ZANU PF while the private media also played the song of the MDC Alliance, it is crystal clear that the integrity of the 2018 Harmonized Elections is thrown into disrepute.

### Citizens Perceptions on Pre-Electoral Environment

There is a general consensus across the political divide that the pre-electoral period was characterized by peace and the run up to elections saw the MDC Alliance being allowed to campaign in the rural areas. In the Vhugwi District in Ward 15 a total of 31,9% of the household survey respondents agreed that the electoral processes towards elections was peaceful and promoted conditions of free, fair and credible elections whereas 61.8 % were of the view that the media, some laws and financing of parties were still unachieved. Those who agreed referred to issues such as smooth registration, peaceful casting of votes that they voted freely, campaign material was distributed to



people in the grassroots, voter education was conducted; people were free to choose their candidates of choice. On the other hand, those who did agree cited that, ZANU PF coached people what to do during campaigns, announcing of results is not accurate in terms of numbers, the President and Cabinet were dissolved on paper after the pronouncement of the election date. To add on, one Key Informant said, “the President and Cabinet must not be in office during elections such that he deploys soldiers for example Lord Sommes administered the elections after independence in Zimbabwe in 1980 and ensured a smooth handing of power from Smith to the new government”. The other reasons cited were that; people cannot openly support the opposition party hence even when they hold rallies, the turnout is low, there was fear, the vote counting process is not done transparently, there was no level playground despite for example the MDC being able to penetrate the rural strongholds of the ZANU PF, still they were not allowed to campaign, there was no physical violence, but there was structural violence and that results are gotten through the grapevine and the process is exclusive and elitist. One respondent openly said that, “maresults tozongomahwa nevamwewo kuti zvbuda sei, hatizivi zvinoitika kumusoro ikoko” (we will hear the (election) results from the others, we do not know what happens at the top).



The same views were also observed in the Focus Group Discussion held at Vhugwi Business Centre on 03 October 2019<sup>2</sup>. The views from the discussion were as follows: one participant openly said that, “tongoita zvatinoudziwa kuti tiite, hatina zvatingaita” (we just do as we are told), sometimes ballot papers of certain candidates may go missing, voters get surprised of the outcome as the results are not reflecting the will of the people, where to cast votes is discussed in community meetings called by the Councilor which goes against the conventional voter education efforts. One participant said that, “muno muVhugwi takabvumirana kuti tinongomaka pagomo reMasvingo, (here in Vhugwi we agreed that we mark on the logo of the Masvingo mountain which is the Great Zimbabwe as incorporated in the logo of ZANU PF). The elderly expressed that they were assisted to vote, but they feel like those who assist them do not really respect their choices. Another dimension was that ballot papers are duplicated at night and stuffed after the day of the election as the security of the ballot was done by the military said a participant from the FGD in Maglas. They also expressed that they do not know what happens after they cast their votes as the voter education only teaches them up to that stage. The group took note of the improvement that there were 23 political parties on the ballot paper, however, there was a challenge with ballot printing and its observation by political party members who were denied access by the ZEC administration. While political parties freely campaigned in the rural areas in the 2018 elections, there were notable practices that members of a Focus Group Discussion in Vhugwi said they compromised the integrity of the elections. For example, some names of potential voters were totally missing on the voters roll. One stark example of what ZANU PF did was to record serial numbers of voter registration slips and the names of the voters which instilled fear in those who would have liked to vote for other parties other than ZANU PF. This violated the privacy of the individual and thus compromising electoral integrity.

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<sup>2</sup> Focus Group Discussion held at Vhugwi Business Centre Ward 15 on 03 October 2019 at 10:48 am. There were 16 participants consisting of 13 women and 3 men. The age groups ranged from 28-76 years. The participants were from 3 villages namely, Ruvingo A and B and Joni.



## REPORTS FROM OBSERVER MISSIONS

### CASE 1

#### Report from the African Union Election Observer Mission

The 2018 elections were conducted under an improved legal framework that guaranteed fundamental human rights and freedoms such as freedom of association, assembly and expression; strengthened the role of Zimbabwe Electoral Commission (ZEC), in particular, making it the sole authority to compile, maintain and have custody of the voters' rolls and registers; streamlined electoral dispute resolution by establishing Multi-Party Liaison Committees (MPLCs); and limited the number of excess ballot papers for the elections – measures that contributed to enhancing the integrity of the electoral process. In spite of these improvements, the AUEOM noted the lack of proper alignment of some provisions in the new Electoral Act (2018) and the new Constitution (2013), which could undermine the independence of the ZEC and also curtail the enjoyment of political rights; and the absence of legal provisions regulating campaign funding and expenditure as well as misuse of public resources.

The ZEC conducted the electoral process in accordance with the electoral calendar and was well prepared. ZEC also introduced a number of administrative changes which enhanced the integrity of the electoral process including: the introduction of biometric voter registration (BVR) system to enhance the accuracy and credibility of the voters' roll; the shift to polling station-specific instead of previously ward-based voting to curb multiple voting; the increase in the number of polling stations to ease overcrowding; the establishment of Multi-Party Liaison Committees (MPLCs) at national and provincial levels, to engage electoral stakeholders; and the accreditation of large number of local and international election observers as a demonstration of its openness to subject the process to independent scrutiny. While these measures were welcomed, the AUEOM observed that ZEC did not effectively utilise the MPLCs to address concerns of stakeholders, particularly at national level. It also did not take effective steps to dispel concerns about the accuracy and inclusiveness of the voter register, the quality of the indelible ink, the printing, storage and distribution of ballot papers, the ballot paper design, and its overall independence from the executive branch.

Despite concerns raised by opposition parties and civil society organisations (CSOs) regarding the accuracy of the voters' register – some of which were raised due to ZEC's failure to carry out a proper and independent audit exercise, the AUEOM found that the introduction of BVR enhanced the accuracy, completeness and inclusivity of the new voters' register. A large number of stakeholders that the Mission consulted indicated the process was well done with noticeable improvements compared to the 2013 register.

Election campaign was peaceful and political freedoms were largely respected. There was also a high level of political participation with significant increase in the number of candidates and political parties participating in the elections. The high number of candidates and political parties involved in the electoral process was evidence of the improved political space that prevailed in the country throughout the election period, which allowed voters free political choice. However, reports of misuse of state resources by the incumbent, the improper influence of traditional leaders in their communities, vote buying using food aid and agricultural inputs, media bias by the public broadcaster and subtle acts of intimidation during campaigning, provided an unlevelled playing field in the 2018 electoral contest.

Source: African Union Election Observer Mission Report: Zimbabwe 2018.



## Case Box 2: Report from the European Union Election Observer Mission

### **CASE 2**

#### **Report from the European Union Election Observer Mission**

The right to stand was provided for, the elections were competitive and political freedoms during the campaign were respected. On Election Day, voters enjoyed the right to vote and both the campaign and Election Day were largely peaceful. State resources were misused in favor of the incumbent and coverage by state media was heavily biased in favor of the ruling party.

##### *The Electoral Commission*

The Commission lacked full independence and appeared to not always act in an impartial manner. The final results as announced by the Electoral Commission contained numerous errors and lacked adequate traceability, transparency and verifiability. The EU noted that the independence of ZEC was undermined by the oversight role played over it by the Executive through the Ministry of Justice, Legal and Parliamentary Affairs by approving the regulations adopted by the Commission, as well as the concerns regarding a large number of ZEC staff are former military personnel.

The report noted concerns regarding the environment for the polls and the failure to achieve a level playing field.

Observers widely reported on efforts to undermine the free expression of the will of electors, through inducements, intimidation and coercion against prospective voters to try to ensure a vote in favor of the ruling party. Such practices also included direct threats of violence, pressure on people to attend rallies, partisan actions by traditional leaders, collection of voter registration slips and other measures to undermine confidence in the secrecy of the vote, manipulation of food aid and agricultural programmes and other misuses of state resources.

##### *Registration*

The EU noted the challenges that came with ZEC's introduction of the Biometric Voter Registration system late into the pre-election period after it assumed custodianship of the roll for the first time. These included a capture of only 78.6% of the total population of eligible voters and a lesser number of registrants from the urban areas, challenges with sharing the roll with stakeholders and a lack of transparency on information about the overall voter registration process with fuelled a lack of trust by the stakeholders.

The EU EOM also welcomed the introduction of a number of legal and administrative changes such as increasing the number of polling stations, limiting voters to voting only at their registered station, and limiting the number of excess ballots to be printed. However, they also noted that these positive efforts were undermined by ZEC's persistent lack of inclusivity and transparency, embroilment in a number of contentious issues, including the layout of the presidential ballot, modalities for printing and distributing ballots, poor procedures for confirming ballot security between printing and election day and the conduct of postal voting had errors which were enough raise doubts about the precise accuracy and reliability of the figures provided.

Source: EUEOM Zimbabwe Final Report on the 2018 harmonized elections.



## MINORITY INCLUSION AND ELECTORAL INTEGRITY

One of the measurements of electoral integrity is that for any elections to be deemed credible, it has to be inclusive of the minorities (e.g. persons with disabilities, women, diaspora group and the elderly) and gender in the electoral processes. However, the 2018 elections discriminated the diaspora vote and persons with disabilities because there were no materials written in Braille and there were no sign language interpreters at rallies". The recommendation was that those living with disabilities should be given a special place where they can follow proceedings and the sign language should be credible. According to a Member of Parliament in Vhugwi, "the electoral processes and systems are not representative enough as there was nobody with disabilities participated in elections as a candidate. One of the concerns that compromised electoral integrity was limited women participation in Zimbabwe. A key informant from Women in Politics Support Unit (WiPSU) noted that women participation is still low because there is no will in political parties during the primary elections. Only 12 women out of 210 constituencies made it through the nomination process"

Another critical constituency that felt left out which also dents electoral integrity is the youth. Interviews held in ward 15 showed that the youth do not feel included enough in the electoral processes. Being a rural constituency, it means the elderly have the final say. Both male and female youths expressed that there is an invisible red tape that keeps them confined and in check. One female respondent said, "ukada kutaura mumisangano unonzi urimwana mudoko iwe, hapana chaunoziva", (when you try to speak in meetings you are told that you are a child and you do not know anything). This confirms that the youth were denied a fundamental political right of freedom of expression. This was confirmed by the sentiments made by the elderly men and women in the Focus Group Discussion that, "isu musangano watinoziva iZANU PF, ndiyo yakatipa nyika ino, yakauya navaMugabe, kubva 1980 tichitanga kuvhota ndiyo yatinongovhotera, asi gore rino tinenge takazoirasha nekuti zvinhu zvaWoma, VaMugabe ndivo vaitiziva kuti kunechembere neharahwa kumamisha uko, ava vakatikanganwa",

A focus group discussion held at Zvishavane CBD also revealed the same sentiments where the youth felt that they were being excluded from the electoral processes as their political parties were letting them down. However, the urban youth felt the party structures were liberal enough to give them space to participate, to some extent. In terms of Women participation, there were mixed views. The highlight of the responses that were gotten from Ward 15 was that, women do represent in political parties, but they are not voted for by the people, they are appointed, as a result, they lack the power to make independent decisions and they are unaccountable to the membership of the party. In the focus group discussion, one respondent talked about how women's leadership is not better than men. Supporting this view, one respondent in the Focus Group Discussion said that, "vakadzi vacho vanotungamirira vakangofanana nevarume, havatimirire sevakadzi, hazvina kusiyana plus vanongoba sevarume vacho", (the women



leaders are the same as men, so they do not really represent our needs as women, there is no difference, plus they are also corrupt like men). These same sentiments were shared by the women in the urban Ward 8 whose response was mostly that they do not see the difference between women's leadership and men's leadership. Some respondents acknowledged that the electoral processes do allow women participation, but women do not support each other.

## OVERALL PERCEPTIONS 2018 GENERAL ELECTIONS AS A BENCHMARK FOR ELECTORAL INTEGRITY

The 2018 elections have attracted mixed reactions as some view it as generally peaceful but does not pass the credibility test. A key informant from ZESN pointed out that, "pre-election environment was civil, there was no direct violence, all parties moved freely to campaign. Though media coverage was largely biased towards the ruling party ZANU PF, the opposition also got some coverage but not equal coverage as compared to ZANU PF in the state media conduct of voting was fair. The post-election was marred with violence as witnessed on August 1 which tainted the image of the elections.

Another issue of concern that was to do with the electoral management body of elections in Zimbabwe (the Zimbabwe Electoral Commission). A focus group discussion in ward 8 noted that, ZEC was not open with information as the grassroots and other stakeholders were alienated from the registration process. ZEC even limited other NGOs to help with the process, the BVR had technical issues, the ZEC server also had issues as several potential voters' information was missing, hence disenfranchising many voters. In some areas, people were being guided on voting by the village kraal heads" which also compromised electoral integrity. Tied to this idea was the issue raised by the focus group discussion which was to do with interference of the traditional leaders in elections. A female participant in Ward 8 reiterated that, "we know of Chief Charumbira who declared his allegiance to the ruling ZANU PF, yet he is supposed to be neutral". In fact, the President of the Chief's Council defied the High Court ruling which compelled him to withdraw his statement and as a result, this heavily undermines electoral integrity.

Despite a great improvement, a key informant from the Election Resources Centre expressed some reservations as he pointed out that the 2018 elections fell short of credibility test. He cited a weak legal framework despite some grasshopper reforms witnessed towards the 2018 elections. For example, the right to vote was segregatory to those in the Diaspora. The Electoral Commission did not share information. The voter registration was biased in the distribution of kits which resulted in more numbers being registered in the rural areas than urban areas. Verifiability of results is still not adequate. ZEC created an additional District Collation Centre (DCC). ZEC refused to scan V11s and put them on the website" All these according to the key informant downplays the credibility of the 2018 harmonized elections.

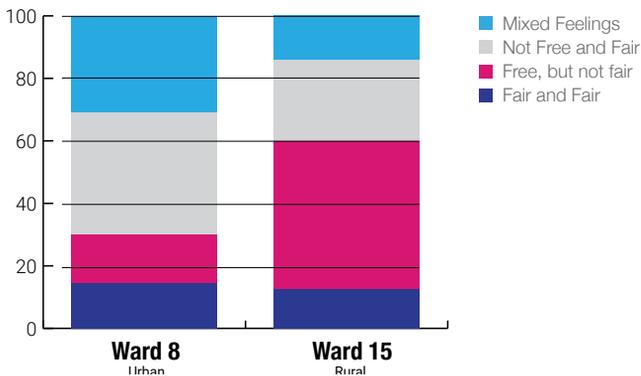


However, a Councilor from ZANU PF noted that “yes we can use the 2018 elections as a benchmark and passed the credibility test because there was no intimidation and torture of the voters. There were 8 polling stations in the District and there were no reports of violence in all of them”. In contrast, a Councilor aligned to MDC said inasmuch as the 2018 elections was peaceful before elections, polling day, the post electoral period was a disaster and it totally means the elections were not credible”. She further noted that the 2018 elections were not free and fair hence not credible based on the fact that “there were electricity cut offs without warning during vote counting, able bodied people were intimidated to pose as blind people and were assisted by only one person, a child of the ZANU PF candidate, some polling stations would just be set up without being on the roadmap and there would be only ZANU PF agents without other agents from other parties. A Senator from the MDC refuted the credibility of the 2018 Elections at all costs. He added his voice to those who felt that the elections were a total disaster. His views were that the election was stolen. ZEC refused with the server to show the results. Vote counting was done at night. Postal Voting was done without the inclusion of the MDC A as the opposition. When the elections came, the results were already tilted towards ZANU PF”. Such sentiments continue to highlight and add weight to the idea that the 2018 elections do not pass the credibility test.

### CITIZENS PERCEPTIONS ON FREENESS AND FAIRNESS OF ELECTIONS

The study sought to measure the perceptions of participants in Zvishavane on the 2018 elections to determine whether it was fair and free. The responses were varied. However, respondents tended to use the terms ‘Free’ and ‘Fair’ to assess if the 2018 elections passed the integrity benchmark. There was also a tendency of avoiding use of the word ‘credible’. The following data was observed in the form of a graph.

*Figure 5: Citizens' Perception of Fairness of Elections: Rural vs. Urban*



Source: Raw Data

An observed pattern from both constituencies is that the smallest percentage of the voters believe that the elections were free and fair. To be exact, out of a total of all the respondents that there interviewed, only 14.3 % believe that the 2018 elections were free and fair, hence they can be used as a benchmark for an election with electoral



integrity. A greater population in the rural believes that they were Free but not Fair whereas a greater population in the urban believes they were not Free and Fair.

Those who said they were free, and fair gave the reason that they were peaceful and there was no open violence, unlike every other year. Those with mixed feelings gave the following explanations, that the elections appeared to be free and fair on polling day and in the pre-election period. However, upon the announcing of results that is when they realized the elections had not been free and fair, that the freeness and fairness of elections depends one's position in the matter, the losers always find fault. One respondent said that, "elections are difficult to assess because outcomes do not meet people's expectations".

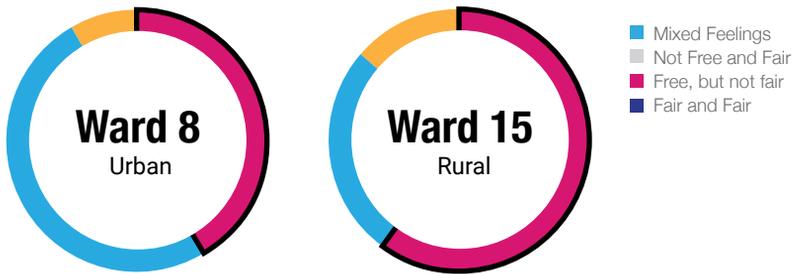
## **AUGUST 1 POST- ELECTION VIOLENCE AND ELECTORAL INTEGRITY**

The measurement of electoral integrity takes a comprehensive approach from pre-electoral period through voting to post election period. One of the events that transpired after voting was violence on August 1. Based on that, a key informant from ZESN expressed that those that protested violated the Electoral Act in so doing as the Zimbabwe Electoral Commission was still within its mandate. He also described it as an unfortunate event that occurred because the voters were impatient. The citizens were incited by their principals. "In the public opinion, the Aug 1 violence does taint the integrity of the elections. There are more peaceful ways that could have been used".

In addition, a youth officer from Ward 15 warned against the tendency of looking at things on the perspective of the actual day of elections. He expressed that the protesters were in their constitutional right. However, late in the day there were abductions and intimidation of people from speaking. Therefore, it is not about casting the ballot, but how the votes are handled. Another participant in the FGD from Maglas Township noted that indeed the violence eroded the integrity of the elections. "Violence affected the election assessment outcome in the immediate post-election environment. If it had not happened, the elections were fairly free and fair. Most reports of observers got tainted because of the violence".

Below is a comparative analysis of citizens perceiving the 2018 elections and determine whether it passes the credibility test. A household survey was conducted to determine whether there are any similarities and differences on how they perceive the conduct of the overall election. The comparative analysis sought to gather views of the participants on whether they think violence affect credibility of election or not and/or if they are indifferent.

Figure 6: Household Analysis of Electoral Integrity: Rural vs. Urban



The above graph shows a disparity between the views of the rural and the urban population. In ward 8 a greater population of 50% believes that the post-election violence did not taint the integrity of the elections whereas a greater population of 60% in ward 15 believes that the violence tainted the integrity of the elections. In both constituencies there is a small percentage of people who are not well informed about the event which make up 8.3 % in ward 8 and 13.4% in ward 15. 41.6% in ward 8 believe that it does affect the integrity of the elections whereas a small 26.6 % in ward 15 believe that it does not.

Those who believe that it does not affect gave the following explanations; that the violence was justified, people were protecting their votes that had already been stolen, that the event was just an expression of frustration, otherwise the integrity of the elections had already been tainted before election day during the campaign period, they were exercising their constitutional right to protest against injustice, people were protesting against the partial ZEC and the rigging that had been done by ZANU PF and that the protest was not violent, but the response of the state by using the military made the protesters to get violent, people had been informed of foul play at the polling stations from their party agents. Those who said that it does affect gave the following explanations; violence cannot be justified at any given time, the protesters had no right to protest before the results were announced, the protesters acted on suspicions of rigging, not facts, the protests put ZEC under pressure to release results before they were fully prepared, the protesters first had to experience how those that had been voted in would deliver on promises then protest, they were impatient, they were irrational.

## CITIZEN POST-ELECTIONS

### Perception on Constitutional Court Outcome

The study also sought to establish the feelings and thoughts of the voters in the community about the Constitutional Court application filed by MDC Alliance contesting the results. The first question that was asked what whether the voters felt the involvement of the court was necessary. The second question was about their assessment of the court ruling. The data gathered revealed the following statistics:



Figure 7: Citizens' Perception on Constitutional Court Outcome: Rural vs. Urban



The above table shows data from both Ward 15 and Ward 8. In Ward 15, 9 % responded that they were not fully informed about the court proceedings, 22.7 % showed they were happy with the court's involvement and 68.1% were not happy. On the other hand, in Ward 8, 16.6 % were happy about the court's involvement, 16.6 % responded that they were not fully informed of the court proceedings, 41.6 % were not happy with it. However, in the urban population, there was an additional category of people who had mixed feelings about the phenomenon. The data shows that the greatest percentage of voters were not happy with the involvement of the court in the contestation of the results by MDC A from both the rural and the urban constituency, whereas a smaller percentage were happy. Although this similarity pattern was observed, the researcher noted that the difference was in the reasons given by the respondents. It should be noted that this pattern was also observed in the Focus Group Discussions held in both constituencies.

The dominant explanations that came from ward 15 were that; MDC A was not supposed to contest the results as the voters had decided through the ballot, MDC A had to accept defeat and that MDC had lost the elections, which is why they did not have evidence to prove otherwise. Those who were happy gave the following explanations; since the parties had failed to agree, there was need for a neutral body to arbitrate. Those who were not informed said they did not follow events that happened after polling day.

In ward 8, the pattern observed on the responses of those who were not happy was that they were not happy with the legal and court system in general. As a result, most of them felt that MDC A's court contest was a waste of time since the outcome was known. Reasons given were that; the court was discriminatory to MDC A as they were not giving them a chance, the judiciary is not independent, and it acts in a partial manner. One respondent even said, "The judges are appointed by the President", in support, another respondent had the same sentiments that, "all the judges of the Con Court were appointed by the incumbent except for Makarau. So, no matter how much evidence was presented, the court would have shot them down". In addition, one



respondent in a focus group discussion held at Zvishavane CBD said, “the judges are members of ZANU PF. The evidence of V11 forms that they wanted was not practical because they remain at the polling stations, instead they should have requested the V23 forms”. Those who were not informed gave the explanations of load shedding which hindered them from following events, some respondents were the Sections AA and SQ where there is no electricity since the establishment of the township by Shabannie Mine so they do not have electronic gadgets, some said they do not follow events on the national broadcaster, ZBC as the content is heavily censored, whilst others simply did not care about anything that followed after the results were announced. Those with mixed feelings showed that they were happy that MDC A had contested the results through filing an application, but they gave various reasons as to why they did not find the ruling as satisfactory. These also pointed back to the issues of the non-independence of the courts and partisan prejudice and discrimination that was given to the MDC A.

## MEDIA AND THE 2018 HARMONIZED ELECTIONS

This section mostly obtained data from the Reports compiled by the Zimbabwe Electoral Commission (ZEC), European Union Electoral Observation Mission (EU EOM), African Union Electoral Observation Mission (AUEOM) and the Southern African Electoral Observation Mission (SEOM) in 2018, following the General Elections.

The Commission set up a Media Monitoring Committee in terms of Section 160K of the Electoral Act to monitor the media with the assistance of the Zimbabwe Media Commission (ZMC) the Broadcasting Authority of Zimbabwe (BAZ) on 4 June 2018, (ZEC, 2018).

Media Coverage was biased in favor of the incumbent Emmerson Mnangagwa and the ruling party, Zanu PF, (EU EOM, 2018).

The media landscape in Zimbabwe was vibrant and diverse but largely polarized and openly partisan. ZEC was entrusted with responsibility to regulate the media during elections but the Mission found it was unable to effectively monitor and sanction violators of media regulations. Further, both private and state-owned media houses exhibited a noticeable degree of bias reporting and carried out unequal coverage of activities of electoral contestants. In spite of this, both the print and electronic media played an important role in informing and educating voters and the general public about the electoral process., (AUEOM, 2018).

The Mission noted, in this regard, that the public broadcaster and the State-owned newspapers were in favor of one political party, contrary to the relevant provisions of the Constitution, the Electoral Act, and the Revised SADC Principles and Guidelines Governing Democratic Elections, which requires State-owned media to be impartial, (SEOM, 2018).

*Source: ZEC (2018), AUEOM (2018), EUEOM (2018) and SEOM (2018)*

## NOMINATION PROCESS

Some agreed that the processes do promote integrity and the reasons were as follows; such as the nomination process which was done in a fair and transparent manner.



However, concerns were raised that the fairness was only seen at the national level, not at the political party level of the Primary Elections across all political parties that were represented in the research. The research noted that there is a lot of manipulation of the processes at the primary elections level. This result from lack of strong monitoring mechanisms for ballot casting and vote counting as well as divisions perpetuated by the party leadership.

## Registration

The respondents showed appreciation for the digital BVR system in curbing multiple voting and ghost voting. However, some raised the following concerns; that registration is only done at the district and provincial level; hence some would not be able to travel. In addition, if registration could be done digitally, then voting and every other process such as counting should also be digitalized.

In addition, the respondents also appreciated the conduct of some processes such as the, displaying of results per every polling station, holding of primary elections at the party level to accord every party member an equal chance to represent the party at the local and national level, peaceful campaigning and casting of votes on election day, the opening up of political space to accommodate as many as 23 political parties, distribution of campaign material and the conducting of voter education. However negative expressions were made with regards to the registration process where people had to pay a sum of \$3 to get voting cards. This violated the principle of the freeness of elections as one should be able to cast their vote without any charge. Moreover, it was noted that; there was undue influence by ZANU PF during campaigns, lack of accuracy of numbers in the announcing of results, there was fear of openly supporting the biggest opposition party MDC Alliance, the dissolution of the Cabinet and the President's office on paper not in practice and the conduct of the Zimbabwe Electoral Commission. The observations made about the conduct of ZEC were as follows; ZEC was not transparent about where the ballot papers were obtained from. Not every political party was given the road map to the polling stations, ZEC officials were acting in a partisan manner in favor of ZANU PF, ZEC was not inclusive of all stakeholders in terms of information dissemination and that some ZEC officials even took away V11 forms from the polling stations which made it difficult for the results to be traceable for verifiability.

## Election Dispute Management

The 2018 ZEC Report states that during the course of the election, there was a total but was dismissed. The AUEOM (2018) and the UEEOM (2018) reports also noted that the handling of electoral disputes was done in a swift and transparent manner, though the handling of administrative complaints by ZEC was slow and ineffective. In addition, the EUOM, (2018) also noted that the handling of the Presidential results legal challenge by Nelson Chamisa, Presidential candidate for the MDC Alliance was also handled in a



**the research revealed a lack of trust in the court system by the public who continuously expressed that the highest judges of the bench acted in a partisan manner in favor of ZANU PF**

timely and transparent manner though it was rejected by the court on the basis that their claims were unproven. This is however in contrast with the data gathered from the interviews. The data revealed that in the face of a contested electoral outcome, there was need for an arbitrary intervention, through the Constitutional Court as the

highest judicial remedy body for election dispute as provided for in the Electoral Act. However, the undermining of the doctrine of separation of powers compromised the independence of the Court. This is because of the involvement of the Executive in the appointment of the judges through the President and the administration through the Ministry of Justice and Parliamentary Affairs. In addition, the research revealed a lack of trust in the court system by the public who continuously expressed that the highest judges of the bench acted in a partisan manner in favor of ZANU PF as some of them are card holding party members such as the late Chief Justice Chidyausiku and that the judiciary has been captured by the state.

From the survey data conducted, only 19% of the total respondents were happy with the involvement of the courts as well as with the outcome, whereas 54.8% were not happy with the outcome of the constitutional court ruling. There was also a population of 12.8 % that was not well informed on the proceedings of the court challenge. Even though both constituencies were highly unhappy, the pattern differed on the reasons given between the urban and the rural population. The dominant explanations that came from ward 15 were that; MDC A was not supposed to contest the results as the voters had decided through the ballot, MDC A had to accept defeat and that MDC had lost the elections, which is why they did not have evidence to prove otherwise. Those who were happy gave the following explanations; since the parties had failed to agree, there was need for a neutral body to arbitrate. Those who were not informed said they did not follow events that happened after polling day.

In ward 8, the pattern observed on the responses of those who were not happy was that they were not happy with the legal and court system in general. As a result, most of them felt that MDC A's court contest was a waste of time since the outcome was known. Reasons given were that; the court was discriminatory to MDC A as they were not giving them a chance, the judiciary is not independent, and it acts in a partial manner.

## Legal Reforms

The data gathered in the research showed a widespread appreciation of the legal reforms that were implemented to improve on electoral integrity in the 2018 general



elections. The ZEC report gives an outline of the legal reforms that were effected during the 2018 elections such as the revision of the Code of Conduct to also include civil society organizations, traditional leaders, civil servants and members of the security establishment, provisions to promote the participation of women and protection of fundamental rights and freedoms, elections to be observed by the Zimbabwe Human Rights Commission (ZHRC) and a widened definition of 'intimidation' to include 'misleading another person by stating that he or she could determine or discover how they had voted'. The data gathered from the research shows that the enforcement of the Code of Conduct was partial. Whilst it was extensively enforced on civil society organizations, it was not as effective in regulating the behavior of traditional leaders in influencing the people's votes and the use of extensive force exhibited by the army in the post-election August 1 Violence where six people were shot dead by the soldiers. Even though there was the establishment of the Mthlante Commission to investigate this, the data gathered in the research in both Ward 15 and Ward 8 as well as in the Key Informant interviews shows that the Commission was not effective. Reasons given were that its mandate was not, some of the findings were not conclusive such as that it was never established who had given the order to shoot, the composition of the commission was compromised, President Mnangagwa, as an interested party should not have been the one to establish the commission and that the recommendations have not been effected till date. The August 1 violence and the behavior of the soldiers has also been condemned by the reports of the observer missions shared in this research.

There is also Section 5 for promoting the participation of women in elections. This was also confirmed by the interviews held when the respondents indeed felt that the processes did promote the participation of women, despite the internal political party fights that were divisive during the primary elections.

Section 133A which increased the definition for intimidation to include influencing another person to disclose how they voted. This was confirmed to be happening in the rural ward 15 where the youth expressed that they voted for ZANU PF as it is the tradition, hence they avoid being labelled as rebellious. In addition, the elderly also confirmed that these issues are discussed at community meetings and that is where they advise the young ones of the guideline that an X is placed on the ZANU PF logo, regardless of the candidate's potential for delivering. So, this can be interpreted as intimidation as the youth expressed that they felt their voice was not heard and the electoral processes were not inclusive of their concerns. In spite of these positive legal reforms, data from the key informants showed that there is still need for more to be done in terms of legal reforms. This includes; the alignment of the Electoral Act with the Constitution as this causes a lot of confusion. However, constitutional law dictates that whenever there is a discord between the constitution and any other law, the constitution shall prevail. This means that if the constitution is silent on these changes made to the electoral act, they may not be as effective when faced with conflicting constitutional provisions.



Furthermore, AUEOM (2018) noted the need to align the electoral act with the constitution which undermines the independence of ZEC and impedes the enjoyment of political rights as well as the absence of legal provisions regulating campaign funding and expenditure as well as the misuse of public resources. Some respondents also noted that the improved legal framework may be useless if there are weak institutions to ensure enforcement. It was also noted that the law does not provide for the punitive measures for those that violate it.

## CONCLUSION

This chapter anatomizes the electoral process with much emphasis on electoral integrity. The first part analyzed the global narrative of electoral integrity which cascades down to regional perspective in which AU, SADC and ECOWAS have been discussed as far as electoral integrity is concerned. The Zimbabwean context in electoral integrity has been analyzed with revelations that most if not all elections since independence lacked integrity. This is due to the proliferation of various malpractices before, during and after elections. Finally, a section has been dedicated to measurement of electoral integrity and citizens' perception. In Zimbabwe, the 2018 elections were contested on grounds such as skewed media representation and each time the opposition is presented in the media it was in the negative form. In addition, the printing of the ballot was not fully disclosed to the political parties and the voters roll used for elections was different from the one political parties were given in PDF format which affected verifiability. Despite the peacefulness that existed during the pre-election period, the electoral integrity was also compromised by the August 1 violence that saw the killing of 6 citizens in Harare. Moreso, the announcement of three different results by ZEC also undermined electoral integrity. The constitutional court which upheld the presidency of Emmerson Mnangagwa was also heavily criticized as skewed towards the incumbent. However, it is also important to note that the pre-election period of the 2018 harmonized elections in Zimbabwe was very peaceful throughout to the voting day. Such an environment can be said to be a positive step towards electoral integrity.

## RECOMMENDATIONS

- There is need for all the stakeholders to implement the electoral reforms required in Zimbabwe so that the country improves on electoral integrity. This includes; the alignment of the electoral laws with the constitution, electoral financing, the timely addressing of grievances raised by stakeholders, strengthening of government institutions and restoration of integrity in electoral management institutions to regain public trust.
- The government is an element of the state. It is an anomaly that the government administers the ZEC and all the other institutions created to promote democracy. Therefore, these institutions must be independent of the government so that they fully execute their mandates in an uncompromised manner. Government should not be involved in their appointments and funding so that they are able to safeguard democracy.



- As the Electoral management body, the Zimbabwe Electoral Commission should review the 2018 general elections and implement reforms suggested by all stakeholders to avoid the same issues to be raised in the forthcoming 2023 elections.
- Despite differences in areas of specialization, civil society should unite and have a clear mandate which feeds into nation building without being partisan. They should follow the regulations set by the state on the parameters and requirements for their operations. This will help the state and citizens to understand them, how to deal with them and how to perceive them, ie whether as partners or enemies.
- Political parties should encourage women to participate in politics by ensuring affirmative action within their structures. The promotion of women participation should also be done on the basis of merit not appointments of patronage. If possible, they should be voted for so that they have the full support of their fellow female members.
- The eradication of the culture of violence has to begin from the political parties within their structures. The starting point would be to disband the youth militia groups in political parties. In addition, the leaders should lead by example and shun the culture of violence and destabilization in any way.

# Mapping Impediments to Electoral Transparency, Accountability and Integrity in Zimbabwe

Elections in Zimbabwe have been heavily contested and marred by allegations of vote rigging ever since the independence elections in 1980. The ruling party, Zimbabwe African National Union Patriotic Front (ZANU PF) has always been accused of various electoral malpractices.

## ZIMBABWEAN ELECTIONS IN PERSPECTIVE (1980-2018): AN INTRODUCTION

### The electoral manipulation thesis

Elections disputes keep recurring after each election, leading to a crisis of political legitimacy. A significant number of electoral malpractices have been raised by opposition political parties and civil society organisations ever since the 1980 elections. (Kriger 2005) gives a detailed account of these electoral violations spanning from the 1980 to 2000 elections. The period 2000 to 2008 saw the contestations over freeness and fairness of elections leading to a deepening political crisis that eventually led to a Government of National Unity (GNU) in 2009-2013. Thereafter, elections were held in 2013 and 2018 but they have failed to resolve the impasse and lead to acceptance of electoral outcome. Arguably, it may be concluded Zimbabwe has faced a recurring challenge of electoral transparency, accountability and integrity.

An analysis of the contours of elections in Zimbabwe points to two paradigms: 1. Primitive rigging and crude authoritarianism (1980-2008), and 2. Technical manipulation



of elections (2013-2018). It is important to know that these paradigms have been influenced by the different political contexts; both, domestic and global. Under 'primitive rigging and crude authoritarianism' issues such as state-sanctioned violence against opposition, ballot stuffing (prior to introduction of translucent

ballot boxes), gerrymandering of constituencies, open vote buying, constraining of civil society, media blackout of opponents while favouring coverage of the ruling party dominate. On the other hand, the 'technical manipulation' has focused on covert tactics that targets the whole electoral cycle and create electoral environment that tilts undue advantage towards the ruling party at the expense of the opposition. These electoral tactics center around tinkering with the delimitation process, voter registration, voter education and nomination, election results management, legal authoritarianism, compromised elections management body, abuse of government aid programmes and humanitarian support. In as much elections have noticed reduction in open violence, the opposition being allowed to campaign in previously no-go areas especially in the rural areas, the process is still characterised by well calculated and calibrated set of subtle tricks meant to deliver a lethal blow to opponents in the final scheme of things. The manipulation of elections centered on the various administrative processes around the electoral cycle to create a favourable outcome for the political incumbent, in this case ZANU PF.

## An analysis of the contours of elections in Zimbabwe points to two paradigms: 1. Primitive rigging and crude authoritarianism (1980-2008), and 2.

*Technical manipulation of elections (2013-2018).*

Understanding the discourse of electoral transparency, accountability and integrity in Zimbabwe requires one to first historicise the elections and map the fault-lines of contestations and the factors that drove them. While it is important to note that elections ever since 1980 have been highly contested and there have been some similarities in the challenges facing the holding of democratic and undisputable elections, there has also been a shift in the tactics used in the manipulation of elections and correspondingly the nature of the disputes. However, it has to be acknowledged that these changes in strategies are not permanent but mainly conditioned by the threat posed to the survival of the political incumbent. For instance, where the incumbent has felt its survival under threat a return to crude authoritarianism has always been the default position. Therefore, in as much as there have been the above noted two paradigms, in certain cases the lines become blurred depending on necessity.

## DEFINITIONAL AND CONCEPTUAL APPROACH

### What is Electoral Transparency, Accountability and Integrity?

Electoral transparency, accountability and integrity concerns the holding of elections in accordance with democratic tenets based on universal values, standards and



principles. The Kofi Annan Foundation defines electoral integrity as: *...any election that is based on the democratic principles of universal suffrage and political equality as reflected in international standards and agreements, and is professional, impartial, and transparent in its preparation and administration throughout the electoral cycle (Kofi Annan Foundation, 2012).*

It is important that elections are a true representative of the citizenry and the way in which they are run abides by the principle of universal suffrage and equality. This means for elections to be deemed to have integrity, their conduct has to fulfil the realization of international agreements such as Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Liberties (ICCPR). The Global Commission emphasizes this point and notes: *When applied to elections, integrity implies adherence to the democratic principles of universal suffrage and political equality set forth in international agreements like the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Universal suffrage and political equality mean that all voters have equal opportunities to engage in public debate about the electoral process, develop their political preferences through unrestricted access to independent and varied media sources, exercise their preferences through voting, and have their votes counted equally” (Global Commission, 2012:12).*

In simple terms electoral integrity is meant to ensure that the voice of the voter (read citizen) is heard and gives an opportunity to make the leadership accountable. The Open Election Data Initiative website precisely puts it, “In order for citizens to participate in, understand, evaluate and, ultimately, accept an election process and its outcome as representing their will, election data must be open to citizens”. This explains the necessity of transparency and accountability in elections for them to be considered credible and with integrity. That means the way Electoral Management Bodies run elections should show high levels of openness and subjected to public scrutiny. It is therefore imperative for election data to be “...released in a manner that is timely, granular, available for free on the internet, complete and in bulk, analyzable, non-proprietary, non-discriminatory and available to anyone, license-free and permanent” (Open Data Election Initiative website).

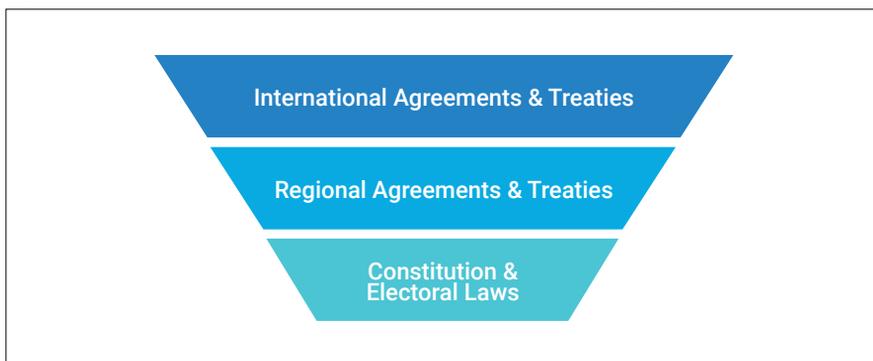
### **Sources of Electoral Transparency, Accountability and Integrity**

Based on the Kofi Annan Foundation (2012) and Global Commission (2012) it can be argued that international agreements and covenants form an integral source of electoral transparency, accountability and integrity. Norris, Cameron and Wynter also emphasise the importance elections meeting global norms: *...whether contests meet international commitments and global norms, endorsed in a series of authoritative instruments (conventions, treaties, protocols, and guidelines) through the UN general assembly, regional intergovernmental organizations, and related multilateral bodies, exemplified by the 1948 Universal Declaration of Human Rights (Norris, Cameron and Wynter, 2018:10).*



It is from these global norms, that parameters for defining a transparent election-electoral processes are open to public scrutiny and gives interested stakeholders detailed information to make informed decisions-, an accountable electoral process-citizens can hold electoral stakeholders accountable- and electoral integrity-electoral processes and outcomes gains public confidence and wide acceptance from stakeholders as a reflection of the people's will. It is important to note that whilst reference is made to international instruments playing a key role; regional and local instruments are also very important as they are the ones which go further to give full meaning and realisation of electoral transparency, accountability and integrity at the domestic/country level. In this case the Universal Declaration of Human Rights (UDHR) and International Covenant on Civil and Political Rights are at the apex, while the African Charter on Democracy and Human Rights and SADC Principles and Guidelines on Democratic Elections follow at the regional level, with the Constitution of Zimbabwe and Electoral Act coming in to give full meaning and ensuring realization of electoral transparency, accountability and integrity at the domestic level. The diagram overleaf gives a summary of the framework informing electoral transparency, accountability and integrity.

Figure 8: Framework for Electoral Transparency, Accountability and Integrity



Source: Author

Therefore, this chapter uses international agreements and treaties of the United Nations (UN) in particular the UDHR and ICCPL as the primary source to define electoral transparency, accountability and integrity. It further goes to look at the African Union (AU) and Southern African Development Community level and finally Zimbabwe's laws informing and guiding the elections. This relationship is aptly captured in Norris, Cameron and Wynter observation that declarations and convention are the two main types of instruments that shape and inform electoral transparency, accountability and integrity: *There are two main types of instruments: declarations and conventions. Declarations are not legally binding, but they do have political and moral impact. Conventions are legally binding under international law. Member states which endorse conventions agree to observe and enforce these standards and to implement them in domestic laws*" (Norris, Cameron and Wynter, 2018:10).



It may therefore be concluded that to have a full grasp of the impediments to electoral transparency, accountability and integrity, one has to look to international treaties and conventions as a point of departure, then look at the regional level (African Union) provisions and finally the domestic laws and guidelines.

### **Measuring Electoral Transparency, Accountability and Integrity**

Electoral transparency, accountability and integrity play a crucial role in a democracy, giving democratic legitimacy and public confidence to an electoral process. Where an election lacks integrity there is bound to be disputes. In measuring electoral transparency, accountability and integrity there is need to look at the whole electoral cycle rather than Election Day. The Open Election Data Initiative website argues that, “While many focuses on the specific event of election day, elections are actually a process made up of multiple components”. Focusing on Election Day may be very limiting as Norris, Cameron and Wynter argue: *Some stages occur well before the glare of the spotlight on election campaign gets underway – like implementing effective, accurate, secure, and inclusive electoral registers, determining fair and impartial district boundaries, and using open and fair party rules and procedures for nominating candidates. Others involve steps happening later in the process, such as the implementation of convenient balloting facilities, transparent and accurate vote tabulations, and effective dispute resolution mechanisms”* (Norris, Cameron and Wynter, 2018:11).

Assessing the transparency, accountability and integrity of elections, requires one to go to the beginning of the electoral cycle and come up with various indices or indicators to measure the progress or lack thereof. Finally, Norris, Cameron and Wynter argue that, “...standards of electoral integrity do not just apply to the final stages of voting on polling day and counting the results; instead elections are understood to operate throughout the extended cyclical process... These stages can be understood as a sequence broken down further into eleven components..”(Norris, Cameron and Wynter, 2018:11).

The Global Commission (2012:20) identifies five major challenges that presents a threat to electoral transparency, accountability and integrity:

- a. building rule of law,
- b. creating professional electoral management bodies (EMBs),
- c. building democracy as a mutual security system,
- d. removing barriers to political participation and
- e. controlling political finance.

The Global Commission's approach is too condensed and will be very useful in so far as giving global summation or overview of the electoral landscape. This chapter therefore, largely borrows from the disaggregated approach developed by Norris, Frank and i Coma, (2014:98) who observe that there are eleven categories to the electoral cycle.



These stages are captured in the table below.

Figure 9: Categories to the Electoral Cycle



Source: Norris, Frank and i Coma, (2014:98)

In mapping impediments to electoral transparency, accountability and integrity in Zimbabwe, one would need to showcase how these eleven categories have played out within the country's electoral processes.

## THE CONTOURS OF ELECTION IMPEDIMENTS IN ZIMBABWE

### 1980-2008 Primitive Rigging

The period 1980-2008 has seen elections in Zimbabwe being characterised by brazen rigging such as ballot stuffing, intimidation of the opposition and its supporters, gerrymandering of constituencies, abuse of state resources, arson, murder and rapping of women by suspected ruling party members or state agents. The 1980, 1985, 1990, 1995, 2000 Parliamentary, 2002 Presidential, 2005 Parliamentary and 2008 Presidential run-off elections point to a number of electoral irregularities that give credence to the primitive rigging thesis. In all these elections organised violence and intimidation of the opposition have played central and it is only the degrees of intensity that have differed depending on the context of the elections Kriger (2005). Elections in Zimbabwe are argued to have been flawed right from the inception of independence, but little attention was paid to them and this created lasting consequences. Dorman observes that: *...strategies deployed by the Zimbabwe African National Union Patriotic Front (ZANU-PF) and the Mugabe government in the 2000 and 2002 elections paralleled and developed upon strategies used to diminish the significance of opposition parties in elections since independence, but which had not previously been of particular concern to donors. While violence marked the elections, the manipulation of electoral institutions from 1980 onwards left an equally, if not more, negative legacy (Dorman, 2005:156).*

**In the 1980, 1985, 1990, 1995, 2000 Parliamentary, 2002 Presidential, 2005 Parliamentary and 2008 Presidential run-off elections... organised violence and intimidation of the opposition have played central and it is only the degrees of intensity that have differed depending on the context of the elections.**

Therefore, the electoral challenges that emerge and get magnified in the 2000 elections and beyond were nothing new, but

*Kriger (2005)*



issues that had not been paid much attention.

The 1980 elections had the elections environment tilted favourably towards Bishop Muzorewa's United African National Congress (UANC). The Bishops's campaign was well resourced and funded by the Rhodesian state in order to undermine ZANU PF or PF ZAPU. However, as part of its strategies ZANU PF relied on the use of Veterans of War and youth, who later continue to play a significant role in the country's politics. Commenting on the electoral strategies of ZANU PF Kriger observes: *Opponents were cast as reactionary enemies of the state, often — in 1990, 1995, and 2000 — as mere puppets of the whites. The leaders mobilized unemployed youth, mostly males, and sometimes women, to attack opposition supporters and their property, and threatened voters with loss of jobs, houses and food relief and a return to war if they supported the opposition. The perpetrators of violence, chiefly ZANU(PF) supporters, were the beneficiaries of police inaction or party protection, either through leaders' pressures on the police or through presidential pardons and amnesties for political crimes. The police themselves often actively participated in violence on behalf of the ruling party (Kriger, 2005:33).*

Elections in Zimbabwe have therefore been beset by questions of integrity despite the positive and favourable standings that the country enjoyed within the SADC and the international community.

The 1990 elections saw a bitter contest between ZANU PF and the Zimbabwe Unity Movement (ZUM). In these elections, allegations of state sponsored violence Vice President Simon Muzenda's aides (New York Times, 29 March 1990), who later went to get a presidential pardon. The levels of intimidation were also very high in the 1990 elections. For instance, this was evident in an observation made on one of the campaign adverts, *"At the same time the quality of some of the ZANU-PF political advertisements appearing on television left much to be desired. One, subsequently condemned as both intimidating and misleading, claimed that supporting ZUM would, like AIDS, lead to death, whereas voting for ZANU-PF would lead to life"* (Sachikonye, 1990:96). Such kind of political advertisements raise serious concerns of electoral integrity given the history of violence in Zimbabwean elections. The 1995 elections where former ZANU PF member of parliament for Harare South, Margaret Dongo, contested as an independent candidate challenged the election result and managed to expose electoral fraud. The court challenge managed to prove that *"in addition to irregularities in the voter's roll, the government also stuffed the ballot boxes, such that there were over 1,000 more ballots counted than had been issued to voters"* (Dorman, 2005:159).

The 2000 parliamentary elections experienced similar cases of violence and intimidation as war veterans cordoned off farming and rural areas from the opposition. Violence became the core issue in the 2000 elections, and it was reported that: *Over thirty persons were killed and many more reportedly harassed, beaten and forced to engage in partisan activities (some 5000 according to human rights organisations)" and in addition,*



*“The opposition party MDC expressed concern that with over twenty murders since the February referendum police had no yet made a single arrest (Pottie, 2001:64).*

Similar observations were also made by the elections watchdog Zimbabwe Election Support Network (ZESN) and it concluded that: *In summation, it is apparent that the inability of the electorate to elect candidates freely and without compulsion compromised the freeness and fairness of the electoral process. The network after carrying out the proper assessment during (1) the pre-election period (2) the polling period (3) the post-election period is of the opinion that the pre-election conditions for credible democratic elections did not exist in Zimbabwe. The people of Zimbabwe voted in large numbers despite the grave obstacles that were put in their way by the authorities ((ZESN, 2000)).*

The 2000 elections clearly show that it was held in a manner which flew against the key tenets that define electoral integrity.

The 2002 Presidential elections also continued the cycle of violence and intimidation thus leading to another disputed election. A Judicial Observer Mission sponsored by the South African government condemned the 2002 Presidential elections based on the pre-elections environment that was characterised intimidation, murder of opposition supporters and a significant number of legal battles to challenge the undue advantage given to ZANU PF (Khampepe, 2002). The South African Judicial Observer Mission in its final analysis had this to say: *It was principally the pre-polling legal and other environment, which informed our assessment of the conduct of elections...However, having regard to all the circumstances, and in particular the cumulative substantial departures from international standards of free and fair elections found in Zimbabwe during the pre-election period, these elections, in our view, cannot be considered to be free and fair (Khampepe Report, 2002:26).*

The Zimbabwe Elections Support Network also made similar observations on the 2002 Presidential elections and concluded that, “Zimbabwe’s political environment was one in which the opposition was unable to undertake any meaningful campaign in the rural areas due to massive intimidation and physical violence. There were specific areas that were off limits to the opposition” (ZESN, 2002). Violence continue to pop up in Zimbabwe’s elections especially, where the ruling party’s survival becomes under threat. In 2008 during the presidential run-off elections, ZANU PF and the military were accused of initiating a bloody campaign through “Operation makavotera papi”

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.....  
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**900** **22**  
VICTIMS DEATHS

*as of the 08th of May 2008.*



(Operation whom did you vote for)? According to the Zimbabwe Doctors for Human Rights, it claimed to have documented 900 victims of organised violence and torture including 22 deaths as of the 08th of May 2008. It becomes discernible in all these elections that organised violence either by the state or ruling party, a heavily skewed electoral legal framework, highly partisan state institutions were a key characteristic.

### 2013-2018 Technical Manipulation

The 2013 and 2018 elections have seen electoral disputes revolving around the administration of elections. Most of the complaints that have emerged are concentrated within the pre-voting period with minor complaints regarding the actual voting day. This actually calls for paying close attention to the observations of the electoral system, competition and outcomes” because “Election experts have an old adage that ‘only amateurs steal elections on election day’ (Global Commission, 2012:13). In attempt to explain the outcome of the 31st of July 2013 harmonised elections in Zimbabwe, Masunungure (2014:99) uses the concept of the “menu of manipulation” which he argues that it was “...served throughout the electoral cycle, from the pre-election period to election day and, finally, the post-election period” (Masunungure, 2014:107) leaving the opposition not knowing what had hit it. The same applies to the 30th of July 2018 harmonised elections, where the opposition continues to question the electoral outcome despite losing the presidential petition at the Constitutional Court. It is important to note that electoral disputes have given more prominence to presidential elections, especially after the harmonised elections, which may be due to the culture of presidentialism and “the big man” predominant in African politics. But it is also fair to note that there have been electoral disputes in the parliamentary and council elections and the June 2000 parliamentary elections stand out for thrusting Zimbabwe’s electoral processes on the international spotlight.

Based on the conduct of the 2013 and 2018 elections, one observes a noticeable trend where the electoral tactics have shifted from resorting to crude forms of violence and brazen rigging to ‘subtle and benign’ means of manipulation in order to retain. Dobson (2012:4) observes that, “...today’s dictators understand that in a globalized world the more brutal forms of intimidations- mass arrests, firing squads, and violent crackdowns- are best replaced with more subtle forms of coercion”. Therefore, modern day autocrats now resort to shedding off the outright reliance on force and often combine different shades of seeking hegemony. This is done through ‘manufacturing consent’ while at the same time keeping a firm grasp on levers of public coercive power (military, intelligence, police and various state linked social groups – traditional leaders, youth militia/vigilante groups and war vets). Masunungure observes these shifts in tactics and surmises: *The menu of coercion often defeats the very purpose of conducting elections, which is to derive a genuine measure of popular and international legitimacy... For instance, the June 2008 presidential run-off election was a cold-blooded display of coercion and cost the victor any semblance of legitimacy; few outside Zanu-PF recognised the outcome, and it was this perceived illegitimacy that necessitated the Government of*



*National Unity (GNU) engineered by the Southern African Development Community (SADC) (Masunungure, 2014:99).*

There are new contours of electoral contestations in Zimbabwe and this brings us to the work done by Levitsky and Way (2002) on competitive authoritarianism, Schedler (2002) on electoral authoritarianism, Dobson (2012) on how dictators have changed from crude to benign tactics – then stretching into more recent studies by Cheeseman and Klaas (2018) on how to rig an election. Most important, is to decipher that whilst elections

remain disputed, they have shifted from the philosophy of degrees in violence as it was from 1980-2008. However, what remains in question is whether this shift will remain permanent in the face of real threats to power of the incumbent as it had become on the 1st of August 2018 post-election protests or 1-16th of January 2019 fuel price protests.

In a study of the 30th of July 2018 Zimbabwean elections, based on a field study of 20 selected constituencies spread over Zimbabwe's 10 provinces conclude that:... *candidates and parties indulge in a variety of electoral malpractices. These electoral malpractices impacted on the various processes of the electoral cycle and thus made the elections more of a symbolic process with a predetermined outcome...The menu of manipulation is broad, it covers all stages of the electoral cycle, from tampering with the voters roll to restricting access to the mass media, from ballot stuffing to falsifying the vote count, and from vote buying to political intimidation among many other tricks. All these acts are illegal, were done in secret during the cover of the remote bushes or at night, it made it very difficult to trace and document, thus even attempting to quantify or substantiate the impact of this menu of manipulation on the final results for the opposition and civil society became obscure (Chirimambowa, forthcoming).*

To understand the impediments to electoral integrity in Zimbabwe, one needs to analyse elections focusing on the three key stages of the electoral cycle: Pre-voting; voting and post-elections.

## Pre-voting Period

### **An Opaque ZEC**

In both the 2013 and 2018 elections there have been claims of securitization of the elections body. This raised questions on the integrity of the Zimbabwe Elections Commission (ZEC). The Chief Executive Officer of ZEC, Justice Chigumba admitted

Based on the conduct of the 2013 and 2018 elections, one observes a noticeable trend where the electoral tactics have shifted from resorting to crude forms of violence and brazen rigging to 'subtle and benign' means of manipulation in order to retain.



before the Parliamentary Portfolio Committee on Justice that there were former security services members in their secretariat, constituting 15% of the total 383 members. (*Machamire in Dailynews, February 2018*). It is also interesting to note that previous key elections staff such as Douglas Nyikayaramba, Utoile Silaigwana and Sobusa Gula Ndebele are former army personnel. To show this seamless relationship between the elections management board and the army is the case of Major-General Douglas Nyikayaramba who was reported to have resigned from the army and went on to head the Electoral Supervisory Commission during the 2002 and 2005 elections but only to resurface later as commander of 3 Brigade in Mutare (*Zhangazha in Mail & Guardian, August 2013*).

The ZEC's operations have been shrouded in secrecy, thus creating an opaque system that makes it difficult to observe and track the electoral process. The selection of vendors for the printing of ballot design and printing was a site of contestation between ZEC and the opposition and civil society. The ZEC argued that the law gave them the prerogative to appoint a vendor they deem fit, a point that is valid but does not assist in quelling suspicion of manipulation especially in an electoral environment like Zimbabwe that has been dogged by a history of partisan electoral institutions. Opening some of these processes to public scrutiny may have assisted in building public confidence in the electoral process. Moss and Smith observe that: *The ZEC resisted multiple requests for transparency in how the vote will be conducted. It released a final register without any*

Justice Chigumba admitted before the Parliamentary Portfolio Committee on Justice that

**15%** a total of **383 members** were former members of the security services.

*process to fix existing errors. The opposition is convinced ballot paper alteration is a high risk, but ZEC officials have refused to disclose any details of how ballots were procured and printed – or why the ballot design inexplicably gives Mnangagwa a prime spot (Moss and Smith in Mail & Guardian, July 2018).*

The importance of electoral integrity cannot be understated in environments where elections have been contentious and close calls such as Zimbabwe. This point is emphasised by Norris, Cameron and Wynter (2018:2), “Given the importance of establishing legitimate results in contentious and close elections, there is often no room for even minor errors or any time for recovery from mistakes at the polls”.

### A Crooked Voter Registration Process

The voter registration process has been marred by allegations of crookedness. In both the 2013 and 2018 elections, disputes arose on the abuse of voter registration slips. In the 2013 elections there was the case of Hatfield Constituency, where there were allegations of ZANU PF youth distributing fake voter registration slips and the ZEC through its Deputy chairperson went on to downplay the impact of such an electoral



malpractice; “Yes, we have received that report. We have instituted investigations. But the issue of credibility, 20 (voters) out of the millions who voted? I think you have to figure out that for yourself” (*Kadirire, Mananavire, Matarutse and Ncube, 2013*). In as much as the ZANU PF candidate lost the election, the act clearly gave credence to the collusion of ZEC in creating an uneven electoral environment. In the 2018 elections, the voter registration slips were used for intimidation purposes. Allegations of ruling party functionaries recording the serial numbers of the slips were rife (*Sithole, 2018*). Such practices dent the credibility of elections and became some of the issues of concern that were raised by elections observer groups.

### **Voters Rolls and Nomination**

The availability of the voters’ roll to candidates and voters for inspection remain a thorny issue in Zimbabwe’s elections. In the 2013 elections the shambolic state of the voters’ roll and the limited time it was availed to candidates became one of the key arguments of the electoral petition of Morgan Tsvangirayi, the MDC presidential candidate. He claimed that 870 000 names were duplicated on the voters’ roll and that the it was delivered to him just a couple of hours before the polls closed, which to him the “failure to [make] the voters’ roll [available] is not only a serious violation of the Electoral Act but is so fundamental a breach that it undermines the credibility of the entire election (*Munyaka, 2018*). Similarly, in the 2018 elections, candidates could not access the voters’ roll and proceeded to nomination court: *One of the challenges raised by some candidates and parties before nomination day was the unavailability of the voters’ roll, which would have allowed political parties and candidates to verify if nominees were actually on the voters’ roll (IRI/NDI, 2018:28)*

The availability of the voters’ roll, its state and nomination continue to be sites of electoral contestation in Zimbabwe.

### **Biased Voter Education**

The Zimbabwe Elections Support Network (2018:35) observed that the voter education process has improved in relation to other elections. The ZEC is observed to have come up with a framework for developing materials and working with civil society organisations (CSOs) which is a highly commendable. For instance, in a study of the 2018 elections, In Chiredzi East Constituency a female ZEC official recounted the impenetrability of farms as the farm owners claimed to have already educated their workers and they knew what to do. They further misrepresented information to the public that ZEC and ZANU PF were one institution working in cahoots: *Don’t worry about our workers as we have already told them what to do. Besides, ZEC and us (read ZANU PF) are one thing and we work hand in hand. There is nothing new that you will have to tell them that would be different from what the party has told them. You may go to other areas, here it is already a done deal (Chirimambowa, Forthcoming).*



The fact that these claims were made in front of ZEC officials, and their failure to publicly refute this disinformation meant it becomes a matter of fact to the voters especially in remote areas where violence, intimidation and impunity are the order of the day. It is clear that in this instance, the ZEC could not guarantee a safe environment for its staff to firstly, execute their duties without fear or favour and secondly assure the citizens of the secrecy of the vote.

### ***Skewed Campaign Environment***

The campaign period in Zimbabwe's elections has been marred by allegations of vote-buying, intimidation and violence against opponents, unfair media coverage and restriction of the opposition. Vote buying is very widespread in Zimbabwe's elections and the allegations cut across the political divide. The impact of vote buying is debatable with some scholars arguing that there is no systematic evidence that it produces the desired results. The reason being the commitment problem under conditions of elections in the modern era in which secrecy is one of the sacrosanct requirements to achieve the 'golden' standard of a free and fair election (*Levitsky and Way, 2001:53*). Kramon (*2013:101*) suggests that where the vote is secret, politicians lack mechanisms to ensure voter compliance, and citizens cannot credibly commit to provide their vote after a gift or bribe in secret. However, in political environments like Zimbabwe where the secrecy of the vote is not guaranteed and allegations of victimisation of opposition supporters are rife, vote buying proves to be an effective tactic of mobilising supporters.

Violence and intimidation have always recurred as a point of dispute on the freeness and fairness of elections in Zimbabwe. The 2013 and 2018 elections are considered to have been relatively violent free in comparison to other elections before. There have been minor cases of violence recorded by civil society groups and elections observers. However, this positive improvement appears farcical as the ruling party has been "harvesting fear" (Zamchiya, 2013) through tapping into its history of violence and threatening villagers with unspecified action or war if they vote the opposition. For instance, in 2017 at a ZANU PF inter-party district meeting at Masvingo Polytechnic, Josiah Hungwe, the Masvingo Resident Minister, openly threatened the use of the army,

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**In the 2018 elections, there was widespread abuse of state resources to fund the incumbent's political programmes under the guise of presidential input support scheme and command agriculture a point which was also raised by observer groups.**

*(IRI/NDI 2018, Commonwealth 2018, ZESN 2018).*



“Yes, we can go to war. We can hire our army...our soldiers can come in to help us. We will never allow opposition political parties to rule this country. We are going to have President Mugabe as our candidate in 2018 and his predecessors must have war credentials”. He further chillingly reminds citizen, “Don’t forget what Rugeje did in Masvingo in 2008 ...we can call him again in 2018” (*Free and Fair Election Zimbabwe, 2017*). In May 2018, Minister Hungwe repeated similar calls in Chiredzi, while Deputy Minister Terence Mukupe at a campaign meeting in Mandara is reported to have made similar remarks, “How can we say, honestly, the soldiers took the country, practically, snatched from Mugabe, to come and hand over to Chamisa. I am not apologetic to say MDC will not rule this country” (*News24, 2018*). The impact of such statements on the electorate cannot be taken lightly given Zimbabwe’s electoral history that is characterised by ‘*the role of the military in ‘political affairs’ (Rupiya, 2008) and accompanied by degrees in violence’ (OSISA, 2007)*.

Access to the public media keeps on popping in every election as the opposition bemoans restricted access and in certain cases a total blackout. In most cases, where the opposition is covered it will be negative stories. In the 2008, save the 27 June Presidential run-off, 2013 and 2018 elections, there has been a notable shift in the covering of the opposition in the public media from total blackouts. However, this has been well calibrated to give a facade of a free media and access to information environment. The major opposition’s campaigns are given limited coverage, while giving prime time to fringe or obscure parties. The EU observer mission noted that media access was biased towards Zanu PF at the expense of other opposition parties. The most important disparities existed in access to electronic media (television and radio) combined with highly biased and partisan coverage (EU, 2018). It is important to emphasise that even the High Court of Zimbabwe drew similar conclusions: *It is hereby declared that ZBC and Zimpapers have conducted themselves in material breach of section 61 of the Constitution in that they have not been impartial and free to determine independently the editorial content of their broadcasts or other communication and they have not afforded fair opportunity for the presentation of divergent views and dissenting opinions (Mhlanga, 2018)*.

Access to the public media remain a thorny issue in Zimbabwe’s elections, thus denting the integrity of elections.

## Polling Day

### **Assisted voters**

Assisted voting has always raised questions on the freeness and fairness of elections from two dimensions. Firstly, the dispute has been on the high numbers of assisted voters a point that the EU observer mission also raised the same concerns, “*EU observers reported a high degree of assisted voting in some places...*” (EU, 2018:34). Secondly, there have been concerns on the abuse of the same system with allegations



that even professionals such as teachers and nurses would claim to be illiterate because they will be voting under duress. For instance, Morgan Tsvangirayi is quoted to have argued in his election petition of the 2013 elections that, “*In ward 15 (Rushinga), Mr Gatsi, a woodwork teacher at Marymount Secondary School, and Mr Zondo, the chairperson of the school development committee, were assisted to vote*” (Munyaka, 2013). The high number of assisted voting has raised questions on the credibility of elections.

### **Postal/Special Voting**

Postal voting remains a thorny issue in Zimbabwe’s elections. In the 2013 elections, there were claims that ZEC issued 60 000 certificates to the police approving special voting yet, the known record of police officers at treasury or ministry of home affairs was 38 000 (Munyaka, 2013). In the 2018 elections there was more drama with postal voting at Ross Camp in Bulawayo. When the news broke out that voting was underway, initially, ZEC dismissed that as fake news, later on retracted their statement and conceded that indeed voting was underway. Within a space of a few hours in the same day, the chief elections officer issued contradicting statements: *This is hogwash and very stupid propaganda because in the first place they have photos of a police officer standing near a ballot box yet with postal voting, a voter does not use a ballot box. This is cheap propaganda without substance at all. This is coming from a person who does not even understand the process. The pictures they put have nothing to do with postal voting and these people just want to cause despondency in the country* (Kuwaza, 2018).

The postal vote process is underway. We have indeed dispatched some of the postal ballots not only to the police but all those who are eligible, including those in foreign missions. Since we have already dispatched some of the postal votes, we are expecting them to be casting their votes wherever they are and we are now waiting to receive back the postal votes so that we can take them to the respective polling stations. *There is nothing wrong with the absence of ZEC there because remember let us say someone is Darfur on peacekeeping mission or someone is at the embassy in the United States, do you think ZEC can be in all those places?* (Zimbabwe News24)

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**there were claims that ZEC issued 60 000 certificates to the police approving special voting yet, the known record of police officers at treasury or ministry of home affairs was 38 000.**

(Munyaka, 2013).

This incident raises several questions: Firstly, who is in charge of elections in Zimbabwe; secondly, is ZEC an independent institution and finally, why would ZEC attempt to cover up? The fact that the chief elections officer did not know that postal voting was happening and only had to issue a corrective statement to the initial denial point to discrepancies that put a whole election in doubt.

### **Vote counting and result transmission**

The counting of votes and transmission of



results has been opaque and contentious. In both the 2013 and 2018 elections, it has remained a mystery and difficult to trace election results and verify the. The ZEC has been accused of running an opaque and untraceable results management system. In the 2018 elections, results were changed thrice, a point which became a center of contestation in the electoral petition at the Constitutional Court. In the 2018 election, the Chegutu West constituency is one case that exemplifies the weaknesses in the elections management system. The ZEC erroneously announced a result in favour of ZANU PF's Dexter Nduna at the expense of MDC-Alliances' Gift Konjana, a point that they acknowledge but failed to make immediate corrections and hid behind a technicality that only the electoral court could change once a result has been announced. Interestingly, it is the same ZEC that changed the presidential result three times without going to court. It is such contradictions that raise some questions on the integrity of elections and erode the public's confidence in electoral processes.

### ***Bused Voters***

There have been allegations of busing voters from different constituencies to vote in another constituency that they are not resident. This electoral malpractice has its genesis in the voter registration process where people are fraudulently registered to be on the voters' roll and then transported to vote on the election day. In the 2013 elections, *Masunungure, (2014:116) observed that people were being bused from far away constituencies to vote in what were perceived to be 'hostile' constituencies where Zanu-PF had only a slim chance of winning. These observations were made in Mt Pleasant Constituency, where Tendai Biti (then MDC-T Secretary General) had to confront some of the would be voters who had come in buses (ENCA, 2013) in Hatfield constituency, where people were bused from other constituencies and given voting slips (Kadirire, Manavire, Matarutse and Ncube, 2013).*

## **Post-Voting Period**

### ***Electoral Dispute Resolution***

One challenge that has persistently haunted Zimbabwe's elections, is a poor electoral dispute resolution mechanism. The courts have failed to dispense justice in several petitions, to an extent that some of them get overtaken by time as the next election beckon. For instance, the 2002 presidential election petition remain unresolved until now. In the 2018 elections, there were several electoral petitions filed before the electoral court disputing the results in a number of parliamentary constituencies. One outstanding and interesting case was that of Gift Machokoto Konjana vs Dexter Nduna in which the petitioner was seeking the nullification of the declaration by the Constituency Elections Officer. The ZEC had erroneously declared that Dexter Nduna was the duly elected Member of the National Assembly for Chegutu West Constituency (*ZESN, 2018:3*). Interestingly, ZEC conceded that it had made an error in declaring Nduna duly elected but took refuge in the electoral laws, that once a result is declared there can no longer



change it without going to the electoral court (*Tafirenyika, 2018*). Instead of ZEC taking a proactive role of going to the electoral court to correct its mistake, it did not do so.

The Konjana case raises points on the partiality and professionalism of ZEC, and the challenges and limitations of our electoral dispute resolution mechanism. ZEC showed no interest in addressing an error that they acknowledged to have made and had to leave it to the candidate to seek legal recourse. Secondly, the case had to be decided on technicalities rather than merits and this brings into questions two judgments made by the courts in 2013, where Tsvangirai challenged the presidential elections results and 2018, where Nelson Chamisa challenged the presidential elections results. The courts ruled that election cases could not be decided on technicalities but has to be heard on its merits.

## CONCLUSION

Electoral transparency, accountability and integrity assists in fostering a culture of giving citizens the opportunity and ability to hold incumbents responsible for their governance performance through elections; however, this depends on the election quality.

**For an election to be transparent, accountable and of integrity it should therefore meet universally agreed principles and values usually derived from international convention and treaties.**

To understand and map the impediments to elections transparency, accountability and integrity in Zimbabwe, this chapter makes three key contributions. Firstly, there is the need to historicise the fault-lines of electoral contestation right from the independence elections of 1980. Secondly, based on the framework of elections integrity developed by the Global Commission (2012:20) and Norris, Frank and i Coma, (2014:98) the chapter assesses elections in Zimbabwe. Finally, the chapter argues that an analysis of the contours of elections in Zimbabwe points to two paradigms: 1. Primitive rigging and crude authoritarianism (1980-2008), and 2. Technical manipulation of elections (2013-2018). These two paradigms indicate the shift in the tactics used to manipulate elections and correspondingly the nature of the disputes. However, these changes in strategies are not permanent but are determined by context and period. Under 'primitive rigging and crude authoritarianism' thesis issues such as state-sanctioned violence against opposition, ballot stuffing, gerrymandering of constituencies, open vote buying, constraining of civil society, media blackout of opponents while favouring coverage of the ruling party dominate. On the other hand, the 'technical manipulation' thesis has focused on covert tactics that targets the whole electoral cycle and create electoral environment that tilt undue advantage towards the ruling party at the expense of the



opposition. These electoral tactics center around 'tinkering with the delimitation process, voter registration, voter education and nomination, elections results management, legal authoritarianism, compromised elections management board, abuse of government aid programmes and humanitarian support'. Therefore, this chapter concludes that the impediments to electoral integrity, transparency and accountability are a result of context, that is keeping on changing and to have a deep understanding of them one must pay attention to all stages of the electoral cycle.

# Transparency in Political Party Financing and Degenerating Electoral Conflict in Zimbabwe

This chapter explores the need for transparency in political financing as a way of mitigating potentially destructive election conflicts in Zimbabwe. Findings show that the country is facing deep-seated challenges on transparency in political financing and the weaknesses in this regard are lurid.

The Minister of Justice, Legal and Parliamentary Affairs (hereafter the Ministry of Justice) is empowered by the law to make regulations that promote transparency in public finance, but such powers have never been exercised. The biggest challenge comes with private funding which is completely unregulated in terms of both sources and expenses, and therein lies the subtle danger to the country's democracy. By and large, and irrespective of the type of funding, political financial flows are shrouded in secrecy. This undermines the integrity of the electoral process and provides fertile ground for election conflicts. The study concludes that transparency on public financing of politics is weak and non-existent in respect of private financing in both the law and practice, heightening the risk of election conflicts as reflected from past elections that were tainted by allegations of vote buying. Comprehensive legal reforms are therefore required in respect of all the key pillars of transparency, namely management and distribution of public finances (both direct and indirect), disclosure and reporting, preventive measures to strengthen the values of accountability, transparency and enforcement of the disclosure, reporting and preventive measures.

*Key Words: Transparency, political financing, electoral conflict, Zimbabwe*



## INTRODUCTION

Around the world, governments are embracing transparency initiatives in public policy. These involve establishment of websites, more access to government datasets, and inclusive decision-making. Transparency in political financing, however, is still under-examined. This chapter explores the need for transparency in political financing as a way of mitigating potentially destructive election conflicts in Zimbabwe. This study is timely because it may assist the country to strengthen democracy by reinforcing the existing legal framework and practice on political financing in a manner that promotes transparency and electoral integrity.

Research shows that the relationship between money and politics has become one of the numerous problems of democracy (*IFES 2019; Michael 2012; Transparency International [TI] 2010*). Research on political party financing in Zimbabwe has also concluded that there is lack of transparency in political party financing (*TI 2010*). If left unchecked, the potential for destructive conflicts loom large. From the Corruption Perception Index (*CPI*) (*2018*), Zimbabwe scored 24 out of 100 and was ranks number 160 out of 175 countries and one of the contributory factors is the lack of, or weak, regulation of money in politics. The weak legal framework and practice on political finance has necessitated political parties and candidates to source funds even from questionable sources and spend in any manner they deem fit. In addition, the limited and exclusive direct public funding to political parties and candidates has resulted in a reliance on funding from private sources and wealthy businesspeople. Arguably, these sources of funding pose a risk that those who contribute have the potential to buy influence in political parties and candidates which in turn erodes public confidence in the system (*Sokomani 2005*). This undermines intra-party and inter-party competition while exposing the country to the vagaries of state capture and electoral conflicts. The regulatory framework for political financing that centres on the Political Parties (Finance) Act (PPFA) and the Electoral Act is not adequately grounded in the key pillars of transparency in the finances of candidates and parties. A combination of a weak regulatory framework on public funding, an unregulated private funding and weak practice is associated with risks. Ultimately, the electoral playing field and competitive politics are undermined (*Magolowondo, Faguera and Matsimbe 2012: 6-8*), which provides fertile ground for explosive electoral conflicts. Thus, while Zimbabwe is a country in transition from the old to the new dispensation, political party funding remains a resilient question.

Much research has emerged on transparency in political finance in other countries (see Kavanagh 2015; Magolowondo, Faguera and Matsimbe; Michael 2011; Ohman and Zainulbhai 2009; Sarakinsky 2007; Momba 2005) but less is evident in Zimbabwe (*IFES 2019; TI 2010*). This study thus contributes to the discourse while using the findings and recommendations to improve political financing law and practice in



Zimbabwe. The specific objectives are to:

- Expose the nature and location of political corruption risks in political financing and how these can be the basis for election conflicts;
- Enhance awareness on the benefits of transparency in political financing as a way of strengthening democratic practice, good governance and mitigating election conflict; and
- Proffer practical strategies to promote transparency in political financing that can strengthen existing legal frameworks and practice.

The main research question was: what measures are necessary on public and private political financing in view of the weaknesses in extant laws and practice so that transparency is enhanced, and election conflicts are mitigated? In answering this question, the chapter is structured as follows: the next section provides a brief overview of literature on the location of political finance in the democratic discourse and also includes a note on the analytical framework. A brief overview of the political and legal context is then presented, followed by the key findings and discussion of transparency deficiencies in the existing law and practice, good practices before the conclusion and recommendations are proffered.

## 2. POLITICAL FINANCE, TRANSPARENCY AND THE DEMOCRACY DISCOURSE

Representative and participatory democracy functions within a political party system. Parties validate the practices of political pluralism in which they assure a variety of functions quintessential to liberal democracy (*Magolowondo, Faguera and Matsimbe 2012*). Despite the scandals and allegations of corruption, political parties still constitute a positive contribution to contemporary democracy and that political participation and competition through and between parties are essential for sustainable democracy (*Van Biezen 2003: 11-12*).

The operating environment for political parties in which they are expected to exercise their functions has changed and the need for substantial financial resources to compete for support is ever expanding (*Sarakinsky 2007: 112; Van Biezen 2003*). Politicians need funding to effectively organize, employ personnel, conduct election campaigns and maintain regular contact with supporters. Stability and sustainability of democratic institutions and political parties is highly dependent on finances (*Karl-Heinz 2009*). Because of the centrality of money and its potentially destroying effect on democratic processes, money in politics must be properly regulated because it is arguably the biggest threat to democracy (*Michael 2011; Moomba 2005*). For this reason, political party financing is now a concern in many countries that do not or accountability. Money in politics is widely acknowledged as a world-wide challenge which equally affects Zimbabwe. Political party financing refers to financial resources or money that is provided to political parties and candidates, in between or during election periods, to cover different political activities such as electoral campaign costs and day to day



functioning (*Magolowondo, Faguera and Matsimbe 2012: 7; Van Biezen 2003*). Political finance covers all funds that are raised and spent for political purposes.

According to TI (2010), the purpose of transparency in political party funding is not to reduce the amount of money available but rather to ensure that political funding does not come from illegitimate or potentially corrupt sources. Increased transparency and public knowledge about the flow of money in politics can help to eliminate the negative effects of corrupt practices and reward integrity (*IDEA 2006*). Transparency provides the ability to verify and detect malpractices and enables voters to make informed decisions when selecting political leaders and also to level the playing field of the political players (*Karl-Heinz 2009*). Transparency enhances special interest access to political decision making by women, youths and the rural citizenry and opens the system to more people from these groups interested in running for office (*Cigane and Ohman 2014*). Indeed, “Political finance is a vital issue of democracy, governance and development. No matter how flawless the country’s election is, how active its civil society, how competitive its political parties. The role of money in the politics undeniably influences the quality of democracy and governance. Only through greater transparency will one fully understand the extent and nature of this influence” (*Office of Democracy and Governance 2003: 5*). Transparency in political financing is as much a component of free and fair elections as much as it is integral to effective governance, democracy and corruption.

Transparency can generally be understood as openness and it has become synonymous with democracy. In other words, transparency pertains to the very question of whether one can call a political system democratic. Transparency is both a norm and an instrument. As a norm, transparency is part of the value system of liberal democracy and of human rights, which provide for a right of citizens to know what is going on in the public space and for a duty of policy makers to be transparent. Considered as an instrument, it enhances efficiency and effectiveness by forcing politicians to be more careful so as to stand public scrutiny (*Dror 2015*). For those who misuse public office for private gain, transparency increases the risk of exposure and decreases expected returns to future corruption (*Berliner 2014*). In previous research, transparency has been interpreted in relation to political finance as the disclosure of the sources of finance and the attendant expenditures by politicians to both the regulatory authority and the public. Thus transparency in political finance is enhanced if the law has clear rules on disclosure, reporting, to be raised from legitimate sources; amounts raised and spent to be publicly declared; and subjected to standard accounting procedures. Ultimately public confidence in processes and institutions (integrity) is enhanced, corruption risk lowers, and systemic stability, strengthened democracy (primarily electoral integrity) and reduced election conflicts will likely follow.

In the absence of transparency, an electoral process is associated with a number of risks such as unequal access to public office, constrained opportunities for fair competition because of undue disparities and uneven playing field, making the electoral process



## Zimbabwe offers an example of elections that have exacerbated long-term conflict due to opaque financial transactions.

“When conflict or violence occurs, it is not a result of an election outcome; it is the breakdown of an electoral process.” (*IFES 2002*). The potential risks posed by opaque finances justify the need for strong and consistent approaches that control money in Zimbabwe’s politics.

unresponsive and corrupt, that its integrity is compromised and stakeholders are motivated to go outside the established norms to achieve their objectives. Electoral conflict and violence become tactics in political competition once the electoral process is tainted. Zimbabwe offers an example of elections that have exacerbated long-term conflict due to opaque financial transactions. Indeed,

## THE POLITICAL AND LEGAL CONTEXT OF POLITICAL FINANCE IN ZIMBABWE

The political history of Zimbabwe is almost synonymous with conflict-ridden elections. At independence, and following the February 1980 elections, the post-colonial government initiated leftist policies that saw heavy investment in socio-economic development which resonated with the majority after an extended period of exposure to the prejudices of the illiberal colonial establishment. This endeared the majority to support the ruling party. The ruling party would encounter insignificant electoral challenge, winning both the general and presidential elections with commanding majority. This led some to argue that although, especially in the first decade of independence, the socialist ideology of a de jure one party state had not materialised, the country was effectively a de facto one-party state. The merger of Patriotic Front-Zimbabwe African People’s Union (PF-ZAPU) and Zimbabwe African National Union (ZANU) into ZANU-PF in 1987 gave credence to this conclusion. Difficult as it might have been for other parties to thrive in a system that had been psyched for a one-party state discourse by the power structure, multiparty electoral competition never ceased to exist in Zimbabwe’s post-independence electoral history.

The ruling party’s electoral hegemony was broken in February 2000 in a constitutional referendum to replace the 1979 Lancaster House Constitution. The party responsible for this hegemonic estrangement was the inchoate Movement for Democratic Change (MDC), a party which morphed out of the Zimbabwe Congress of Trade Unions (ZCTU) but supported by the civil society and a significant number of white commercial farmers. With the exception of the March 2008 harmonised elections, all elections since 2000 have been accompanied by serious questions of integrity. This is despite the reforms that were undertaken by the inclusive government, including the enactment of a new Constitution in 2013. The promulgation of a new Constitution on 22 May 2013 necessitated the alignment of subsidiary electoral laws with the Constitution. Section 157 of the Constitution particularly obliges lawmakers to enact an electoral law to give effect to the letter and spirit of the Constitution. The rest became the responsibility of, not the executive or ZEC but, the legislature to reform all the laws that affect the electoral



process, but such a process remains outstanding in respect of political finance. The flow of money in politics is often cited as one among many issues raised by politicians in the alleged menu of electoral manipulation (*Masunungure 2014*). And despite the 2017 power transition which appeared to blur the ideological gap among the key political actors, the new dispensation is yet to fully engage with the outstanding question of transparency in political financing.

From independence in 1980 to the time of this research, Zimbabwe has never had a law requiring the legal registration of political parties. The Political Parties (Finance) Act (2001), the Electoral Act and the ZEC Act regulate both pecuniary and non-pecuniary funding of parties and candidates. Until the enactment of the Political Parties (Finance) Act (Chapter 2:04) in 1992, political parties privately sourced funds. The PPFA set a high threshold for state funding as it stipulated that a political party needed a minimum of 15 seats to qualify. Given the electoral preponderance of the ruling party at the time, no other party qualified for public funding. In 1997, the Supreme Court was petitioned by some opposition parties who sought relief on the threshold and the Court ruled in their favour. The PPFA was subsequently amended in 1997 to include a provision that a party which received at least 5% of the vote in the previous general election was eligible for funding.

In 2001, the current PPFA replaced the old law. The Act provides for the funding of political parties by the state. Further, the funds are disbursed each parliamentary year as prescribed in sub-section 3 (2). Under this law, all parties are prohibited from receiving foreign funding in terms of Section 6 (1). Part 1V of the Act is potentially the most critical for purposes of curbing abuse of this political funding by the State and yet it is entitled “General” (TI 2010). Section 8 of the part empowers the Minister of Justice to enact regulations that promote transparency in public funding in terms such regulations could not be identified by the researcher. In addition, private funding is not covered by the Act.

The Electoral Act (Chapter 2: 13) amended in 2018 has provisions which are directly and indirectly related to political finance. Section 5 states that one of the additional functions of ZEC is to keep the public informed on all matters related to the electoral process. It may be argued that issues of electoral finance are also implied in this provision. Section 93 of the Act also has several sections that regulate and prohibit election expenses, but none seems to directly relate to election campaign finance. The Electoral Act also provides for sanctions to punish impermissible expenditure in terms of Section 139 (3). Despite the title of Section 97, “Payments or expenses and disclosure of expenditure,” it does not cover matters related to political finance as such. Section 98 relates to “Receipts for election expenses” and encourages parties and candidates to keep records of election expenses without setting expenditure ceilings or demanding public disclosure of such expenses. The term ‘election expense’ is also not precisely defined. In Section 100, election expenses are reported between the candidate and his/her chief election agent but not to anyone else, including ZEC or



the public. Section 136 proscribes vote buying using money or gifts and imposes a punishment of not more than two years imprisonment and/or a fine not exceeding level seven. Part 19 of the Act covers “corrupt practices” defined as “undue influence”, “bribery”, “personification” and stipulates the penalties for such practices. In Section 160G, the Act provides for indirect public financing of parties and candidates. The section provides for free, fair and balanced access to the public broadcasting media by parties and candidates as may be prescribed. This provision supports Section 4 (1) of the ZEC (Media Coverage of Elections) Regulations, 2008. Overall, the Electoral Act is silent on the transparency of money in politics. The Act does not “*ensure that parties (and candidates) are properly funded from sources that are neither corrupt nor potentially corrupting, and they are accountable to oversight bodies and the general public for their funding*” (TI 2010). The ZEC’s only function in terms of the Act is highlighted in Section 5, which obligates it to keep the public informed on all matters related to elections. This implies that the Commission should be active in political finance. Unfortunately, there are no regulations that empower the institution in that respect. Section 160J is related to the conduct of news media during elections.

To what extent does this legal framework promote transparency in the flow of money in politics? If the financial flows are opaque how have these contributed to electoral conflicts? These questions are tackled in the subsequent section.

## TRANSPARENCY AND POLITICAL FINANCING IN ZIMBABWE: CHALLENGES IN THE LAW AND PRACTICE

No country can be said to have finally overcome all difficulties related to transparency in political financing. However, an overview of findings shows that Zimbabwe’s weaknesses in this regard are lurid. As noted elsewhere, free and fair elections, democratic politics, effective governance and corruption are all related to political finance, and opaque financing of political parties and election campaigns negatively affect these aspects (Ohman and Zainulbhai 2009).

### Public Financing

Common in many countries is the provision for public funding of politics. Section 3(1) of the PPFA says that subject to this Act, “every political party shall be entitled in each parliamentary year to receive from the state the sums of money that are payable to it in terms of this Act.” However, the parties that qualify first have to apply to be paid the funds and the Minister assesses eligibility and if satisfied, notifies the political party in writing that it qualifies and if not, shall reject the application and notify the applicant giving the reasons for the decision. The eligibility criteria is set out in Section 3 (3) of the Act which states that: “For the purpose of subsection (2), each political party whose candidates received at least five per centum of the total number of votes cast in the most recent general election shall be entitled to the same proportion of the total moneys appropriated as the total number of votes cast for its candidates in the election bears



to the aggregate of votes cast for all political parties that qualify to be paid moneys in terms of this subsection.” Candidates are not funded under the PPFA but those who win the House of Assembly elections are directly funded by the state through the Constituency Development Fund (CDF) introduced in 2010.

The PPFA provides for the financing of political parties by the state but does not specify the manner in which the funds may be used. The Act does not distinguish between electoral and non-electoral expenses in terms of what the funds may be used for. It is entirely the discretion of eligible parties to spend the receipts as they deem fit. The law also has provisions for free or subsidized access to media for political parties. Section 4 (1) of the Zimbabwe Electoral Commission (Media Coverage of Elections) Regulations, 2008 states that “A public broadcaster shall ensure that contesting political parties or candidates are treated equitably in the allocation of airtime for the broadcasting of election matter.” The same is also provided in Section 160G of the Electoral Act providing for indirect public financing of parties and candidates. The section provides for free, fair and balanced access to the public broadcasting media by parties and candidates as may be prescribed. However, the law does not have additional mechanisms for indirect funding such as tax benefits, direct public subsidies and public subsidies in-kind although experts interviewed accused the ruling party and its candidates of unlimited access to public assets and services for free. Table 4.1 is a summary of the findings on key indicators on public funding.

*Table 4.1: Public Funding of Politics*

Indicator/Question	Status (Y/N)	Legal Provision(s)
Are there provisions for direct public funding to political parties and candidates?	Y (parties only)	Section 3 (1) of the PPFA
Is there an allocation calculation of direct public funding?	Y (parties only)	Section 3 (3) of the PPFA
Are the direct public funds earmarked for a specific purpose?	N	Not applicable
Are there provisions for indirect public funding to parties and candidates?	Y (both parties and candidates)	Section 4 (1) of the Zimbabwe Electoral Commission (Media Coverage of Elections) Regulations, 2008

The findings show that the model of distribution of public funding in Zimbabwe follows the proportionality principle and does not earmark funds for specific purposes. Even



though the electoral system in Zimbabwe is candidate-focused, candidates are not directly funded. The PPFA, the Electoral Act and the ZEC Act do not regulate their funds. The 5% threshold for public funding means that only ZANU-PF and the MDC-A qualify for direct public funding. Limiting funding to parties that have already gained representation in elected bodies means the risk of excluding new political movements. Generally, a low threshold tends to favour electoral pluralism and level the playing field. In another way, it can lead to weak party institutionalisation by encouraging fragmentation. Common problems emanating from public funding include the delinking or etatisation (political parties lose connection with their supporters), petrification or ossification of the party system such that new parties cannot emerge, and solidification of incumbency (*Genckaya 2009*).

Public funding is low and often faces problems of late disbursement from the government, forcing parties to rely more on private funding to keep afloat. Nonetheless, state support makes up for the increasing costs of democracy, enhancing the chances of eligible parties to compete (*Kavanagh 2015: 35*). The responsibility of the government in respect of indirect public funding is simply to establish fair, objective and reasonable criteria for distribution (*Magolowondo, Faguera and Matsimbe: 2012*). In the absence of the desired level of transparency, one source of conflicts in Zimbabwe during election time has been allegations of the abuse of public resources for vote buying by candidates occupying public office to the disadvantage of competitors (*Mutondoro 2018 & Sachikonye 2015 on land corruption and manipulative interventions in the electoral process*). Cases of abuse of public resources in the by-elections held in Lupane East and Glen View South in 2019 were repeatedly cited by respondents as instances where lack of transparency generated conflicts between the ruling party and the MDC-A.

## Disclosure and Reporting of Finances

When it comes to legal requirements for parties to report their finances, the country is lagging behind, the findings reveal. The practice of making financial reports from the

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**Cases of abuse of public resources in the by-elections held in Lupane East and Glen View South in 2019 were repeatedly cited by respondents as instances where lack of transparency generated conflicts between the ruling party and the MDC-A.**

parties and candidates to the public is a non-issue. With respect to public finance only, Section 8, Part 1V of the PPFA mandates the Minister of Justice to make regulations on the keeping of proper books of accounts by parties. Candidates are excluded from this requirement since they are not publicly funded. But since the enactment of the PPFA, the Minister has never promulgated such regulations. Without producing evidence to the researcher, all parties and few candidates interviewed claimed that they had books of accounts and asset registers.



Section 98 of the Electoral Act relates to “Receipts for election expenses” and states that “Every payment in respect of any election expenses shall, except where it is less than such sum as may be prescribed in all in any account, be vouched for by a bill stating the particulars, and by a receipt or some other evidence of payment.” This imposes a requirement to keep records on all election expenses but the regulations prescribing the limit of such expenses or the requirement to report such expenditures to the regulating agency or public are not there. This is a half-hearted attempt to encourage record keeping on all election expenditures. But again, in the opinion of the researcher, there is ambiguity as to what constitutes an ‘election expense’.

The law does not specify the person responsible for party or candidate finances. However, the practice among parties and candidates is way ahead of the law. Parties and candidates claimed to have established structures which are manned by qualified personnel in accounting procedures. The major parties have full-time employees in their finance departments, while most candidates are serviced by part-time employees who assist with book-keeping. Section 8, Part 1V of the PPFA empowers the Minister to enact regulations on book-keeping but does not impose a direct obligation for candidates and parties to audit their accounts in the absence of such regulations. Parties have internal auditing capacities, while most candidates do not. The major parties also claim to have periodically subjected their financial flows to independent external auditors.

Since the law does not require any form of financial reporting, the membership fees, donations, loans and assets are all not accounted for and no one is responsible for such disclosure to any public institution, the public or the media. However, all the major parties claimed to have internal mechanisms which obliged party treasurers and secretaries of finance to disclose all sources of funding in their reports to their respective executive committees, annual conventions and congresses. Candidates interviewed kept any information on their sources of income to themselves and such information is a highly guarded secret. In respect of public funding, subsection 3 (2) of the PPFA states that: “The Minister (of Justice) shall, as soon as practicable, and in any case no later than thirty days after the beginning of the financial year, publish, with the approval of the Minister for Finance, a notice in the Gazette specifying the total amount of moneys appropriated for all political parties and the amount that shall be paid to each individual political party in terms of this Act.”

Parties and candidates are not prohibited to fund-raise from any private source, the findings reveal. Any form of local donation is allowed and encouraged but foreign donations are prohibited under the PPFA (this is common in many countries). Candidates and parties are not required by law to disclose anything on their income. Some parties claimed that their internal financial reports cover a range of issues such as the identity of donors, their addresses, and their type of business, amount donated, and the nature of the contribution (cash or in-kind). Unfortunately, such claims could not be verified since



An interviewed party official said:

**“The reality in our country is that the cost of fighting the ruling party is so high that we are frequently forced to accept corrupt or less transparent mechanisms of financing.”**

not a single party was receptive to requests for such reports by the researcher. Interviewed experts revealed that many local companies donate to both the MDC-A and ZANU-PF and many of their candidates, but none were ready to disclose their sources of information. As the findings reveal, the weak or lack of disclosure has caused conflicts within and across parties as rival candidates accuse each of receiving corrupt financial support. In 2018, the MDC-A publicly complained that some candidates

within the party were being sponsored with ‘dirty money’ to destabilise the party. The reference to ‘dirty money’ suggests the circulation of funds from illegitimate sources, which case can be averted if there were strong laws and practice compelling political actors to disclose their sources of funding. Without proper evidence, some party leaders within the MDC-A, suspected of benefiting from the illicit flow of money were publicly insulted and denounced. In the end avoidable tensions and conflicts were created partly because of lack of transparency in the flow of money.

Just like sources of income, non-election and election expenses are not reported or accounted for. But parties claimed to have such information included in their internal reports which cannot be accessed by all party members except the executive. There is no reporting to state regulatory agencies on party finances and candidate finances. There is no requirement in the law for both candidates and parties to submit electoral accounting reports to the state control agencies. Furthermore, none of the state institutions, ZEC included, is mandated by their enabling Acts to take part in the monitoring of political finances. The PPFA provides for the financing of political parties by the state but does not stipulate how those funds should be accounted for. The law also lacks provisions requiring parties and candidates to report their finances to the public, media or CSOs. In terms of practice, parties felt that issues of political finance were sensitive and confidential, and they did not see the need to disclose such information to anyone other than the secret reports to the party leadership. The practice among candidates is worse as they insisted that disclosure is a non-issue since they finance their political activities largely from their own resources or those mobilized from their benefactors. The only exception reported is when the sponsor demands information on how their donations were spent.

Public disclosure is a core element of transparency and accountability of political finance, but this is not covered in either law or practice. Part 1V of the PPFA is the most critical for enhancing transparency in public funding. Section 8 provides for regulations that the Minister can prescribe and these regulations may provide for: (a) prescribing the form of the application and return referred to in section four (application for funding); (b) the form and manner in which records of donations shall be kept by political



parties; (c) the keeping by political parties of proper books of accounts, the audit of the accounts of political parties, and the form, content and publication of statements of accounts by political parties. In addition, the regulations may prescribe penalties for any contravention not exceeding a fine of level seven. The Minister is empowered to regulate direct public funding and ensure transparency in the use of the public funds but such authority has never been exercised. The law is mute on public disclosure in the use of public funding, and just as it is on private funding beyond proscribing foreign donations. In addition, Section 100 of the Electoral Act. In addition, the section provides that election expenses are reported between the candidate and his/her chief election agent but not to anyone else, including ZEC or the public.

Political parties and candidates do not render accounting reports to any governmental or independent agency. The research could not establish the relevant items that should be included in reports and the format of the reports themselves. While parties claimed to submit reports to their party leaders, the format of such reports could not be established as the alleged reports were not made available to the researcher.

*Table 4.2: Disclosure and Reporting of Finances*

Disclosure		
Indicator/Question	Finance Law	Finance Practice
Is there any law on book-keeping for parties and candidates?	Yes (parties only)	Yes (all parties; some candidates)
Is there anyone responsible for party or candidate accounts?	-	Yes
Is there a requirement for party or candidate accounts to be audited?	-	Yes (parties only)
Are there disclosure requirements of the sources of funding for parties and candidates?	Yes (public funding only)	Yes
What kind of information is disclosed in the financial records or reports?		
a. Date of donation	-	Yes
b. Identity of donors	-	Yes
c. Address of donors	-	Yes
d. Donor's type of business or name of employer	-	-
e. amount raised from each source	-	Yes
f. nature of contribution (i) Cash (ii) Kind	-	Yes
g. Purpose of the contribution	-	-



Is there anyone responsible for disclosure on how funds raised have been spent?	-	Yes
Does the law have provisions requiring parties and candidates to disclose their sources and expenditures to any government agency or the citizens, CSOs and the media?	-	-
Are there timings and frequencies of such disclosures?	-	-
Is there a format on the disclosures both in terms of the law and voluntary practice?	-	Yes
Are financial records readily available to citizens on request by the regulatory authorities, citizens, media and CSOs?	-	-

From the findings, it is clear that Zimbabwe has a provision for public funding but political parties and candidates, including independents are mostly privately funded (*Chirimunimba 2019*). However, there is no direct mechanism to control private funding and the transparency pattern is weak in respect of all forms of funding. There is weak use of rules that aim at providing maximum transparency by the Minister of Justice for parties and candidates. There is no piece of legislation that allows for disclosure of private funding which has made political players to become reticent in as far as their source of funding and expenditures are concerned. It can be speculated that some of the existing sources of funding for both candidates and parties are from illegitimate or potentially corrupt donors. The danger is that such money, especially large and secret donations, can be used for buying access to politicians and can result in undue influence on the decision-making process; impeding equal competition within and across parties; distorting the electoral playing field and providing grounds for contested electoral outcomes (*Cigane and Ohman 2014; Kavanagh 2015: 10; Karl-Heinz 2009*). Successive elections that have been held since the bipolar scenario emerged in the 2000s demonstrates that both intra-party (primary) and inter-party elections have generated conflicts including violent skirmishes as rivals accuse each other of using privately ‘donated’ funds to buy votes. Such conflicts were common in the major parties during the intensely contested internal polls ahead of the 2018 council and parliamentary elections.

The issue of disclosure versus secrecy is hotly contested though (Sarakinsky 2007: 112). Proponents of secrecy argue that it allows parties and candidates, especially opposition parties, to raise funds while protecting donors’ identities. The potential costs of disclosure include intimidation and harassment, violation of privacy and the potential to affect the level of donations to politicians (*Office of Democracy and Governance, 2003*).



The legal framework should accommodate secrecy without undermining transparency. The law must be clear on the extent of disclosure, the subject of disclosure, the subject of reporting, the format and publication of reports, the authority to which parties and candidates should report, the nature and scope of sanctions for non-adherence to the law and the enforcement, frequency of reporting, and who should report (*Johnson 2008; Walecki 2007: 35*). The provisions should be included in the PPFA, the Electoral Act and the ZEC Act. Disclosure requires systematic reporting, independent reporting, public access to records and publicity. This is critical since elections are recognised as a cycle and campaigning has no starting point. The social media is trending in Zimbabwe and Information Centres in the constituencies can be used as alternative disseminating platforms.

## Preventive Measures

The law implicitly allows all donations, money and in kind, as long as they fit in the definition of “local donation”. There are no bans on corporate donations, anonymous donations, companies with government contracts, and state-owned enterprises to both parties and candidates. Both parties and candidates do not have policies that ban certain sources of funding. Foreign funding is however proscribed in terms of the PPFA. Section 6 (1) of the Act states that “No political party, member of a political party or candidate shall accept any foreign donation, whether directly from the donor or indirectly through a third person.” There are no limits to local donations just like on expenses. Section 93 of the Electoral Act entitled “What expenses permissible” lists lawful

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**No political party, member of a political party or candidate shall accept any foreign donation, whether directly from the donor or indirectly through a third person.**

*Constitution of Zimbabwe, Political Parties Finance Act, Section 6 (1)*

election expenses such as purchasing voters rolls, expenses for printing, advertising, publishing, stationery, postage, hiring of halls or premises, hiring one election agent and “miscellaneous expenses not exceeding in the whole such sum as may be prescribed.” The study did not unearth evidence of “such sum” being prescribed nor was there evidence that prohibited expenses were being monitored by the Ministry of Justice that administers the Act. The problematic areas of advertising, personal expenses and miscellaneous expenses have no spending ceilings. Thus, the provision attempts to set expenditure bans and limits but in an ambiguous manner. Although in terms of Part IV of the PPFA, the responsible Minister is empowered to enact any regulations that prescribe all matters which by this Act are required or permitted to be prescribed to prevent abuse funds, such regulations on expenditure do not exist. There are therefore no legal prohibitions against abuse of government resources for party and electoral campaigns, especially by the incumbent party or candidate.



There are no limits in terms of donor contributions over a specified period, donations in both cash and in-kind, parties engaging in commercial activities, loans in relation to election campaigns, or restrictions on donations from organisations with state contracts. There are also no regulations that compel parties and candidates to channel funds through the banking system and because none of the parties and candidates in the study volunteered their financial records to the researcher, it was impossible to judge if they adhere to the practice. At the same time, there is also no requirement for parties and candidates to use a single bank account for their receipts and expenditures. Most political parties have different bank accounts for different structures of the party (youth, women and main body) making it difficult to track private funding inflows. The same applies for candidates. Vote-buying through use of money or gifts is however proscribed in Section 136 and imposes a punishment of not more than two years imprisonment and/or a fine not exceeding level seven. Nonetheless, findings of the study reveal that political clientelism and vote-buying thrive because of private funding of candidates that is rampant within and across the major political parties in Zimbabwe. Table 4.3 is a summary of the findings on the indicators on preventive measures to curb abuses.

*Table 4.3: Preventive Measures*

Indicator/Question	Finance Law	Finance Practice
Are there any bans on donations to parties and candidates?	Yes (candidates and parties)	-
Are there any limits on donations?	-	-
Are there any expenditure limits?	-	-
Are there limits on media advertising (traditional and online) spending in relation to election campaigns?	-	-
Are there bans on state resources being used in favour or against a political party or candidate?	-	-
Is there a limit on the amount a donor can contribute to a political party or a candidate over a specified period?	-	-
Is there a limit on in-kind donations to political parties and candidates?	-	-
Are there provisions regarding political parties engaging in commercial enterprises?	-	-
Are there restrictions regarding political parties and candidates taking loans in relation to election campaigns?	-	-



Are donors to political parties/candidates subsequently restricted from participating in public tender/public procurement processes?	-	-
Are there provisions requiring donations to go through the banking system?	-	-
Do parties and candidates use a single bank account?	-	-
Is there a ban on vote buying?	Yes	

Private financing is allowed, but there are no provisions put in place to regulate its access and use by political parties and candidates. Contribution ceilings are a reliable preventive measure against political parties and candidates who are in possession of large amount of resources that overshadow those with few resources. However, existing frameworks do not limit the amounts that can be donated to parties and candidates or that can be spent. Although foreign donations are banned, some sources of financing should also be prohibited because of their potential risks. These include anonymous donations, donations from companies with partial government ownership or with government contracts.

The government should adopt reasonable measures to limit expenditure for election campaigns. Expenditure limits may target the total amount a party or a candidate may spend or the amounts spent in particular ways or on particular activities. The most effective way is to establish limits for both parties and candidates in electoral contests. Contentious issues such as what constitutes election expenditure campaign and non-campaign spending should be clearly defined in the law. Banking is available and widely used and parties and candidates' treasurers should be compelled to conduct all transactions through a single account. This makes it easier for regulators to monitor and verify compliance with regulations (*Santucci and Ohman 2009: 30*).

### **Monitoring Compliance and Enforcement of Financial Regulations**

The Ministry of Justice, Legal and Parliamentary Affairs is the only agency responsible for the administration of the PPFA although it has not exercised oversight over party accounts. ZEC has no mandate to carry out audits of political parties or play an oversight role over both private and public funding. The powers of the Ministry are well defined in the law, but it simply disburses the funds to the qualifying political parties and does not subsequently monitor. TIZ, International Foundation for Electoral Systems (IFES) and Zimbabwe Election Support Network (ZESN) and the privately-owned media have been engaged in monitoring political finance and exposed abuse of resources for election purposes. The media mostly tracks and widely reports on the disbursement of public funds to parties, especially when it is late.



In terms of the sanctions regime, Section 7(2) of the PPFA provides that “Any person who contravenes subsection (1) (ban on foreign funding) shall be guilty of an offence and liable to a fine—(a) equivalent to the market value of the donations collected by that person; or (b) level twelve; whichever is the greater amount, or to imprisonment issued in the form of fines or imprisonment of offenders since the promulgation of the PPFA. Further, the Act prohibits solicitation of donations by foreigners, that is, a foreigner soliciting donations in Zimbabwe from the public on behalf of any political party or candidate. Contravention of the Act in this respect will attract the same penalty as for those soliciting foreign donations. Findings reveal the existence of a belief among analysts that the major parties receive foreign funding, but the sanctions have never been applied. The Electoral Act also provides for sanctions for impermissible expenditure in terms of Section 139 (3) under which offenders will be liable to a fine not exceeding level five and/or to imprisonment for a period not exceeding six months. However, no evidence of enforcement of this sanction was found during research. Section 136 proscribes vote-buying using money or gifts and imposes a punishment of not more than two years imprisonment and/or a fine not exceeding level seven. Part 19 of the Act covers “corrupt practices” defined as “undue influence”, “bribery”, “personification” and stipulates the penalties for such practices. Parties claimed to have their own internal financial rules where they apply sanctions to punish offenders.

The Ministry of Justice cannot be deemed to be an independent institution as the Minister who heads it is a political appointee. The Ministry lacks adequate resources. This is a problem in all government institutions including independent commissions like ZEC. The powers of the Minister of Justice are well defined by the law, but the problem is lack of political will to enact regulations that encourage transparency in political finance. ZEC has responsibility to monitor media coverage of elections in terms of the prescribed conduct of broadcasters and print publishers in Section 160J of the Electoral Act. The Commission is empowered to monitor the media and report coverage as part of its post-election report, but it does not have any power to mete sanctions against violations other than shaming. Table 4.4 is a summary of the findings on the indicators on enforcement.

*Table 4.4: Monitoring Compliance and Enforcement of Financial Rules*

Indicator/Question	Finance Law	Finance Practice
Is there a government agency to enforce the disclosure regulations?	Yes	Not applicable
Does the regulatory authority monitor and expose opaque financial activities?	-	-
Do the civil society organisations and the media monitor and expose opaque financial activities?	-	Yes



Do sanctions exist to punish violators of political finance rules?	Yes	Yes
Is the agency, independent, adequately resourced and empowered to ensure effective enforcement?	-	Not applicable

The findings show that there is an overall lack of law enforcement by the Ministry of Justice. The legislation imposes sanctions on those violating the rules on party financing, but sanctions are rarely applied. ZEC is not involved in political finances except monitoring media coverage during elections. Monitoring requires an enforcement agency backed by legal sanctions. Enforcement requires a strong authority endowed with sufficient legal powers to supervise, verify, investigate and where necessary institute legal proceedings. Article 6 of the Norms and Standards for Elections in the SADC Region recommends that Electoral Management Bodies (EMBs) “should be empowered to ensure proper election expenses returns are submitted on time, to inspect party accounts, and for parties to have properly audited and verified accounts.”

It is important to emphasise that the goals of transparency and accountability in political financing are dependent on a functional system of enforcement. With respect to disclosure, the problem has always been lack of enforcement (*Nassmacher 2009 cited in Zainulbhai 2009: 85*), or non-enforcement (*IFES 2006: 14*) thereby contributing to disrespect of the law and encouraging corruption. The structure of enforcement may vary from one state to the other, but the aims should be clear – detection, prevention and sanction, and ultimately transparency, competitiveness and curbing undue influence.

Scholars agree that there is not one ideal type of an enforcement body for all states. But irrespective of the different contexts, there are certain characteristics that contribute to successful enforcement. Types of political regulators vary from Ministries of Interior, anti-corruption commissions, independent bodies, judiciary bodies and parliaments (*Ohman 2009; IFES 2006: 12*). The essential characteristic is the level of independence (both appointments and functional independence). Tied to this is the need for adequate resources and authority to enforce regulations. The oversight and enforcement function are often assumed by at least one agency. Whatever their number, responsibility over political finance regime is similar: designing the format and procedure for reporting, receiving audited or non-audited reports, initiating inspections and public inquiries and executing sanctions. Detection of financial irregularities and violations can be done through conducting regular audits of campaign finance reports. Detection can occur through monitoring (violations discovered through review of financial reports or an audit); complaint which alleges violation and its basis by individuals or organisations; and referrals by other organisations who discover violations. Oversight is also a valuable mechanism for detection. Civil Society Organisations (CSOs) and the media can be influential in government agencies is not sufficient. An active civil society and vigilant media is necessary if effective oversight is to be achieved (*IFES 2019; Ohman 2003*).



Prevention targets to dissuade parties and candidates from engaging in opaque financial activities. The regulatory agency, the media and CSOs should publicise unethical violations and those responsible to encourage for encouraging transparency.

## GOOD PRACTICES

The distribution and management of public funding is best served when primary responsibility rests with independent electoral management bodies as in the cases of South Africa and the USA. The responsible agency must have the capacity and independence to regulate finances (*Alexander 2011; Ohman 2009: 56; The Carter Centre 2003*). In addition, an inclusive formula for eligibility to access public funding is matching funds as in the case of Germany and the USA where the state will match each dollar raised until a determined ceiling is reached. This allows many parties to access public funds, and minimise frustration with electoral processes.

In terms of disclosure requirements, candidates and parties in India are required to disclose all their incomes and expenditures for election finances. In Spain, political parties and candidates are required by the law to submit audited financial reports to the regulatory agency. In Ghana, parties are required to declare to the public their assets and revenues and their sources of income and assets, and to publish annual audit accounts in the national papers. The Auditor General's department also monitors political parties in terms of annual returns. The Ghanaian Political Parties Act of 2000 requires political parties to submit a detailed statement of expenditures within six months of an election to the Auditor General (*Walecki 2009*). In Costa Rica, provisions for disclosure include a requirement for parties and candidates to voluntarily disclose to the public to encourage more transparency.

In Germany, UK and France, there are limits on the amount of contributions by a single donor over a specified period and there are also conditions on the qualification of donors and donations. The limits may be varied depending on the type of party activity being funded. The US has laws that require disclosure of donor names who make contributions that are above a set limit (cash or in-kind). Effective regulation may demand that limits per donor and total donations to a party are imposed over a specified period. In Belgium, there are maximum limits per donor per year and an aggregate maximum limit of donations per year applies to all parties. Such limits also apply to candidates. Operational costs, local governance, parliamentary and presidential elections may have different thresholds (*Ammar 2009*). In Canada, spending limits are considered the cornerstone of the country's democracy. The country's regulations are very clear on the definition of spending limit, type of expenditures that are the subject of limit, the time period during which limits apply (*Walecki 2009: 45*). Spending limits must not be introduced at unrealistically low levels, otherwise the problem of using third parties arises – numerous openings can be used for disbursements.



In terms of enforcement, registration of parties is mandatory in countries such as Ireland for effective monitoring of finances (*Kavanagh 2015*). In South Africa, the Independent Electoral Commission (IEC) has the authority to monitor the expenditure of public funds and enquire into the sources and uses of funds raised privately in the form of donations. The IEC is currently in the process of consulting on the amendments to the Political Party Funding Act, passed in February 2019 to include a requirement for the recording, preservation and reasonable disclosure of information on the private funding of political parties and independent candidates. In Argentina and Philippines, civil society organisations and the media help to monitor compliance with financial rules. Regulatory agencies should ultimately facilitate the financial reports to reach the public. In the US, regulators publish reports on their website.

## CONCLUSION AND RECOMMENDATIONS

Money in politics matters in everyone's life. It can promote or undermine peace. Unregulated money in politics is a source of instability where electoral conflicts emerge because of opaque financial flows. A key lesson from the findings is that the democratic experience in Zimbabwe shows that money is necessary to support politics but transparency in the sources and expenditures is a non-phenomenon. As demonstrated in this chapter, the risk of election conflicts remains high because the law and practice is weak on the management of public funding, disclosure and reporting requirements, preventive measures to curb opaque finances and enforcement of the few rules available.

Lack of transparency in political finance is thus by far the largest weakness of Zimbabwe's democracy and the delay in confronting this continues to have serious consequences. However, "The regulation of political finance should balance meeting the economic needs of the political parties for developing their activities and reducing the possibilities of corruption and capture of those parties by economically powerful groups" (*Gruenberg 2003 cited in The Carter Centre 2003: 23*). It is therefore recommended that:

The government should reform the law so that the distribution and management of public funding is assigned away from the Ministry of Justice, Legal and Parliamentary affairs to an independent ZEC. In addition, an inclusive formula for eligibility to access public funding, preferably matching funds with a ceiling, should also be adopted to promote plural politics. The current 5% threshold is status quo oriented.

Disclosure requirements are the linchpin of transparency in political finance. The existing laws empower the Minister of Justice to make regulations in respect of public finance disclosure, but such regulations do not exist. In respect of both public and private funding, the government needs to reform the existing legal framework and make provisions for political parties and candidates to: keep books of accounts, asset registers and debts; to have specific personnel responsible for party or candidate accounts; subject finances to external auditing; disclose sources of funding with



sufficient detail on the date of receipt, amount raised from each source, nature of donation and purpose of donation; make it clear as to who should report on both incomes and expenses to which regulatory authority; specify the format of the reports; specify the frequency of disclosures to the regulatory authority; and publicly disclose finances. The legal framework on the disclosure of sources of funding should however take into consideration the prevailing political culture and balance between reasonable disclosure and the privacy of parties, candidates and donors. Intimidation is likely to occur if regulations are not responsive to the political context.

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**In respect of both public and private funding, the government needs to reform the existing legal framework and make provisions for political parties and candidates to: keep books of accounts, asset registers and debts; to have specific personnel responsible for party or candidate accounts; subject finances to external auditing; disclose sources of funding with sufficient detail on the date of receipt, amount raised from each source, nature of donation and purpose of donation; make it clear as to who should report on both incomes and expenses to which regulatory authority; specify the format of the reports; specify the frequency of disclosures to the regulatory authority; and publicly disclose finances.**

On preventive measures, the government should introduce provisions in the law that reduce the demand for private funding through introducing bans and limits on sources of funding (not just foreign funding) and spending. The criteria for the bans and limit should be designed with full acknowledgement that elections are a cycle where the demarcation between election and non-election finance may be difficult to establish. Legal measures to regulate the use of state resources, particularly by incumbents are needed to ensure that financing election campaigns from public funds is effectively curtailed and heavily sanctioned.

Disclosure requirements and preventive measures are insufficient on their own in the absence of an independent regulatory authority to monitor compliance and mandatory for political parties to register with ZEC. This makes it easier for oversight and monitoring compliance. To ensure good enforcement, the government should formulate disclosure and preventive regulations that are simple, clear and enforceable. An independent ZEC should be given a clear mandate to monitor finances and enforce all political



finance regulations. It must also be armed with sufficient powers to investigate and punish breaches based on complaints, referrals or the identification of violations by the institution itself. The government should also include provisions empowering civil society and the media to monitor incomes and expenditures and generate information for public consumption on compliance and non-compliance with financial rules.

# Contradiction and Complexities to Law, Justice, Legitimacy and Electoral Integrity in Zimbabwe

Zimbabwean elections have been fraught with a myriad of challenges since independence in 1980. This has had the effect of undermining electoral integrity and legitimacy of electoral outcomes.

This chapter contextualizes the global discourse on election integrity in the unique Zimbabwean setting of regular elections with disputed outcomes. It analyses the law as a bridge between the domestic sphere and the international plain, fostering exchange and migration of global norms and standards to improve the quality of domestic elections. This chapter also assesses the efficacy of legal reforms as a panacea to electoral misfeasance and the resultant legitimacy gap. Specific aspects of the electoral process are evaluated together with the ways in which these have affected electoral integrity. The chapter concludes that commendable efforts at securing electoral integrity at the constitutional level have not been complemented by a robust enforcement mechanism at the statutory level. Electoral legitimacy has also been undermined by a conservative election management body, a circumspect judiciary and a failure to foster practices which promote openness, transparency and accountability.

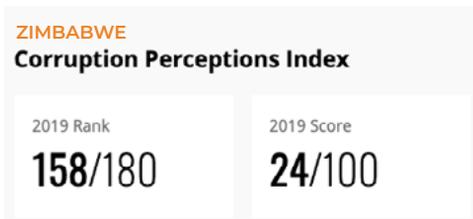
*Keywords: Elections, democracy, legitimacy, rule of law, governance.*



## METHODOLOGY

This chapter is the result of extensive desk research of primary and secondary materials. Primary sources reviewed include international law, constitutional and statutory provisions. They also include judgements, election results and the regulatory framework

for election management. The purpose of this review is to understand the foundational mechanisms which shape electoral events, affect outcomes and influence actors. It also highlights how the process of creating those mechanisms is a crucial site for securing desired outcomes. Secondary sources used range from press reports, reports election observer missions to academic papers and position papers by civil society. This is meant to build a general understanding of the lived experiences of elections and establish a nexus between the legal and regulatory provisions and the lived outcomes. This experiential data, together with such tangible outcomes as election results and court judgments, is the basis for formulating recommendations which will hopefully be embedded in the future processes of policy formulation and electoral reform.



Tl: Corruption Perception Index (CPI) (2018)

## INTRODUCTION

The 2018 Zimbabwean elections were fraught with a myriad of challenges. Public expressions of discontent in the form of demonstrations were witnessed before and after the election; with the latter tragically ending in the sanguinary deployment of the military on 1 August 2018. Even though ZEC announced the electoral winners with approval from the Constitutional Court, the main opposition Movement for Democratic Change Alliance (MDC - A) rejected the electoral outcome, insisting on a foreign mediated dialogue process to resolve what they term a crisis of legitimacy (*African News Agency [ANA], 2018*). On the other hand, the ZANU PF-led government persisted with the view that legal legitimacy conferred by ZEC and the Court necessarily puts to rest any questions regarding the validity of their incumbency (*Mhlanga, 2019*). The electoral reforms meant to align the Electoral Act [Chapter 2:13] with the new Constitution failed to deliver a universally acceptable electoral process and result. This chapter discusses the interaction between law, legitimacy and electoral integrity. It explores various aspects of the electoral process and how they affect the propriety of the electoral process.

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**Zimbabwean elections have been fraught irregularity and malpractice right from the maiden plebiscite in 1980.**

### Background

Zimbabwean elections have been fraught with irregularities and malpractice right from the maiden plebiscite in 1980. The contentious 1980 elections were a precursor to the atrocities perpetrated by the 5th brigade of the military in the Matabeleland



and Midlands provinces in the 1980's (*Electoral Institute for Sustainable Democracy in Africa [EISA],2002*). The Unity Accord of 1987 resulted in a de facto one-party state and relative peace. Edgar Tekere's Zimbabwe Unity Movement (ZUM) party revived the multi-party democratic agenda in the 1990's and this rekindled state repression, violence and intimidation (*EISA,2002*). The electoral challenge by Margaret Dongo in 1995 exposed the various irregularities in the electoral process which would manifest more extensively following the formation of the MDC in 1999.

Every Zimbabwean election since the turn of the millennium has been highly contested, deeply divisive and marred by egregious human rights violations. A particularly violent presidential run-off election in 2008 vitiated any semblance of democratic expression of popular will, resulting in a coalition government under the aegis of SADC and the AU. The consummation of the Global Political Agreement (GPA) and establishment of the Inclusive Government (IG) in 2009 was meant to address the systemic challenges to elections through constitutional and legal reforms. In terms of this agenda, a new constitution with an expansive declaration of rights was adopted in 2013.

Regrettably, subsequent elections re-enacted the history of heated dispute and legitimacy challenges. The presidential elections in 2013 and 2018 elections were both litigated in the Constitutional Court. More recently, the MDC has refused to recognize the presidential result and insists on an independently mediated dialogue process (*Neuck,2018*). In this context, this chapter is concerned with the following:

- i. The conceptual framework for understanding electoral integrity;
- ii. The conceptual framework for understanding legitimacy;
- iii. The extent to which electoral integrity is protected in the Constitution of Zimbabwe;
- iv. The extent to which the electoral laws and regulatory framework protect electoral integrity in Zimbabwe;
- v. The extent to which practice and conduct of the Election Management Body (EMB) fosters legitimacy and electoral integrity in Zimbabwe.

## ELECTORAL INTEGRITY

The integrity of elections is concerned with the safeguards which ensure that elective contest results in an accurate reflection of popular will. It is based on the democratic theory that a government is established based on the voluntary consent of the governed. The normative framework for assessing substantive integrity is grounded in an international regime of norms and standards. According to Norris and others, electoral integrity is constituted by the international standards and global norms governing conduct of elections (*Norris et al.,2015*). Put differently, electoral integrity is predicated on adherence to international norms and standards as an internationalized form of the rule of law. Compliance with international norms and standards opens the elective process to scrutiny, evaluation and verification, thereby enhancing transparency and accountability. This has the effect of guaranteeing accuracy of the electoral result and increasing public confidence in the electoral process. In this way, the legitimacy of the electoral process directly correlates with its integrity.



Adherence to international norms and standards takes many forms including strong legal provisions, effective institutions, independent courts, adequate rights protections and the ability to have open dialogue, debate and information sharing. For this reason, a valid election is described as that which is based on the democratic principles of universal suffrage and political equality as reflected in international standards and agreements, and is professional, impartial, and transparent in its preparation and administration throughout the electoral cycle (*International IDEA et al., 2012, p.6*).

The provenance of these norms and standards is the Universal Declaration of Human Rights (UDHR). Article 21(3) of the UDHR states that The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures. The UDHR has drawn such widespread approval globally that it has become a universal standard on human rights. Article 25 of the International Covenant on Civil and Political Rights (ICCPR) requires periodic elections in which universal and equal suffrage are exercised for free expression of popular will. It also contains the right to stand for public office, the right to vote and also the need for regular and genuine elections. Article 1(1) of the ICCPR is also apposite as it provides that all peoples have the right of self-determination.” The State of Zimbabwe acceded to the ICCPR on 13 May 1991.

At the regional level, the African Charter on Human and People’s Rights (ACHPR) protects the right to freely participate in government through chosen representatives (ACHPR, art.13) and the right to self-determination (*ACHPR, art.20*). The African region has also developed the Declaration on the Principles Governing Democratic Elections in Africa (the Durban Declaration) and the African Charter on Democracy, Elections and Governance. At the sub-regional level, the Southern African Development Community (SADC) also developed the Principles and Guidelines Governing Democratic Elections. In Zimbabwe, international law is not binding unless it is approved by parliament and domesticated into national law. This means domestic law is the most vital site for securing electoral integrity since international law which is not domesticated lacks enforceability. However, international treaties retain persuasive value and have a bearing on the interpretation of domestic law.

### **Domestic Level: Constitutional Framework**

The values of electoral integrity are reflected in the letter and spirit of the Constitution of Zimbabwe (2013). The founding values and principles foreground respect for the system of multi-party democracy; universal and equal suffrage; free, fair and regular elections and the orderly transfer of power following elections (Zim. Const., section 3). The national objectives obligate the State to ensure gender balance, fair regional representation and youth participation (*Zim. Const., Chapter 2*). The right to participatory and representative democracy is enshrined in section 67 of the Constitution. It protects



the right to make free political choices at free and fair elections as well as the right to participate peacefully in political activities. Section 67 also includes the right to vote and be voted for, the right to form and join political parties and the right to campaign freely and engage in collective mass action.

Chapter 7 of the Constitution makes provision for elections which are free and fair, free from violence and for a voting process which is simple, accurate, verifiable and transparent. This part of the Constitution also demands voting by secret ballot, equal and universal suffrage as well as timely resolution of electoral disputes. In large part, the Constitution captures the basic tenets of electoral integrity as provided in international norms and standards. It balances the right to equal and universal suffrage with the need to empower marginalized groups including women and persons living with disabilities. Some shortcomings in the Constitution include the absence of a right to vote from abroad (diaspora vote) and the failure to protect the secrecy of the vote in respect of persons with disabilities.

Other matters including the funding for political parties are deferred to Acts of Parliament. These acts include the Political Parties (Finance) Act [Chapter 2:11], the Electoral Act [Chapter 2:13] and various regulations whose import is discussed below.

## LEGITIMACY

Legitimacy is broadly concerned with questions of validity. Validity can emanate from formal authority in rules or laws as well as from wide acceptance and long practice. The former can be termed a thin conception of legitimacy, which is an extension of the rule of law. It demands that every act by the state or its agents must be in accordance with a specific law, without which it loses the cloak of validity. Conversely, conduct in terms of the law is fully valid and legitimate. It is a form of legal formalism which roughly equates legitimacy to legality. This is the basis upon which it is argued that substantial compliance with electoral law, coupled with the Constitutional Court decision, means the 2018 elections were fully valid; and the incumbency therefrom fully legitimate (*Bulawayo 24 News, 2019*). It is grounded in the inherent power of the state as the sole legislative and enforcement authority. This view enjoys the imprimatur of the state and is for that reason very powerful. However, legal formalism tends to be the most distant from and least influential upon ordinary people as it loses appeal outside the bubble of the legally trained.

The broader notion of legitimacy approximates to popular legitimacy. That is to say, ordinary people's perceptions of the electoral process, those who run it and the validity of their conduct. Both legal and popular legitimacy are necessary in building electoral integrity. When institutional conduct is viewed as legitimate, it commands respect even when it is highly disagreeable (*Gilbert & Guim, 2018*). Scholars distinguish between diffuse and specific legitimacy. Diffuse legitimacy is *...a reservoir of favorable attitudes or good will which leads people to tolerate outputs to which they are opposed* (Nelson, 2018,



p.204). According to Michael D. Gilbert and Mauricio A. Guim, independent institutions like courts enjoy diffuse legitimacy when people view their conduct as sincere and principled (*Gilbert & Guim, 2018*). This is distinct from specific legitimacy which is satisfaction with the performance of a political institution (*Gilbert & Guim, 2018*). Specific legitimacy is influenced by specific decisions made by an institution.

Some scholars treat diffuse and specific legitimacy as separate, with the possibility of diffuse legitimacy even if unpopular decisions undermine specific legitimacy (Gilbert & Guim, 2018). Others posit that there is a direct correlation between the two, with iterations of specific legitimacy building or undercutting diffuse legitimacy; whilst for others the relationship is even more direct with unpopular decisions affecting both specific and diffuse legitimacy (*Gilbert & Guim, 2018*). In this chapter, these forms of legitimacy are treated as interrelated and co-dependent. References to legitimacy will include references to both the effect of specific instances of decision making and the broad views that society holds regarding institutional legitimacy.

The Supreme Court of the United States adopted this unified approach and defined legitimacy as the product of substance and perceptions which is exhibited in people's acceptance of an institution's decisions (*Planned Parenthood v. Casey, 1992*). Compliance with decisions, even unpopular ones, is the by-product of the respect bred by institutional legitimacy (*Gilbert & Guim, 2018*). This is particularly important for independent institutions as they do not have their own enforcement mechanisms. People are less likely to comply with the decisions of bodies which do not enjoy broad legitimacy, whilst the state more easily avoids compliance with decisions of an unpopular body with impunity. On the other hand, defying an institution with broad public support has a high political cost. This explains compliance with the United States Supreme Court decision in *Bush v Gore* notwithstanding the controversy generated by the ruling (*Kapiszewski et al., 2013*).

## THE ZIMBABWE ELECTORAL COMMISSION

The Constitution creates an independent election management body, the Zimbabwe Electoral Commission (ZEC) (*Zim. Const., Section 23*) 8. Its mandate includes conduct and

...many observer reports noted that ZEC's persistent lack of inclusivity, transparency and poor communication contributed to the deterioration of their relationship with opposition parties.

(*EU Election Observation Mission [EOM], 2018*).

management of elections, establishing and maintaining the voters' roll, voter education and delimitation of electoral boundaries. Members of ZEC are appointed for their integrity, competence and experience in the public or private sector (*Zim. Const., Section 238*). The chairperson of ZEC is required to be a judge, former judge or a person qualified to be a judge. Appointment of the chairperson involves consultation with the Judicial Service Commission (JSC) and the



Committee on Standing Rules and Orders, though the president is not bound by their recommendations (*Zim. Const., section 238*). These provisions insulate ZEC from undue political influence and ensure that it has the professional autonomy consistent with its constitutional independence. It is meant to boost public confidence in ZEC and bolster its claims of independence and impartiality.

The Constitution has not saved ZEC from accusations of partiality and pro-ZANU PF bias. Though it has been led by a judge from as far back as 2005, the opposition has consistently accused ZEC of military capture and partiality to ZANU PF. The precursor to ZEC, the Electoral Supervisory Commission (ESC), was led by Retired Lieutenant General Douglas Nyikayaramba who is now the Zimbabwean ambassador to Mozambique. Protestations over his role in the military were dismissed at the time on the basis that he had resigned from the army, a claim ZEC would later deny (*Mhlanga & Chidza, 2018*). Prior to the 2018 elections, ZEC admitted that at least 15 percent of its staff was made up of former members of the security services (*Mhlanga & Chidza, 2018*). Members of the security services have previously stated that they would neither serve nor salute a presidential candidate who did not fight the liberation struggle or was a puppet of the West, a common ZANU PF moniker for the MDC (*The Zimbabwean, 2018*). This admission greatly undermined ZEC's claims of professional autonomy and cast doubts over their ability to secure integrity of the electoral process. Prior to the 2018 elections, a picture of the ZEC Chairperson wearing a scarf in the colors of the Zimbabwean flag went viral on social media (*Pindula News, 2018*). President Mnangagwa had by that time appropriated this scarf and made it a constant feature of his apparel. President Mnangagwa appointed the current ZEC Chairperson. Thus, images of the ZEC Chairperson donning the unique apparel of the presidential candidate responsible for her appointment fomented perceptions of her pro-establishment bias. ZEC initially claimed the image had been photo shopped, only for the ZEC Chairperson to later confirm the picture's authenticity but argue it had been taken prior to her appointment (*Pindula News, 2018*). This incident further entrenched the perception that ZEC was doing ZANU PF's bidding in the run up to the elections.

In South Africa, the EMB has powers to legislate through regulations without the need for ministerial approval. In Zimbabwe, ZEC needs approval from the Minister before any regulations can be gazette (*Electoral Act, section 192*). This was challenged in the Constitutional Court, based on the argument that ministerial approval violated ZEC's institutional independence. The Court dismissed this application, holding that the requirement for ministerial approval did not amount to direct control, but an administrative check to ensure regulatory compliance with statutory law (*Mavedzenge v. Minister of Justice, 2018*). Thus, a minister who is an electoral candidate can legally secure their interests in the political arena by influencing the content of ZEC's regulations, thereby undermining the integrity of the electoral process.



There were many noteworthy initiatives by ZEC in the 2018 elections. These included their work with political parties in the Multi-Party Liaison Committees (MPLC's), their work with civil society in voter education and their efforts to streamline gender issues. However, many observer reports noted that ZEC's persistent lack of inclusivity, transparency and poor communication contributed to the deterioration of their relationship with opposition parties (*EU Election Observation Mission [EOM], 2018*). Even though there were increased engagements with ZEC, observers noted that there was generally low confidence in the EMB's ability to conduct a free and fair election (*IRI NDI Pre-election Assessment Mission [PEAM], 2018*). In certain instances, ZEC's institutional independence was used as a shield against openness and transparency. There were many areas in which ZEC was not proactive, only acting when required by legal obligation. This created a tension between a progressive constitution on the one hand and a reactionary EMB on the other, resulting in low public confidence in the electoral process.

## VOTER REGISTRATION AND THE VOTERS' ROLL

A new system of biometric voter registration (BVR) was introduced for the 2018 elections. This was an important measure to enhance transparency and move away from the discredited voters' rolls used in previous elections. It also enabled ZEC to assume its constitutional role as custodian of the voters' roll, taking over from the Registrar General of Voters (*Nemukuyu, 2015*). The new registration exercise commenced on 18 September 2017 and was completed on 1 June 2018. A total of 5,695,706 voters were registered, of whom 2,622,516 were male (46.1 percent) and 3,073,190 were female (53.9 percent) at a capture rate of 78.8 percent (*EU EOM, 2018*).

ZEC also introduced a new mechanism to verify registration using mobile phones in addition to the traditional in-person inspections. Approximately 900,000 people verified their registration status using mobile phones whilst 1.5 million verified through in-person visits (*IRI NDI PEAM, 2018*). Registration data revealed significant differences between some areas. The biggest cities, Harare and Bulawayo, had significantly lower capture rates (*EU EOM, 2018*). Low rates of registration were also noted in some of the rural districts of Matabeleland North and South (*EU EOM, 2018*). This resulted in complaints that insufficient registration kits had been deployed to the opposition strongholds of Harare, Bulawayo and the rest of Matabeleland (*Transparency International Zimbabwe [TIZ], 2017*). In fact, only 6 percent of BVR kits were deployed to these areas during the 'mop-up' exercise, by which point 34 percent of outstanding registrants were located

**In many rural areas, political and traditional leaders demanded details of the slips to keep a register of voters and cast doubt over the secrecy of their vote.**

(*EU EOM, 2018*).

in the two provinces of Bulawayo and Harare (*IRI NDI PEAM, 2018*). Thus, what was meant to be a new and clean exercise of voter registration was carried out in such an uneven manner that it reduced public confidence in ZEC and reified notions of ZEC's pro-ZANU PF bias.



All registered voters were given a registration slip which included their particulars. This proof of registration could be used if one's name could not be found the voter's roll on election day. It emerged that these slips left some people vulnerable to coercion. ZEC did not fully explain the purpose of the slip or the fact that it was private and need not be disclosed to unauthorized persons. In many rural areas, political and traditional leaders demanded details of the slips to keep a register of voters and cast doubt over the secrecy of their vote (*EU EOM, 2018*). Observers reported that people (especially the elderly) were told that their votes would be monitored through the BVR system. This was also reported by the Zimbabwe Human Rights Commission and several civil society organizations (*EU EOM, 2018*).

The final voters' roll was released by ZEC 15 June 2018, just over a month ahead of the election (*EU EOM, 2018*). This was a crucially important milestone since the electronic form of the voter's roll has proven impossible to secure in previous elections (Magaisa, 2018). The MDC-A was livid about the timing, which it found inadequate for analysis and verification purposes (*Xinhua, 2018*). The Zimbabwe Election Support Network (ZESN)'s analysis of the voters' roll revealed that, although it was vastly improved from the one used in the 2013 elections, it still under-represented youth in general and eligible urban populations in particular (*IRI NDI PEAM, 2018*). The late provision of the voter's roll and under-representation of key demographics perceived as opposition strongholds contributed to the sense that the electoral playing-field was uneven.

## DISPUTE RESOLUTION

The Electoral Act provides for Multi-Party Liaison Committees (MPLC's) as a platform for alternative dispute resolution and consensus building between the political parties and ZEC (*Electoral Act, Section 160B*). MPLC's were meant to enhance dialogue, engagement with the EMB and foster inclusivity and transparency. Several observer missions found the MPLC's to be more functional at the provincial and district levels (*EU EOM, 2018*). The national level MPLC's did not meet regularly, were cancelled in the month leading up to the election and resulted in massive disaffection with ZEC (*EU EOM, 2018*). Further, opposition parties expressed dissatisfaction with ZEC's responses during the meetings (*ZESN, 2018*). Consequently, a process meant to lift the veil of institutional secrecy reinforced perceptions of ZEC as a guarded, secretive and uncooperative EMB.

The Electoral Act was amended in 2018 to include the Electoral Code of Conduct for Political Parties and Candidates and other Stakeholders (*Electoral Act, Section 193*). The code of conduct was developed to improve the electoral environment by eradicating fear, coercion and intimidation. The 2018 amendments strengthened the code's enforcement mechanisms and extended its application to include traditional chiefs and security personnel. Political parties are required to inform their members of the code and to initiate disciplinary measures for non-compliance with its provisions. These measures are particularly welcome given the history of violence and intimidation in Zimbabwean elections.



The Electoral Act requires expedited resolution of cases involving politically motivated violence and intimidation (*Electoral Act, section 133J*). The JSC designated more than 50 magistrates for such cases in 2018 (*IRI NDI PEAM, 2018*). In civil matters, the High Court was the main site of litigation as the court of inherent jurisdiction. The High Court also sits as the Electoral Court and can sit as a constitutional court (*Zim. Const., Section 171*). More than 50 election related applications were filed in the High Court prior to and during the 2018 elections (*EU EOM, 2018*).

ZEC's approach to its conduct was narrow and restrictive, eliding any proactive approach to the constitution's vision of a liberal and permissive electoral environment. In the absence of legal requirement for action, ZEC remained reticent unless compelled to act by a court of law. This cautious and conservative approach was protected under the guise of ZEC's institutional independence. The courts were also largely circumspect, relying on clearly stated legal provisions rather than purposive constitutional interpretations. This combination of a risk averse EMB and a conservative bench redounded to the dismissal of most court applications.

The courts and the EMB were both guilty of prioritizing rigid adherence to rules of internal institutional integrity rather than the broader obligation to uphold the integrity of the electoral process. Thus, when the High Court was asked to compel ZEC to comply with the constitutional obligation of transparency in its operations, it declined to issue the order, citing lack of jurisdiction in the absence of an alleged illegality (*Laiton, 2018*). ZEC actually argued that disclosing its operating procedures would unduly interfere with its functions. In another application, ZEC refused to share a copy of the provisional voter roll, arguing that the absence of a legal requirement to share it meant an order for its provision amounted to an infringement of its constitutional independence (*EU EOM, 2018*). These cases highlight the tension between institutional integrity and integrity of the election process, with the EMB weighing in favor of the former to the detriment of the latter.

Some important cases succeeded in the courts including those relating to political neutrality of traditional leaders, the voting rights of former alien citizens, the deployment of teachers as polling staff and the provision of the final voters roll (*EU EOM, 2018*). After the election, an order was also secured for fair media coverage by the public broadcaster (*Firinne v ZBC, 2019*). Many important cases were also dismissed, including that for the independent legislating powers of ZEC, the diaspora vote, release of the provisional voter roll, transparency in electoral operations, the protection of school children from enforced participation in political activities, ZEC's almost exclusive right to conduct voter education (*SALC, 2018*), the right of voters with visual impairments to a secret ballot, the handling of postal voting and allegations of interference with the political neutrality of traditional leaders by the President during his campaign activities (*EU EOM, 2018*).



The most prominent court case in 2018 was the petition challenging the presidential election result. The 2013 Constitution created a new jurisdiction for the Constitutional Court to deal with all presidential election petitions (*Zim. Const., section 93*). The MDC-A challenged the election result on a multiplicity of grounds including lack of independence of ZEC, bias by the state-owned media, the conduct of traditional leaders and rogue security elements, wearing of partisan clothing by ZEC officials, design of presidential ballot paper, undue influence, bribery and provision of seed and fertilizer packs. The Court concluded that the allegations raised were not proven as a matter of fact due to lack of clear, sufficient, direct and credible evidence (*Chamisa v. Mnangagwa, 2018, p.97*). The creation of this unique jurisdiction in the apex court was meant to give the court of highest legitimacy the power to deal with such high level electoral disputation. The case was a national televised spectacle which did not have the intended effect of building consensus around the court's decision. Instead, it further polarized the population. The MDC-A used its defeat in the courts as further evidence of the judiciary's pro-ZANU PF bias whilst ZANU PF gave a massive spin to its electoral victory, using it as evidence of electoral propriety and legitimacy of their incumbency (*The Zimbabwean, 2018*). Chief Justice Luke Malaba became the subject of verbal attacks and derision during his appearance in Parliament (*Kakore, 2018*). It is clear that this court decision has been weaponized by the opposition to cast doubt over the integrity of the judiciary, the EMB and the electoral process.

## VOTING MATERIALS

The Electoral Act requires that all ballot papers arrange the names of candidates in the alphabetic order of their surnames (*Electoral Act, section 57*). Faced with 23 presidential candidates for the 2018 election, ZEC arranged the names in two columns, with one comprising 14 candidates and the other with nine candidates. The incumbent President, Emmerson Mnangagwa, was at the top of the second column. The emergence of the incumbent president at the top of the list, albeit the second column, drew much ire from the opposition parties and some members of civil society (*Veritas, 2018*). It created the impression that ZEC was desperate to give President Mnangagwa an edge over his opponents by tapping into the voting phenomenon of first-listing bias. This was another instance in which decision making by ZEC contributed to the impression of electoral misfeasance.

The MDC-A made a request to test the security features of the ballot paper as well as the indelible ink used to mark voters on election day. Both requests were turned down (*IRI NDI PEAM, 2018*). The MDC-A also questioned the process of printing, distribution and storage of ballots, arguing that it lacked transparency (*EU EOM, 2018*). In response, ZEC organized an event at which stakeholders could witness the printing process. This was criticized for not providing enough scope for full evaluation (*EU EOM, 2018*). Further, the contract for procurement of voting materials was awarded without acceptance of any bids (*EU EOM, 2018*). The overall impression created by ZEC's approach to the ballot paper was that of an aversion to openness and transparency.



For many political parties and observers, this created the reasonable impression of electoral impropriety hidden under the ostensible cover of institutional independence.

## FUNDING AND USE OF STATE RESOURCES

In Zimbabwe, the Political Parties (*Finance*) Act [Chapter 2:11] regulates funding for

...numerous incidents of food distribution and agricultural assistance on partisan lines were reported in 2018. These included state developments projects such as command livestock, command agriculture and the presidential input scheme.

(*EU EOM, 2018*)

political parties. Political parties are provided public funding if they win at least 5 percent of the parliamentary vote. Foreign donations are outlawed to eliminate foreign influence in local elections.

This Act does not include any requirements to disclose campaign contributions. It does not place any limits on campaign spending and makes no reference to the problem of misuse of state resources. The ruling ZANU PF party has repeatedly used its incumbency to deploy national resources as part of its election campaigns. For instance, numerous incidents of food distribution and agricultural

assistance on partisan lines were reported in 2018. These included state developments projects such as command livestock, command agriculture and the presidential input scheme (*EU EOM, 2018*). The absence of a strong legal regime to regulate campaign finances leave the electoral field heavily skewed in favor of the incumbents and thus significantly undermines the integrity of the electoral process.

## MEDIA

The Constitution requires State-owned media to be impartial and afford fair opportunity for presentation of divergent views and opinions (*Zim. Const., section 61*). This provision is meant to give constitutional impetus to the opposition parties' right to have an equal say on the public broadcaster. The Zimbabwe Broadcasting Corporation (ZBC) created programming for political contestants on television and radio stations for the 2018 elections (*EU EOM, 2018*). Nevertheless, ZBC's pro-ZANU PF was still evident in the coverage provided to the ruling party. ZANU PF received the overwhelming majority of election-related coverage, which coverage had a positive spin. 84.9 percent of coverage on television, 81.8 percent on Radio Zimbabwe and 76.5 percent on Classic 263 FM was devoted to ZANU PF (*EU EOM, 2018*). The state-controlled newspapers The Herald and The Chronicle allocated 62.8 percent and 64.8 percent respectively to ZANU PF (*EU EOM, 2018*). By comparison, the MDC-A was covered in 47 percent of television programming, 20 percent of Radio Zimbabwe's programming and 26.5 percent of Classic 263 FM's programming, with a decidedly negative tone (*EU EOM, 2018*).



The reporting in private newspapers was skewed in favor of the MDC-A and this made the electoral environment even more polarized. Even though ZEC is tasked with monitoring the media, it lacks the necessary enforcement mechanisms to hold stakeholders accountable. The aspirational provisions in the Constitution are not complemented by a robust enforcement framework in the Electoral Act to ensure there are penalties for not granting equal access to all political players.

## VOTING PROCESS

The number of polling stations was increased for the 2018 (*EU EOM, 2018*). The Electoral Act was also amended to limit the printing of excess ballots to no more than 10 percent of registered voters (*Electoral Act, section 52A*). The 2018 elections also featured a new restriction to polling station-based voting. Previously, voters could cast their ballot at any station within their ward, but this was changed to reduce the likelihood of double voting. This welcome development had the drawback of lending itself to voter intimidation. Confining voters to a specific polling station made it easier to monitor voters station and use surveillance to induce fear.

The actual voting was marred by reports of voters being turned away for attending at the wrong polling station. Since the list of voters was not posted outside each station, some voters were informed they were at the wrong polling station after hours of waiting in line. ZESN reported that at 6 percent of polling stations nationally, 26 or more people were turned away from voting, while in Harare 19 percent of polling stations had similar numbers of voters turned away (*ZESN, 2018*). This could have disenfranchised a significant segment of the voting population.

According to EU observers, 28 percent of the polling stations observed were not regularly checking voters for indelible ink, whilst in 6 percent of polling stations, voters were not always marked with indelible ink after voting (*EU EOM, 2018*). Observers also report that the results were not posted at the polling station in 10 out of the 52 polling stations observed. This casts serious doubt over the integrity of the voting and counting processes.

## VOTER EDUCATION

Voter education is crucial for electoral integrity as it addresses asymmetries of information and gaps in knowledge. It reduces the likelihood of voter apathy and incidence of spoilt ballots. In terms of the Electoral Act, voter education is left largely in the hands of ZEC and the political parties. Any other entities can only conduct voter education subject to approval by ZEC (*Electoral Act, section 40*). A court case challenging the restrictions on voter education was dismissed by the High Court (*SALC, 2018*). Further, the Electoral Act requires that ZEC's voter education to begin no later than one week after the proclamation of the date of the next election (*Electoral Act, section 40D*). Thus, ZEC's voter education campaign for the 2018 elections ran for two weeks prior to the election. It included both national radio and television broadcasts of ZEC-produced materials



and advertisements published in print media and billboards. ZEC also collaborated with various civil society organizations and other stakeholders in this exercise (*EU EOM, 2018*). The short period of voter education hampered the ability to address concerns raised by civil society organizations and political parties. Voter education is not only a good practice but is necessitated by the vicissitudes of an ever-changing electoral environment. Increasing awareness of voting procedures and secrecy of the vote will require a more iterative and sustained model of voter education through amendment of the Electoral Act.

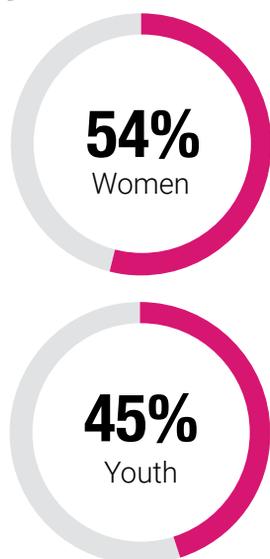
## WOMEN AND YOUTH

Women constitute 54 percent of the voters' roll, whilst youth account for 45 percent. They constitute a significant portion of the electorate and should thus be represented at all levels of government. The Constitution guarantees gender equality in all spheres of public life (*Zim. Const., section 56*). Out of the 23 presidential candidates in the 2018 elections, 4 candidates were women. It was the first time there had ever been

*Figure 10: Composition of Women and Youth in Electorate.*

### Women & Youth

*Women and youth constitute a significant portion of the electorate and should thus be represented at all levels of government.*



a female candidate for presidential office. Amendments to the Electoral Act required a gender perspective to be mainstreamed in the work of ZEC and election observers (*Electoral Act, section 5*).

This glowing appraisal of gender equality was not replicated at political party level. Women were not nominated by political parties in significant numbers as candidates. In spite of the Constitution's demand for inclusivity, most of the political parties did not have policies promoting the inclusion of women as candidates. As a result, only 240 (14.7 percent) out of the 1631 directly elected National Assembly candidates were women (*EU EOM, 2018*). At local authority level, only 17.21 percent of candidates were women whilst not a single member elected to the National Council of Chiefs is female (*EU EOM, 2018*). During the election campaign, negative gender stereotypes pervaded the political space. Undue focus on personal morality of women entrenched hostility in an environment already averse to the participation of women (*Dube, 2018*).

The legal framework ensured that more women would be represented in parliament though the legislative gender quotas. Sixty of the 270 seats in the National

Assembly are reserved for women, while party lists for the 60 seats in the Senate are headed by women and list women and men alternately. One of the two senators to represent persons with disabilities must also be a woman. These provisions secure



electoral integrity by ensuring that elections are more representative and help fulfil the State's obligations under the SADC Protocol on Gender and Development. Some of these provisions, such as the 60 seats for women, have a sunset clause and will expire in 2023. This means there will be more work required to ensure women's participation. This may be through an extension of the life of the clause or more stringent requirements for political parties to nominate women candidates.

## PERSONS WITH DISABILITIES

The Constitution requires the State to assist persons with disabilities to reach their full potential (*Zim. Const., section 22*). It is also required to make all buildings and public amenities fully accessible to those with mobility challenges. All forms of discrimination based on disability are also prohibited. Zimbabwe acceded to the Convention on the Rights of Persons with Disabilities. Article 29 of that Convention requires the state to ensure that persons with disabilities can fully participate in political and public life on an equal basis. This includes measures to ensure that voting procedures, facilities and materials are easy to understand, use and protection of the right to vote by secret ballot.

Zimbabwe is yet to meet its obligations under the Convention on the Rights of Persons with Disabilities (CRPD) and the Constitution. The electoral law does not provide for voter secrecy for persons with visual impairments. Instead, they are allowed to bring a companion who votes on their behalf. A court application for provision of ballot papers in braille was dismissed by the High Court (*Laiton, 2018*). This means the visually impaired have to exercise their right to vote through another person, leaving them vulnerable to intimidation. Further, observers noted accessibility challenges at some polling stations. Whilst some polling stations had low ledges for ease of access, 10 percent of those observed by the EU mission had no such facility (*EU EOM, 2018*). This undermined the electoral process since a significant segment of society could have been limited from accessing the polling booth or faced intimidation due to absence of voting secrecy.

## DELIMITATION OF CONSTITUENCIES

Delimitation is the process of demarcating electoral boundaries. It accounts for changes in population demographics by ensuring that each voting district is proportionate to its voting population. This addresses the problems of under-representation and over-representation. According to the Constitution, each constituency or ward must have not more than 20 percent more or fewer registered voters than other constituencies and wards. To meet this threshold, delimitation is to be done every ten years and as closely as possible after the national census (*Zim. Const., section 161*). The last delimitation exercise was conducted for the 2008 harmonized elections. The last census was in 2012, but the Constitution stated that there would be no delimitation for the 2013 elections (*Zim. Const., section 5 of the 6th Schedule*).



Thus by 2018, Zimbabwe faced an election right on the cusp of the period in which delimitation was constitutionally due. Tragically, there was no delimitation exercise prior to the 2018 elections. This means the 2018 elections were based on electoral boundaries which neither reflected the most recent census nor met the constitutionally mandated requirement for decennial delimitation. This severely undermined integrity of the electoral process. The variation in the size of constituencies was so vast that Harare South constituency, with 76,425 voters, was over five times larger than Gutu North, with 14,198 voters (*EU EOM, 2018*). In fact, half of the constituencies differed from the average by more than 20 percent. An election in which electoral boundaries do not reflect the most recent census and have not been remodeled according to the Constitution can hardly be called credible, fair or representative. This can only be addressed by a comprehensive delimitation exercise prior to the 2023 elections.

## POSTAL VOTING

The Electoral Act allows certain persons to vote through a postal ballot. Government employees seconded to ZEC, ZEC's workers and members of the disciplined forces who will be on duty are allowed to apply to ZEC for a postal ballot (*Electoral Act, section 72*). Diplomats who will be out of the country and their spouses are also permitted to apply for a postal ballot. The provision for voting by diplomats from abroad is the only form of a diaspora vote which is permitted in Zimbabwe. Voting by postal ballot is done prior to the voting day. The ballot is sent back to ZEC which sorts the ballots and sends them, sealed, for counting at the respective polling stations. There are several safeguards to avoid tampering with postal voting including the fact that ZEC maintains a list of all postal ballots issued, a list which is open to public inspection, those issued with postal ballots have their names marked on the voters' roll to avoid double voting and the postal ballots are counted at the polling station in the presence of observers, election and polling agents.

These safeguards have not allayed fears of fraud and duress in the process of voting, particularly that by members of the disciplined forces. The Electoral Act does not require observation or monitoring of the postal voting process. There were reports of police officers voting under close supervision of their superiors, which were denied by ZEC and the Zimbabwe Republic Police (*Xinhua, 2018*). Without a provision for observing this process at source, there is no guarantee that voter secrecy is respected. This is another area in urgent need of legislative reform to ensure more openness, transparency and accountability.

## TRADITIONAL LEADERS

Zimbabwe maintains a system of traditional leadership to oversee communal lands and provide custody of traditional norms and values. The absence of formal title on communal lands renders communities more susceptible to coercion by traditional leaders and local administrators who wield power over land allocation and food distribution. The Constitution prohibits traditional leaders from acting in a partisan



manner or being involved in partisan politics. This has not barred traditional leaders from showing public support for ZANU PF (*Jena, 2015*). This was found to be contrary to the Constitution by High Court, yet the traditional leaders continued to declare their support for the ruling party notwithstanding the court order (Chiwanza, 2018). Observer reports noted how traditional leaders were keeping registers of voters to coerce their conformity and ensure they voted for ZANU PF (*IRI PEAM, 2018*). This is a clear example of constitutional provisions and court orders being ignored to serve the partisan interests of ZANU PF at the expense of electoral integrity.

## CONCLUSION

The efforts at securing electoral integrity at the constitutional level are commendable. However, the absence of a robust enforcement mechanism at the statutory level has rendered many of the aspirational provisions of the Constitution ineffectual. Electoral legitimacy has also been undermined by a conservative EMB, a circumspect judiciary and a failure to open electoral processes to accountability and transparency. Several progressive measures have also proven to be susceptible to manipulation, with the effect of undermining the integrity they sought to secure. Therefore, it is recommended that:

- ZEC distances itself from any association with the security services or is legally barred from doing so;
- ZEC uses its discretionary power to be more open, engaging and transparent;

The Electoral Act is amended in order to:

- give the time within which the voters roll should be made available in searchable format prior to the election;
- make provision for design of the presidential ballot paper when the number of candidates necessitates more than one column of candidates;
- make provision for consultation on and verification of ballot printing;
- make voter education a continuous process even after conclusion of an election;
- Give ZEC powers to enforce the requirement for impartiality by the media,
- allow for observation of postal voting;
- require political parties to have policies to promote nomination of women and youth as candidates;
- to require disclosure of campaign contributions.
- place limits on campaign spending;
- prohibit abuse of state resources.
- Provide for voter secrecy by the visually impaired;
- Make all polling stations accessible to persons with mobility challenges;
- Ensure a comprehensive delimitation exercise before the 2023 elections

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