

Carter Center Preliminary Statement on Zimbabwe's 2023 Harmonized Elections

Aug. 31, 2023

The Center will continue to observe and assess the remaining post-election process and will issue a comprehensive final report in the coming months, including recommendations for steps that could improve future elections.

Executive Summary

The Carter Center's election observation mission found that Zimbabwe's 2023 elections took place in a restricted political environment and that administration of the elections lacked independence and transparency in key areas. Parliament did not pass important electoral reforms and instead adopted legislation targeting the country's vibrant civil society, effectively silencing reform advocates and political opponents in the months leading up to the polls. Several critical technical aspects of the process were poorly or opaquely implemented, reducing the transparency and credibility of the elections.

Carter Center observers found that while voting day was largely peaceful and well implemented by polling staff, there were delayed openings caused by ballot shortages in several areas. Some delays lasted as long as 12 hours, which likely

the nonpartisan citizen observation efforts of two respected civil society groups. The Center urges the government of Zimbabwe to drop all charges against the civil

overutilization of voter assistance, which could have compromised the secrecy of votes.

Several hours after polls closed on Aug. 23, Zimbabwean security forces raided the offices of the Zimbabwe Electoral Support Network (ZESN) and the Election

has yet to become law, coupled with the Patriotic Act, its potential enactment has produced a stifling effect on Zimbabwean civil society.

- Ø **Campaign Period:** The campaign took place in a restrictive and highly polarized environment. Authorities reportedly banned more than 300 public gatherings, making it extremely difficult for opposition parties and candidates to engage with potential supporters and the electorate. There were isolated instances of violent intraparty and interparty clashes. Interparty violence resulted in one reported death in Harare on Aug. 3, 2023. The Patriotic Act, adopted in July, further stifled the right to freedom of peaceful assembly and negatively affected the exercise of the rights of freedom of association and expression, especially in the context of campaigning.

- Ø **Information Environment and Social Media:** Despite reforms to align the legal framework with the constitution, laws still criminalize legitimate speech and provide for harsh prison terms, contrary to Zimbabwe's international commitments. The lack of accountability mechanisms in the law governing the

election observation missions in accordance with the 2005 Declaration of Principles for International Election Observation.

Statement of Preliminary Findings and Conclusions

BACKGROUND

Zimbabwe's 2023 election was held in a generally politically stable and peaceful environment, despite

African Charter on Democracy, Governance and Elections (ACDEG) in 2022, a move that has the potential to improve Zimbabwe's electoral management process if the country abides by the charter's provisions.⁴

However, The Carter Center notes that the government introduced only modest electoral reforms before the 2023 election, failing to enact several substantive reforms that were recommended by a number of electoral stakeholders, including the electoral authorities, local CSOs, political parties, election experts, and regional and international observer groups after the 2018 election.⁵

The Center also noticed increasing political tensions and polarization over the enactment of legislation restricting individuals' freedoms of speech, movement, and association, such as the Criminal Law (Codification) Amendment Act [Patriotic Act] and the PVO Amendment Bill.⁶

The offices and election situation room of Zimbabwe Election Support Network (ZESN) and Election Resource Center (ERC), both well-known and respected citizen observer organizations that are legally registered and had been duly accredited by the ZEC to observe the 2023 harmonized elections, were raided on

LEGAL FRAMEWORK

Zimbabwe is a party to the main regional and international instruments related to holding of democratic elections.⁷ While the country's constitutional and legal framework provides for holding democratic elections in line with international standards, the Electoral Act is not fully aligned with the constitution. The Carter Center interlocutors expressed concerns regarding public access to the full text of amended laws and regulations critical for the electoral process, which, coupled with the lack of public access to newly passed legislation, undermines the principles of accessibility and predictability of law.

Elections are primarily regulated by the 2013 Constitution (as amended in 2021) and the 2004 Electoral Act (as amended in 2018), and supplemented by ZEC regulations, the Political Parties (Finance) Act, the Maintenance of Peace Order Act (MOPA), and other legal instruments.

While the constitution safeguards fundamental human rights and freedoms – including the freedoms of opinion and expression, assembly, and association – subordinate legislation unduly limits those rights, including in the context of campaigning, and is not fully consistent with international standards.⁸

Among other restrictions, MOPA requires conveners of public gatherings to give local regulating authorities a seven-day advance notice of their demonstrations and five-day advance notice for public meetings. This requirement drops to three days in case of public meetings during an election period. In effect, this means that conveners of gatherings are required to obtain authorization from police who are granted broad powers, often resulting in bans on assemblies in certain locations and

⁷ African Charter on Democracy, Elections and Governance; African Union Declaration on the Principles Governing Democratic Elections in Africa, AHG/Decl.1 (XXXVIII), 2002; African Charter on Human and Peoples' Rights (1986); African Union Convention on Preventing and Combating Corruption (2006); Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2008); SADC Protocol Against Corruption (2004); SADC protocol on Gender and Democracy (2008); SADC Principles and Guidelines Governing Democratic Elections; Convention on the Rights of Persons with Disabilities (2013), Convention on the Political Rights of Women (1995); International Convention on the Elimination of All Forms of Racial Discrimination (1991); United Nations Convention against Corruption (2007); Convention on the Elimination of All Forms of Discrimination against Women (1991); International Covenant on Civil and Political Rights (1991); among others.

⁸ Paragraph 73 of UNHRC [General Comment 37 on Article 21](#) to the ICCPR states that “where authorization regimes persist in domestic law, they must in practice function as a system of notification, with authorization being granted as a matter of course, in the absence of compelling reasons to do otherwise.”

restrictions on types of assemblies.⁹ Failure to give notice is a criminal offense punishable by imprisonment for up to one year.¹⁰

In the lead-up to the elections, t

Registration and operation of political parties remains largely unregulated. The legal framework governing ZEC operations does not fully ensure institutional independence. This includes the need to obtain approval from the Minister of Justice for legislative amendments proposed by ZEC, among other things.

The Zimbabwean constitution stipulates that after the call for elections, no change to the electoral law or to any other law related to the elections shall be made.¹⁵ Following the proclamation of elections on May 31, 2023, however, the legal framework for elections was changed through amendments to Electoral Act¹⁶ and Statutory Instruments (SIs), which is at odds with international best practices.¹⁷ One of the three SIs changed the composition of provincial and metropolitan councils to require an equal number of men

secret vote based on universal and equal suffrage, and prescribes an orderly transfer of power following elections. Presidential, parliamentary, and local elections are harmonized and are required at least every five years, with the precise date set by the president.

*rights. The body should also ensure accountable, efficient, and effective public administration as it relates to elections.*²³

Elections are administered by the ZEC at the national level, 10 permanent provincial offices, each headed by a provincial elections officer through which the secretariat maintains a presence in all provinces, and 6

A delimitation exercise was conducted in 2008. It proved impossible to conduct a new census prior to the 2018 elections but, given the considerable population movements since 2008, there was broad agreement that new delimitations were required prior to the next elections. That census was delayed by the COVID-19 pandemic, and thus did not begin until April 2022. Data collection was completed in May 2022.

A notice regarding the delimitation of constituencies, wards, and other electoral boundaries was gazetted on May 24, 2022, and the ZEC began its formal delimitation exercise in September 2022. Before starting the delimitation process, the ZEC organized stakeholder meetings and public consultations and submitted the Prelimina

March against the ZEC

Zimbabwe has a system of continuous voter registration that has been under the administration of the ZEC since 2013. Biometric details started being captured in 2018 to allow for removal of duplicate entries. In addition to permanent registration centers, the ZEC also provides mobile registration before each election, commonly called a “voter registration blitz.”

For the 2023 elections, the period for the voter registration blitz was shorter than in previous elections, running March 12-26, 2023, during which the ZEC managed to

victims of the Gukurahundi massacres of the 1980s who do not possess all the required documents to prove eligibility for citizenship and/or identity documents, result [REDACTED] such as San, Tonga, and Doma communities.³⁹ This lack of documentation deprives them of the exercise of rights and fundamental freedom, including the right to vote.

VOTER EDUCATION

*Voter education is an essential part of the electoral cycle and is recognized under international law as an important means of ensuring that an informed electorate is able to effectively exercise the right to vote without obstacles to ensure universal and equal suffrage.*⁴⁰

The ZEC, which is mandated by the 2013 constitution to conduct and supervise voter education 792 reW* nBT/F2 177777912 0gq7alon4(w)-3(h)40 0 1 180.53 518.71 Tm01cation

elections, Nomination Courts⁴⁶ approved candidates for the office of president, members of the National Assembly, and local councilors across the country.⁴⁷ In addition to the required set of documents, candidates were required to pay a significantly increased nomination fee of US\$20,000 for the presidential post and US\$1,000 for the National Assembly.⁴⁸

The results of the nomination process were gazetted on June 30, 2023.⁴⁹ A significant number of aspiring candidates were not approved, based on a finding of failure to pay nomination fees, among other reasons cited. Within four days of receiving notice, rejected candidates have the right to appeal to a judge of the Electoral

F20f10eJTE

On Aug. 16, 2023, the ZEC announced the number of the candidates who would

information on advertisers, and Google did not provide information on amounts spent on ads, which hindered the transparency of campaign finance and spending.⁵⁹

The Carter Center also observed that several CCC candidates and the CCC Facebook page campaigned during the silence period, including with paid content. ZANU-PF pages monitored by the Center were mostly silent during that period.

CAMPAIGN FINANCE

Campaign finance is not regulated by law. Parliamentary political parties that obtained at least 5% of votes are granted annual public funding proportional to the votes they obtained in the last parliamentary elections. and prohibits foreign funding. The absence of regulations to limit donations from individual donors and the lack of caps on campaign finance, as well as inadequate procedures of reporting and oversight, keep the playing field unlevel. Also, the absence of requirements to publish

interference, violence, or the threat of violence – including online – enabling voters to freely form an opinion.⁶¹

The constitution provides for privacy, freedom of expression, and access to information.⁶² It explicitly outlaws incitement to violence and hate speech. Legal reforms have started harmonizing the legal framework with the constitution,⁶³ improving access to information, including to government officials and the police. Zimbabwean stakeholders commended the multi-stakeholder approach to reforms that allowed for inclusive discussions.

Despite these improvements, the political context in Zimbabwe is marked by a combination of newly enacted and longstanding laws that criminalize legitimate speech and provide for harsh prison terms. Such laws are cited as the basis for arresting journalists and human rights defenders for content published online and offline.⁶⁴ However, court cases usually last a long time, and convictions are rare. Provisions, at times overly broad, that criminalize the distribution of “falsehoods” and statements “willfully injuring the sovereignty and national interest of Zimbabwe,” or “undermining the authority or insulting the president,” are contrary to Zimbabwe’s fundamental regional and international obligations.⁶⁵

Though a variety of online media have emerged, state-owned media continued to dominate print and broadcast outlets, and media ownership lacked diversity.⁶⁶ Overall, the Center found that the media landscape was highly polarized along political lines.

⁶¹ 2011 joint declaration on freedom of expression and the internet (UN, OSCE, OAS, ACb b

The media coverage of the election is governed by the constitution, the Electoral Act and the ZEC Statutory Instrument 33 of 2008.⁶⁷ Section 61 of the constitution requires that all state-owned media should freely determine their editorial content,

divide. However, the legal framework unduly curtailed free speech online and allowed for interception of telecommunication without sufficient judicial oversight.⁸⁰ In addition, Center interlocutors raised concerns about the government's increasing surveillance capacities.⁸¹ On the eve of the elections, internet service was degraded, limiting access to information.⁸²

Although the Cyber and Data Protection Act (CDPA) provides for the protection of personal data, voters told the Center that they received unsolicited political text messages asking them to support the president's campaign, which is contrary to Zimbabwean law and regional and international standards on privacy.⁸³ The CDPA mandated the Postal and Telecommunications Regulatory Authority (POTRAZ) with data protection authority. Several Center interlocutors expressed concerns about the concentration of powers and competing interests within a single entity.

The Center observed false and intimidating information; negative campaigning and criticism targeting the ZEC or political parties; and antagonistic narratives including demeaning, hateful, or inflammatory content by both major parties, their supporters or shadow accounts on Facebook and Twitter.⁸⁴ Carter Center interlocutors also reported a wide range of misinformation and intimidation on Facebook, X, and WhatsApp. These included cases of unsophisticated doctored pictures and videos; vicious insults; body-shaming; allegations, including of a sexual nature; and death threats. This distorted the digital space and did not allow for an environment free from threats of violence or manipulation.

GENDER, MARGINALIZED POPULATIONS, AND PARTICIPATORY RIGHTS

Zimbabwe is a party to the main international and regional instruments that recognize the right of women, youth, and people with disabilities to participate in

⁸⁰ Interception of Communication Act [Chapter 11:20]. The U.N. resolution on privacy in the digital age calls upon states "to establish [...] independent, effective, adequately resourced and impartial judicial, administrative and/or parliamentary domestic ove

political and public affairs, including the right to vote and be elected.⁸⁵ These instruments also guarantee equality and non-discrimination.⁸⁶ Women, youth, and people with disabilities remain underrepresented in Zimbabwe's public institutions, including elected bodies. Zimbabwe's political parties largely failed to take steps to promote the participation of women, youth and people with disabilities as candidates in the 2023 elections.

WOMEN

The constitution contains a comprehensive bill of human rights, including the right to equal treatment for women. It also sets the obligation to promote full gender balance and full participation of women in all spheres as a national objective that should guide all government institutions and agencies at every level in formulating and implementing laws and policy decisions. It also requires the state to take all necessary measures to ensure gender parity, including in the elective bodies,⁸⁷ and provides for temporary measures guaranteeing women some reserved seats in parliament, provincial and metropolitan councils,⁸⁸ and local councils. These measures fall short of ensuring actual gender parity, however, as they are not fully enabled in the subordinate legislation. There are no penalties for political parties that failed to ensure gender equality in nomination of party candidates; nor are there incentives to promote gender parity.

Zimbabwe's Electoral Act requires the ZEC to mainstream gender into electoral processes. To ensure compliance with the constitution, ZEC developed a Gender and Inclusion Strategy.⁸⁹ The ZEC chairperson and four of its eight commissioners are women. Observers reported that women were well represented at lower levels of

⁸⁵ This includes UDHR, ICCPR, CEDAW, CRPD and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol) (ACHPR-PW) and the Southern African Development Community Protocol on Gender and Development, the African Charter on Democracy, Electio10.000c73(o4(0 61e)-76(Af)-4(8e12

election management. The constitution requires promotion of young women and women with disabilities, through reserved seats, mandating that 10 of the 60 seats for women be held by those under age 35 provided that political parties ensure that, and one of the senate seats reserved for persons with disability is a woman.

However, the order of women on the candidate lists for these reserved seats is left to the discretion of political parties. As a result, women with disabilities may not be given priority on the list.

Lack of publicly available disaggregated data on candidates' age and disability status did not allow for public scrutiny of party lists submitted for the 2023 elections. Moreover, the Electoral Act applicable to this election is not fully in line with the constitution on women's quotas, which aim to ensure equality between genders in elected office.⁹⁰

People who spoke to The Carter Center expressed concern that political parties treated the temporary affirmative-action measures as an excuse not to promote female candidates to run for FPTP seats and expected most female candidates to only run for the 60 seats reserved for them. Female candidates are perceived as weak due to cultural barriers and a lack of financial resources for effective campaigning and are therefore likely to undermine the overall performance of a party in the FPTP races.

Numbers from the nomination process show fewer female candidates at all levels than in the 2018 elections.⁹¹ Only one woman, Elizabeth Valerio of the United Zimbabwe Alliance (UZA), was able to run for president, and then only after the Electoral Court of Zimbabwe overturned the Nomination Court's rejection of her registration on technical grounds.⁹²

Political parties largely failed to ensure gender balance among their nominated candidates for the National Assembly, and the number of female candidates nominated for FPTP seats in 2023 decreased to 11%, down from 14.4% in 2018. The

⁹⁰ 2013 Zimbabwe Constitution, Section 17(b)ii.

⁹¹ The numbers presented in this section are based on the lists gazetted after the nomination process on June 30, 2023. According to the Zimbabwe National Statistics Agency report, in the 2018 elections, women made up only 48% of senators; 31% of parliament and 14% of local governments.

⁹² Valerio paid the nomination fee via bank transfer and presented a proof of payment; however, the ZEC did not accept it, saying the payment was not settled within the Nomination Court session. A higher court ruled that presenting a valid proof of payment sufficed to be eligible for registration. <https://www.veritaszim.net/node/6486>. Another female aspirant for the presidential office,

11% decreased to 9.5% by election day for various reasons, with total number of female candidates dropping from 70 to 55 between the nomination process and election day.⁹³ Some of the contesting political parties did not field any female candidates.⁹⁴

Following the nomination results, women were eligible to compete in only 57 of 210 FPTP constituencies (27%), leaving 153 constituencies with only male candidates. In some constituencies, multiple female candidates ran for the same seat, and in several constituencies, the same political party fielded two or three candidates, meaning women had to compete with male candidates of their own party.⁹⁵

Interlocutors cited several obstacles preventing more women from running as party

Overall, 15% of the candidates in the local council race are women, compared with 17% in the 2018 election. In addition to the directly elected seats, for the first time an additional 30% of the total members of the local council were reserved for women, who were elected by a system of proportional representation.¹⁰⁰

Facebook and Twitter.¹⁰⁴ This did not allow for an inclusive or violence-free campaign environment and hindered women's political participation.¹⁰⁵

Interlocutors noted that there are no effective remedies in place to lodge a complaint against such attacks, partially because of gaps in the legal framework¹⁰⁶ and also because the relevant authorities lack either the capacity or the will to effectively investigate such cases. According to Carter Center interlocutors, in reported cases of physical violence or harassment, the police failed to take effective actions to bring those responsible to justice.

POTRAZ, an authority mandated to monitor, ensure personal data protection and investigate instances of violence online, said it has not received any complaints of violence online, nor has it identified any instances through its monitoring. The Zimbabwe Gender Commission reported that it did not receive serious complaints related to violence online and offline during the campaign period either.

disabilities within the 60-seat quota for the National Assembly. The election of these two members took place on Aug. 26.

However, there is no publicly available disaggregated data about candidates' age

In Bulawayo, 12 CCC National Assembly candidates were disqualified by the High Court from contesting the election based on allegations that their nomination papers were filed after the legal deadline. The 12 candidates appealed the decision to the Supreme Court, where ZEC officials testified that the nominations had been filed in a timely manner. The court reinstated their candidacies.

The judiciary addressed an unprecedented number of election-related disputes; some of them remained unresolved on election day, which undermined the right of contestants to stand. According to the Carter Center interlocutors, trust in the judiciary remains low.

CITIZEN PARTICIPATION AND NONPARTISAN ELECTION OBSERVATION

According to public international law, all people have the right to participate in the public affairs of their country.

At their core, elections are political contests and *should* be peaceful competitions fully accessible to citizens, party agents, and observers. Carter Center reports noted the presence of ZANU-PF and CCC party agents in nearly all polling stations observed. In nearly 80% of observations (239 of 301), the two parties had an equal number of agents present. Citizen observers, such as ZESN and several others, also had a widespread presence in the country. Despite concerns expressed that COVID-19 procedures would restrict observation, there were no reports of accredited observers or party agents being turned away, and all reported having good access to view the process. Observers from the Forever Associates of Zimbabwe (FAZ)¹³² were present in 10% of polling stations observed and, in some locations, its representatives conducted exit polls,

During this phase, two teams observed inadequate application of procedures for ballot counting, reconciliation, recounting, contested ballots, and posting results at the center.

The Carter Center observers assessed tabulation at the ward, constituency, and provincial levels. These processes were assessed as very good in 67 % of observations and as reasonable in 31% of observations. The process took place without reported interference in the tabulation process.

ZANU-PF and CCC again had general parity in the number of party agents deployed at tabulation centers. In Mashonaland West, party agents complained that they did not receive their accreditation to observe, however, ZEC staff resolved the issue for them. FAZ observers were present in half of the centers observed. On average, women made up 66% of staff at polling stations observed – 62% in rural areas and 71% in urban areas. Women served as presiding officers in 43% of polling stations observed – 33% in rural areas and 53% in urban areas.

The Carter Center acknowledges the country's many polling station personnel for their professionalism despite logistical challenges.

