



PROACTIVE DISCLOSURE OF INFORMATION DURING ELECTIONS:
AN EVALUATION OF ZIMBABWE'S COMPLIANCE WITH THE GUIDELINES
ON ACCESS TO INFORMATION AND ELECTIONS IN AFRICA DURING
THE HARMONISED ELECTIONS OF 23 AUGUST 2023



Final Report: June 2025

*A study commissioned by the Centre for Human Rights, Faculty of Law, University of Pretoria
and MISA-Zimbabwe*

ISBN: 978-1-0672373-1-8

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Acknowledgements:

This research was commissioned by the Centre for Human Rights, Faculty of Law, University of Pretoria. The draft report was researched and prepared by Professor Admire Mare. Review and editing were carried out by representatives from the Centre and the Media Institute of Southern Africa (MISA) Zimbabwe: Hlengiwe Dube, Dr Marystella Auma Simiyu, Tendai Shephard Mbanje, Ivy Gikonyo, and Helen Sithole.

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ABBREVIATIONS AND ACRONYMS

ACDEG	—	African Charter on Democracy, Elections and Governance
ACHPR	—	African Commission on Human and Peoples' Rights
ACHPR	—	African Charter on Human and Peoples' Rights
AIA	—	Access to Information Act
AMH	—	Alpha Media Holdings
ANG	—	Associated Newspapers Group
AU	—	African Union
BAZ	—	Broadcasting Authority of Zimbabwe
CC	—	Carter Centre
CCC	—	Citizens Coalition for Change
COG	—	Commonwealth Observer Group
CSOs	—	Civil Society Organisations
DOP	—	Democratic Opposition Party of Zimbabwe
DPA	—	Data Protection Act
EA	—	Elections Act
EMBs	—	Electoral Management Bodies
EOA	—	Election Offences Act
EUEOM	—	European Union Election Observation Mission
FAZ	—	Forever Associates of Zimbabwe
FBOs	—	Faith-based Organisations
FZC	—	FreeZim Congress
LEAD	—	Labour, Economists and African Democrats
MOPA	—	Maintenance of Peace and Order Act
MDC-T	—	Movement for Democratic Change-Tsvangirai
MDC-A	—	Movement for Democratic Change-Alliance
NCA	—	National Constitutional Assembly
NPC	—	National People's Congress
NGOs	—	Non-Governmental Organisations
NRPC	—	National Peace and Reconciliation Commission
OPC	—	Office of the Presidency and Cabinet
POSA	—	Public Order and Security Act
POTRAZ	—	Postal and Telecommunications Regulatory Authority of Zimbabwe
UANC	—	United African National Council
UZA	—	United Zimbabwe Alliance
VMCZ	—	Voluntary Media Council of Zimbabwe
ZACC	—	Zimbabwe Anti-Corruption Commission
ZANU-PF	—	Zimbabwe African National Union-Patriotic Front
ZAPU	—	Zimbabwe African People's Union
ZBC	—	Zimbabwe Broadcasting Corporation
ZEC	—	Zimbabwe Electoral Commission
ZHRC	—	Zimbabwe Human Rights Commission
ZCPD	—	Zimbabwe Coalition for Peace and Development
ZMC	—	Zimbabwe Media Commission
ZIPP	—	Zimbabwe Partnership for Prosperity
Zimpapers	—	Zimbabwe Newspapers Limited
ZNA	—	Zimbabwe National Army
ZRP	—	Zimbabwe Republic Police

TABLE OF STATUTES AND OTHER LEGAL INSTRUMENTS

1. Access to Information and Protection of Privacy Act (2002)
2. African Charter on Democracy, Elections and Governance (2007)
3. African Charter on Human and Peoples' Rights (OAU, 1981)
4. Broadcasting Services Act (2001)
5. Constitution of Zimbabwe (2013)
6. Criminal Law (Codification and Reform) Act (2017)
7. Criminal Law Codification and Reform Amendment Bill (2022)
8. Data Protection Act (2022)
9. Declaration on Principles of Freedom of Expression and Access to Information in Africa (ACHPR, 2019)
10. Elections Act (No. 24 of 2011)
11. Electoral (Voter registration) Amendment Regulations (22, No. 1)
12. Electoral Amendment Act (No. 12)
13. Electoral Code of Conduct for Political Parties and Candidates and Other Stakeholders (2018)
14. Freedom of Information Act (2020)
15. General Laws Amendment Act (No. 3 of 2016)
16. Guidelines on Access to Information and Elections in Africa (ACHPR, 2017)
17. Interception of Communication Act (2005)
18. Maintenance of Public Order Act (2019)
19. Media Regulations Statutory Instrument (No. 33) of 2008
20. Model Law on Access to Information for Africa (ACHPR, 2013)
21. Political Parties (Finance) Act (No. 4 of 2001)
22. Private Voluntary Organisation Amendment Bill (2024)
23. Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa (AU, 2018))
24. Public Finance Management Act (2010)
25. Public Order and Security Act (2002)
26. Referendums Act [Chapter 2:10] (2004)
27. SADC Principles and Guidelines Governing Democratic Elections (2015)
28. Statutory Instrument (No. 14) of 2023
29. Statutory Instrument (No. 143) of 2022
30. Statutory Instrument (No. 144) of 2022
31. Statutory Instrument (No. 220) of 2022
32. Statutory Instrument (No. 85) of 2017-Voter Registration Regulations
33. The Patriot Act (Criminal Law Codification and Reform Amendment Bill, 2022)
34. Zimbabwe Electoral Commission Act (2004)
35. Zimbabwe Media Commission Act (2020)

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1. *Election Resource Centre v Charumbira & 2 Others* ZWHHC 270
2. *Konjana v Nduna* ECH 6/18
3. *Jameson Zvidzai Timba v The Chief Elections Officer and Four Ors* EC 122/13

EXECUTIVE SUMMARY

This study evaluated the extent to which Zimbabwe's electoral stakeholders (including the electoral management body, appointing authorities, law enforcement agencies, political parties and candidates, media and regulatory bodies, election observers, and civil society organisations) complied with the Guidelines on Access to Information and Elections in Africa that were adopted by the African Commission on Human and Peoples Rights in 2017.¹ Drawing on qualitative research methods, including document analysis and interviews, this report sheds light on how key institutions performed in promoting and protecting access to information during competitive electoral processes. The study was conducted between July and October 2023. The report uses four qualitative indicators (total compliance, substantial compliance, partial compliance, and non-compliance) to assess compliance with the Guidelines. Findings show that most electoral stakeholders, including the Zimbabwe Electoral Commission, law enforcement agencies, political parties, candidates, regulatory bodies, election observers, the media, and Civil Society Organisations (CSOs), failed in some respects to proactively disclose important information during the electoral cycle. The Zimbabwe Electoral Commission failed to proactively share a user-friendly and verifiable voter roll with key stakeholders such as the opposition political parties, election observers and monitors, media, and CSOs. It provided sporadic public updates on election planning during the electoral cycle through traditional and digital media platforms. It also used press statements and press conferences to share information. Despite this publicity, there was opacity around its decision-making processes. Throughout the electoral cycle, it did not publish the minutes of its meetings and its internal voting records. Furthermore, it failed to communicate clearly and regularly about the status of preparations, challenges, and plans for addressing issues proactively.

Although section 160 (G) of the Electoral Act provides for access to public broadcasting media by contesting political parties during an election, interviews with stakeholders revealed that access to public media was biased, with the ruling party receiving the majority of media coverage. The state broadcaster, Zimbabwe Broadcasting Corporation, fully covered all the ruling party's star rallies. These were re-aired on prime-time news while those for other political parties did not get similar coverage in public media. Political parties also relied on private media for their campaigns. Digital and social media platforms were also used as platforms for campaigning by political parties and sources of information by the electorate. Because of the overreliance on social media platforms, electoral misinformation, and disinformation were much more pronounced, especially on WhatsApp, X, Facebook, and TikTok. For instance, on election day, flyers were posted on various social media platforms and around most urban polling stations, purportedly from the Citizens Coalition for Change (CCC) opposition party, discouraging the electorate from voting. Hate speech also reared its ugly head on digital and social media platforms fuelled by cyber-militia from the ruling party known as 'Varakashi' (thrashers). In some cases, online hate speech also transcended gendered disinformation campaigns against female journalists and candidates. The report also discusses recommendations that

1 'Guidelines on Access to Information and Elections in Africa | African Commission on Human and Peoples' Rights' <https://achpr.au.int/en/node/894> (accessed 15 May 2024).

stakeholders including the parliament, electoral management body, appointing authority, law enforcement agencies, political parties and candidates, media and regulatory bodies, election observers, and civil society organisations can put in place in the future to comply with the Guidelines on Access to Information and Elections in Africa. It also encourages role players to comply with the Principles and Guidelines for the Use of Digital and Social Media in Elections in Africa.

PREFACE

I welcome this report that assesses Zimbabwe's compliance with the Guidelines on Access to Information and Elections in Africa (the Guidelines) that were adopted by the African Commission on Human and Peoples' Rights (the African Commission) in 2017. The report evaluates the extent to which the right to access information was realised during the general election held in August 2023 in Zimbabwe. The right to access information is enshrined in Article 9 of the African Charter on Human and Peoples' Rights (the African Charter). It plays a fundamental role in promoting democracy by facilitating active engagement in public affairs. The right to access information is also interconnected with other human rights, such as the right to participate in government directly or through elected representatives, as safeguarded by Article 13 of the African Charter. This assessment of Zimbabwe's elections takes into account the Guidelines, relevant national access to information legal and policy framework, and other regional and international human rights laws and standards.

Since gaining independence in 1980, Zimbabwe has faced a recurring pattern of contested elections. These disputes often stem from allegations of electoral fraud, voter intimidation and lack of transparency, which have fuelled political tensions and hindered democratic progress. Despite efforts to reform the electoral process, the country continues to grapple with challenges in achieving free and fair elections, reflecting deeper issues within its political landscape, hindering good governance and democracy in the country. This has contributed to weakened state institutions responsible for elections. However, the turning point was the adoption of the 2013 Constitution, which embraced the principles of transparency, accountability, and public participation as foundational elements of good governance and democracy. Another significant milestone was the explicit integration of international treaties and conventions ratified by Zimbabwe into the legal framework, which elucidated legal obligations to comply with international law.

The nexus between access to information and election integrity in Zimbabwe cannot be overstated. Zimbabwe's electoral process has often been a contentious affair, fraught with concerns over credibility, transparency, accountability, and the lack of robust information infrastructure. Additionally, there has been a persistent reluctance by state actors to provide access to information for accountability purposes. Since the adoption of the 2013 Constitution, Zimbabwe has conducted several elections, including the 2018 general elections, which were marked by significant legal disputes and allegations of irregularities. These challenges have contributed to a public trust deficit and unrest, underscoring the critical role of transparency and the right to information in fostering peace, security, and stability within the electoral context.

That being said, I would like to commend the Government of Zimbabwe for its efforts in ensuring some aspects of the free flow of ideas and information during the 2023 general elections.

The government's initiatives to improve access to information, including the establishment of legislative frameworks, have been instrumental in enabling citizens to engage with election-related information. I also commend the Zimbabwe Electoral Commission (ZEC) for its proactive measures, such as the publication of polling locations and the implementation of voter verification systems, which allowed voters to independently confirm their details. The incorporation of technology, including biometric voter registration and identification systems is a positive step. Furthermore, efforts to make election-related data accessible to the public have played a role in fostering transparency and public trust during the 2023 general elections. I also commend the media and other stakeholders that have worked closely with the Zimbabwe Electoral Commission (ZEC) for their active role in promoting access to information during the electoral process. These stakeholders have worked to ensure transparency and accountability. Civil society organisations in Zimbabwe have also played a significant role in advocating for the right to access information during the August 2023 elections. These efforts have relied on guidelines and frameworks, such as those provided by the African Commission, to strengthen the implementation of access to information principles during elections.

This current evaluation of information disclosure practices reveals a significant gap in awareness among stakeholders regarding the Guidelines on Access to Information and Elections in Africa. To bridge this gap, a collaborative approach involving multiple stakeholders is essential. The Zimbabwe Electoral Commission (ZEC), government, and other chapter 12 institutions should work alongside media outlets and civil society organisations to implement the Guidelines effectively. This could include training and capacity- building programs, and introducing measures to ensure compliance with the Guidelines. While Zimbabwe has a legislative framework for access to information, there is a pressing need to strengthen these frameworks and ensure their practical application. Parliament should prioritize the adoption of access to information regulations to enhance transparency and accountability.

On the other hand, this study demonstrates that technology not only plays a pivotal role in Zimbabwean elections but also presents notable challenges. Social media, for instance, has amplified freedom of expression during elections. However, it has also facilitated the spread of hate speech, disinformation, misinformation, and mal-information. These issues should be scrutinized from a human rights perspective by relevant stakeholders, including online media platform providers. The regulatory framework governing social media must be reviewed to ensure alignment with international human rights laws and standards. As public discourse increasingly shifts to online platforms during elections, social media companies must implement robust content moderation practices to safeguard the integrity of information while respecting international laws on freedom of expression.

In light of this invaluable research output, I encourage all key electoral stakeholders in Zimbabwe to take note of its findings and recommendations and actively collaborate to advance the promotion of access to information, both generally and within the context of elections.

I wish to extend my heartfelt gratitude to Prof Admire Mare for his dedication in drafting this comprehensive report. I would also like to commend the Centre for Human Rights, Faculty of Law, University of Pretoria for spearheading this initiative which underscores the importance of proactive disclosure of access to information during elections in alignment with the African Commission's Guidelines. Implementing the recommendations of this report will play a pivotal role in fostering meaningful public participation and enhancing electoral transparency and integrity.

Honourable Commissioner Ourveena Geereesha Topsy-Sonoo

*Special Rapporteur on Freedom of Expression and Access to Information in Africa, African
Commission on Human and Peoples' Rights*



PART ONE

Introduction

Part One: Introduction

1.1 Background

Zimbabwe's 10th harmonised election since independence and its third under its 2013 Constitution took place on 23 August 2023.² Previous harmonised elections under this Constitution happened on 31 July 2013 and on 30 July 2018.³ Like other African countries, Zimbabwe has witnessed disputed elections since the formation of the Movement for Democratic Change (MDC) in 1999. MDC grew to become the most formidable opposition party, which worked hard to challenge the political hegemony established by the ruling party, the Zimbabwe National African Union-Patriotic Front (ZANU-PF) under the leadership of Robert Mugabe. Political violence and coordinated propaganda campaigns have punctuated elections pitting the ruling party, ZANU-PF, and the MDC under the leadership of the late Morgan Tsvangirai.⁴ This scourge of state-sponsored violence reached unprecedented levels during the run-off presidential election in 2008.⁵ The state-sponsored violence in 2008 resulted in the death of nearly 100 people and the displacement of thousands of people.⁶ In November 2017, the long-serving leader, Robert Mugabe, was unceremoniously removed from power through a military coup masterminded by the Lacoste faction⁷ and military generals. Soon after the bloodless coup, Emmerson Mnangagwa ascended to the position of the president of ZANU-PF and the country until the July 2018 elections.

Zimbabwe held its ninth election on 30 July 2018. The battle for presidency pitted two men against each other: Emmerson Dambudzo Mnangagwa (Mugabe's former enforcer and right-hand man and the military's civilian face after the November 2017 coup was the ZANU-PF candidate) and Nelson Chamisa (a former student leader and cabinet minister during the Government of National Unity was the MDC Alliance candidate).⁸ These were the first elections without Robert Mugabe and Morgan Tsvangirai as presidential candidates in almost two decades. In 2018, Emmerson Mnangagwa narrowly beat Nelson Chamisa by winning 50.8% of the vote. Chamisa's political party disputed the outcome, claiming that the count was inaccurate by tens of thousands. In *Chamisa v Mnangagwa & Others*,⁹ the Constitutional Court struck it down, arguing that Chamisa had "failed to prove fraud accusations".

2 D Moore 'Déjà Vu with Difference: A Gramscian Interpretation of Zimbabwe's 2023 Elections and their Pasts' (2003) 22 *Journal of African Elections* 2.

3 A Mare 'Politics Unusual? Facebook and Political Campaigning during the 2013 Harmonised Elections in Zimbabwe' (2018) *African Journalism Studies* 39.

4 As above.

5 As above.

6 Human Rights Watch 'Zimbabwe: Surge in State-Sponsored Violence' <https://www.hrw.org/news/2008/04/25/zimbabwe-surge-state-sponsored-violence> (accessed 5 March 2025).

7 As above.

8 D Moyo 'A vicious online propaganda war that includes fake news is being waged in Zimbabwe' <https://theconversation.com/a-vicious-online-propaganda-war-that-includes-fake-news-is-being-waged-in-zimbabwe-99402> (accessed 5 March 2025).

9 <https://www.veritaszim.net/> (accessed 5 March 2025).

Zimbabwe's 2013 Constitution introduced a gender quota to ensure the equitable representation of women in parliament under Section 277(4). Zimbabwe's parliament is composed of a National Assembly (lower house) and a Senate (upper house). The quota requires that the lower house reserve 60 of its 270 seats (22%) for women representatives.¹⁰ The upper house should appoint 60 of its 80 senators from a list that alternates between female and male candidates. Whereas in 2018, there were four female presidential candidates, in 2023, there was only one female candidate. Two female presidential candidates, Elisabeth Valerio of United Zimbabwe Alliance (UZA) and Linda Masarira of Labour, Economists and African Democrats (LEAD), were initially excluded by the Zimbabwe Electoral Commission (ZEC) for late submission of nomination papers and late payment of nomination fees, respectively. Both female presidential candidates took the matter to court. Valerio won her case, and ZEC was forced to accept her nomination papers. Masarira was not as fortunate and struggled to raise the USD 20 000 nomination fee.¹¹

The election was preceded by several court battles, some of which were unresolved on the eve of the election day. In March 2023, the Movement for Democratic Change - Tsvangirai (MDC-T) opposition party led by Douglas Mwonozora filed an urgent application seeking an order to compel President Emmerson Mnangagwa and ZEC to conduct a fresh delimitation process before the country holds harmonized elections.¹² The party was arguing that the delimitation process that was conducted by ZEC was fundamentally flawed as constituencies did not have the same number of voters while some polling stations had no proper names. The Parliament of Zimbabwe also voiced concern over the delimitation report before it was submitted to President Mnangagwa. Despite these concerns, the Constitutional Court dismissed the MDC-T court challenge.¹³

Another legal challenge was mounted by Saviour Kasukuwere (an independent presidential candidate) who was part of the Generation 40 (G40) faction within ZANU-PF before the November 2017 coup. This was after the former minister was disqualified from standing as a presidential candidate following a suit by ZANU-PF activist Lovedale Mangwana.¹⁴ Case number HH 418-23 (Lovedale Mangwana v Kasukuwere and Ors)¹⁵ arose after the complainant argued that Kasukuwere was not eligible to stand in the presidential race on the grounds that he had been away from the country for more than 18 continuous months. The 2013 Constitution stipulates that if one is not ordinarily resident in Zimbabwe for at least 18 months then you are deemed to have ceased to be a registered voter.¹⁶ On 12 July, the High Court issued an order setting aside the nomination of Saviour Kasukuwere as a presidential candidate in the

10 <https://theconversation.com/africa> (accessed 5 March 2025).

11 Veritaszim <https://www.veritaszim.net/node/6508> (accessed 5 March 2025).

12 Dube G 'MDC-T Takes Mnangagwa, ZEC to Court Seeking Order to Compel Them to Draft New Delimitation Report, Dump Elections' VOA 14 March 2023.

13 'Zimbabwe: Top court rejects bid to delay elections' DW 5 September 2023.

14 *Lovedale Mangwana v Kasukuwere and Ors (HH 418-23)*.

15 <https://www.veritaszim.net/node/6461> (accessed 5 March 2025).

16 'High Court Nullifies Independent Candidate Kasukuwere's Nomination for 2023 Presidential Election' VOA 12 July 2023.

23 August elections.¹⁷ Although Kasukuwere exhausted all legal remedies at his disposal, his presidential bid was dealt a major blow at both the Constitutional Court and Supreme Court. Both courts set aside Kasukuwere's nomination and ordered the electoral commission not to include his name on the ballot paper.¹⁸

The other highly publicised court battle involved 12 parliamentary contestants for the Citizens Coalition for Change (CCC) in Bulawayo. Known as the Citizens Coalition For Change Versus Zimbabwe Electoral Commission¹⁹ (EC 03/2023), this arose after CCC candidates were nullified by the High Court after ZANU-PF activists approached the courts alleging that the CCC candidates filed their papers past the 16:00 Nomination Court deadline. The judge ruled that the CCC candidates, along with three others from different political parties, had contravened the Electoral Act by submitting their nomination papers through a police officer on 21 June when the Nomination Court sat. This was despite ZEC having said the candidates submitted their papers on time.²⁰ The Supreme Court eventually cleared the 12 CCC aspiring parliamentarians to contest during the 2023 legislative elections in Bulawayo after they were barred by the High Court. One of the major contentious points in the run-up to the election was the high nomination fees set by ZEC.²¹ Presidential candidates paid USD 20 000, parliamentary candidates USD 1 000, and council candidates USD 100.²² In contrast, in 2018, presidential candidates paid USD 1 000 while legislators paid USD 50.²³ The 2023 harmonised election saw political parties competing for one presidential seat, 1 770 council seats, 280 parliamentary seats and 60 senate seats. The total number of registered voters was 6.5 million, an increase of 700 000 from 2018.²⁴

The presidential election involved 11 candidates running in 210 constituencies.²⁵ This represented a significant downturn from the 23 who contested in 2018. The reduction in candidates was attributed to the twentyfold increase in the fee to run for office.²⁶ The presidential race was depicted as a battle between the two "Big Men" – President Emmerson Mnangagwa of the ruling ZANU-PF and Nelson Chamisa of the leading opposition party, the CCC. They were joined by Elizabeth Valerio (United Zimbabwe Alliance, UZA), Douglas Mwonozora MDC-T, Joseph Makamba Busha (FreeZim Congress), Trust Tapiwa Chikohora (Zimbabwe Coalition for Peace and Development, ZCPD), Blessing Kasiyamhuru (Zimbabwe Partnership for Prosperity, ZIPP), Lovemore Madhuku (National Constitutional Assembly, NCA), Wilbert Archbald Mubaiwa

17 'Zim Elections' Channel Africa 2 September 2023.

18 'Court blocks Mugabe ally from Zimbabwe presidential election' *TRTAFRICA* 2 October 2023.

19 'Judicial Service Commission' <https://www.jsc.org.zw> (accessed 5 March 2025).

20 2023 Elections: ZEC Says Disqualified CCC Candidates Submitted Nomination Papers On Time' *Pindula News* 28 July 2023.

21 Sharon Mazingaidzo 'Zimbabwe gazettes hefty nomination fees for 2023 presidential elections' *Sowetan live* 20 July 2023.

22 Veritaszim <https://www.veritaszim.net/node/6417> (accessed 5 March 2025).

23 'Zimbabwe lawmakers back jump in candidate fees before August vote' *Al Jazeera* 15 June 2023.

24 Farai Matiashe 'Another Zimbabwe election cycle reveals decline of women in politics' *Al Jazeera* 23 August 2023.

25 D Moore (n 2 above).

26 R HShayamunda & PM Mashamaite 'Political Trust and Electoral Integrity Zimbabwe's 2023 Election Crisis and its Impact on Trust and Democracy' (2023) *Journal of African Elections* 3

(National People's Congress, NPC), Gwinyai Henry Muzorewa (The United African National Council, UANC), and Harry Peter Wilson (Democratic Opposition Party of Zimbabwe, DOP).²⁷

Only 68 (11%) of 633 aspiring parliamentarians for direct election were women.²⁸ This showed a significant decline in the number of women nominated to contest the 2023 elections. Of these 68, ZANU-PF fielded 23 women (34%), the CCC fielded 20 (29%), and the remaining 25 women were from small minority parties (27%), and independent candidates (10%).²⁹ 23 women were elected to parliament (against 26 in 2013 and 25 in 2018).³⁰ The 23 newly elected women joined 60 others who were appointed through the quota system, making a total of 83 or 30.7% representation of women in the lower house.³¹

Harare and Bulawayo provinces nominated the highest number of women candidates for election. In Mashonaland Central, only one woman was nominated across 18 constituencies. Only two women were nominated in Matebeleland South across 12 constituencies.³²

Presidential Results³³

CANDIDATE	PARTY	VOTES	%
Emmerson Mnangagwa	ZANU-PF	2,350,711	52.60
Nelson Chamisa	Citizens Coalition for Change	1,967,343	44.03
Wilbert Mubaiwa	National People's Congress	53,517	1.20
Douglas Mwonzora	Movement for Democratic Change-Tsvangirai	28,883	0.65
Joseph Makamba Busha	FreeZim Congress	18,816	0.42
Blessing Kasiyamhuru	Zimbabwe Partnership for Prosperity	13,060	0.29
Tapiwa Trust Chikohora	Zimbabwe Coalition for Peace and Development Party	10,230	0.23

27 Storm Simpson 'EXPLAINER | Zimbabwe elections 2023: Five things you need to know' News24 15 August 2023.

28 <https://www.zesn.org.zw> (accessed 4 March 2025).

29 Simpson (n 27 above).

30 ZESN (n 28 above).

31 ZESN (n 28 above).

32 ZESN (n 28 above).

33 '2023 Presidential Elections Results'

<https://www.zec.org.zw/download-category/2023-presidential-elections-results/> (accessed 5 March 2025).

CANDIDATE	PARTY	VOTES	%
Gwinyai Henry Muzorewa	United African National Council	7,053	0.16
Elisabeth Valerio	United Zimbabwe Alliance	6,989	0.16
Harry Peter Wilson	Democratic Opposition Party	6,743	0.15
Lovemore Madhuku	National Constitutional Assembly	5,323	0.12
Total		4,468,668	100.00
Valid votes		4,468,668	97.97
Invalid/blank votes		92,553	2.03
Total votes		4,561,221	100.00
Registered voters/turnout		6,623,511	68.86

Source: Zimbabwe Electoral Commission³⁴ (ZEC). <https://www.zec.org.zw/download-category/2023-presidential-elections-results/>.

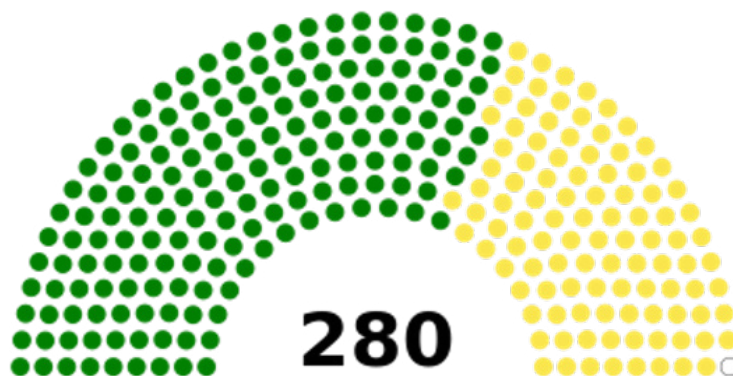
National Assembly

As intimated earlier, the National Assembly has 210 single-member constituencies. The remaining 70 seats comprise 60 seats which are reserved for women, six seats in each province, and 10 seats for youth, one seat in each province.³⁵ On election day, ZANU–PF won 136 seats

34 'Presidential elections results' <https://x.com/ZECzim/status/1695559127118807092> (accessed 5 March 2025).

35 'Report on 2023 Harmonised Elections in Zimbabwe' <https://www.veritaszim.net> (accessed 6 March 2025).

and the CCC 73, with ZANU-PF retaining its rural base and the CCC capturing the urban vote.³⁶ Voting was postponed in the Gutu West constituency after one of the candidates died shortly before the elections. 64.76% of the seats went to ZANU-PF and 34.76% of the seats went to the CCC.³⁷



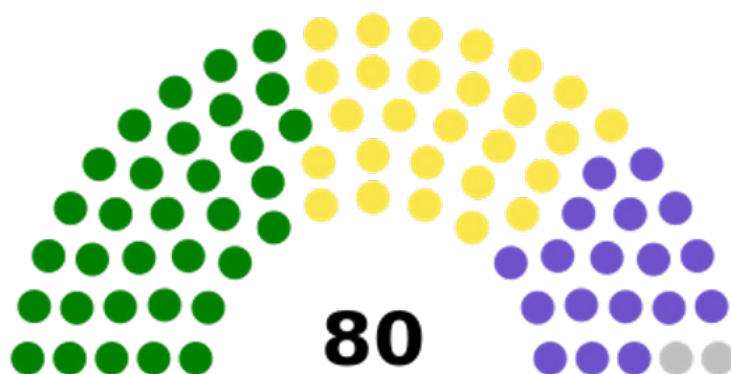
Party	Votes	%	Seats				
			Common	Women	Youth	Total	+/-
ZANU-PF	2,503,460	56.11	136	33	7	176	-3
Citizens Coalition for Change	1,855,135	41.58	73	27	3	103	New
Others	103,473	2.32	0	0	0	0	-91
Vacant (pending by-election)			1	-	-	1	-
Total	4,462,068	100.00	210	60	10	280	+10

Source: Zimbabwe Electoral Commission³⁸

³⁶ As above.

³⁷ As above.

³⁸ Zimbabwe Electoral Commission (n 34 above).



Party		Seats	+/-
	ZANU-PF	33	-1
	Citizens Coalition for Change	27	New
	Chiefs	18	0
	Persons with disabilities	2	0
Total		80	0

Source: Zimbabwe Electoral Commission³⁹

Unlike the July 2018 election, the 2023 plebiscite was billed as a barometer of the popularity and performance of the so-called 'Second Republic' under the leadership of Mnangagwa.⁴⁰ It was also framed as a watershed election given the multiple socio-political and economic challenges facing the country since Mnangagwa took over from Mugabe. The election was unique in the sense that over one million first-time voters, mostly youth, were expected to vote.⁴¹ Further, Nelson Chamisa was contesting under the banner of a newly formed party, the CCC. In 2018, Chamisa participated in the presidential race under the MDC Alliance (MDC-A) party.⁴² The CCC was officially registered in January 2022. Thus, in the August 2023 election,

39 Zimbabwe Electoral Commission (n 34 above).

40 RH Shayamunda & PM Mashamaite (n 26 above).

41 'Women and Youth experiences from the 2023 elections' *Voices* 5 October 2023.

42 T Matsilele and A Mare 'Hybrid media system and the July 2018 elections in post-Mugabe Zimbabwe' in MN Ndlela and W Mano 'Social Media and Elections in Africa' (2020) 1 *Theoretical Perspectives and Election Campaigns*.

Emmerson Mnangagwa was seeking a second term whilst Nelson Chamisa was targeting to dislodge ZANU-PF from its 43-year grip of political power. Douglas Mwonzora, who was the presidential candidate for the MDC-T withdrew from the race citing mismanagement by ZEC.⁴³

Between 2018 and 2023, the ZANU-PF government embarked on a systematic lawfare agenda. This tactic involved the use of laws to constrain the operations of the opposition and human rights defenders.⁴⁴ These efforts have been made possible by an allegedly captured judiciary. For instance, a prominent CCC legislator, Job Sikhala, and political activists such as Jacob Ngarivhume have been imprisoned on the basis of frivolous allegations.⁴⁵ The ZANU-PF government also introduced controversial laws aimed at silencing dissent. These include the Private Voluntary Organisations Amendment Bill⁴⁶ and the Criminal Law (Codification and Reform) Amendment Act⁴⁷ (also known as 'the Patriotic Bill'). The Patriotic Bill came into force on 14 July 2023. The Act created a new crime of "wilfully injuring the sovereignty and national interest of Zimbabwe."⁴⁸ Given the vague definition of concepts in the Act, there are deep-seated concerns that law enforcement will interpret the law broadly and use it to stifle and penalise the work of independent civil society. According to section 22A of the Criminal Law (Codification and Reform) Amendment Act, citizens and permanent residents of Zimbabwe may be culpable if they participate in meetings aimed at discussing or plotting armed intervention in Zimbabwe, subverting, or overthrowing its government and implementing or extending sanctions or trade boycotts against Zimbabwe.

In the run-up to the election, opinion polls showed Nelson Chamisa had an edge over his arch-rival Emmerson Mnangagwa. For instance, a poll of 2,000 registered voters, conducted by Elite Africa Research in June 2023, found that if the elections had been held that month, 47.6 per cent of respondents would vote for Chamisa, while just 38.7 per cent would vote for President Emmerson Mnangagwa.⁴⁹ Another survey by the London-based Sabi Strategy Group also predicted that the CCC would win the elections.⁵⁰ The survey showed that Nelson Chamisa would defeat President Emmerson Mnangagwa, getting 53 per cent of the vote.

Besides the political dynamics, the August 2023 elections were significant because of Zimbabwe's dire economic situation.⁵¹ The country had the highest rate of inflation going into the elections. This hyperinflationary environment fuelled a rise in fuel prices and the cost of basic foodstuffs like maize meal, cooking oil and bread.⁵² Salaries and wages were also affected

43 'Mwonzora withdraws from Zimbabwe's presidential election' CITE 8 August 2023

44 Election violence is a cover for ideological ambivalence and lack of substantive programmes' *Civicus* 20 September 2023.

45 As above.

46 *Private Voluntary Organisation Amendment Bill, 2021.*

47 *Criminal Law (Codification and Reform) Amendment Bill, 2022.*

48 As above.

49 P Fabricius 'Latest Zimbabwean poll says Chamisa and the opposition should win elections' *Daily Maverick* 11 July 2023.

50 'Zimbabwe elections: Survey predicts a Chamisa victory' *eNCA* 13 August 2023.

51 C Muronzi 'Five key issues at stake in the Zimbabwe elections' *Al Jazeera* 29 August 2023.

52 As above.

as most Zimbabweans are paid in local currencies instead of the United States Dollar which is often used for pegging prices of basic commodities.⁵³ This pinch was felt by the electorate. The local currency has continued to devalue against major currencies despite claims by the Finance Minister, Prof Mthuli Ncube, that the situation is under control.⁵⁴ This has contributed to high levels of unemployment, inequality and poverty. The situation was compounded by the effects of sanctions, the COVID-19 pandemic, economic mismanagement, corruption and cronyism. Therefore, it is unsurprising that a survey by Elite Africa Research a few months before the election showed that 77.5 per cent of voters believed that the country's economy was worsening under Mnangagwa.⁵⁵

A few months before the election, an Al Jazeera documentary titled, *The Gold Mafia*, exposed several individuals linked to the Zimbabwean government who are involved in gold smuggling.⁵⁶ The four-part documentary which was filmed by Al Jazeera's Investigative Unit (I-Unit) exposed how huge amounts of gold are clandestinely smuggled every month from Zimbabwe, Africa's sixth-largest gold producer, to Dubai in the United Arab Emirates, aiding money laundering through an intricate web of shell companies, fake invoices, and paid-off officials.⁵⁷ Individuals connected to Zimbabwean government officials and the ruling party such as Uebert Angel, Henrietta Rushwaya, Kamlesh Pattni, Rikki Doolan, Simon Rudland, Ewan Macmillan, and Alistair Mathias were named as the chief gold smugglers.⁵⁸ ZANU-PF denied the allegations by arguing that it was a plot designed by its detractors to further isolate the country from the family of nations.⁵⁹

Geopolitically, the elections were important for several reasons. A win for ZANU-PF meant that China and Russia would continue to enjoy preferential treatment by the ruling elite.⁶⁰ It also meant the continuation of the Look East foreign policy strategy,⁶¹ which was adopted to circumvent sanctions imposed on targeted ZANU-PF individuals and companies by the European Union (EU), Britain, and the United States of America (USA) in the early 2000s.⁶² On the other hand, a win for Nelson Chamisa would have led to a democratic breakthrough for the people of Zimbabwe. Given the cordial relations between CCC and Western powers, it was expected that an opposition win would reopen doors for the US, Britain, and EU to repair their relations with Zimbabwe.⁶³ The relations have soured since Zimbabwe embarked on the

53 As above.

54 'The Herald 'Economy on right track-Mthuli' *The Herald*, 12 August 2023.

55 Fabricius (n 49 above).

56 Muronzi (51 above).

57 Muronzi (n51 above).

58 'Who are the Gold Mafia? Godmen, conmen and a president's niece' *Al Jazeera* 25 September 2023.

59 As above.

60 C A Ray 'Zimbabwe at the Crossroads: 2023 Election Will Determine its Future - Foreign Policy Research Institute' <https://www.fpri.org/article/2023/08/zimbabwe-at-the-crossroads-2023-election-will-determine-its-future> (accessed 5 March 2025).

61 J R Youde 'Why Look East? Zimbabwean Foreign Policy and China' (2007) 53 *Africa Today* 3-19.

62 As above.

63 G Nyikadzino 'US, CCC and local journalist gang up to foment chaos' *The Herald* 18 May 2022.

controversial Fast Track Land Reform.⁶⁴ The discovery of large deposits of lithium in recent years has also catapulted the country to the international limelight. The country is expected to play an important role in the mining of mineral resources for electric vehicle batteries and become one of the world's largest exporters of lithium.⁶⁵ Therefore, world superpowers had their eyes on the mining sector.⁶⁶ Companies from Russia, China and other Western countries have already started making explorations. Cognizant of the importance of this mineral resource, the country passed the Base Mineral Export Control Act in December 2022, which banned the export of raw lithium.⁶⁷ However, Chinese companies such as Zhejiang Huayou Cobalt, Sinomine Resource Group and Chengxin Lithium Group that are already developing mines or processing plants in Zimbabwe are exempted from this ban.⁶⁸

Like in most other parts of Africa, the Zimbabwean elections have ceased to revolve around substantive issues and have instead become centred on political parties and personalities.⁶⁹ This trend was evident in the 2023 election, in which major political parties failed to present their manifestos in a timely manner. Presidential hopeful Saviour Kasukuwere launched his manifesto promising to revive and stabilise the country's ailing economy in July 2023.⁷⁰ The Zimbabwe African People's Union (ZAPU) also launched its manifesto, outlining plans to build a USD 80 billion economy in the next 20 years.⁷¹ The main opposition party, CCC, unveiled its programme merely two weeks before voting day,⁷² while the ruling ZANU-PF did not launch its manifesto.⁷³ In its manifesto, the CCC promised to guarantee human rights, constitutionalism, respect of property rights, tolerance and freedom of expression which are key in building impetus for development.⁷⁴ It also promised to have Parliamentary Committees of Budgets, Public Accounts and Foreign Affairs chaired by the opposition with a view to foster oversight, scrutiny, and accountability.⁷⁵ The CCC also promised to guarantee economic stability as a prior requirement for production by adopting dollarisation, scrapping the Zimbabwean local currency and fostering the conditions for the introduction of the local currency at a later stage.⁷⁶

President Emmerson Mnangagwa in June 2023 approved an amendment of Zimbabwe's Electoral Act⁷⁷ that, among other things, sets a code of conduct for political parties and

64 M K Chiweshe & T Chabata 'The complexity of farmworkers' livelihoods in Zimbabwe after the fast track land reform: Experiences from a farm in Chinhoyi, Zimbabwe' (2019) *Review of African Political Economy* 46.

65 P Masilela 'Top 10 lithium producers in Africa' *Miningreview.com* 28 November 2023.

66 S Boyo et al 'Why all eyes are on Zimbabwe's lithium industry' *CNBC* 9 March 2023.

67 <https://www.veritaszim.net/sites>.

68 S Boyo (n 66 above).

69 S Boyo (n 66 above).

70 'Kasukuwere in Kenya, Unveils His Manifesto' *The Zimbabwe Mail* 3 July 2023.

71 'ZAPU promises to grow economy by US\$80bn in poll manifesto' *The Zimbabwean* 1 July 2023.

72 'Zimbabwe's Opposition CCC Launches Manifesto' *Voice of America* 14 August 2023. Also see:

'A New Great Zimbabwe for Everyone' *Zim Eye* 7 August 2023.

73 M Zvamaida 'Our work is our Manifesto: ZANU-PF' *The Chronicle* 24 July 2023.

74 *Zim Eye* (n 72) above.

75 *Zim Eye* (n 72) above.

76 T Nqobile 'CCC Manifesto embraces ZANU-PF' *The Chronicle* 10 August 2023.

77 The Electoral (Amendment) Act, No.12 of 2023.

formalised the use of biometric voter registration technology.⁷⁸ The code of conduct stipulates how political parties, candidates and other stakeholders should behave before, during and after the elections. The code seeks to “promote conditions that are conducive to free and fair elections and a climate of tolerance in which electioneering activity may take place without fear or coercion, intimidation or reprisals.”⁷⁹ Some opposition parties have, however, cried foul over the alleged poor handling of the electoral process by ZEC.⁸⁰ They accused ZEC of, among other things, producing a voters’ roll containing “ghost voters” and failing to involve them in the printing of ballot papers. To ensure the credibility of the forthcoming poll, the Judicial Service Commission established special courts to expeditiously deal with electoral disputes. About 57 magistrates from the 10 provinces were designated to try cases of politically motivated violence and intimidation in the provinces under which their names appear before, during and after the harmonised elections.⁸¹

ZEC was responsible for the management and administration of electoral processes. It was led by Chairperson Justice Priscilla Chigumba who was appointed by Emmerson Mnangagwa in February 2018.⁸² ZEC has been criticised for being biased against the opposition.⁸³ Opposition parties, Civil Society Organisations (CSOs) and observer missions also faulted ZEC for breaching its constitutional mandate. ZEC was found to have failed to produce the full voters’ roll on time. The electoral body has also been criticised for being heavily militarised and captured by the ruling party.⁸⁴ In July 2022, six vacancies within ZEC were filled by commissioners who are allegedly related to ZANU-PF politicians.⁸⁵ These include Abigail Millicent Mohadi Ambrose (daughter of Vice-President, Kembo Mohadi), Shepherd Manhivi, Catherine Mpofu (relative of Obert Mpofu, ZANU-PF’s Secretary of Administration), Rosewita Murutare, Janet Mbetu Nzvenga, and Kudzai Shava (relative of the Minister of Foreign Affairs, Frederick Shava). Rosewita Murutare and Janet Nzvenga are believed to be politically and economically connected to ZANU-PF officials. Before the August 23 election, ZEC was blasted for refusing to avail a copy of the national voters roll to opposition parties.⁸⁶ The electoral body was also lambasted for failing to produce a voters’ roll that was analysable and navigable by the opposition parties.⁸⁷ In March 2022, Nelson Chamisa was quoted in the media, saying: “We see that they have not availed the voters roll that is supposed to be availed. We see that they have not passed the critical test that they are supposed to pass; the integrity test, the professionalism test, the accountability test, the constitutionality test, but more importantly they have to pass this test of being non-partisan.”⁸⁸

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- 78 D Majaha ‘Regional, international organisations deploy observers for Zimbabwe polls : Knowledge for Development’ <https://www.sardc.net/en/southern-african-news-features/5816/> (accessed 5 March 2025).
- 79 Majaha (n 78) above.
- 80 Majaha (n 78) above.
- 81 Majaha (n 78) above.
- 82 F Machivenyika ‘Chigumba new ZEC Chairperson’ *The Herald* 1 February 2018.
- 83 R Razao ‘Zimbabwe: Disband Unfit, Biased ZEC - Chaimisa’ *allAfrica.com* 25 March 2022.
- 84 ‘ZEC: We are militarised, so what?’ *Newsday* 5 March 2023.
- 85 <https://www.zec.org.zw/six-zec-commissioners-say-goodbye/>.
- 86 G Dube ‘Zimbabwe Opposition Parties, NGOs Fuming Over ZEC’s Failure to Provide Voters’ Roll at Inspection Centers’ *Voice of America* 28 May 2023.
- 87 As above.
- 88 ‘Khupe urges Zimbabweans to vote for Chamisa’s Citizens Coalition for Change’ *SABC News* 26 March 2022.

The elections were also unique for a variety of reasons. Given the well-documented history of infiltration and decimation of opposition parties, the CCC decided to embrace what the party called 'strategic ambiguity' to keep their opponents guessing.⁸⁹ This referred to a policy whereby the opposition party was going to withhold information to avoid publicly revealing its next move to its opponents. Although this policy was heavily defended by Nelson Chamisa, it was also critiqued for stifling the free flow of information from the organisation.⁹⁰ It also went against the principle of proactive disclosure of information as required by the African Commission Guidelines on Access to Information and Elections in Africa.⁹¹ The strategic ambiguity policy also failed to live up to the expectations of the *Principles and Guidelines for the Use of Digital and Social Media in Elections in Africa*.⁹² This is because the guidelines chide political parties to proactively disclose public interest information through social media platforms.

The surfacing of a Non-governmental Organisation (NGO) called Forever Associates Zimbabwe (FAZ) which set up exit poll survey tables near polling stations with governing party regalia was a notable development. This is even though exit polling is currently not permitted within the legal framework of Zimbabwe.⁹³

Public trust in the impartiality and independence of ZEC was at an all-time low as the country went to the polls in August 2023.⁹⁴ There was deep-seated scepticism about the capacity of ZEC to deliver a free, fair and credible election after the 2018 disputed election.⁹⁵ The lack of significant electoral reforms and the opaque process of redrawing of electoral boundaries further weakened public trust.⁹⁶ The situation was worsened by how ZEC handled the distribution of election materials in opposition strongholds on 23 August 2023.⁹⁷ The electoral body delayed distributing voting materials. Most urban polling stations in Harare and Bulawayo, where the opposition claims it has strong support, opened four hours late. Other wards affected by these delays include Manicaland.⁹⁸ To salvage the situation, ZEC declared 24 August 2023 as a voting day although voting is supposed to take place within one day according to electoral law. In a press statement released by ZEC on election day, it blamed the delays in the distribution of voting materials on legal contestations that occurred in the metropolitan provinces.⁹⁹

89 In the context of global politics, a policy of deliberate ambiguity (also known as a policy of strategic ambiguity or strategic uncertainty) is the practice by a government or non-state actor of being deliberately ambiguous with regard to all or certain aspects of its operational or positional policies.

90 'Ncube blames "Strategic Ambiguity" for CCC woes' *CITE* 24 June 2024.

91 Guidelines on Access to Information and Elections in Africa (n 1 above).

92 Principles and Guidelines for the Use of Digital and Social Media in Elections in Africa, 2022.

93 A Mohamed 'Interim statement of the Commonwealth Observer Group to the 2023 Zimbabwe Harmonised Elections' <https://thecommonwealth.org/interim-statement-commonwealth-observer-group-2023-zimbabwe-harmonised-elections> (accessed 5 March 2025).

94 'Public mistrust in Zec behind voter apathy' *The Mirror* 5 April 2022.

95 'Zimbabwe fails its democracy test' ISS Africa <https://issafrica.org/iss-today/zimbabwe-fails-its-democracy-test> (accessed 5 March 2025).

96 'Chamisa calls for electoral reforms in Zimbabwe ahead of elections next year' *CHANNELAFRICA* 20 May 2023.

97 'ZEC addresses distribution delays in Harare Metropolitan Province' *Suburban* 24 August 2023

98 N Chingono 'Voting in Zimbabwe general election delayed by lack of ballot papers' *The Guardian* 23 August 2023.

99 *Suburban* (n 97 above).

The Commission failed to proactively share the voter roll with key stakeholders such as the opposition political parties, election observers and monitors, media and CSOs.¹⁰⁰ This is in contravention of the Guidelines that clearly outline the obligations of these stakeholders in ensuring proactive disclosure of information throughout the electoral cycle. ZEC provided sporadic public updates on election planning during the electoral period through traditional and digital media platforms.¹⁰¹ Interviews with staff members of the Zimbabwe Electoral Commission indicated that they also used press statements and press conferences to share information. Despite this publicity, the researcher observed that there was opacity around its decision-making processes. Throughout the electoral cycle, ZEC did not publish the minutes of its meetings and its internal voting records. Furthermore, it failed to communicate clearly and regularly about the status of preparations, challenges, and plans for addressing issues proactively.

1.2 Aims

The main aim was to evaluate the realisation of the right of access to information during the 2023 harmonised election.

1.3 Methodology

The study used qualitative research methods to examine the extent to which Zimbabwe's electoral stakeholders (the EMBs, appointing authority, law enforcement agencies, political parties and candidates, media and regulatory bodies, election observers, and CSOs) complied with the Guidelines on Access to Information and Elections in Africa. The researcher used a combination of document analysis and in-depth interviews with key informants from relevant electoral stakeholders. The researcher documented, analysed, and reviewed information provided by the stakeholders through publications on digital media and social media. The researcher undertook desktop research to map the relevant legislative frameworks and media reports. This entailed conducting a detailed analysis of legal rules found in primary sources (the Constitution, statutes, or regulations) in Zimbabwe and beyond. The researcher also consulted soft laws at regional, continental, and international levels. Additionally, the researcher reviewed the day-by-day reporting of the actions and counteractions of various actors from the pre-polls, the polls, and the post-polls periods. This was particularly important since this was the very same media that disseminated information on unfolding events to the public during the election. The researcher relied extensively on media monitoring conducted by organisations such as Media Monitors. The report also benefited immensely from working closely with fact-checkers such as Zim Fact and Fact Check ZW to analyse the impact of mis/disinformation on electoral integrity.

Key informant interviews were conducted with stakeholders from ZEC, Zimbabwe Human Rights Commission (ZHRC), Election Resource Centre, European Union, SADC, Carter Centre,

100 SADC Statement on the SADC Observation Missions for the 2023 Elections' (23-24 August 2023).

101 As above.

Zimbabwe Electoral Support Network (ZESN), ZANU-PF, Citizen Coalition for Change, Movement for Democratic-Tsvangirai, and National Constitutional Assembly. Finally, the researcher benefited from informal conversations with domestic election observers (ZESN, Crisis Coalition in Zimbabwe, Forever Associates of Zimbabwe, Evangelical Fellowship of Zimbabwe), media practitioners (journalists from both private and public media), bloggers, social media influencers (on Facebook, X, TikTok and YouTube) and election agents (from ZANU-PF, CCC, MDC-T, NCA). The study was conducted between July and October 2023. This period was appropriate because it captured the before, during and after elections period. Regarding sampling techniques, purposive and snowball techniques were deployed.

This report devised qualitative indicators to assess compliance with the Guidelines. The four indicators were as follows: total compliance, substantial compliance, partial compliance, and non-compliance. Total compliance means that all the requirements as stipulated in the guidelines were followed. Substantial compliance refers to the situation where most of the requirements were adhered to. Partial compliance denotes that less than half of the requirements were taken into account. Non-compliance means that there was no effort to meet the guidelines.

Indicator(s)	Colour code
Total Compliance	
Substantial compliance	
Partial compliance	
Non-compliance	

Source: Author

1.4 Outline of the report

The study is segmented into this introductory section and 10 other sections. Section 2 discusses the legal framework for access to information in Zimbabwe. Section 3 looks at the extent to which Zimbabwe complied with guideline 12 which deals with the appointment, recruitment and deployment of members of EMBs. Section 4 examines how the Zimbabwe Electoral Commission adhered to the guideline which requires it to facilitate access to information on their operations. Section 5 deals with the extent to which Zimbabwean political parties adhered to the requirements of guideline 20. Section 6 focuses on the extent to which election

observers and monitors adhered to guideline 23, which requires them to proactively disclose certain categories of information. Section 7 explores how law enforcement agencies (such as the Zimbabwe Republic Police, Zimbabwe National Army, and Zimbabwe Prison Services) fared with regard to the requirement for proactive disclosure of certain information during the electoral cycle. Section 8 looks at how traditional and digital media platforms performed in terms of covering political parties and candidates before, during and after the elections in Zimbabwe. Section 9 investigates how traditional media and online media platform providers adhered to guideline 29, which requires these entities to proactively disclose certain information. It starts by providing insight into the media context in Zimbabwe. Section 10 assesses the levels of compliance exhibited by Zimbabwean civil society organisations with regard to the proactive disclosure of information during the August 2023 elections. Section 11 of the study is the conclusion of the study. It provides a summary of the study's findings and recommendations.



PART TWO

Legal Framework for Access to Information in Zimbabwe

Part Two: Legal Framework for Access to Information in Zimbabwe

2.1 Introduction

Section three discusses the extent to which Zimbabwe adhered to guidelines 31 to 34, which require member states to adopt legislative, administrative, judicial, and other measures to give effect to the 2017 Guidelines on Access to Information and Elections in Africa (the 2017 Guidelines).¹⁰² The right to access information is a key component of democracy and is closely related to other fundamental rights such as freedom of expression.¹⁰³ The right to access information, or freedom of information, is defined as the right of “every person ...to access information of public bodies and relevant private bodies expeditiously and inexpensively and “every person has the right to access information of private bodies that may assist in the exercise or protection of any right expeditiously and inexpensively”.¹⁰⁴ This information can be in the form of text, audio, video and so forth. Freedom of information entails two main elements: the obligation to inform, and the right to be informed.¹⁰⁵ Therefore, people have a right to request and receive information, and governments have an obligation to publish information proactively. This is particularly important in the context of elections, where citizens have the right to request and receive information about the elections from those mandated to administer and manage electoral processes.

Zimbabwe is constitutionally a republic. Although the country holds elections every five years, this is tantamount to what Levitsky and Way call “elections without democracy”.¹⁰⁶ Zimbabwe has a standalone bill of rights in the Constitution, which clearly articulates the inalienable rights enjoyed by the citizens.¹⁰⁷ Section 62(1) prescribes that every Zimbabwean citizen or permanent resident, including the Zimbabwean media, has the right of access to any information held by the State or by any institution or agency of government at every level, in so far as the information is required in the interests of public accountability.¹⁰⁸ Since the promulgation of the 2013 Constitution, Zimbabwe has repealed the controversial Access to Information and Protection of Privacy Act (AIPPA) in 2020.¹⁰⁹ Zimbabwe passed the Access to Information and Protection of Privacy Act (AIPPA) in 2002 and this included a regime for giving individuals a right to access information held by public authorities or the right to information (RTI).¹¹⁰ The Act was

102 2017 Guidelines on Access to Information and Elections in Africa.

103 WJ van Vollenhoven ‘The right to freedom of expression: The mother of our democracy’ (2015) *Potchefstroom Electronic Law Journal*.

104 Model Law on Access to Information for Africa, 2013.

105 Article 19 Freedom of information: Training Manuals for Public Officials, 2003.

106 S Levitsky and LA Way Elections ‘Without Democracy: The Rise of Competitive Authoritarianism’ (2002) 13(2) *Journal of Democracy* 51-65

107 The Constitution of Zimbabwe 2013.

108 As above.

109 Access to Information & Protection of Privacy Act [Chapter 10:27].

110 As above.

criticised for infringing on the work of journalists and media houses.¹¹¹ The Act was replaced by an equally egregious Freedom of Information Act (FIA) in July 2020.¹¹² This chapter explores the applicable policy and legislative framework for access to information which is established principally in the Constitution, regional and international human rights instruments, a host of statutes and regulations, and judicial precedents as well as institutional practice.

2.2 The African human rights normative framework

Like many other countries in Africa, Zimbabwe is bound by its undertakings under the treaties and conventions to which it is a party. Various African human rights instruments have established a veritable basis for ensuring the right to access information. Zimbabwe ratified the African Charter on Human and Peoples' Rights (the African Charter) in 1986.¹¹³ Article 9(1) of the African Charter provides the right to information.¹¹⁴ In 2019, President Emmerson Mnangagwa assured that Zimbabwe would also ratify the Protocol establishing the African Court on Human and Peoples' Rights.¹¹⁵ The country signed the Protocol in 1998 but is yet to ratify it and make the Declaration under Article 34(6) to allow its citizens and Non-governmental Organisations (NGOs) to access the Court directly. This is related to access to information because it prioritizes accessibility, accountability and transparency with regards to the dealings of the court.

A number of other continental human rights instruments to which Zimbabwe is a party establish or affirm the right to access information. One of the objectives of the African Charter on Democracy, Elections and Governance (ACDEG), to which Zimbabwe is a party, is the promotion of "... the establishment of the necessary conditions to foster citizen participation, transparency, access to information, freedom of the press and accountability in the management of public affairs."¹¹⁶ The Charter calls on member states to create a conducive electoral environment; to review outstanding electoral administration issues; to enhance the participation of women, the youth and people with disabilities in electoral processes as candidates and voters; to extend voting rights to those in the diaspora and prisons; and to set up of the Integrity and Ethics Committee to deal with the misdemeanours of traditional leaders in elections.¹¹⁷

Another regional instrument that speaks to the issue of the right to access information is the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities.¹¹⁸ The Disability Protocol is yet to enter into force.¹¹⁹ Only 13 countries have

111 Article 19 (n 109 above).

112 The Freedom of Information Act, No.1 of 2020.

113 https://au.int/sites/default/files/treaties/36390-sl-african_charter_on_human_and_peoples_rights (accessed 5 March 2025).

114 African Charter on Human and Peoples' Rights, 1981.

115 <https://www.aprm-au.org/publications/zimbabwe-president-assures-of-his-countrys-ratification-of-the-protocol-on-establishment-of-the-african-court/> (accessed 5 March 2025).

116 Article 2(10) of the African Charter on Democracy, Elections and Governance, 2007.

117 As above.

118 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa, 2018.

119 As above.

signed it. Zimbabwe has neither signed nor ratified the Protocol.¹²⁰ Article 24 of the Disability Rights Protocol affirms that every person with a disability has the right to access information. It obligates states to take measures to ensure persons with disabilities access information, including by:

- a) Providing information intended for the general public and information required for official interactions to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner, and without additional cost to persons with disabilities; and
- b) Requiring private entities that provide services to the general public, including through print and electronic media, to provide information and services in accessible and usable formats for persons with disabilities.

The 2013 Model Law on Access to Information for Africa (Model Law),¹²¹ issued by the African Commission on Human and Peoples' Rights (ACHPR), provides detailed guidance on the content that should be included in national access to information laws. Under the Model Law, the right to access information is guaranteed to every individual and not just to a citizen. The Model Law introduces the principle of proactive disclosure under which those who hold information of public interest should routinely provide such information to the public even without being requested to do so. Section 3 of the model law deals with public body, relevant private body and private body and any other entities which would otherwise be a private body, but which is owned, controlled, or financed through public funds or which is performing a public function or service.¹²²

The Model Law requires that information holders should create, organise, and keep records properly.¹²³ Requests for information can be made in writing but also orally, in which case the information officer must assist the requester in reducing the request to writing.¹²⁴ Section 23 of the Model Law stipulates that "A requester is not required to pay any fee (a) on lodging a request; (b) in relation to time spent by an information holder searching for the information requested; or (c) in relation to time spent by the information holder examining the information to determine whether it contains exempt information or deleting exempt information from a document."¹²⁵ Where the information is requested by an indigent person, even the reproduction fee is waived. Where the information requested is for the purpose of safeguarding the life or liberty of a person, it is provided within 48 hours.¹²⁶

120 As above.

121 As above.

122 As above.

123 Model Law on Access to Information for Africa, 2013.

124 As above.

125 As above.

126 As above.

The 2017 Guidelines¹²⁷ augment the framework on access to information in Africa. The instrument acknowledges the intersection of the right to receive information and the right of citizens to participate freely in the government of their countries. What is unique about the 2017 guidelines is that they provide a clear pathway on how state and state actors can ensure access to information throughout the electoral process. The guidelines explicitly outline the duties and responsibilities of various electoral stakeholders when it comes to the proactive disclosure of public interest information.¹²⁸ It discusses diverse forms of public interest information that relevant stakeholders should proactively share throughout the electoral cycle.¹²⁹ It states that every person has the right to access information of public bodies and relevant private cheaply and quickly. It goes on to say that every person has the right to access information of private bodies that may assist in the exercise or protection of any right.¹³⁰ It stipulates that these private and public bodies have the duty to disclose any policy or practice creating a right of access to information. It only withholds this right in exceptional circumstances when non-disclosure of information may be permitted.¹³¹

The guidelines also outline specific obligations¹³² that relevant electoral stakeholders should uphold throughout the electoral cycle. It calls upon electoral management bodies to proactively disclose all of public interest about their structure, functions, powers, decision-making processes, decisions, revenue and expenditure in relation to the electoral process.¹³³ It states that relevant electoral stakeholders are obliged to create, keep, organise, maintain and manage information about the electoral process in machine-readable formats and in a manner that facilitates the right of access to information.¹³⁴ These stakeholders are also obligated to simplify the process for accessing information.¹³⁵ The information must be made available quickly and in an affordable format. The electoral stakeholders are called upon not to withhold information unless the harm to the interest exempted under the Guidelines clearly outweighs the public interest in disclosure of the information.¹³⁶ The stakeholders are obligated to protect persons who, in good faith and in the public interest, disclose information about wrongdoing in the electoral process by a relevant electoral stakeholder or its employee(s), from administrative, social, legal and employment-related sanctions or other sanctions of a similar nature.¹³⁷ In this context, relevant electoral stakeholders in Zimbabwe are expected to adopt legislative, administrative, judicial, and other measures to give effect to the 2017 Guidelines.¹³⁸

127 Guidelines on Access to Information and Elections in Africa, 2017.

128 As above (Preface).

129 As above, Guideline 2.

130 As above, Guideline 2.

131 As above, Guideline 2.

132 As above, Guidelines 3-11.

133 As above.

134 As above.

135 As above.

136 As above.

137 As above.

138 As above, Guideline 31.

The African Commission on Human and Peoples' Rights,¹³⁹ (ACHPR) adopted the revised Declaration on Principles of Freedom of Expression and Access to Information in Africa.¹⁴⁰ It replaced the 2002 principles on freedom of expression. The Declaration provides context and substance to Article 9 of the African Charter.¹⁴¹ It discusses what constitutes the parameters of freedom of expression and access to information.¹⁴² It expands the guidance to States on access to information and digital rights.¹⁴³ It unpacks the need to protect whistle-blowers by obligating states to establish protected disclosure regimes to protect a person who releases information on wrongdoing or discloses a serious threat to health, safety, or the environment, or makes a disclosure in the public interest.¹⁴⁴ Consisting of 43 principles, including principles on access to the internet, internet intermediaries, privacy protections, and communication surveillance, the Declaration develops standards related to new areas of concern, such as oversight mechanisms to resolve access to information disputes and a legal framework on privacy and the protection of personal information.¹⁴⁵ It emphasises that access to universal, equitable, affordable, and unthrottled internet is necessary for the realisation of access to information and the exercise of other human rights.¹⁴⁶ It addresses the protection of personal information and communication surveillance in the context of the right to privacy.¹⁴⁷ The Declaration requires States to include information on their implementation of the Declaration in their periodic reports to the ACHPR.¹⁴⁸

2.3 Sub-Regional normative framework

2.3.1 SADC Principle and Guidelines Governing Democratic Elections

The principal objective of the Southern African Development Community (SADC) Principles and Guidelines Governing Democratic Elections¹⁴⁹ is to promote the holding and observation of democratic elections based on the shared values and principles of democracy, the rule of law and respect for human rights enshrined in the SADC Treaty signed at Windhoek, Namibia in 1992.¹⁵⁰ Article 4 of the Treaty stipulates that “human rights, democracy and the rule of law” are principles guiding the acts of its members. Article 5 commits the member states to “promote common political values, systems and other shared values which are transmitted through institutions, which are democratic, legitimate and effective”.¹⁵¹ The objectives of the SADC Principles and Guidelines Governing Democratic Elections are to:

139 <https://achpr.au.int/en> (accessed 5 March 2025).

140 Declaration on Principles of Freedom of Expression and Access to Information in Africa, 2019.

141 African Charter on Human and Peoples' Rights, 1981.

142 The Declaration (n 140 above).

143 As above.

144 As above.

145 As above.

146 As above, Principle 37.

147 As above.

148 As above.

149 SADC Principles and Guidelines Governing Democratic Elections, 2015.

150 As above.

151 As above.

- a) Enhance electoral integrity by providing a basis for comprehensive, accurate and impartial observation of national elections; and
- b) Sharing of experiences and information among Member States about democratic development.¹⁵²

Member states are expected to invite SADC Electoral Observation Missions (SEOMs) to observe their elections, based on the provisions of the SADC Treaty, the Protocol on Politics, Defence and Security Cooperation and the SADC Principles and Guidelines Governing Democratic Elections. According to the principles and guidelines, member states are expected to encourage the full participation of all citizens in democratic and development processes; to ensure that all citizens enjoy fundamental freedoms and human rights, including freedom of association, assembly, and expression; and to ensure that the date or period of elections is prescribed by law. Member states are exhorted to take all necessary measures and precautions to prevent corruption, bribery, favouritism, political violence, intolerance, and intimidation. Member states are also duty-bound to promote and respect the values of electoral justice which include integrity, impartiality, fairness; professionalism, efficiency, and regularity of elections. On particular importance to the proactive disclosure of information during the electoral cycle are provisions which call upon member states to:

Promote necessary conditions to foster transparency, freedom of the media; access to information by all citizens; and equal opportunities for all candidates and political parties to use the state media and ensure that voter education capacitates and empowers all eligible citizens; as well as fostering ownership of the electoral process and the democratic political system.

2.4 National normative framework

2.4.1 *The Constitution of the Republic of Zimbabwe*

The constitutional right to access information facilitates the exercise of sovereign power by the people. The 2013 Constitution of Zimbabwe includes a direct guarantee of the right to information in Section 62 read together with Section 61.¹⁵³ To this end, section 61 of the Constitution stipulates that:

Every person has the right to freedom of expression, which includes— (a) freedom to seek, receive and communicate ideas and other information; (b) freedom of artistic expression and scientific research and creativity; and (c) academic freedom. (2) Every person is entitled to freedom of the media, which freedom includes protection of the confidentiality of journalists' sources of information.¹⁵⁴

152 As above.

153 The Constitution of Zimbabwe 2013.

154 As above.

This is further buttressed by section 62 of the Constitution¹⁵⁵, which states that:

- (1) Every Zimbabwean citizen or permanent resident, including juristic persons and the Zimbabwean media, has the right of access to any information held by the State or by any institution or agency of government at every level, ***in so far as the information is required in the interests of public accountability (own emphasis)***.
- (2) Every person, including the Zimbabwean media, has the right of access to any information held by any person, including the State, in so far as the information is required for the exercise or protection of a right.
- (3) Every person has a right to the correction of information, or the deletion of untrue, erroneous or misleading information, which is held by the State or any institution or agency of the government at any level, and which relates to that person.
- (4) Legislation must be enacted to give effect to this right but may restrict access to information in the interests of defence, public security or professional confidentiality, to the extent that the restriction is fair, reasonable, necessary and justifiable in a democratic society based on openness, justice, human dignity, equality and freedom.”¹⁵⁶

Section 40 of the Freedom of Information Act¹⁵⁷ requires the Zimbabwe Media Commission (ZMC), after consultation with the Minister of Information, Publicity and Broadcasting Services, to make regulations to give effect to the Act.¹⁵⁸ In September 2021, the regulations were finally enacted under Statutory Instrument 229 of 2021 as Freedom of Information (General) Regulations 2021.¹⁵⁹ These Regulations obligate public and private entities to publish information on their institutions within six months from the date when the regulations were enacted.¹⁶⁰ The information includes their functions, departments and agencies, operating hours and business addresses.¹⁶¹ A description of the nature or subject of the information that the entity holds should also be included. Entities also have a duty to appoint information officers who will handle information requests, and such information officers shall have several functions which include keeping a register of and tracking all applications.¹⁶²

155 As above.

156 As above.

157 Freedom of Information Act, No.1 of 2020.

158 As above.

159 Freedom of Information (General) Regulations, SI No. 229 of 2021.

160 As above.

161 As above.

162 As above.

2.4.2 The Freedom of Information Act

The Freedom of Information Act¹⁶³ was gazetted in July 2020 to repeal the Access to Information and Protection of Privacy Act (AIPPA).¹⁶⁴ Some of the provisions of the Freedom of Information Act will go a long way in giving effect to sections 61 and 62 of the Constitution on freedom of expression, media freedom and access to information.¹⁶⁵ Section 3(b) and 5 of the Act endeavours to cultivate a culture of voluntary disclosure of information by public entities and statutory bodies. Section 5 of the Act imposes a duty on such bodies to produce a written information disclosure policy. Unlike AIPPA, the Freedom of Information Act makes provision for further appeals to the High Court if an applicant is not satisfied with the decision of the ZMC. Section 7 of the Freedom of Information Act stipulates that once an information request has been filed the procedure is as follows:

- a) The entity will pass on the regulations to its information officer.
- b) The information officer shall send an acknowledgement of receipt of the request.
- c) The information officer shall determine whether or not the information request is granted.
- d) The information officer shall provide the appropriate response to the information request within 21 days or 48 hours if the information requested relates to the right to life or liberty.

In the event that the entity does not have the information, the Freedom of Information Act requires that the transfer should be done immediately, and correspondence should also be dispatched to the applicant that the request to access information has been transferred to another entity.¹⁶⁶ The Act highlights that such a transfer should be made within seven days.¹⁶⁷ The significance of this deadline is that gives the information holders enough time to act on the request.¹⁶⁸ This is important because it forces the information holders to act timeously in processing requests from citizens. In terms of the Act, a person can receive information in different forms which can include copies, a right to access or inspect the records or a transcription.¹⁶⁹ The third schedule of the Act provides that the requester shall not pay fees to access the information, but the public entity may charge fees for reproduction, photocopying, transcription and translating of copies.¹⁷⁰ In that regard, the regulations do not specify the fee for these aspects and instead, leave it to the discretion of the entities concerned. The

163 Freedom of Information Act (n157 above).

164 As above.

165 As above.

166 As above.

167 As above.

168 As above.

169 As above.

170 As above.

Regulations also provide a fee of ZWL 5,000,00 for filing an appeal with the ZMC.¹⁷¹ This makes access to justice for the poor a pipe dream in a country currently facing multiple intersecting socio-political and economic challenges.

Pertaining to the filing of an appeal, the Regulations provide for the establishment of the Public Information Appeals Committee, which shall have at least three and not more than five members, one of whom must be a Commissioner.¹⁷² The Commissioner shall be the Chairperson of the Committee, and where there are two Commissioners, one of them shall be responsible for chairing the Appeals Committee.¹⁷³ The Regulations specify that the other members of the Committee shall be drawn from the Secretariat or from a list of adjudicators approved by the Commission for their experience and competence in adjudicating disputes.¹⁷⁴ No reference is made to the procedures and requirements regarding the nomination and appointment of the members of the Committee or their terms of office as part of the Public Information Appeals Committee.¹⁷⁵ Notably, the regulations, empower ZMC to establish or not to establish the Committee. Hence, in the absence of such a Committee, the Commission will be responsible for hearing appeals.

2.4.3 The Data Protection Act of 2021

The Data Protection Act (DPA)¹⁷⁶ of 2021 seeks to increase data protection in order to build confidence and trust in the secure use of information and communication technologies by data controllers, their representatives, and data subjects. Section 2(5) of the Act provides for data protection with due regard to the Bill of Rights under the Constitution and the public and national interest; to establish a Data Protection Authority¹⁷⁷ and to provide for their functions¹⁷⁸; to create a technology-driven business environment and encourage technological development and the lawful use of technology¹⁷⁹; to amend sections 162 to 166 of the Criminal Code (Codification and Reform) Act [Chapter 9:23]; to provide for investigation and collection of evidence of cybercrime and unauthorised data collection and breaches, and to provide for admissibility of electronic evidence for such offences¹⁸⁰; and to amend the Interception of Communications Act [Chapter 11:20] to establish a Cyber Security Centre and to provide for matters connected with or incidental to the foregoing.¹⁸¹ Section 164C criminalises the use of a computer or information system to avail, broadcast, distribute data knowing it to be false and intending to cause psychological or economic harm to someone.¹⁸² This also seems to be targeted against the spread of false information on social media.

171 As above.
172 As above.
173 As above.
174 As above.
175 As above.
176 As above.
177 As above.
178 As above.
179 As above.
180 As above.
181 As above.
182 As above.

2.4.4 The Public Health (Covid-19 Prevention, Containment and Treatment (National Lockdown) Order of 2020 Statutory Instrument 83 of 2020

This statutory instrument (Statutory Instrument 83 of 2020) is relevant for access to information because elections are generally characterised by the widespread circulation of false and misleading information.¹⁸³ In its COVID-19 lockdown regulations, Zimbabwe came up with a law that penalises the publishing of false news with up to 20 years in jail.¹⁸⁴ Section 14 of Statutory Instrument 83 of the Public Health (Covid-19 Prevention, Containment and Treatment) (National Lockdown) Order, 2020,¹⁸⁵ stipulates that publication of “false or fake news” could attract at least 20 years.¹⁸⁶ These regulations unintentionally suppress freedom of expression. Several people have already been arrested and charged under these regulations, with their cases still pending in courts.¹⁸⁷ Instead, the Zimbabwean government should come up with a rights respecting approach to find ways of dealing with false news, without necessarily resorting to regulation. This could be done by freeing the airwaves and allowing more print and online news as opposed to choking the media industry inadvertently leading to the spread of false news. Another problematic law is the Criminal Law (Codification and Reform) Act,¹⁸⁸ which was amended by the Data Protection Act, 2021, which had a clause on false news.¹⁸⁹ These laws should lean more on the side of entrenching fundamental human rights in line with the constitutional provisions and regional and international instruments that safeguard these freedoms such as the African Declaration on Internet Rights and Freedoms¹⁹⁰ and the Declaration on the Principles of Freedom of Expression and Access to Information in Africa.¹⁹¹

2.4.5 The Anti-Corruption Act (Chapter 9:22)

The Act provides for the establishment of the Zimbabwe Anti-Corruption Commission (ZACC) in order to combat corruption and related issues.¹⁹² The main functions of the Zimbabwe Anti-Corruption Commission are to investigate and expose cases of corruption in the public and private sectors; combat corruption, theft, misappropriation, abuse of power and other improper conduct in the public and private sectors, promote honesty, financial discipline and transparency in the public and private sectors; and receive and consider complaints from the public and to take appropriate action.¹⁹³ This is very important in the context of access to information and elections because the Commission often receives a lot of complaints related

183 Public Health (COVID-19 Prevention, Containment and Treatment) (National Lockdown) Order, Statutory Instrument 83 of 2020.

184 As above.

185 As above.

186 ‘Zimbabwe president threatens fake news author with 20 years’ jail’ *Al Jazeera*, 14 April 2020.

187 L Ndebele ‘Man who peddled “fake news” about Zim lockdown faces 20 years in jail’ *Times Live* 20 April 2020.

188 Criminal Law (Codification and Reform) Act, 2021.

189 Cyber and Data Protection Act, No.5 of 2021.

190 African Declaration on Internet Rights and Freedoms, 2014.

191 Declaration of Principles on Freedom of Expression and Access to Information in Africa, 2019.

192 The Anti-Corruption Commission Act, No. 3 of 2016.

193 A Chilunjika ‘Revamping the Zimbabwe Anti-Corruption Commission (ZACC)’ (2021) *African Journal of Business and Economic Research* 16.

to vote buying, bribing of election agents, and other electoral malpractices. It is the duty of the Commission to adjudicate these complaints and provide timely updates to the public on the status of their investigations.¹⁹⁴ Because the Commission has limited investigation capacity, it works closely with the Commissioner-General of Police to investigate cases of suspected corruption. The Commission also refers matters to the National Prosecuting Authority (NPA) for prosecution.¹⁹⁵ Additionally, it makes recommendations to the government and other persons on measures to enhance integrity and accountability and prevent improper conduct in the public and private sectors.¹⁹⁶

2.4.6 The Electoral Act (2004)

Over and above the Zimbabwean constitution, the legal framework guiding the conduct of fair, faire and credible election is the Electoral Act.¹⁹⁷ Initially promulgated in 2004, the law has undergone several levels of piecemeal amendments. Section 157 of the Constitution¹⁹⁸ particularly obliged law-makers to enact an Electoral Law to give effect to the letter and spirit of the Constitution. The legislature has since passed a number of amendments to the Electoral law in fulfillment of Section 157.¹⁹⁹ The Act was last amended in 2023.²⁰⁰ The Electoral Act²⁰¹ deals with issues related to the management of the voter registration process, the voters' roll, the right to vote, voter education, the electoral court, and the independence of the Zimbabwe Electoral Commission (ZEC), media access and code of conduct on elections.²⁰² Of particular importance in relation to the proactive disclosure of information relates to provisions dealing with voter education, the voters roll, registration of voters, announcement of results, electoral petitions and media coverage of the electoral process.²⁰³ Recent iterations of the Act enjoin ZEC to post election results outside of the polling station.²⁰⁴ Proof of residency requirements that have the effect of disenfranchising particularly young urban voters are still in force. Section 21 of the Electoral Act stipulates that candidates must be provided with electronic voters' roll. Recommendations by the Motlanthe Commission²⁰⁵ that the country should develop ICT facilities for the speedy transmission of election results to the command centre have not yet been implemented.²⁰⁶ The Electoral Act has not yet been amended to reduce the maximum five days currently allowed by law for the announcement of results.²⁰⁷

194 As above.

195 As above.

196 The Anti-Corruption Commission Act (n 192 above).

197 The Electoral (Consolidated) Act, 2023.

198 The Constitution of Zimbabwe, 2013.

199 As above.

200 The Electoral (Consolidated) Act (n 197 above).

201 As above.

202 As above.

203 As above.

204 As above.

205 'What's next for victims and the nation: An Analysis of the Recommendations of the Motlanthe Report Two Years Later' https://www.veritaszim.net/sites/veritas_d/files/ (accessed on 5 March 2025).

206 'Mnangagwa snubs Motlanthe, EU over key reforms to Electoral Act' *Zimbabwe News Now* 2 June 2023.

207 As above.

The Electoral Act makes it legal for the ZEC to use members of the police, the defense forces, and the prison service to perform crucial electoral tasks.²⁰⁸ For instance, the ZEC may use these uniformed services as constituency elections officers and polling officers.²⁰⁹ CSOs and international observers have noted that the country urgently needs to embark on a comprehensive and meaningful electoral legal reform.²¹⁰ This relates to amending provisions dealing with the electoral system, electoral administration, voter and candidate registration, election observation, campaign finance, and complaints and appeals.²¹¹ This will ensure that the country's legal framework is compliant with international standards.

2.5 Other Statutes

Besides the 2013 Constitution, the Electoral Act [Chapter 2:13] and other statutes discussed above, it is noteworthy to highlight that there are several legal frameworks which indirectly influences the conduct of electoral processes in Zimbabwe. These include the Maintenance of Peace and Order Act²¹² (MOPA), Criminal Law (Codification and Reform) Amendment Act of 2022²¹³ and Private Voluntary Organisations (PVO) Amendment Bill.²¹⁴

MOPA replaced the Public Order and Safety Act (POSA) in 2019.²¹⁵ The Act makes provision for the maintenance of peace, order, and security in Zimbabwe.²¹⁶ It regulates the enjoyment of the right to peaceful assembly. It acknowledges section 86 of the Constitution which stipulates that the fundamental rights and freedoms must be exercised reasonably and with due regard for the rights and freedoms of other persons. It sets out parameters for the limitation of these rights and freedoms. The Act requires seven days' notice for a demonstration and five days' notice for a public assembly.²¹⁷ Under Clause 13 of the 2019 Maintenance of Peace and Order Act, the police may ensure the dispersal of a gathering "and may for that purpose order the use of force, excluding the use of weapons likely to cause serious bodily injury or death".²¹⁸

According to clauses 6 and 7 of the Act, 'an organisation planning a demonstration, or a march must appoint an official convenor and notify the police seven days before the event. A notice of five days is required before a public meeting.'²¹⁹ The convenor of the protest is expected to give police details of the event including the contact number of the designated convenor, the venue, times, purpose of the event, the number of marshals, and the anticipated number

208 The Electoral (Consolidated) Act (n 197 above).

209 As above.

210 As above.

211 As above.

212 The Maintenance of Peace and Order Act, No.9 of 2019.

213 Criminal Law (Codification and Reform) Act.

214 The Private Voluntary Organisations (Amendment) Bill, 2021.

215 'Public Order Safety Act now History' *Sunday Mail* 17 November 2019.

216 <https://natlex.ilo.org/dyn/natlex2/r/natlex/fe/home> (accessed 5 March 2025).

217 The Maintenance of Peace and Order Act (n 212 above).

218 As above.

219 As above.

of participants.²²⁰ This means that it is the responsibility of the convener to notify the Officer Commanding a police district of the intention to hold a rally. Furthermore, the convener has a responsibility to discuss and agree on the security and safety measures to be availed at the rally for the benefit of the public and the community in general. However, if the police ‘receives credible information on oath that there is a threat’ that the gathering may result in violence, traffic disruptions or damage to property, they are duty-bound ‘to explore options to prevent the threat’²²¹ in consultation with the convenors of the rally. During the 2023 electoral cycle, this Act was abused by the Zimbabwe Republic Police (ZRP) to ban close to 100 rallies, meetings and gatherings organised by the Citizen Coalition for Change (CCC).²²² Legal experts²²³ who spoke on condition of anonymity indicated that the ZRP’s reasons for banning opposition rallies and protests did not meet the thresholds demanded by the Constitution.

The Criminal Law (Codification and Reform) Amendment Act of 2022 (or the ‘Patriotic Act’) signed by the President into law in July 2023. The Act creates a new crime, ‘wilfully injuring the sovereignty and national interest of Zimbabwe’.²²⁴ The crime is expressed in convoluted language, which is difficult to understand, and there is a real danger that law enforcement authorities will interpret it too broadly.²²⁵ The crime risks stifling political debate and may have a chilling effect on the activities of civil society organisations. The Criminal Law Codification and Reform Amendment Act, 2022, contains overly broad provisions as it criminalises participating in meetings where sanctions and military interventions are considered or planning to subvert, upset, overthrow and overtake a constitutionally elected government.²²⁶

Another controversial legislation is the Private Voluntary Organisations (PVO) Bill, which, has been passed by the upper and lower houses.²²⁷ The Senate passed the bill on 1 February 2023. The Bill is still waiting for Presidential assent. Once passed into law, it has the potential to criminalise the work of civil society organisations. The Registrar’s Office powers will include the ability to consider, grant or reject the registration of PVOs, with little to no judicial recourse against such decisions.²²⁸ In its current state, the bill’s requirements would also immediately render existing organisations, operating lawfully as trusts and associations, illegal.²²⁹ The Office of the Registrar will also have extensive powers to intervene in and monitor the activities of

220 As above.

221 As above.

222 <https://zimfact.org/fact-sheet-zrp-the-law-and-your-right-to-gather-what-the-law-says/> (accessed 5 March 2025).

223 Interviews with legal experts in Harare, 17 January 2025.

224 ‘Zimbabwe: President’s signing of “Patriotic Bill” a brutal assault on civic space’ *Amnesty International* 15 July 2023.

225 The Criminal Law (Codification and Reform) Bill, 2022.

226 As above.

227 ‘UN experts urge President of Zimbabwe to reject bill restricting civic space’ <https://www.ohchr.org/en/press-releases/2023/02/un-experts-urge-president-zimbabwe-reject-bill-restricting-civic-space> (accessed 5 March 2025).

228 T Moyo ‘Zimbabwe passes law designed to throttle independent civil society’ *Daily Maverick*, 23 January 2023.

229 As above.

PVOs.²³⁰ The Bill prohibits any ‘political affiliation’ and puts unjustified restrictions on PVOs’ ability to obtain funding, including foreign funds.²³¹

The vagueness or non-definition of many provisions in the bill also raises concerns that the proposed law will be misapplied. Any actions considered to be in breach of certain provisions in the Bill could lead to criminal prosecution, with penalties ranging from heavy fines to imprisonment. This law is likely to affect civil society organisations²³² (CSOs), faith-based organisations (FBOs) and private voluntary organisations (PVOs) working in the areas of democracy, good governance, freedom of expression and voter education.²³³

2.6 Conclusion

Compared to the President Robert Mugabe days, Zimbabwe has introduced, repealed, and amended its domestic legal and regulatory frameworks governing access to information. Instead of the draconian AIPPA, which constrained the operations of the media and journalists, the ‘Second Republic’ has brought in the Freedom of Information Act. Although some provisions from AIPPA are still lingering in the new law, there are some progressive clauses which create a conducive environment to seek and impart information. Another law, which has been introduced in the post-Mugabe environment is the Data Protection Act. This omnibus law provides for the regulation of the processing, management, and analysis of personal information. It also deals with privacy related issues and cybersecurity matters. Whilst some strides have been made in modernising the country’s legal frameworks, President Mnangagwa’s regime has also used this route to criminalise the right to peaceful assembly. The renaming of the egregious ‘POSA’ as ‘MOPA’ has further entrenched authoritarian tendencies. Lawfare has also become the norm. The presence of legal frameworks has not been accompanied by the political will to implement them for the benefit of society. Furthermore, common barriers to effective implementation of access to information legislation may be antiquated and inefficient information systems and archival practices and the opaque bureaucratic culture pervasive in many public sectors.²³⁴ Despite this, access to information laws and regulations form a veritable basis to enable Zimbabwe’s electoral stakeholders to provide the public with the information they require to make electoral choices from positions of knowledge.

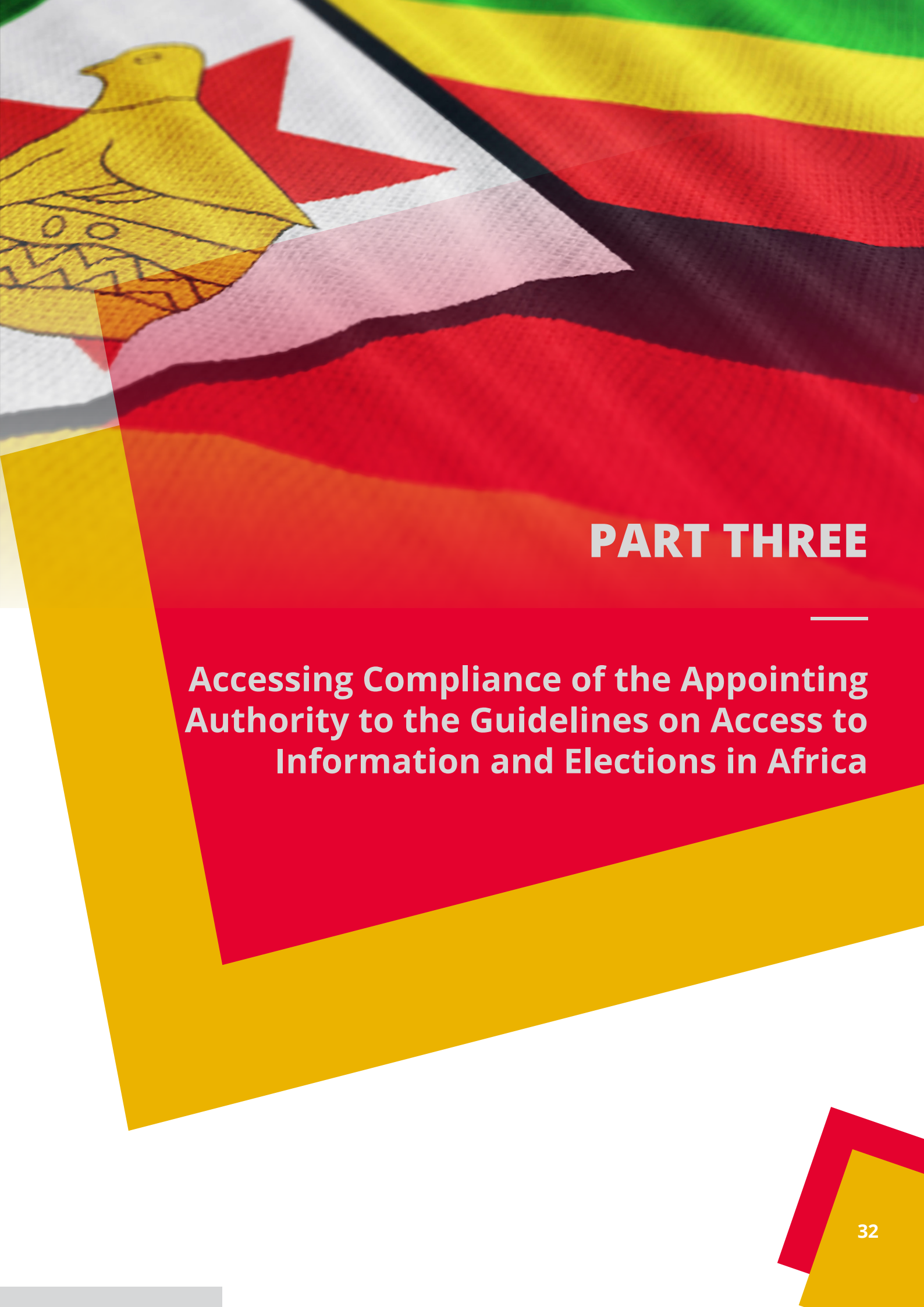
230 As above.

231 As above.

232 As above.

233 D Jeremani ‘Zimbabwe set to pass law that will “muzzle civil society,” experts warn’ *Devex* 10 May 2023.

234 T Mendel ‘Publication: Right to Information: Recent Spread of RTI Legislation’ (2014) *Open Knowledge Repository* 6.



PART THREE

Accessing Compliance of the Appointing Authority to the Guidelines on Access to Information and Elections in Africa

Part Three: Accessing Compliance of the Appointing Authority to the Guidelines on Access to Information and Elections in Africa

3.1 Compliance with Guideline 12 (Appointment)

This section focuses on evaluating the extent to which Zimbabwe complied with guideline 12 which deals with the appointment, recruitment and deployment of members of EMBs. In order to do so, this section analyses existing policies, regulations and legislation governing the appointment of Zimbabwe Electoral Commission (ZEC) commissioners. This is pertinent because EMBs like the ZEC are responsible for safeguarding the legitimacy of democratic institutions and the peaceful transitions of power.²³⁵ They are also responsible for the polling, conducting and tabulating of votes, registration of political parties, oversight of campaign finance, design of the ballot papers, drawing of electoral boundaries, resolution of electoral disputes, civic and voter education and media monitoring.²³⁶

Compliance with Guideline 12 (appointment)		
	Indicator	Level of compliance
A	That the process for the selection and appointment of members of EMBs is clearly stipulated in law, and that it is transparent, widely publicised and allows for public participation.	Significant Compliance
B	It proactively discloses the following categories of information in relation to the EMBs:	
	• Mode, criteria and process of appointment of members, including any requisite considerations such as gender balance, qualifications and experience	Total Compliance
	• Appointment process of members	Total Compliance
	• Remuneration and conditions of service of members	Partial compliance
	• Procedure for the termination of appointed members of the ZEC	Total Compliance

Source: Author

²³⁵ ACE Project 'Electoral Management' https://aceproject.org/ace-en/topics/em/explore_topic_new (accessed 5 March 2025).

²³⁶ As above.

Zimbabwe's EMB is the Zimbabwe Electoral Commission. In the past, the Office of the Registrar General played an important in the electoral processes.

3.2 The Zimbabwe Electoral Commission

The Zimbabwe Electoral Commission is an independent Chapter 12 institution established in terms of section 238 of the Constitution of Zimbabwe.²³⁷ It is responsible for the management and administration of Zimbabwe's electoral processes. ZEC is composed of a chairperson who must be a judge of the high court and eight other members who are appointed by the president from a list of twelve nominations.²³⁸ The establishment of the Commission is articulated in the Zimbabwe Electoral Commission Act.²³⁹ Section 2 of the Zimbabwe Electoral Commission Act stipulates that the EMB is mandated to prepare for, conduct and supervise presidential and parliamentary elections, elections to provincial and metropolitan councils and the governing bodies of local authorities, and elections of members of the National Council of Chiefs.²⁴⁰ ZEC also supervises elections of the President of the Senate and the Speaker and ensures that those elections are conducted efficiently and in accordance with the²⁴¹ law. The same section notes that Commission is also responsible for the registration of voters, compilation of voters' rolls and registers, ensuring the proper custody and maintenance of voters' rolls and registers and delimitation of constituencies, wards and other electoral boundaries. It also supervises referenda.

Other functions of the Commission include designing, printing and distributing ballot papers, approving the form of and procuring ballot boxes, and establishing and operating polling centres; conducting and supervising voter education; accrediting observers of elections and referendums; instructing persons in the employment of the State or of a local authority to ensure the efficient, free, fair, proper and transparent conduct of any election or referendum; and receiving and considering complaints from the public and to take such action in regard to the complaints as it considers appropriate.²⁴²

In addition to the functions set out in section 239 of the Constitution²⁴³, the Commission shall be responsible for:

- (a) undertaking and promoting research into electoral matters;
- (b) developing expertise and the use of technology in regard to electoral processes;
- (c) promoting cooperation between the Government, political parties and civil society in regard to elections; and

237 The Constitution of Zimbabwe, 2013.

238 NATLEX (n 216 above).

239 Zimbabwe Electoral Commission Act, Act No.17 of 2007.

240 As above.

241 As above.

242 As above.

243 The Constitution of Zimbabwe (n 237 above).

- (d) keeping the public informed about—
 - (i) the times and places where persons can register as voters and the progress of the voter registration exercise; and
 - (ii) the delimitation of wards, constituencies and other electoral boundaries; and
 - (iii) the location and boundaries of polling stations and when they are open; and
 - (iv) voters' rolls and the times and places at which they are open for inspection; and
 - (v) making recommendations to Parliament on appropriate ways to provide public financing for political parties.

Since replacing the Electoral Supervisory Commission (ESC),²⁴⁴ ZEC has been dogged with concerns about its independence and impartiality. In September 2007, the Constitutional Amendment Act No. 18²⁴⁵ changed the composition of the Commission, which was implemented before the 2008 elections. However, despite those amendments, the impartiality and independence of the electoral commission are undermined by some of the provisions of the electoral laws that do not meet Southern African Development Community (SADC) standards of impartiality.²⁴⁶ For example, the president continues to exercise too much control over the composition of the Commission, there is excessive ministerial intervention, and there are inadequate safeguards to prevent partisanship on the part of commissioners. Despite the Electoral Laws Amendment Act²⁴⁷ prohibiting the secondment of military and civil servants and all other uniformed forces to ZEC, evidence suggests that the Commission is staffed with people who have served in various security apparatuses of the government.²⁴⁸ In 2018, ZEC's chairperson Justice Priscilla Chigumba disclosed that at least 15% of the Commission's staff, then over 380, were ex-service personnel.²⁴⁹ In 2022, Justice Chigumba also said the electoral body would not stop hiring members of the security services.²⁵⁰ The Chief Elections Officer, Mr Utloile Silaigwana, has consistently denied allegations that the Commission is militarised and captured by the ruling party.²⁵¹

The chairperson of ZEC is appointed by the president after consultation with the Judicial Service Commission and the Committee on Standing Rules and Orders.²⁵² Section 6 of the Act which deals with the removal of office bearers, states that in such a case where the appointment of

244 In late 2004, bowing to internal and external pressure, new legislation was adopted that introduced the Zimbabwe Electoral Commission, the Registrar-General of Voters and the Electoral Court. Constitutional Amendment No 17 finally abolished the ESC in 2005.

245 Constitution of Zimbabwe (n 237 above).

246 SADC Principles and Guidelines Governing Democratic Elections, 2015.

247 The Draft Electoral (Amendment) Bill, 2018.

248 FS Matiashe 'Zimbabwe: How intelligence and military are running the upcoming general polls' *The Africa Report.com* 29 May 2023.

249 L Muromo & P Gumbodete (n 66 above).

250 'We won't stop hiring soldiers- ZEC says amid militarization concerns' *Nehanda Radio* 25 January 2022.

251 As above.

252 As above.

a chairperson to the Commission is not consistent with the recommendation of the Judicial Service Commission²⁵³, the President must inform the Committee on Standing Rules and Orders as soon as practicable, as stipulated by section 238 of the Constitution.²⁵⁴ Eight members of the Commission are appointed by the president from a list of not fewer than twelve nominees submitted by the Committee on Standing Rules and Orders, according to section 238 of the Zimbabwean Constitution.²⁵⁵ The ninth member of the Commission is the chairperson. Section 2(5) of the Act states that commissioners must be Zimbabwean citizens. These individuals should be chosen for their integrity and experience and for their competence in the conduct of affairs in the public or private sector.²⁵⁶ Members of the Commission are appointed for a six-year term and may be re-appointed for another term. No person may be appointed to or serve on the Commission after being a member for one or more periods, whether continuous or not, that amount to twelve years. The legislation is not explicit on the need to ensure gender balance in line with the African Union's 50 per cent quota for women's representation.²⁵⁷ However, appointments made in the last few years have shown that appointing authorities have sought to ensure regional, ethnic and gender balance. For instance, out of the current nine commissioners, five are women.²⁵⁸ These are Justice Priscilla Chigumba, Mrs Abigail Millicent Mohadi Ambrose, Ms Catherine Mpofu, Mrs Rosewita Murutare and Dr Janet Mbetu Nzvenga.²⁵⁹ They also represent diverse geographical locations and ethnic groups.

Section 2(6) of the Act notes that if a tribunal established in terms of section 187 of the Constitution to inquire into the removal of a Commissioner from office recommends that the Commissioner should be removed²⁶⁰, the Minister shall present a copy of the tribunal's report and advice before the Senate and the National Assembly as soon as practicable after the report and advice were delivered to the President, and in any event no later than seven sitting days of whichever House meets first after the date on which the report and advice were delivered to the president.²⁶¹

The secretariat of ZEC is led by a Chief Elections Officer who is responsible for the day-to-day running of the electoral management body. The Chief Elections Officer manages the affairs and property of the Commission; supervises and controls the activities of the other employees of the Commission; is the accounting officer of the Commission in terms of the Public Finance Management Act;²⁶² performs any other assigned functions of the Commission. In 2021, Mr Utloile Silaigwana, a former soldier, was appointed as the substantive Chief Electoral Officer. He holds a master's degree in Elections Planning and Administration (MEPA).²⁶³ He is an

253 <https://www.veritaszim.net/sites> (accessed 5 March 2025).

254 The Constitution of Zimbabwe, 2013.

255 As above.

256 As above.

257 LM Wanyeki 'African women's long walk to equality' *Africa Renewal* 15 August 2010.

258 <https://www.veritaszim.net/node/5790> (accessed 6 March 2025).

259 As above.

260 As above.

261 As above.

262 Public Finance Management Act, No. 11 of 2009.

263 'Utloile Silaigwa <<https://www.linkedin.com/in/utloile-silaigwana-b7241a71/?originalSubdomain=zw>>

internationally certified Accrediting BRIDGE (Building Resources in Democracy, Governance and Elections) facilitator. The Electoral Act stipulates that the Commission has the responsibility of terminating the appointment of the Chief Elections Officer if they breach any condition of service prescribed in terms of section 191(2).²⁶⁴ The Electoral Act empowers the Commission to employ such persons it considers expedient for the better exercise of its functions. Section 2(6) states that with the approval of the Minister responsible for finance, the Commission has the authority to fix the terms and conditions of service of the employees. The remuneration and other benefits payable to all the staff of the Commission are paid from the funds of the EMB.

Sections 237 and 238 are very clear in terms of what needs to be done when recruiting commissioners for the Zimbabwe Electoral Commission.²⁶⁵ It articulates that public interviews should be conducted by Parliament's Committee on Standing Rules and Orders (CSRO), as required by sections 237 and 238 of the Constitution.²⁶⁶ The members of the CSRO, which is chaired by the Speaker of the National Assembly, are then obliged to decide on, and submit to the President a list of at least nine qualified candidates.²⁶⁷ In terms of wide publicity, the Parliament is supposed to advertise the vacancies in the mainstream media.²⁶⁸ The interviews are also flighted live on national television as part of ensuring wide participation by the public. The public is also free to attend the interviews in the parliament gallery as observers.

3.3 Recommendations

- a) To meet the provisions of guideline 12, it is imperative for the Parliament of Zimbabwe, Public Service Commission and ZEC to publish the salaries and conditions of service for all the commissioners and staff members.
- b) The Parliament of Zimbabwe is urged to broadcast public interviews of commissioners on its social media platforms including X (formerly Twitter), YouTube, Facebook and Instagram for greater publicity and public participation.
- c) The Constitution, Electoral Act and Zimbabwe Electoral Commission Act should explicitly underscore the need to ensure, uphold and promote gender balance in the appointment of commissioners for the EMB.

(accessed 6 March 2025).

264 Electoral Act [Chapter 2:13] No. 25 of 2004.

265 As above.

266 As above.

267 As above.

268 As above.

The background of the page features a stylized, layered representation of the Zimbabwean flag. The flag's colors—green, yellow, red, black, and white—are arranged in horizontal stripes. A white triangle in the upper left corner contains a yellow bird (dove) and a red star. A yellow map of Zimbabwe is overlaid on the left side of the page, partially covering the flag's colors. The text is positioned on a red rectangular area that is part of the layered design.

PART FOUR

Accessing Compliance of the Zimbabwe Electoral Commission to the Guidelines on Access to Information and Elections in Africa

Part Four: Accessing Compliance of the Zimbabwe Electoral Commission to the Guidelines on Access to Information and Elections in Africa

4.1 Compliance with Guideline 13 (Operations)

Section five deals with compliance issues relating to guideline 13. The main focus of this section is to assess the extent to which the Zimbabwe Electoral Commission (ZEC) adhered to the guideline which requires it to facilitate access to information on their operations. It examines how ZEC maintained records in a manner that facilitates access to information, including for vulnerable and marginalised groups, established clear and effective processes and procedures to deal with requests for information, and formulated clear procedures for making requests for information.

Compliance with Guideline 13 (operations)		
	Indicator	Level of Compliance
A	Creating, keeping, organising and maintaining records in a manner that facilitates access to information, including for vulnerable and marginalised groups	Partial Compliance
B	Adopting and implementing flexible proactive disclosure arrangements that enable access to information without the need for individual applications	Significant compliance
C	Establishing clear and effective processes and procedures to deal with requests for information	Partial compliance
D	Formulating clear procedures for making requests for information (including the required format of requests, costs for reproduction, timeframes and formats for providing requested information)	Partial compliance

Source: Model Law

The Electoral Act establishes the Zimbabwe Electoral Commission's basis for proactive as well as reactive disclosure of information. Section 160 of the Act explicitly states that:

If required to do so by the Commission, broadcasters and print publishers shall publish statements issued by the Commission for the purpose of informing voters about aspects of the electoral process. (2) The Commission shall pay for the publication of any statement referred to in subsection (1) such reasonable amount as may be agreed

between it and the broadcaster or print publisher concerned.²⁶⁹

This is important because it encourages broadcasters and publishers to work closely with ZEC in the timely dissemination of information related to electoral processes. It also provides for clear and effective processes and procedures to deal with requests for information. It guides ZEC in terms of formats for providing requested information.²⁷⁰

The importance of access to information is also underscored in section 62 of the Constitution.²⁷¹ The clause is very pertinent because it empowers citizens to receive and request information held by state agencies like ZEC. This information includes the voter's roll, the nomination process, the demarcation of electoral boundaries, the registration of political parties, and election results.

At the time of writing this report, there was limited information on how ZEC proactively disclosed how it formulated clear procedures for making requests for information (including the required format of requests, costs for reproduction, timeframes and formats for providing requested information). The only information available was the government gazette which set the cost for accessing and reproducing the voter's roll. According to the Government Gazette of Statutory 145 of 2022, titled Electoral (Voter Registration) (Amendment), Regulations²⁷², released in November 2022, ZEC announced new fees for accessing the electronic voter's roll and other versions of the register.²⁷³²⁷⁴ The gazette stated that the cost of an electronic copy of the voters' roll shall be US\$200 for the national register. The cost for the physical copy of the national voter's roll was pegged at US\$187 000. Other fees for the electronic copy of the voters' roll are as follows: polling station increased from US\$10 to US\$20, ward US\$15 – US\$25, constituency US\$50 – US\$30, and provincial US\$150 – US\$60.²⁷⁵ The gazette also indicated that 'A hard copy of a monochrome copy of the voters' roll shall be (1) United States dollars per page of the national voters roll, a polling station voters' roll, a ward voters' roll or a constituency voters' roll, whichever one is sought.'²⁷⁶ ZEC also indicated that any individual could visit their offices and be given the voters' roll for inspection free of charge, taking notes with his or her pen.

4.1.1 Recommendations

- a) The Zimbabwe Electoral Commission is strongly urged to create an online database where citizens can track how they keep, organise and maintain records related to the proactive disclosure of information. The database should have the names of the people or organisations which requested the information, the

269 <https://www.veritaszim.net/sites/veritas> (accessed 6 March 2025).

270 As above.

271 As above.

272 As above.

273 'Voters roll accessible, affordable to all: ZEC' *The Herald* 08 November 2022.

274 As above.

275 As above.

276 As above.

kind of request, the response to the request and the timeframe within which the request was processed.

- b) ZEC should ensure that the platforms on which they disseminate information, including their websites and social media platforms, are accessible to vulnerable and marginalised groups including persons with disabilities, in line with Principles and Guidelines for the use of the Digital and Social Media in Elections in Africa.²⁷⁷ Brail should be used for the visually impaired persons.
- c) In line with the provisions of the Freedom of Information Act²⁷⁸, ZEC should ensure that Zimbabweans have access to the physical copy of the national voter's roll at a relatively cheaper price. The use of mobile and social media platforms to access the voter's roll should be encouraged in future elections.
- d) ZEC should formulate clear procedures for making requests for information (including the required format of requests, costs for reproduction, timeframes and formats for providing requested information). These procedures should be publicised in the mainstream and social media platforms.

4.2 Compliance with Guideline 14 (Annual Publications)

This sub-section addresses the extent to which ZEC adhered to guideline 14. This guideline requires ZEC to publish every year accurate and updated information.

Compliance with Guideline 14 (Annual Publication)		
	Indicator	Level of compliance
A	Organisational structure	Total Compliance
B	Strategic plan	Total Compliance
C	Decision-making process	Non-Compliance
D	Procedure for the recruitment of both permanent and temporary staff and their conditions of service	Partial Compliance
E	Training policies	Partial Compliance
F	Code of conduct for employees, including declaration of assets	Non-compliance
G	Budget and sources of funding, including donor funding, which shall be disaggregated accordingly	Partial compliance
H	Mechanisms for voter identification	Total Compliance

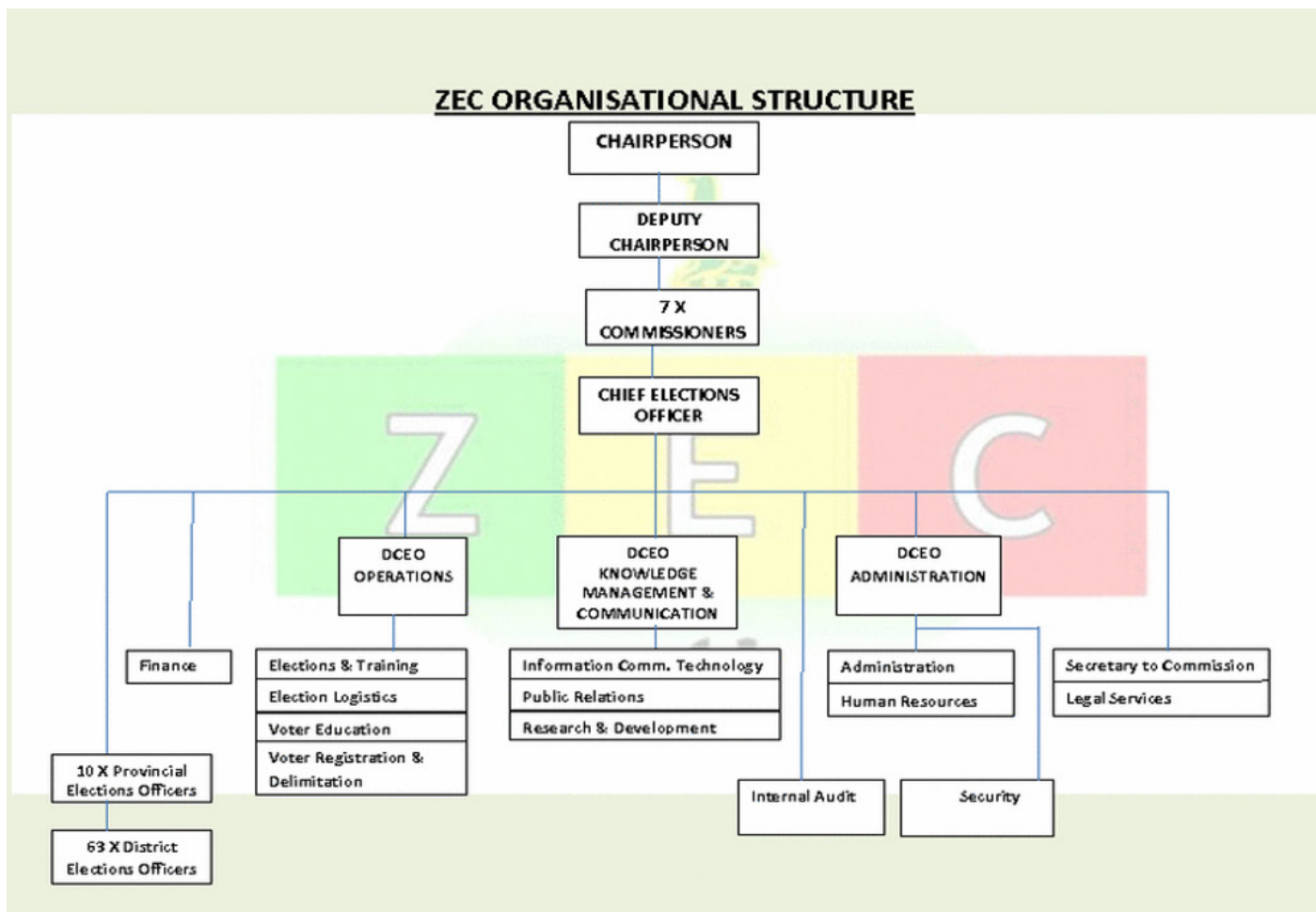
Source: Model Law

²⁷⁷ Principles and Guidelines for the Use of Digital and Social Media in Elections in Africa, 2022.

²⁷⁸ Veritas Zimbabwe (n 269 above).

I	Procurement policy, processes and award of contracts	Partial compliance
J	Annual report, including audited accounts	Total Compliance

The website of ZEC has the organisational structure of the Commission as below.²⁷⁹



Source: ZEC Annual Report

The Commission is serviced by a full-time Secretariat headed by the Chief Elections Officer. It is empowered by the Electoral Act to employ other staff in addition to the Chief Elections Officer.²⁸⁰ The Secretariat comprises full-time employees in the operations, administration, knowledge management and communication divisions.²⁸¹ These divisions are replicated, albeit at a smaller scale, at the provincial and district levels. Under these divisions are various departments, each dealing with specific issues such as elections and training, voter education, voter registration and delimitation, election logistics, administration, human resources, information services,

²⁷⁹ <https://www.zec.org.zw/zec-structure-and-organogram/> (accessed 6 March 2025).

²⁸⁰ <https://openparly.com/wp-content/uploads/2024/05/ZEC-Annual-Report-2023-Final-4.pdf> (accessed 3 March 2025).

²⁸¹ As above.

finance, and research and development.²⁸² The Commission also has legal, procurement, internal audit, and security units which offer support to the institution.²⁸³ The Commission is decentralised into 10 provinces and 68 districts.²⁸⁴ Like all public bodies, ZEC follows stipulated procedures for the recruitment of both permanent and temporary staff. The Commission advertises all the vacancies in the public and private media. It also advertises the vacancies on its website,²⁸⁵ and social media handles. Unlike commissioners who attend public interviews convened by Parliament, members of the secretariat attend private interviews.²⁸⁶ Interviews with members of the civil society organisations revealed that this lack of transparency in the recruitment of members of the secretariat has created conspiracy theories that ZEC is staffed with people from the ruling party and the security forces.²⁸⁷

The website was accessible before, during and after the elections. It has various sections including current (latest news), election notices, voter education, results, about, legal and delimitation. These sections are easily navigable. They host a range of information and news about elections in Zimbabwe. The website also has downloadable press statements issued by the Commission.²⁸⁸

The Zimbabwe Electoral Commission uploaded on its website the strategic plan for the period 2020-2024.²⁸⁹ The strategic plan seeks to align the operations of ZEC with the electoral cycle with emphasis on rebranding, alignment of electoral laws and regulations to the Constitution, institutional capacity development, delimitation of electoral boundaries and enhancement of electoral processes and procedures.²⁹⁰ The Strategic Plan 2020-2024 was developed based on extensive internal and external feedback, consultations, discussions and reflections from domestic and international observer reports.²⁹¹ It discusses the priority areas that the Commission plans to implement during the next election cycle, followed by the strategic outcomes, the strategic initiatives and finally the performance indicators.²⁹² It outlines some of its strategic priority areas as follows: legal framework, institutional capacity, voter registration and delimitation, conduct of elections, gender and inclusivity, stakeholder engagement, and voter education and public outreach.²⁹³

International and domestic observers interviewed also highlighted that the decision-making processes of ZEC remain opaque despite the various laws requiring the public body to be

282 As above.

283 As above.

284 As above.

285 <https://www.zec.org.zw/download/strategic-plan-2020-to-2024/> (accessed 6 March 2025).

286 <https://openparly.com/wp-content/uploads/2024/05/ZEC-Annual-Report-2023-Final-4.pdf> (accessed 6 March 2025).

287 As above.

288 <https://41.221.144.94/pages/news> (accessed 6 March 2025).

289 ZEC Strategic Plan 2020 to 2024 (n 285 above).

290 As above.

291 As above.

292 As above.

293 https://www.zec.org.zw/wp-content/uploads/2022/02/Strategic-Plan-2019-2024_compressed.pdf (accessed 6 March 2025).

transparent in its operations. Although commissioners are expected to meet six times per year, there are no press statements or conferences after such meetings to brief the stakeholders on their decisions. With regards to the proactive disclosure of information, ZEC only relies on annual reports²⁹⁴ and press conferences,²⁹⁵ just before elections to inform its stakeholders. The annual report is often filled with images taken during events such as conferences, workshops, seminars, and press conferences.²⁹⁶

Except for the electoral officer's manual,²⁹⁷ and voter education handbook²⁹⁸, most of the training manuals and policies of ZEC are not publicly accessible. The Commission periodically engages in training programmes aimed at capacitating its national, provincial and district staff. For instance, the Commission trained electoral officials in preparation for the 23 August 2023 elections. The Commission has the ZEC Gender and Inclusion Policy (ZGIP) which seeks to ensure that the needs of women, men, youth, the elderly, persons with disabilities (PWDs) and other groups are fully taken into consideration during the conduct of the Commission's duties.²⁹⁹ The policy emphasises the multiple and broader roles these actors play, including their roles as electoral stakeholders, citizens, voters, candidates, observers, electoral management body (EMB) personnel and seconded staff.³⁰⁰ The policy is expected to enhance the representation and participation of women, youth and PWDs in electoral processes, Parliament, local authorities and all electoral activities.³⁰¹ In the wake of the COVID-19 global pandemic, the Commission drafted the ZEC COVID-19 Policy on Electoral Activities.³⁰²

As a public body, ZEC's procurement policies, processes, and award of contracts are regulated by statutes. The Public Procurement and Disposal of Public Assets Act³⁰³ requires that procurement is undertaken in a manner that is transparent, fair, honest, cost-effective and competitive, with fair and equitable treatment of all bidders. A forensic audit has exposed rampant fraud, corruption and flouting of tender processes in the procurement of material for the 2018 harmonised elections.³⁰⁴ The audit noted gross financial abuse in the procurement of election material implicating top officials led by the deputy chief executive officer for administration and finance, Notayo Mutemasango.³⁰⁵ This was not the first time that ZEC was implicated in a

294 https://www.veritaszim.net/sites/veritas_d/files/ZEC%202022%20Annual%20Report.pdf (accessed 6 March 2025).

295 'Zimbabwe Electoral Commission' <https://41.221.144.94/pages/news> (accessed 6 March 2025).

296 Zimbabwe Electoral Commission 'Annual Report' (2022) (n 224 above).

297 Zimbabwe Electoral Commission 'Electoral Officers Manual for 2018 Harmonised Elections - Quick Reference Guide' (2018) https://old.zec.org.zw/pages/electoral_officers (accessed 6 March 2025).

298 Zimbabwe Electoral Commission 'Voters Education Handbook' (2018) <https://zimbabwe.ec-undp-electoralassistance.org/wp-content/uploads/sites/2/2018/08/ec-unpd-jtf-zimbabwe-zec-voter-education-handbook.pdf> (accessed 6 March 2025).

299 Zimbabwe Electoral Commission 'Gender and Inclusion Policy 2020-2024' (2020) <https://zimbabwe.ec-undp-electoralassistance.org/wp-content/uploads/sites/33/2020/12/ZEC-Gender-and-Inclusion-Policy.pdf> (accessed 6 March 2025).

300 Zimbabwe Electoral Commission 'Gender and Inclusion Policy 2020-2024' (2020) (n 299 above).

301 As above.

302 <https://www.veritaszim.net/node/4415> (accessed 6 March 2025).

303 Public Procurement and Disposal of Public Assets Act, 2018.

304 'ZEC Scandal audit exposes rot in election material procurement' *Zim Morning Post* 09 March 2019.

305 As above.

procurement scandal. Interviewees for this report also emphasised that the commission has been riddled with scandals since its formation. In 2013, two internal audit reports, one carried out soon after the 2013 referendum and another after the July 31 elections, revealed serious abuse of funds by senior officials in the EMB.³⁰⁶ ZEC uploads tenders for works and services on its website.³⁰⁷

ZEC regularly publishes its annual reports³⁰⁸ and audited financial statements. For instance, in the 2022 national budget, the Commission was allocated ZW\$11.6 billion for the year's programmes. However, given the hyperinflation in the country, the budget was later revised upwards to ZW\$44.3 billion to support two mobile voter registration exercises, the 26 March by-elections, voter inspection, and delimitation activities.³⁰⁹ In 2021, the Commission was embroiled in a scandal after it failed to submit its 2018 and 2019 financial reports to the Auditor General for auditing.³¹⁰ The Commission was forced to issue a press statement correcting the factual inaccuracies in the story. In cases where a statutory body fails to submit its financial reports, the Parliament of Zimbabwe has the responsibility, on behalf of citizens, to hold ZEC to account periodically to foster a culture of transparency that should transcend all other functions of the public body.

The issue of financial reporting and auditing with regards to the Zimbabwe Electoral Commission are dealt with in section 195 of the Constitution and Part 1V of the Electoral Act (Chapter 2:13). In this regard, section 195 of the Constitution requires all institutions and agencies of government at all tiers to be accountable to parliament and the public and cooperate.³¹¹ This is complemented by section 2 (12) of the Electoral Act which clearly stipulates that:

The financial year of the Commission shall be the period of twelve months ending on the 31st of December in each year. (1) The Commission shall ensure that proper accounts and other records relating to such accounts are kept in respect of all the Commission's activities, funds and property, including such particular accounts and records as the Minister may direct. (2) Not later than three months after the end of each financial year, the Commission shall prepare and submit to the Minister a statement of accounts in respect of that financial year or such other period as the Minister may direct.³¹²

The Commission is expected to abide by the provisions of the Public Finance Management Act.³¹³ This Act provides for the control and management of public resources and their protection

306 As above.

307 Independent Electoral and Boundaries Commission 'Tenders' <https://www.iebc.or.ke/work/?tenders> (accessed 15 October 2022).

308 As above

309 As above

310 'ERC appalled by Zimbabwe's ZEC failure to submit accounts for audit' <https://www.zawya.com/en/economy/erc-appalled-by-zimbabwese-zec-failure-to-submit-accounts-for-audit-aowbq0k4> (accessed 6 March 2025).

311 As above.

312 <https://www.veritaszim.net/sites/veritas> (accessed 6 March 2025).

313 Public Finance Management Act (n 202 above).

and recovery; the appointment, powers and duties of the Accountant-General and his or her staff; the national budget; the preparation of financial statements; the regulation and control of public entities; general treasury matters; the examination and audit of public accounts; financial misconduct of public officials; and the repeal of the Audit and Exchequer Act and the State Loans and Guarantees Act.³¹⁴ In pursuance of these provisions, the Commission is duty-bound to appoint as auditors one or more persons approved by the Minister who are registered as public auditors in terms of the Public Accountants and Auditors Act.³¹⁵

4.2.1 Recommendations

ZEC should ensure that:

- a) All interviews for staff working for the Secretariat are made public. This will help in fostering transparency and accountability.
- b) The decision-making processes of the Commission should be transparent through periodic press conferences and press statements.
- c) It submits its financial statements for auditing purposes on time.
- d) It comes up with an enforceable code of conduct for employees, which requires them to declare their assets.
- e) It produces and shares with its stakeholders a disaggregated budget clearly showing all its sources of funding.

4.3 Compliance with Guideline 15 (Membership)

Guideline 15 of the Guidelines on Access to Information and Elections in Africa requires the Zimbabwe Electoral Commission to proactively disclose information relating to its membership.

Compliance with Guideline 15 (Membership)		
	Indicator	Level of compliance
A	Details of the professional backgrounds of its members	Partial Compliance
B	Policy on declaration of assets and interests by its members	Partial compliance

With regards details of the professional backgrounds of its commissioners, the ZEC website,³¹⁶ provided information for the people who oversaw the August 2023 elections: Justice Priscilla

314 As above

315 The Public Accountants and Auditors Act, No. 13 of 1995.

316 <https://www.zec.org.zw/category/commissioners/> (accessed 6 March 2025).

Chigumba (Chairperson), Rodney Kiwa (Deputy Chairperson), Jasper Mangwana, Abigail Millicent Mohadi Ambrose, Shepherd Manhivi, Catherine Mpofu, Rosewita Murutare, Janet Mbetu Nzvenga, and Kudzai Shava.³¹⁷

There is publicly available information on ZEC's policy on the declaration of assets and interests of its members.³¹⁸ This is despite the fact that the electoral body has been dogged by transparency and integrity-related issues.³¹⁹ The body is generally perceived as an extension of the ruling party. This is because most of its office bearers are close to the Zimbabwe African National Union – Patriotic Front (ZANU-PF). These include people Mr Gavi, Mr Justin Manyau, and Jasper Mangwana.

ZEC has a Code of Conduct for Political Parties and Candidates,³²⁰ which is aimed at promoting conditions that are conducive to free and fair elections and a climate of tolerance in which electioneering activity may take place without fear or coercion, intimidation or reprisals. In order to give effect to the code, section 160B of the Electoral Act provides for the establishment of multi-party liaison committees.³²¹ The main aim of these provisions is to set up structures that will prevent or resolve conflicts and to ensure observance of the Code of Conduct for Political Parties and Candidates.³²² The Multi-party Liaison Committees perform two functions namely rule application in the form of enforcement of the Code of Conduct for Political Parties and rule adjudication in the form of resolving any disputes, concerns, matters or grievances relating to the electoral process, including in particular any disputes arising from allegations concerning non-compliance with the Code of Conduct for Political Parties.³²³

The national multiparty liaison committee consists of representatives from ZEC, two representatives of each political party contesting the election selected by their parties; two representatives of an independent candidate contesting a presidential election; and any person invited by the representatives of every political party represented in the committee.³²⁴ The main function of these multiparty liaison committees is to resolve problems through dialogue and generally assist in the implementation of the Code of Conduct for Political Parties and Candidates. They must hear and attempt to resolve any disputes, concerns, matters or grievances relating to the electoral process, including any disputes arising from allegations concerning non-compliance with the Code of Conduct.

317 As above

318 Zimbabwe Electoral Commission 'Strategic Plan 2019 to 2024' (n 233 above)

319 As above.

320 Zimbabwe Electoral Commission 'Code of Conduct for Political Parties and Candidates' <https://www.zec.org.zw/download/code-of-conduct-for-political-parties-and-candidates/> (accessed 6 March 2025).

321 <https://www.veritaszim.net/sites/veritas> (accessed 6 March 2025)..

322 As above.

323 S Vengesai 'A Critical Examination of the Effectiveness of the Zimbabwean Multi-Party Liaison Committees' (2022)1 *University of Zimbabwe* 29-36.

324 As above.

The national multiparty liaison committee is given the function of establishing multiparty liaison subcommittees in each province. It can delegate any of its functions to these subcommittees, but it must monitor, supervise and direct their activities. ZEC must also establish a constituency multiparty liaison committee for each constituency in which the election is contested and a local authority multiparty liaison committee for each local authority area in which the election is contested. At the grassroots level, there is the constituency multiparty liaison committee and a local authority multiparty liaison committee.

4.3.1 Recommendations

ZEC should ensure that:

- a) Local authority multiparty liaison committees are able to address contentious issues at the grassroots level without waiting for the national level to make a determination.
- b) There is no mention of gender equality or representation of persons with disabilities in the composition of the Multi-Party Liaison Committees. The composition of multiparty liaison should take into account gender, age, race and ethnicity.
- c) The Zimbabwean Electoral Act Chapter 2:13 should empower the Multi-Party Liaison Committees with powers to recommend legislative amendments.
- d) There is also a need to raise public awareness on the existence and functions of the Multi-Party Liaison Committees. This will enhance public awareness and ensure that Multi-party Liaison Committees project themselves as credible and trusted election dispute mechanisms.
- e) There is need to amend Section 160B (1) of the Electoral Act to give the Multi-party Liaison Committees a permanent lifespan.
- f) The Act must also be amended to give MPLCs a wider mandate to handle electoral disputes throughout the entire electoral cycle, including pre-election disputes around delimitation, voter registration and nomination.
- g) The knowledge and skills capacities of the Zimbabwe Electoral Commission and the Multi-party Liaison Committees to handle electoral disputes need to be strengthened.
- h) The legislation that provides for the establishment and operationalization of the MPLCs (section 160A – 160D) does not provide the state with a legal obligation to build the capacity of MPLCs in such technical areas as conflict transformation, conflict management, dispute resolution and sustained dialogue. In line with the principle of sustained dialogue, the Act must be amended to require the Multiparty liaison Committees to meet frequently per year.
- i) The law must be amended to provide greater clarity on the procedures that the Zimbabwe Electoral Commission must take once a dispute has been referred to it. It must also specifically provide for how the Multi-Party Liaison Committee must account for its work to the public.

4.4 Compliance with Guideline 17 (Pre-Election Period)

Guideline 17 of the Guidelines on Access to Information and Elections in Africa requires ZEC to proactively disclose certain information during the pre-election period. In this section, the report focuses on the extent to which ZEC complied with this guideline.

Compliance with Guideline 17 (Pre-Election Period)		
	Indicator	Level of compliance
A	Detailed electoral calendar	Partial compliance
B	Criteria, process and results for the delimitation of electoral boundaries in a simplified manner	Partial compliance
C	List of constituencies or voting districts	Total compliance
D	Full details of the voter registration process including criteria, qualifications, requirements, and location of voter registration centres	Total compliance
E	Voter's roll containing information allowing the unique identification of each voter, including the full name, identity number, photograph (where it exists), gender and age of each voter, and any subsequent amendments to this information	Total compliance
F	Information on arrangements for the inspection of the voters roll by the public to allow for any necessary corrections to be made	Total compliance
G	Operational plan for diaspora voting relating to dates, time and method, including storage and security of ballot boxes until the general count	Not applicable. Zimbabwe does not have provisions for the diaspora vote.
H	Criteria for identification of the location of voting stations	Significant compliance
I	Location and number of voting stations	Total compliance
J	Criteria and requirements for registration of political parties	Total compliance
K	Details of applications made by political parties for registration as participants in the electoral process, specifying the number of applications made, the number of applications granted, the number denied and reason(s) for each denial	Partial compliance

L	Details of political parties registered as participants in the electoral process, specifying their number and names	Total compliance
M	Qualification, rules and procedure for nomination of candidates by political parties	Total compliance
N	Code of conduct applicable to political parties and candidates during the electoral campaign period	Total compliance
O	Number and nature of complaints or petitions received by the ZEC and how they have been addressed	Non- compliance
P	Mediation and conflict resolution mechanisms in place for addressing election related complaints or petitions	Partial compliance
Q	Policy on voter education	Total Compliance
R	List of service providers, the criteria for their selection and the content of their service contracts and details of the procurement process	Noncompliance
S	The criteria for accreditation of election observers and monitors	Partial compliance
T	Timelines for registration of international and domestic election observer missions	Partial compliance
U	Details of applications for accreditation by election observers and monitors, including the number of applications rejected and reasons for the rejection	Partial compliance
V	Criteria for accreditation of media during the electoral process	Noncompliance
W	Details of application for accreditation by the media, including the number of applications received, number rejected and the reasons for the rejection	Noncompliance
X	Code of conduct for media	Total compliance
Y	Number of complaints or petitions received and how they were addressed	Partial compliance
Z	Categories of observers admitted	Partial compliance
Aa	Register of the different categories of observers and deployment areas	Non-compliance

Prior to the 23 August election, ZEC did not publicly release a detailed electoral calendar, it only talked about the electoral roadmap. The skeletal electoral roadmap was revised from time to time throughout the election period taking account of arising exigencies including concerns raised by stakeholders.³²⁵ Unfortunately, this roadmap was not publicly shared with all the stakeholders. It also communicated regular updates on its status of preparedness for the elections. In the skeletal roadmap, the presidential runoff vote was slated for 2 October

325 BA Mutingwende 'ZEC releases election roadmap' *Best African News Online* 16 August 2023.

2023. However, on their website, there is a section titled calendar of events,³²⁶ which specifically addresses issues related to the 23 August elections. Following the proclamation of the election date by the president,³²⁷ ZEC was supposed to publish a detailed election timetable. The timetable outlines all the key cut-off times and dates for the performance of salient electoral activities. The timetable contains crucial performance dates for election contestants as well as the broader voting public. It also stipulates dates for accessing the voting process through special arrangements including dates for applications for special votes and notifications to vote outside of voting stations of registration. For instance, in countries such as Kenya, Namibia³²⁸ and South Africa, election calendars tended to be quite detailed and publicly available.

Interviews with various political players in Zimbabwe showed that the Commission failed to release a verified national voters' roll to all political contestants as required by the law. Section 21 of the Electoral Act reads: "The Commission shall within a reasonable period of time provide any person who requests it, and who pays the prescribed fee, with a copy of any voters roll, including a consolidated roll referred to in section 20(4a), either in printed or in electronic form as the person may request..."³²⁹ Although the constituency voters' roll contained information allowing the unique identification of each voter, including their full name, identity number, photograph, gender, and age, it was not provided in an analysable and downloadable format as required by Section 21(7)(1) of the Electoral Act. Because of the failure to release the national voter's roll in the required format, the Commission was taken to court by political parties and civil society organisations like Team Pachedu.³³⁰ In its defence, the Commission argued that the electoral provision permits the public body to format the voter's roll to prevent it from being altered or tampered with.³³¹ It is for this reason that ZEC issued the voters' roll in the format it did.³³² It also claimed that the Act does not explicitly state that the voters' roll should be in Excel or printable formats known to have compromised security features.³³³ In one of the court challenges, High Court Judge Never Katiyo dismissed a court appeal by Citizens Coalition for Change's (CCC) chief elections officer, Ian Makone, as it was not urgent.³³⁴ Makone had sought a directive for the ZEC to provide an up-to-date copy of the voters' roll and a final list of polling stations.³³⁵

326 Zimbabwe Electoral Commission 'Calendar of Events' <https://www.zec.org.zw/calendar-of-events/> (accessed 6 March 2025).

327 'Zimbabwe presidential and parliamentary polls set for August 23 | Elections News' *Al Jazeera* 31 May 2023.

328 'Namibia Votes 2024: Electoral Calendar' 2024 https://www.ecn.na/wp-content/uploads/2024/03/ECN_A4_Key-Electoral-Activities_2024.pdf (accessed 6 March 2025).

329 <https://www.veritaszim.net/sites> (accessed 6 March 2025).

330 'Team Pachedu takes Zec head-on' *Bulawayo24 News* 10 March 2022.

331 U Silaigwana 'Allegations About the Voters' Roll' <https://www.zec.org.zw/allegations-about-the-voters-roll/> (accessed 6 March 2025).

332 As above.

333 As above.

334 L Ndebele 'Zimbabwe polls to go ahead without provision of updated voters' roll by electoral commission' *News24* 15 August 2023.

335 As above.

ZEC has a policy on civic education.³³⁶ The policy guides the EMB in its constitutional mandate (Chapter 12: Section 238) to conduct and supervise voter education. In order to cover the length and breadth of the country, ZEC often invites Civic Society Organisations (CSOs), Private Voluntary Organisations (PVOs) and Faith Based Organisations (FBOs) to assist it in carrying out voter education.³³⁷ In 2023, ZEC was able to provide full details of the voter registration process including criteria, qualifications, requirements, and location of voter registration centres. This was widely circulated in traditional and digital media platforms. In the run up to the elections, ZEC conducted voter registration in all the provinces in Zimbabwe.³³⁸ The voter registration process was in partnership with the Office of the Registrar General, which allowed citizens to access national IDs and birth certificates.

ZEC abided by the provisions of the 2017 Guidelines because it released the voters' roll to candidates which had columns for the voter's surname, forename, ID number, gender, date of birth, voter's address, polling station, ward, local authority, constituency, district and province as prescribed in Section 20(2) of the Electoral Act.³³⁹ Polling station codes were not included on the voters' roll, because they are an administrative tool used by the Commission to map out polling stations during delimitation hence they were not part of the voters' roll. Ordinary voters without access to the electronic voters' roll were encouraged to dial the USSD Code *265# on their Econet and NetOne SIM card mobile phones to ascertain their registration status and respective polling stations.³⁴⁰

Unlike other countries in the SADC region with provisions for diaspora voting, Zimbabwe has not yet amended its laws to allow its citizens based outside of the country to exercise their right to vote. However, the Electoral Act states that only Zimbabwean citizens who are on diplomatic missions, civil servants, and members of the armed forces on external missions may vote from abroad. During the 2023 electoral cycle, operational plans were not made to facilitate this legal requirement. There was no public disclosure about this requirement. Part XIV of the Electoral Act allows Government employees, election officials and their spouses to vote by post if they are unable to get to their polling stations on polling day because of government business.³⁴¹ Section 75(1)(d) of the Act states that their postal votes must reach the Chief Elections Officer of ZEC by no later than noon on the 14th day before polling day, which in this election meant that postal votes were supposed to reach ZEC on or before the 9th of August.³⁴² In fulfilment of this electoral requirement, ZEC managed to put in place mechanisms for postal voting during the August 2023 elections.³⁴³³⁴⁴ There have been allegations in the press that police officers were

336 <https://zimbabwe.ec-undp-electoralassistance.org/wp-content/uploads/sites> (accessed 6 March 2025).

337 https://old.zec.org.zw/pages/role_of_civic_society_and_media (accessed 6 March 2025).

338 '450 000 register to vote in final blitz' *The Sunday Mail* 26 March 2023.

339 As above.

340 'Easy Voter Registration Status Checking: Verify Voter Registration via NetOne & Econet Mobile' *iHarare Jobs* 16 August 2023.

341 'Election Watch 18-2023 - Extension of Time for Postal Voting | veritaszim' <https://www.veritaszim.net/node/6509> (accessed 6 March 2025).

342 As above

343 M Sikhumbuzo 'Zimbabwe Electoral Commission closes postal votes' *The Chronicle* 6 July 2023.

344 As above

compelled to cast their postal votes under the eyes of their superiors, to ensure they voted for the ruling party.³⁴⁵

Despite lobbying and advocacy by citizens within and outside Zimbabwe, the government has refused to allow those based outside the country to vote from where they are currently domiciled.³⁴⁶ It begs the question of why Zimbabwe has not embraced transparent electoral practices to allow all the country's citizens working and living abroad to vote when this is increasingly becoming a norm in the SADC region. Several reasons have been proffered on this.³⁴⁷ One of the arguments is that the government fears that those in the diaspora will vote for the opposition and hence contribute to their removal from office.³⁴⁸ The other rationale is diaspora voting is riddled with logistical challenges that the electoral body has no capacity to handle at the moment. The link between which types of citizens can exercise their right to vote, where and how, is clarified in Section 23 of the Electoral Act which requires that citizens must satisfy the residence qualification.³⁴⁹ This means that the aspirant voter must have lived in Zimbabwe at that location or address for not less than twelve months. This restriction effectively denies Zimbabwean citizens working abroad the right to vote.³⁵⁰ Zimbabwe has more than three million people in different southern African countries, and nearly a million of its citizens are in the United Kingdom, North America, and other countries outside Africa.³⁵¹ This means that millions of Zimbabwean citizens in the diaspora could not vote in Zimbabwe's national elections.

The qualification, rules, and procedure for the nomination of candidates by political parties was clearly articulated by the Commission. Following the proclamation by President Emmerson Mnangagwa setting 23 August 2023 as the date for the harmonised elections, the Zimbabwe Electoral Commission advised the stakeholders that the voters' roll for the elections would close on 2 June 2023 in accordance with Section 26A of the Electoral Act. It also directed all the prospective candidates to file their nomination papers at ZEC offices by 21 June 2023. Aspiring presidential candidates were urged to submit their nomination papers to ZEC Head Office, while those aspiring to contest as Members of Parliament and councillors were exhorted to file their nominations at ZEC provincial and district offices respectively.³⁵² It also advised all contestants that the nomination forms were available at ZEC offices and on the Commission's website. It encouraged political parties and candidates to file their nomination papers early to

345 G Dube 'Opposition CCC Says Police Superiors Forcing Juniors to Vote for Zanu PF' *Voice of America* 16 August 2023

346 MT Vambe 'Voting Rights of Zimbabweans in the Diaspora' (2021) 20 *Journal of African Elections* 137-158.

347 D Erasmus 'Embracing the diaspora vote can enfranchise Zimbabwean economic nomads' *The Mail & Guardian* 20 June 2024

348 'Zimbabwe Election Support Network' www.zesn.org.zw/wp-content/uploads/2019/10/ZESN-Position-Paper-on-Diaspora-Voting.pdf (accessed 6 March 2025).

349 As above.

350 As above.

351 J Crush & D Tevera 'Exiting Zimbabwe' (2010) *Crisis Migration Survival* 1-49.

352 Zimbabwe Electoral Commission' <https://www.zec.org.zw/proclamation-and-resultant-activities/> (accessed 6 March 2025).

enable correction of errors on the forms well in advance of nomination day.³⁵³ The cut-off time for filing the papers was also clearly stated although this later became a point of contention after some Citizens Coalition for Change (CCC) prospective candidates were disqualified by ZEC for filing their papers after the deadline.³⁵⁴ This led to a protracted court case, which was eventually won by CCC a few days before the election date.³⁵⁵

In its public statement on private and public media, ZEC articulated that presidential aspirants should be nominated by 10 registered voters in each of the country's 10 provinces while prospective candidates for the National Assembly Constituency must be nominated by five registered voters in the respective contested constituencies.³⁵⁶ Those intending to contest as councillors must also be nominated by five registered voters in their respective wards. In the same statement, the ZEC set the nomination fee for presidential aspirants at US\$20 000 while those intending to contest as members of Parliament were expected to pay US\$1000. The fee for party list candidates was set at US\$200.³⁵⁷

The Commission also articulated the code of conduct applicable to political parties and candidates during the electoral campaign period. This was in line with the 2018 Electoral Code of Conduct for Political Parties and Candidates and other Stakeholders,³⁵⁸ which outlines the following key areas: purpose of code, general principles, application, public commitment, prohibited conduct (such as politically-motivated violence or intimidation), prohibited conduct (including other prohibited acts, conduct during polling period, announcement of result of election), respect for media and journalists, role of women, compliance – political parties, compliance – Multiparty Liaison Committees compliance – enforcement of the Electoral Act and other relevant legislation and the duty to co-operate.³⁵⁹ Through government gazettes and public media, the Commission was able to make this newsworthy information available to the public and other stakeholders.

The Commission, in line with the provisions of the law, published a notice of its intention to commence the delimitation exercise.³⁶⁰ The public was also informed of the exercise once it commenced. There was no disclosure of information on the formula used to delimit the 2023 constituencies. Despite publicly presenting the Delimitation Report to the Head of State and Government, Emmerson Mnangagwa, ZEC did not proactively share information about the criteria for identification of the location of voting stations. Because of the secrecy and opacity around the criteria used to come up with voting stations in rural and peri-urban areas, there were accusations that the Commission had worked with the ruling party.³⁶¹

353 As above.

354 'CCC's 12 disqualified candidates' appeal hearing set for Wednesday' *NewZimbabwe* 31 July 2023.

355 As above.

356 As above.

357 As above.

358 Electoral Code of Conduct for Political Parties and Candidates and Other Stakeholders Act No. 6 of 2018.

359 As above

360 Y Dube-Moyo 'ZEC start delimitation exercise preparation' *The Chronicle* 7 September 2022.

361 M Mavaza 'Calls for redoing delimitation exercise unpatriotic, mischievous' *The Herald* 7 December 2022.

The criteria and requirements for registration of political parties were clearly stipulated throughout the electoral cycle. This was further emphasised during press conferences, press statements,³⁶² and other stakeholder engagements.³⁶³ ZEC also provided details of applications made by political parties for registration as participants in the electoral process. However, the press conference conducted provided by ZEC after the nomination court did not explicitly specify the number of applications made, the number of applications granted, the number denied and reason(s) for each denial. In future, ZEC is urged to provide granular details of this information to increase transparency and accountability amongst its stakeholders.

Although in some of the press statements released on the day of the election, the Commission indicated that it had received a few complaints with regard to delays experienced in Harare and Bulawayo, it did not clearly articulate the nature of complaints or petitions.³⁶⁴ In future, it is important for ZEC to clearly outline the number of complaints, the nature of the complaints and how they addressed each of these petitions. Closely related to this matter is how existing mediation and conflict resolution mechanisms like the multi-party liaison committees addressed election-related complaints or petitions. On this matter, there were no public reports, which was made available to the public. There was also no public disclosure of ZEC's policy on voter education.

Another area which was shrouded with secrecy relates to the proactive disclosure of the list of service providers, which the Commission worked with in procuring voting materials such as the ink, ballot papers, V11 and V23 forms. This information was never publicly made available. The only name of a service provider, which was publicly disclosed was Fidelity Printers.³⁶⁵ This was confirmed by ZEC during a press conference that the Reserve Bank of Zimbabwe's (RBZ) Fidelity Printers was responsible for printing the ballot papers for the August 2023 national election. The contract was awarded to Minting and Printing Company of Zimbabwe (MPCZ) a unit of Fidelity Printers.³⁶⁶ In the 2018 elections, Fidelity Printers also printed presidential and parliamentary ballot papers, while a government business Printflow printed council election ballots. In the past, the Commission has come under fire for printing ballot papers without the knowledge of participating political parties.³⁶⁷ In the run-up to the August 2023 election, the CCC filed an urgent application with the Electoral Court seeking an order compelling the public body to release information relating to ballot paper printing.³⁶⁸

The accreditation of domestic and foreign observers is covered in Part IXB of the Electoral Act. (Sections 40G-40J). In order to adhere to this requirement, ZEC set up an accreditation committee made up of the ZEC chairperson, the ZEC deputy-chairperson, three ZEC

362 ZEC 'Press Statement, 22 June 2023' <https://x.com/ZECzim/status/1671870637734875137> (accessed 6 March 2025).

363 F Machivenyika 'ZEC declares readiness for credible, free polls' *The Herald* 17 August 2023

364 Shingai Nyoka 'Zimbabwe election: Delays mar vote with large turnout' *BBC* 23 August 2023.

365 LB Harris 'ZEC awards printing of ballot papers to Fidelity Printers' *CITE* 18 August 2023.

366 As above.

367 As above.

368 As above.

Commissioners, one person nominated by the Office of President and Cabinet, one person nominated by the Minister of Justice and Legal Affairs, one person nominated by the Minister responsible for Foreign Affairs, and one person nominated by the Minister responsible for Immigration.³⁶⁹ This committee was responsible for accrediting domestic and foreign observers. The observers were allowed to observe the elections—the period between the calling of the election and the declaration of the result of the harmonised election. With the exception of a few press conferences, where the EMB addressed the issue of accrediting observers, there was limited proactive disclosure of the accreditation process. The criteria for accreditation of election observers and monitors were not publicly stated. The timelines for accreditation were outlined in press statements and notices circulated through the embassies. According to the notice published by ZEC, applications were supposed to be submitted at ZEC Head Office by 18 August 2023.³⁷⁰

Although there is a code of conduct that relates to both election agents and observers, the electoral management body did not publicise this in the mainstream media. The code was not popularised on digital and social media platforms. The code exhorts observers to conduct themselves in a manner conducive to the peaceful, dignified, and orderly conduct of the poll; wear a badge or label bearing proof that he or she has been duly accredited when in a polling station, constituency centre or ward or council centre; and obey every lawful instruction of an electoral officer.³⁷¹

ZEC issued a notice inviting persons and organisations wishing to observe the electoral process, the conduct of voting on polling day and the counting and collation of ballots in June 2023. In a notice,³⁷² ZEC Chief Elections Officer, Utloile Silaigwana invited applications from local organisations and eminent persons and individuals representing foreign countries or international organisations and foreign eminent persons who have applied to be accepted as observers.³⁷³ The notice indicated that an application for accreditation as an observer should be made to the Chief Elections Officer by the individual or eminent person who wishes to be accredited or the organisation that wishes its representatives to be accredited.³⁷⁴ The application was expected to state the names and national identity numbers of the individuals whom the organisation or Minister wishes to have accredited.³⁷⁵ All applications were adjudicated by the Commission's Observer Accreditation Committee. All applicants received notification as to whether or not their applications had been successful.

369 Pamela Shumba 'ZEC Sets up observers accreditation committee' *The Chronicle* 22 June 2013.

370 'ZEC Notice: Application For Accreditation to Observe The Harmonized Elections' Veritaszim <https://www.veritaszim.net/node/6418> (accessed 6 March 2025).

371 'Zimbabwe Electoral Commission, Code of Conduct for Observers' https://old.zec.org.zw/pages/coc_observers (accessed 6 March 2025).

372 As above.

373 S Ncube 'ZEC opens application process for observers and media practitioners' CITE 6 June 2023.

374 As above.

375 As above.

The details of applications for accreditation by election observers and monitors were only limited to those who were accepted to observe the elections. ZEC only released figures for the number of observers and monitors who were accredited. The table below summarises this information:

Categories	Total
Local observers	10597
Foreign observers	894
Local journalists	970
Foreign journalists	51
Total	12512

Source: ZEC Harmonised Election Report³⁷⁶

There was no mention of the number of applications rejected and the reasons for the rejection. In future, ZEC is urged to prioritise mentioning all this information as part of proactive disclosure of information during electoral processes. ZEC did not publish a register of the different categories of observers and deployment areas.

The cost of accreditation was gazetted as follows:

Observers	Cost in US\$
Local observers	US\$10
Observers from the African continent	US\$100
Observers from foreign embassies in Zimbabwe	US\$300
Observers from any country outside Africa	US\$400
Zimbabwe media practitioners accredited with the Zimbabwe Media Commission and working for foreign media houses:	US\$100
Zimbabwe local media practitioners accredited with the ZMC	US\$10
Media practitioners from the African continent:	US\$100

Source: Veritas Zimbabwe ([link](#))

The criteria for accreditation of media during the electoral process were not clearly stipulated. The only thing which was mentioned in the notice³⁷⁷ published by ZEC was the amount of money that the media houses and journalists were expected to pay. Zimbabwean media practitioners accredited with the Zimbabwe Media Commission (ZMC) and working in Zimbabwe for

376 'Zimbabwe Electoral Commission, 2023 Harmonised Elections Report' <https://www.zec.org.zw/download/2023-harmonised-elections-report/> (accessed 6 March 2025).

377 'Election Watch 16-2023 - Accreditation of Election Observers | veritaszim' <https://www.veritaszimnet/node/6420> (accessed 6 March 2025).

foreign media houses were expected to pay US\$100.³⁷⁸ Zimbabwean local media practitioners accredited with the Zimbabwe Media Commission were expected to part with US\$10. Media practitioners from the continent of Africa were expected to pay US\$100. After the 18 August 2023 application deadline, there was no mention of the number of applications received, rejected and the reasons for the rejection.

The code of conduct for media during the August 2023 elections was guided by the Statutory Instrument 33 of 2008: (Media Coverage of Elections Regulations 2008).³⁷⁹ ZEC also encouraged the media to adhere to ethical guidelines as espoused in the Voluntary Media Council of Zimbabwe's (VMCZ) code of conduct.³⁸⁰ The electoral management body put in place the Media Monitoring Committee which was assisted by ZMC and the Broadcasting Authority of Zimbabwe (BAZ) to monitor the print media and the electronic media. The Committee was guided by provisions of Section 160K of the Electoral Act as read with Statutory Instrument 33 of 2008: (Media Coverage of Elections Regulations 2008).³⁸¹ The Committee was expected to produce a report on media coverage of elections, which would be part of the overall elections report presented to Parliament. At the time of writing this report, the Committee had not yet published its report. During the March 2022 by-elections, the Committee noted with concern the rampant use of hate language, violence, skewed coverage, symbolic obliteration of some political parties and general disregard for ethical and professional principles of the journalism profession.³⁸²

Interviewees with observers, political parties and journalists showed that the electoral management body did not publicise information on the number of complaints or petitions received and how they were addressed. Besides mentioning that it had received complaints from political parties, media, civil society organisations and observers, interviews with key electoral stakeholders revealed that ZEC did not unpack the nature of the issues brought to its attention and how they were resolved. This meant there was a veil of secrecy on complaints received.

The Constitution and Section 8 (37A) of the Electoral Act require ZEC to delimit constituencies and wards at intervals of not less than ten years.³⁸³ The last delimitation of constituency boundaries was undertaken by the ZEC in 2022. The report was submitted to the President in February 2023.³⁸⁴ The results of the delimitation exercise were challenged in court by Douglas Mwonzora of the Movement for Democratic Change-Tsvangirai.³⁸⁵ The Court determined that

378 <https://www.veritaszim.net> › sites › veritas_d › files (accessed 6 March 2025).

379 Zimbabwe Electoral Commission (Media Coverage of Elections) Regulations, No. 33 of 2008

380 <https://vmcz.co.zw/revised-vmcz-code-of-conduct/> (accessed 6 March 2025).

381 As above.

382 'Media Conduct in Coverage of the 26 March 2022 By-Elections' <https://www.zec.org.zw/media-conduct-in-coverage-of-the-26-march-2022-by-elections/> (accessed 6 March 2025).

383 Article 89 of the Constitution of Zimbabwe, 2013.

384 'Delimitation Report 2022-23 | veritaszim' <https://www.veritaszim.net/node/6277> (accessed 6 March 2025).

385 'Douglas Mwonzora on Constitutional Court's Dismissal of His ZEC Delimitation Challenge Case' VOA 12 July 2023.

the delimitation of constituency boundaries by ZEC was above board and there was no need to stop the elections because of this legal challenge.

According to section 161(3) of the Constitution, ZEC must ensure that so far as possible equal numbers of voters are registered in each constituency throughout Zimbabwe. Section 161(4) makes a similar provision for ward boundaries – the boundaries of wards must be such that so far as possible equal numbers of voters are registered in each ward of a local authority area.³⁸⁶ As already explained, the ZEC published the locations where polling would be undertaken. It encouraged voters to confirm their polling stations. As part of its voter education campaign, ZEC deployed different mediums to reach its intended audiences. It produced, translated, and distributed voter education materials in fifteen languages including Braille and Sign language videos. It also established a voter verification portal where voters could independently verify their details.³⁸⁷ This was confirmed through interviews with civil society organisations and observers. Working with mobile service providers such as Econet, NetOne, and Telecel, ZEC rolled out an initiative which allowed voters to dial *265# to check their registration status.³⁸⁸ It also made use of toll free call centre, social media platforms (X, Facebook and WhatsApp), radio announcements, TV jingles and skits, billboards, road shows, printed flip charts, posters, brochures and flyers. In May 2023, ZEC set a Call Centre to allow the electorate to make inquiries relating to their registration information and any other inquiries relating to elections. The call centre made use of the following numbers:

Name of the mobile operator	Mobile Phone Number
Econet	080080265
NetOne	080010265
Telecel	265

Source: Zimbabwe Electoral Commission

The electoral management body also established WhatsApp platform “Ballot Bulletin”, which registered over two thousand users. The platform was also useful for disseminating timeous information as more Zimbabweans rely on WhatsApp for their everyday forms of communication. Civil society organisations also confirmed that ZEC also used WhatsApp to counter electoral misinformation and disinformation. Radio announcements were translated in most languages used in Zimbabwe. Jingles were played on national TV stations and social media platforms.

At the pre-election stage, ZEC was taken to court over the voters’ roll, the delimitation exercise, and the decision to hike nomination fees. Other reasons that spurred some litigation involved correction of the constitutional provision on provincial council party lists as well as decisions of

386 As above.

387 <https://t.co/HpomPIF1eU> (accessed 6 March 2025).

388 As above.

the nomination court in rejecting or accepting nomination of prospective candidates. This was also captured in ZEC's 2023 harmonised elections report. The report indicates that 28 candidates (3 for national assembly and 25 for local authority elections) withdrew their candidature.

4.4.1 Recommendations

In future, ZEC should do the following:

- a. Provide information on the number of applications received from local and foreign observers and monitors, the number of applications granted, the number of those turned down and cogent reasons for denial.
- b. Provide clear and verifiable information about the storage and security of printed voting materials and ballot boxes throughout the electoral cycle.
- c. Provide clear and acceptable criteria for identification of the location of voting stations, especially the whole delimitation process.
- d. Provide information on the number and nature of complaints received from various stakeholders, how these concerns were addressed and the procedures for channelling complaints to the Commission throughout an electoral cycle.
- e. Provide information on the criteria for selecting service providers, the nature and content of service contracts and details of the procurement process.
- f. Provide all the details of the number of applications for accreditation by the media received, the number rejected and the reasons for the rejection.
- g. The Media Monitoring Committee should publicise the code of conduct for media practitioners and publish its media monitoring reports throughout the electoral cycle.
- h. Provide disaggregated data of the register of the different categories of observers and deployment areas. The Electoral Act should be amended so that it provides for pre-defined periods whereby all electoral court cases should be cleared to give authorities and the printer adequate time to print the ballots ahead of polling.
- i. The Electoral Act should have clear time limits for the adjudication of pre-election applications filed at the nomination courts. This tends to impact other processes such as printing and distribution of ballots, posing logistical challenges for the EMB.

4.5 Compliance with Guideline 18 (Election Day)

Guideline 18 of the Guidelines on Access to Information and Elections in Africa requires the ZEC to proactively disclose certain information during election day.

ZEC communicated in both traditional and digital media that the polls would open at 7 am and close at 7 pm on 23 August. It stated that time lost at the beginning of polling would be compensated at the end of the day and voters in the queues at the end of the day would be able to vote. Through press statements and press conferences on election day, ZEC notified voters and parties affected by the delays in transporting election materials that an extra

Compliance with Guideline 18 (Election Day)		
	Indicator	Level of compliance
A	Location, as well as opening and closing times of voting stations	Total compliance
B	Support mechanisms for voters and election officials through the provision of episodic and periodic reports of election day activities	Partial compliance
C	Information on the closing of voting and vote reconciliation, counting and results management system starting from vote counts at the voting station up to the announcement of final results	Significant compliance
D	Information on the occurrence of any technical glitches and how these have been addressed	Partial compliance
E	Information on all complaints or petitions received and how these have been addressed	Partial compliance
F	Election results by polling station, which shall be conspicuously posted at each voting station and in publicly accessible electronic and online formats	Partial compliance

day would be set aside for voting.³⁸⁹ The EMB finally declared 24 August a voting day for the electorate in Harare, Bulawayo and Manicaland who were affected by the logistical challenges experienced on 23 August 2023.³⁹⁰ The electoral management body ensured that there were periodic updates from the Command Centre in Harare during the polling and counting days.

The updates were beamed via traditional media platforms, social media,³⁹¹ and live-streaming services.³⁹² During the voting day, hourly updates were done at the Command Centre.³⁹³ Support mechanisms for voters and election officials through the provision of episodic and periodic reports of election day activities were put in place.

Despite the false start experienced in some provinces, all polling stations opened and ran for 12 continuous hours, with some polling time spilling into the early hours of 24 August 2023.³⁹⁴ There was, however, secrecy around the results management system. This was despite calls from the opposition and civil society to open the black box of the results management system. Election observers and monitors made notable findings in this regard. Field monitors deployed by the Zimbabwe Election Support Network, Zimbabwe Human Rights Forum, and Election

389 <http://www.fides.org/en/news/> (accessed 6 March 2025).

390 As above.

391 Election results updates' *Real Time TV* 26 August 2023.

392 'ZEC Election Results Announcements' *NRTV* 26 August 2023

393 https://www.youtube.com/watch?v=I_Nfs2ELfyg (accessed 6 March 2025).

394 'Zimbabwe high stakes vote spills into day two as opposition alleges rigging' *Nation* 24 August 2023.

Resource Centre reported that members of the Forever Associates of Zimbabwe³⁹⁵ (FAZ) had mounted voter tallying desks close to the polling stations.³⁹⁶ Although opposition political parties and civil society organisations claimed they had reported these electoral misdemeanours to ZEC and Zimbabwe Republic Police (ZRP), no tangible action was taken against them. In some instances, members of the opposition were arrested for challenging the presence of FAZ at polling stations.³⁹⁷ In the end, the final presidential results were announced without verification from the opposition.

Interviews with CSOs such as ZESN, ERC and FAZ indicated that ZEC provided regular updates on the status of the polls on different traditional media, including radio and television, and on digital media platforms, including Twitter (now X), Facebook and Instagram. It communicated information such as the number of persons who had voted, warnings against violations of the law, and response measures to various electoral glitches around the country. This was also confirmed through interviews with journalists working for private and public media.

ZEC provided updates on the occurrence of any technical glitches and how these have been addressed especially in Manicaland, Harare, Mashonaland East, and Bulawayo Provinces, which are generally known to be opposition strongholds. The Zimbabwe Electoral Commission acknowledged the late distribution of ballot papers at some polling stations and blamed it on printing delays 'arising from numerous court challenges' in a press statement published on 23 August 2023.³⁹⁸ Ruling party activists and the opposition had brought a flurry of cases over who could run in both presidential and parliamentary elections.³⁹⁹

Overall, most of the results were publicly posted outside the polling stations in urban and rural areas. However, there were areas (mostly rural) where these results were not posted at the polling station. This is aptly captured in the final report published by the Carter Centre observer mission.⁴⁰⁰ Carter Centre recommended that ZEC publish detailed results at the polling station level, allowing political parties and observers to cross-verify the results, in accordance with international best practice. This would help ensure the transparency and credibility of the election process. Despite pressure from local and international stakeholders, ZEC refused to publish polling station returns (form V11s), arguing that no law compels it to release results disaggregated by polling station.

According to section 64 of the Electoral Act, 'after votes have been counted at a polling station the presiding officer must, for all the elections held there: record on a polling station return, in

395 This is a shadowy organisation that emerged in the run up to the 2023 election. It is believed that it is funded by Kudakwashe Tagwirei, a tenderpreneur, with political and economic ties to the Head of State.

396 'Zimbabwe: Opposition says electoral fraud favouring ZANU-PF' *The Africa Report.com* 1 August 2023.

397 'CCC members arrested for challenging FAZ presence at polling station' *Zimbabwe* 4 June 2023.

398 'ZEC addresses distribution delays in Harare Metropolitan Province' *Suburban* 24 August 2023.

Also see: <https://www.youtube.com/watch?v=58xGeUbZ-cY> (accessed 6 March 2025).

399 F Mutsaka 'Zimbabwe police arrest 41 election monitors as votes are counted after widespread delays' *AP News* 24 August 2024.

400 'Carter Center Issues Final Report on 2023 Zimbabwean Elections'

<https://www.cartercenter.org/news/pr/2024/zimbabwe-021224.html> (accessed 6 March 2025).

form V11, the votes obtained by each candidate and the number of spoilt and rejected ballot papers, show the return to everyone present, provide each of the candidates or their election agents with a copy of the return, and affix a copy of the return on the outside of the polling station so that it can be seen by the public and the public can record its contents.⁴⁰¹ The Act requires presiding officers to be completely transparent about polling station returns.⁴⁰² In other words, they must show the returns to everyone present, give copies to all interested persons, and display them outside their polling stations so that the public can inspect them and record their contents.⁴⁰³

The law also directs the presiding officer to send the return, together with the ballot boxes and electoral papers, to the ward centre. There, in terms of section 65 of the Act, all the polling station returns are verified and collated in the presence of candidates and their agents and any election observers, and a ward return is prepared showing the collated results.⁴⁰⁴ This return must also be shown to everyone present, copies given to candidates and their agents, and a copy displayed outside the ward centre so that it can be inspected and recorded by anyone who wishes to do so.⁴⁰⁵ The same procedure is followed at constituency and provincial levels and, in the case of a presidential election, at the national level with regards to sections 65A, 65B and 110 of the Act.⁴⁰⁶ The Act does not, however, oblige ZEC to publish or disclose the returns after the election results have been announced.

4.5.1 Recommendations

This report recommends that ZEC should:

- a. Publish detailed results at the polling station level, allowing political parties and observers to cross-verify the results, in accordance with international best practice.
- b. Provide adequate information on all complaints or petitions received and how these have been addressed.
- c. Establish and maintain an online results management platform for stakeholders to follow the counting and collation in real time. Further, ZEC should harness the potential of digital and social media technologies for proactive disclosure of electoral information in line with the Principles and Guidelines for the Use of Digital and Social Media in Elections in Africa.

4.6 Compliance with Guideline 19 (Post-Election Day)

Guideline 19 of the Guidelines on Access to Information and Elections in Africa requires the ZEC to proactively disclose certain information after election day.

401 The Electoral (Consolidated) Act.

402 As above.

403 As above.

404 As above.

405 As above.

406 As above.

Compliance with Guideline 19 (Post-Election Day)

	Indicator	Level of compliance
A	Progress in achieving timelines for the declaration of collated results which shall be within a reasonable time or as stipulated by law	Partial Compliance
B	Declaration and publication of final election results, down to the polling station level	Partial compliance
C	Details of all objections, complaints or petitions received and how they were addressed	Non-compliance
D	Calculations or allocations of seats and timeframes and processes for the adjustment of political party lists, where applicable	Partial compliance
E	Evaluation reports on the elections produced by the ZEC	Partial compliance

Sections 64 and 65 of the Electoral Act require a presiding officer to use V11 and V23 forms for collating election results.⁴⁰⁷ For instance, section 64(2) of the Act states that:

Immediately after affixing a polling station return on the outside of the polling station in terms of subsection (1)(e), the presiding officer shall personally transmit to the ward elections officer for the ward in which the polling station is situated— (a) the ballot box and packets referred to in subsection (1)(a) and (b), accompanied by a statement made by the presiding officer showing the number of ballot papers entrusted to him or her and accounting for them under the heads of used ballot papers, excluding spoilt ballot papers, unused ballot papers and spoilt ballot papers; and (b) the polling-station return certified by himself or herself to be correct: Provided that if, by reason of death, injury or illness, the presiding officer is unable personally to transmit the ballot box, packets, statement and polling station return under this subsection, a polling officer who was on duty at the polling station shall personally transmit these, and in that event any statement or certification required to be made by the presiding officer for the purposes of this section may be made by the polling officer concerned.”⁴⁰⁸

The Presiding Officer (PO) is the principal administrator and oversees a polling station. The Presiding Officer must afford each candidate or their election agent(s) the opportunity to subscribe their signatures to the polling station return form known as the Form V11. The Presiding Officer must ensure that all original V11 forms bear the same information and in the same order. The Presiding Officer is responsible for ensuring that all the necessary electoral materials and equipment are collected from the Constituency Elections Officer (CEO) and

⁴⁰⁷ Electoral Regulations, Statutory Instrument No. 21 of 2005.

⁴⁰⁸ The Electoral (Consolidated) Act.

securely delivered to the polling station in a timely manner. The opening of ballot box and the filling in of its polling station return form (Form V11) should be done in a transparent manner. Once that is completed then, the Presiding Officer may allow for a brief break before moving to process the next election. According to Zimbabwe's Electoral Act, results for any of the elections should be announced within five days from the close of polling.⁴⁰⁹

On 27 August 2023, ZEC announced presidential results. This was three days after the 23-24 August 2023 elections.⁴¹⁰ The rest of the parliamentary elections results were announced on the 28 August 2023.⁴¹¹ Section 66A of Electoral Amendment Act (No 6) prohibits people, who are not ZEC from announcing election results and declaring winners. Despite the technical glitches and the disputed election results, ZEC managed to declare the presidential, parliamentary, and local council results within the required five days. This was unlike in July 2018 and June 2008 where the electoral body took six weeks to announce the results,⁴¹² resulting in protests and loss of life. The main challenge in August 2023 was failure to announce verified presidential results which fuelled tensions between the CCC and the ruling party, ZANU-PF.⁴¹³ This is partly because ZEC focused on constituency-based results rather than the polling station level. Despite the law requiring the posting of these results at polling stations, in some constituencies, this was not done.

As far as electoral-related complaints or petitions received are concerned, a record 100 cases were filed in court by aspiring candidates after nomination court sitting.⁴¹⁴ Most of the court petitions are still to be heard. There is no information on how addressed complaints or petitions brought to the Multiparty Liaison Committee. Concerns were raised about the effectiveness and functionality of MLCs as dispute resolution mechanisms.⁴¹⁵ There was concern that these platforms were toothless in terms of addressing grievances at the local level. Although the media covered cases related to post-election petitions, ZEC did not disclose details about them. In future, ZEC is urged to ensure that details about post-election petitions are publicly disclosed to the electorate.

Information on the calculations or allocations of seats and timeframes and processes for the adjustment of political party lists was partly shared with political parties.⁴¹⁶ This information

409 C Muronzi & A Chughtai 'Zimbabwe election: Your guide to how the electoral system works' *Al Jazeera* 19 August 2023.

410 'Zimbabwe's President Mnangagwa wins second term, opposition rejects result' *Al Jazeera* 27 August 2023.

411 'DEVELOPING | Zimbabwe elections: CCC calls for fresh election' *News24* 31 August 2023.

412 Election Watch 37-2018 Inexplicable Delay in Announcing Presidential Election Results R | veritaszim' <https://www.veritaszim.net/node/2537> (accessed 6 March 2025).

413 D Erasmus 'Nelson Chamisa claims victory in "flawed" Zimbabwe election' *The Mail & Guardian* 28 August 2023.

414 <https://www.europarl.europa.eu/cmsdata/279784/Zimbabwe-General-elections-Final-report.pdf> (accessed 6 March 2025).

415 G Mwonzora 'Zimbabwe opposition's quest for electoral reforms in the post-GNU era: from Unity to action' (2024) *Cogent Social Sciences* 10(1).

416 <https://www.newsday.co.zw/local-news/article/200005540/zec-submits-delimitation-report> (accessed 6 March 2025).

was not proactively shared with the public. In the end, the voters were not very clear about the allocation of seats in line with the proportional system for senatorial positions. Although ZEC did not publish a preliminary evaluation report ahead of the August 2023 election, it released its 2023 Harmonised Election Report in November 2023.⁴¹⁷ The report discussed the main issues relating to the whole election cycle.

4.7. Recommendations

ZEC should do the following:

- a. Publish a preliminary report before the elections unpacking the main issues like the accreditation of observers, sitting of the nomination court, complaints received from political parties and how they have been addressed.
- b. Proactively share information on the allocation of senatorial seats as required by the proportional representation system.
- c. Declare results for the polling station level for presidential, parliamentary and local council elections.

417 European Union Election Observation Mission 'n 414 above.



PART FIVE

Assessing Compliance of Political Parties to the Guidelines on Access to Information and Elections in Africa

Part Five: Assessing Compliance of Political Parties to the Guidelines on Access to Information and Elections in Africa

5.1 Compliance with Guideline 20 (Internal Information)

Section five discusses the extent to which Zimbabwean political parties adhered to the requirements of guideline 20. In this section, the main focus is on analysing the extent to which the main political parties and candidates proactively disclosed certain internal information.

Compliance with Guideline 20 (Internal Information)		
	Indicator	Status of compliance
A	Constitution, names of office bearers as well as the policies of the political party	Partial compliance
B	Symbols, logos or trademarks associated with the political party	Total Compliance
C	Number of registered members	Non-compliance
D	Criteria and procedure for nomination and election of candidates for internal and external office	Non-compliance
E	Process for dispute resolution and the relevant appeal mechanisms	Partial compliance
F	Mechanisms for public participation, including any special mechanisms for persons with disabilities	Partial compliance
G	Mechanisms for monitoring of the nomination process and proceedings	Partial compliance
H	Names of party agents or representatives responsible for or on duty at various stages of the electoral process	Non-compliance
I	Assets, investments, membership subscriptions, subventions and donations	Non-compliance

All the major political parties (ZANU-PF, MDC-T, CCC, NCA, and ZAPU) in Zimbabwe have constitutions. For instance, Zimbabwe African National Union-Patriotic Front (ZANU-PF) constitution is readily available on the internet.⁴¹⁸ The Citizens Coalition for Change had no

418 <https://www.veritaszim.net/sites/veritas> (accessed 6 March 2025).

readily accessible constitution although the former spokesperson, Fadzai Mahere, is on record as having said the party has an interim constitution.⁴¹⁹ Article 7.3 of the interim constitution reads:

There shall be a leader and Change Champion in Chief (Adv Nelson Chamisa) who shall be the Administrator and President tasked by the citizens to champion, lead and guide processes of the movement in between sessions of the Citizen National Assembly (CNA) until an elective citizen convention is held. The Change Champion in Chief shall be the chief spokesperson and chief representative of the CCC as well as the custodian of its documents, property and wellbeing.

Another party which has a publicly accessible constitution is the Movement for Democratic Change-Tsvangirai (MDC-T).⁴²⁰ Some of the smaller parties like the United Zimbabwe Alliance, FreeZim Congress, Zimbabwe Coalition for Peace and Development (ZCPD), Zimbabwe Partnership for Prosperity, National Constitutional Assembly, National People's Congress, the United African National Council, and Democratic Opposition Party of Zimbabwe had no easily available constitutions online. Analysis of party websites and blogs showed that these documents are rarely uploaded online.

The major political parties such as ZANU-PF, CCC, and MDC-T publicly shared information about their events, manifestos⁴²¹, promises, candidates and rallies on their websites, social media handles and blogs. The CCC relied heavily on X, Facebook, YouTube and Instagram for sharing newsworthy information throughout the electoral cycle. Their office bearers such as Nelson Chamisa, Fadzayi Mahere, Gift Ostallos Siziba, Jacob Mafume, Promise Mkhwananzi, Daniel Molokele, Charlton Hwende, Joana Mamombe, Tendai Biti, Pashor Sibanda, and many others were very visible on X. They posted pictures about rally attendance, advertised upcoming rallies and encouraged voters to go out and vote. They also relied on social media influencers, and party cadres. On the other hand, ZANU-PF was more active on public and private television stations, radio programmes, social media handles and newspapers. They shared information about their rallies, promises and candidates on the Zimbabwe Broadcasting Corporation TV, Zimpapers Television Network, 3KTV, and NRTV.⁴²² They also had several social media handles like @Zanu-pf patriots, Nick Mangwana, Tinoedza Zvimwe, Nicole Hondo, Kudzai Mutisi, and Jonathan Moyo. They also relied on social media brigades for tweeting, retweeting and commenting on X.

Most of the political parties publicly shared their symbols, logos and trademarks. These were shared via a wide range of media platforms including billboards, posters, brochures, TV and

419 'Mahere Defends Controversial CCC Constitution' *The Zimbabwean* 21 November 2023.

420 The Constitution of the Movement for Democratic Change
https://www.veritaszim.net/sites/veritas_d/files/THE%20FINAL%20CONSTITUTION.pdf
(accessed 6 March 2025).

421 As above.

422 A Mare 'Understanding the role of social media in political campaigns' *The Zimbabwe Independent* 20 July 2023.

radio adverts, and leaflets. Although CCC adopted the strategic ambiguity approach,⁴²³ leading to the August elections, it also shared its key messages, and manifestos, and popularised their candidates in urban constituencies through social media platforms and newspapers. They also live-streamed most of their rallies on YouTube and Facebook. Further, they relied on their website for information dissemination and fundraising efforts. Citizen campaigners for CCC on X, Facebook and WhatsApp had an online radio broadcasting platform, which provided spaces for candidates to meet the electorate and raise funds for rural constituencies.⁴²⁴ Information about party agents, office bearers, party regalia, symbols and logos was shared on various media platforms.

All the major political parties did not proactively release information on the number of registered members in their databases. It seems most of them did not have a verifiable database of registered members. However, ZANU-PF seemed to have had access to voters' mobile phone numbers because they forwarded short subscriber messages (SMS) to thousands of voters in the run up to the elections.⁴²⁵

All the parties were secretive about the criteria and procedure for nomination and election of candidates for internal and external office. This information was only shared with registered members of the parties.⁴²⁶ In line with the party's strategic ambiguity approach,⁴²⁷ CCC only published the names of its parliamentary candidates who filed their nominations in June 2023.⁴²⁸ The whole process was shrouded in mystery despite claims that this was a strategy meant to circumvent infiltration and derailment of the party's elections agenda. The same secretive approach was adopted by ZANU-PF although it announced its list of candidates much earlier than the CCC.⁴²⁹

There was also no proactive disclosure of information related to mechanisms for public participation, including any special mechanisms for persons with disabilities in all the major parties. Most parties did not explicitly articulate their quota system for people living with disabilities.⁴³⁰ They only pronounced their quota system for women and youth.⁴³¹ Zimbabwe's Constitution through Amendment No.2 Section 124 provides for 10 parliament seats for youth under the proportional representation system.⁴³² In future, all political parties must clearly state available mechanisms for public participation.

423 This meant keeping the party as an amorphous entity without clear leadership organisation or a constitution – to avoid infiltration.

424 K Theriault & A Mare 'Electoral Disinformation during the Disputed 2023 Elections in Zimbabwe' *Kujenga Amani* 15 February 2024.

425 FS Matiashe 'Zimbabwe: In the build-up to elections, authorities breach data privacy for campaign agenda' *The Africa Report.com* 2 July 2023.

426 'CCC finalises candidates selection' *The Southern Eye* 18 June 2023.

427 'Chamisa's "Strategic Ambiguity" Approach Paid Off - Mutebuka' *Pindula* 26 August 2024.

428 FULL LIST: CCC Parliamentary Candidates For 2023 Elections' *Pindula* 22 June 2023.

429 'Zanu PF Bulawayo full list of harmonised elections 2023' *The Chronicle* 27 March 2023.

430 'CCC finalises candidates selection' *Southern Eye* 5 April 2023.

431 'Full poll candidate list out' *The Chronicle* 1 July 2023.

432 As above.

All the parties did not publicise information on mechanisms that they put in place to monitor the nomination process and proceedings. This is despite the fact the nomination process led to many electoral petitions before and after the August 2023 elections.⁴³³ Most of the petitions came from candidates who were disqualified by the Nomination Court. In the next elections, political parties are urged to provide information on existing mechanisms for monitoring the nomination process and proceedings.

Most political parties, except for CCC, did not publish information about the dispute resolution processes and the relevant appeal mechanisms. The CCC established an independent candidates' selection panel which presided over the process and nominees were given an opportunity to either accept or turn down the nomination.⁴³⁴ All nominated individuals also underwent internal vetting processes to ascertain their suitability. After the vetting and validation of all nominated candidates a full list of successful candidates was announced, and further validation undertaken before confirmation of the full list. CCC also set up a grievance handling committee which dealt with complaints.⁴³⁵ However, this committee did not publicise the nature of complaints it received and how it dealt with them. Anecdotal evidence suggests that the ruling party expected its candidates to appeal through existing structures.⁴³⁶ The candidates were supposed to lodge their appeals through the office of the Secretary for Commissariat, led by Mike Bimha.⁴³⁷

Besides the election agents for the main presidential candidates (such as Tapiwa Shumba for Nelson Chamisa, and Patrick Chinamasa for Emmerson Mnangagwa), all the political parties in Zimbabwe did not provide a list of names of party agents or representatives responsible for or on duty at various stages of the electoral process. There was a lot of secrecy around the names of election agents. The opposition claimed that releasing their names would put them in danger, especially in areas where political violence and intimidation were rife.⁴³⁸

The Electoral Act and the Political Parties (Finances) Act of 2001 are the primary statutes that provide for the registration, regulation, and funding of political parties.⁴³⁹ Section 3(6) of the Political Parties (Finances) Act provides for the financing of political parties by the State and prohibits foreign donations to political parties and candidates. It repealed the Political Parties (Finance) Act [Chapter 2:04].⁴⁴⁰ According to the Act, every political party which receives at least 5% of votes cast in a general election is entitled to receive funding from the State. Section 2 of the Act calls on the Minister of Justice, Legal and Parliamentary Affairs to publish, with the approval of the Minister responsible for finance, a notice in the Gazette specifying the total

433 'ZEC responds to CCC Court challenge' *The Chronicle* 2 September 2023.

434 Thandiwe Garusa 'Chamisa's CCC sets candidates selection dates; nominees to undergo strict vetting process' *NewZimbabwe.com* 30 March 2023.

435 As above.

436 R Ndlovu 'Disgruntled Zanu-PF rebels stand their ground' *The Mail & Guardian* 5 July 2013.

437 As above.

438 LB Harris 'CCC to recruit competent polling agents' *CITE* 21 February 2022.

439 C Dendere 'Financing political parties in Africa: the case of Zimbabwe' (2021) 59 *The Journal of Modern African Studies* 295-317.

440 Political Parties Act, No. 2 of 2011.

amount of money appropriated for all political parties and the amount that shall be paid to each individual political party in terms of the Act. In Zimbabwe, there are no spending limits, no compulsory requirement to report contributions and spending, and no requirement to publish financial reports.⁴⁴¹

Public funding is required for all political parties in countries with fragile democracies where the governing party has inexhaustible access to state resources that it routinely abuses to bolster its party activities and to campaign in elections against enfeebled opposition parties.⁴⁴² A few months before the August 2023 elections, ZANU-PF and MDC-T led by Douglas Mwonozora received ZWL\$1 billion under the Political Parties (Finance) Act.⁴⁴³ This was shared between the parties in proportion to the votes each party received in the 2018 general elections. In terms of General Notice 1153 of 2023, published by the Minister of Justice, Legal and Parliamentary Affairs, Ziyambi Ziyambi, ZANU-PF received the lion's share of the disbursement. ZANU-PF received seven hundred million three hundred thousand dollars (\$700 300 000,00) while the MDC-T got two hundred and ninety-nine million seven hundred thousand dollars (\$299 700 000,00).⁴⁴⁴

The strategic ambiguity approach adopted by the CCC for fear of infiltration by ZANU-PF, as mentioned in previous sections, created a difficult situation for the party to proactively disclose internal information related to the elections. Notably, CCC only announced the final list of their candidates on the nomination day despite the fact the party finished the primary elections earlier.⁴⁴⁵ Even ZANU-PF was not proactive in its disclosure of important information. The party hosted a series of press conferences at its office during the counting of votes phase. The CCC had some of its press conferences aborted after unknown thugs attacked its spokesperson, Promise Mkhwananzi.⁴⁴⁶ Hotels were also strongly warned by security agents and ZANU-PF militia against providing the CCC with venues for press conferences.⁴⁴⁷ This also created a chilling effect that militated against the proactive disclosure of information.

5.1.1 Recommendations

Political parties in Zimbabwe are urged to:

- a. Proactively share information on the number of registered members, their age, geographical location, and gender.

441 'International Foundation for Electoral System: Political Party and Campaign Finance in Zimbabwe' (2019) https://www.ifes.org/sites/default/files/migrate/political_party_and_campaign_finance_in_zimbabwe_one_pager_july_2019.pdf (accessed 6 March 2025).

442 https://www.zesn.org.zw/wp-content/_protected/publications/publication (accessed 6 March 2025).

443 'ZANU PF, MDC Receive ZWL\$1 Billion Under Political Parties Finance Act' *The Zimbabwe Mail* 7 July 2023.

444 As above.

445 FS Matiashe 'Zimbabwe: Main opposition party CCC could run out of time as election date set week earlier' *The Africa Report.com* 30 March 2023.

446 'Zimbabwe elections | Opposition party's press briefing disrupted' *eNCA* 26 August 2023.

447 FS Matiashe 'Zimbabwe: CCC reports surge in post-election violence in rural areas' *The Africa Report.com* 1 November 2023.

- b. Provide information on the names of party agents or representatives responsible for or on duty at various stages of the electoral process. While the fear of their safety and security, political parties can invest in providing legal and psychosocial support for their party agents.
- c. Proactively disclose information related to mechanisms for public participation, including any special mechanisms for persons with disabilities. Like the quota system for women and youth, political parties should come up with mechanisms that promote public participation by people living with disabilities.
- d. Publish information about the dispute resolution processes and the relevant appeal mechanisms throughout the electoral cycle.
- e. Provide information on existing mechanisms for monitoring the nomination process and proceedings.
- f. Provide information about the amount and nature of assets, investments, membership subscriptions, subventions, and donations. This information will promote transparency and accountability with regard to the daily operations of political parties.

5.2 Compliance with Guideline 21 (Legal Framework)

Under this section, the report assesses the extent to which Zimbabwe established a legal framework for the provision of timely and accurate information by political parties and candidates.

Compliance with Guideline 21 (Legal Framework)		
No.	Indicator	Level of compliance
A	Receipt of campaign funding from both public and private sources	Partial compliance
B	Campaign expenditure broken down into distinct line items and specifying the sources of funding and actual amounts	Non-compliance
C	Annual audited financial reports	Non-compliance

Although the law provides for the disbursement of campaign funds to all the political parties with representatives in the parliament, the money meant for CCC was hijacked by the MDC-T.⁴⁴⁸ It is alleged the connivance between ZANU-PF and MDC-T, which led to the diversion of political funds,⁴⁴⁹ was meant to starve the main opposition party of funding and systematically affect its continued existence.⁴⁵⁰ Although there was information about public funds which were released to ZANU-PF and MDC-T by treasury,⁴⁵¹ all the political parties were not transparent about funds

448 J Muonwa 'Zimbabwe: Windfall As Zanu-PF, Mwonozora Share \$500m Ahead of March By-Elections' *New Zimbabwe* 28 January 2022.

449 'CCC candidates struggling for election campaign funding' *The Zimbabwe Mail* 22 July 2023.

450 N Ndoro 'Zanu-PF, Mwonozora share US\$1,5 million ahead of 2023 elections' *Nehanda Radio* 21 March 2023.

451 'Douglas Mwonozora's MDC Receives \$500 Million From Treasury' *Pindula* 26 March 2023.

received from private sources. Section 2 of the Political Parties (Finances) Act outlaws foreign funding for political parties and governs how the treasury should distribute state funds to political parties that manage to garner at least 5 percent of the total vote at general elections.

All the political parties failed to provide concrete information about campaign expenditure broken down into distinct line items and specifying the sources of funding and actual amounts. There was secrecy around campaign funding. Even though suspicions⁴⁵² were that the CCC was receiving money from foreign donors, that claim was not confirmed by party officials.⁴⁵³ CCC did not share information about the actual money raised from crowdfunding initiatives, which also raised money for the political party.⁴⁵⁴ On its part, ZANU-PF is said to have received funding from FAZ,⁴⁵⁵ tenderpreneurs and Chinese,⁴⁵⁶ companies operating in Zimbabwe. However, these claims were not substantiated by sources within the party. The party is said to have received funding from the private sector, especially mining, agriculture, tourism and manufacturing.

All the political parties did not proactively disclose published annual audited financial reports during the August 2023 electoral campaign. This is partly because political funding in Zimbabwe is shrouded in a veil of secrecy. The first and last party to publish audited financial statements in Zimbabwe was the Movement for Democratic Change-Alliance (MDC-A), under the leadership of Nelson Chamisa.⁴⁵⁷ The audited financial statements for the seven months that ended on 31 December 2019 were published in October 2020.⁴⁵⁸ This gesture was meant to make the party accountable to the citizens who contribute financially to the party's continued operations.⁴⁵⁹ It was also meant to foster a culture of transparency which has been lacking in the country's political scene. The publication of the financial audits was a momentous step for the whole country because most of the funds were from the taxpayers through the Political Parties Finance Act.

5.2.1 Recommendations

- a. The ZEC and Parliament should establish and implement regulations to operationalise the Political Parties (Finances) Act to enable transparency and accountability around campaign funding. The regulations should include provisions for the proactive disclosure of information on external and internal campaign financing.

452 N Dlamini 'Zanu PF snubs US\$10m western poll donation, dares CCC to accept grant' *Zimbabwe News Now* 21 June 2023.

453 'Chamisa accused of embezzling US\$7 million in donor funds meant for CCC candidates' *Harare Post* 23 June 2023.

454 T Kudakwashe 'CCC crowdsources for funding' *NewsDay* 31 January 2022.

455 S Jemwa & R Sibanda 'Forever associates of Zimbabwe donates to elderly vulnerable families' *The Chronicle* 13 October 2022.

456 'Chinese bankroll campaign' *The Zimbabwean* 10 July 2013.

457 Zim Daily 'MDC Alliance Publishes Audited Financial Report' *Zim Daily* 13 October 2020.

458 As above.

459 As above.

- b. The Political Parties (Finances) Act of 2001 should be amended so that it compels political parties to report contributions and spending, and to publish financial reports.
- c. The Political Parties (Finances) Act should compel all the political parties in Zimbabwe to provide disaggregated information about campaign funding received from public and private sources.
- d. The Political Parties (Finances) Act should also encourage political parties to provide concrete information about campaign expenditures broken down into distinct line items and specifying the sources of funding and actual amounts.
- e. The legal framework should exhort political parties to proactively disclose published annual audited financial reports.

5.3 Compliance with Guideline 22 (Use of State Resources)

This section focuses on how the country fared in terms of the adoption laws requiring the proactive disclosure of information on the use by all political parties of all state resources. It

Compliance with Guideline 22 (Use of State Resources)		
No.	Indicator	Level of compliance
A	Financial resources, covering the period starting one year before and ending six months after elections, including government or central bank contracts with currency printers, central bank or monetary policy committee reports, and central bank reports on government issued bonds	Non-compliance
B	Institutional resources, covering the period starting six months before and ending three months after elections, including advertising rates and the allocation of airtime and space to all political parties in state-supported media coverage, vehicle or flight logs and fuel allocations to government departments, and service agreements, contracts and tenders awarded, their amounts and budgets	Non-compliance
C	Regulatory resources, covering the period starting one year before and ending six months after elections, including documentary justification for requests for approval of supplementary budgets by Parliament, supplementary budgets passed by Parliament and political party finance legislation	Partial compliance
D	Enforcement resources, covering the period starting six months before and ending three months after elections, including details of records of the elections deployment strategy for the police, military, paramilitary and other law enforcement agents involved in ensuring security throughout the electoral process	Non-compliance

focuses on the performance of the major political parties (including ZANU-PF, CCC, MDC-T, and ZAPU) with regard to fulfilling guideline 22.

As intimated earlier, although the Political Parties (Finances) Act,⁴⁶⁰ directs political parties and candidates to be transparent about foreign funding and donations, there are no mechanisms to ensure compliance with these provisions.⁴⁶¹ Political parties in Zimbabwe did not proactively disclose their private sources of campaign funding.⁴⁶² With the exception of ZANU-PF and MDC-T which received public funding,⁴⁶³ there was opacity around the private sources of political funding. No political party in Zimbabwe was able to provide information about the financial resources, covering the period starting one year before and ending six months after the elections. There was no proactive disclosure about the government or central bank contracts with currency printers, central bank or monetary policy committee reports, and central bank reports on government-issued bonds. The only information available was the amount of money set aside for the August 2023 elections.⁴⁶⁴ In his December 2022 budget statement, Prof. Mthuli Ncube, the Minister of Finance and Economic Development allocated \$74.7 billion for the 2023 national elections.⁴⁶⁵

The government of Zimbabwe did not provide information about institutional resources,⁴⁶⁶ covering the period starting six months before and ending three months after the elections.⁴⁶⁷ There was no transparency in the allocation of institutional resources including advertising rates and the allocation of airtime and space to all political parties in state-supported media coverage. The government also did not provide information on vehicle or flight logs and fuel allocations to government departments throughout the electoral cycle.⁴⁶⁸ The **Central Mechanical and Equipment Department (CMED)** (Private) Limited which provides transport and equipment hire, fuel supply, and vehicle procurement for the public sector in Zimbabwe did not share information about the amount of fuel allocated to government departments. There was also secrecy around service agreements, contracts and tenders awarded to providers.⁴⁶⁹ Even information about the amounts and budgets allocated towards the printing of electoral materials was not publicly shared.⁴⁷⁰

With regards to the allocation of regulatory resources, there was little information on how the government of Zimbabwe disbursed them for the period starting one year before and ending six months after the elections. There was no supplementary budget which was passed by the

460 Political Parties (Finance) Act, No. 2 of 2011.

461 As above.

462 'CCC receives US\$50m campaign war chest' *Harare Post* 23 June 2023.

463 N Ndoro 'Zanu-PF, Mwonozora share US\$1,5 million ahead of 2023 elections' *Nehanda Radio* 21 March 2023.

464 '2023 election budget adequate — Mthuli' *DailyNews* 16 December 2022.

465 As above.

466 T Nqobile '\$101,6 billion for Zec ahead of 2023 General Election' *The Chronicle* 28 November 2022.

467 F Machivenyika 'ZEC briefs Parliament on 2023 harmonised elections preps' *The Herald* 5 April 2023.

468 P Matika 'Government financially prepared for elections' *The Chronicle* 3 July 2023.

469 As above.

470 D Matabvu & L Towindo 'Exposé on ZEC poll deal \$21m spent on material SA firm threatens to sue' *The Sunday Mail* 22 June 2024.

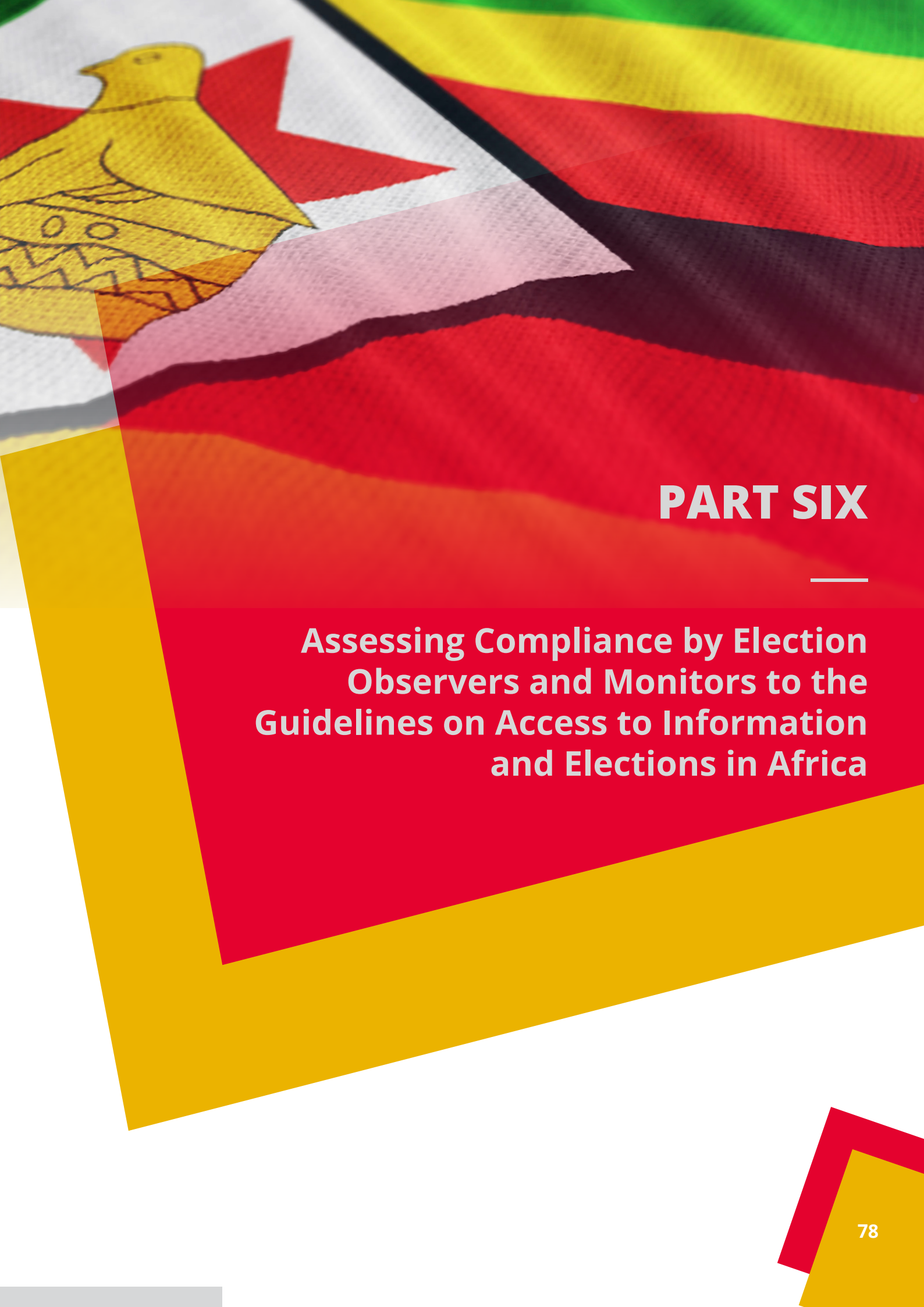
Parliament. As already stated, the Minister of Finance allocated financial resources towards the holding of elections in his December 2022 budget statement.⁴⁷¹

There was secrecy around the allocation of enforcement resources, covering the period starting six months before and ending three months after the elections. This meant that the public was not made aware of the details of records of the election deployment strategy for the police, military, paramilitary and other law enforcement agents involved in ensuring security throughout the electoral process.

5.3.1 Recommendation

- a. Parliament should enact legislation requiring various government departments to proactively disclose information on their use of enforcement, institutional, regulatory and financial resources.

⁴⁷¹ As above.



PART SIX

Assessing Compliance by Election Observers and Monitors to the Guidelines on Access to Information and Elections in Africa

Part Six: Assessing Compliance by Election Observers and Monitors to the Guidelines on Access to Information and Elections in Africa

6.1 Compliance with Guideline 23 (Election Observers and Monitors)

Section six of this report focuses on the extent to which election observers and monitors adhered to guideline 23, which requires them to proactively disclose certain categories of information. Based on media reports, social media analysis and interviews with some of the local and international observers, this section provides evidence of how they fared during the August elections.

Compliance with Guideline 23 (Election Observers and Monitors)		
No.	Indicator	Level of compliance
A	Names and details of key office bearers in the observer or monitoring mission	Partial compliance
B	Code of conduct for observers and monitors	Significant compliance
C	Financial or non-financial assistance received from donors, political parties, or candidates, including the incumbent government	Non-compliance
D	The Election Observation Mission Report, specifying the methodology, deployment plan as well as the assessment of the conduct and outcome of the elections, published widely and timeously, with preliminary reports issued within 30 days and final reports issued within 90 days	Total compliance
E	Conflict of interest or political affiliations of local observers or monitors	Non-compliance
F	Sources of funding for organisations conducting opinion and exit polls and parallel voter tabulation	Non-compliance

An election observer gathers information and makes an informed judgement without interfering in the election process. An election monitor observes the electoral process and intervenes if laws are being violated.⁴⁷² The process of election monitoring involves the observation of an election by one or more independent parties, typically from another country

472 S Larserud 'Election observation, monitoring and supervision' (2006) <https://aceproject.org/electoral-advice/archive/questions/replies/234934798> (accessed 6 March 2025).

or from local and international non-governmental organisations.⁴⁷³ In this report, the concept of election observation is used interchangeably with election monitoring.

The practice of monitoring and observing elections in Africa started in the late 1980s and early 1990s.⁴⁷⁴ During this period, where multiparty elections were increasingly the norm, it was realised that there was an urgent need for neutral arbiters. The rationale was that observers would play an instrumental role in assessing whether elections conformed to national, regional, and international norms. It was also during this time that Zimbabwe started experimenting with election observation missions. Between 1990 and 1999, election observations were conducted in Zimbabwe without too much drama and confrontations.⁴⁷⁵ However, election observation became a sensitive issue when Zimbabwe undertook the controversial Fast Track Land Reform Programme (FTLP) which resulted in strained relationships with some Western countries.⁴⁷⁶ Since then, election observation has attracted a lot of diplomatic tiffs between Zimbabwe and Western countries. Between 2000 and 2018, the observation of elections was characterised by a selective invitation of international election observers in contrast to a less stringent invitation of African observers and the production of (at times) differing election reports from international, continental and local observers.⁴⁷⁷ The situation changed in 2018 when the current President Emmerson Mnangagwa invited election observers from Europe, the United States of America and the Commonwealth.⁴⁷⁸

Ahead of the 2023 election, the Zimbabwe Electoral Commission issued a notice inviting persons and organisations wishing to observe the electoral processes, the conduct of polling on election day and the counting and collation of ballots, to submit their applications.⁴⁷⁹ In the end, the Commission's Observer Accreditation Committee recommended to the ZEC the accreditation of international, continental, and local observers.⁴⁸⁰ These include the European Union (EU), Commonwealth, African Union (AU), Southern African Development Community (SADC), and Common Market for Eastern and Southern Africa (COMESA). According to the Zimbabwean Ministry of Foreign Affairs and International Trade, a total of 46 countries and 15 regional and international bodies were invited to observe the elections.⁴⁸¹ Local observers included media organisations, freelance journalists, the Zimbabwe Electoral Support Network (ZESN) and the Electoral Resource Centre (ERC). The accreditation fees gazetted by the Zimbabwe Electoral Commission were set as follows:

473 ACE Project 'Election Observation' <https://aceproject.org/main/english/po/poa03.htm> (accessed 6 March 2025).

474 F Sasa 'The politics of election observation in Zimbabwe (2000 - 2018)' Unpublished PhD Thesis, University of Johannesburg 2022.

475 As above.

476 As above.

477 As above.

478 A Lalbahadur 'In Zimbabwe elections, international observers have a vital gatekeeping role to play' *Daily Maverick*, 26 July 2018.

479 'ZEC Notice: Application for Accreditation to Observe The Harmonized Elections | veritaszim' <https://www.veritaszim.net/node/6418> (accessed 6 March 2025).

480 'Accreditation to Observe the Inspection of the Provisional Voters' Roll' <https://old.zec.org.zw/pages/accreditation> (accessed 6 March 2025).

481 N Mhuryengwe 'Factsheet: Foreign Observers for Zimbabwe 2023 elections' *ZimFact* 29 July 2023.

Table 2: Accreditation fees for election observation

Types of Observers	Amount in USD
Local Observers	\$10
Observers from the continent of Africa	\$100
Observers from foreign embassies in Zimbabwe	\$300
Observers from any country outside Africa	\$400
Zimbabwean media practitioners accredited with the Zimbabwe Media Commission and working in Zimbabwe for foreign media houses	\$100
Zimbabwean local media practitioners accredited with the Zimbabwe Media Commission	\$10

Source: Veritas, <https://www.veritaszim.net/node/6418>

The approaches taken by election monitors for the 2023 general election were informed by lessons from previous electoral cycles. Zimbabwean stakeholders had in the past expressed scepticism,⁴⁸² about the credibility of international election observation missions which tended to issue template reports accepting status quo results while making recommendations on technical minutiae of little immediate consequence for apparent electoral winners and losers.⁴⁸³ For example, most of the preliminary statements of the continental and regional election observation groups effectively gave the 2018 general elections a clean bill of health,⁴⁸⁴ yet there were a number of anomalies in the counting and collation of the presidential election which were adjudicated in the courts.

Local observer missions in Zimbabwe tended to focus more on providing information on the organisations/entities constituting the initiatives and far less on the actual persons bearing responsibilities in the missions. Zimbabwe's main domestic monitoring effort was undertaken under the aegis of the Zimbabwe Electoral Support Network and Electoral Resource Centre.⁴⁸⁵ Most civil society organisations and faith-based organisations coalesced under these two main entities. Some of the organisations represented women, youth, people living with disabilities and other marginalised communities. Other CSOs which took part in election monitoring and

482 H Mukachana 'EU Observer Missions report on Zim Poisonous' *The Herald* 30 November 2023.

483 As above.

484 M Dzirutwe & J Brock 'EU observers list problems with Zimbabwe election, but African observers say it was orderly and peaceful' *BusinessLIVE* 1 August 2018.

485 R Motsi 'ERC and ZESN Statement on the Announcement of Election Results' <https://ercafrica.org/2023/09/27/erc-and-zesn-statement-on-the-announcement-of-election-results-27-august-2023/> (accessed 6 March 2025).

observation include the Forever Associates Zimbabwe (FAZ), Catholic Bishops Conference of Zimbabwe, and Zimbabwe Council of Churches.

All the observers and monitors did not proactively disclose information about the financial or non-financial assistance received from donors, political parties, or candidates, including the incumbent government. Although most civic society organisations rely on donor funding for their civic work, they did not explicitly state who funded them for voter education and election observation. Sources of funding for organisations conducting opinion and exit polls,⁴⁸⁶ (like FAZ) and parallel voter tabulation (ERC and ZESN) were also not proactively disclosed.

There was no mention of conflict of interest or declaration of political affiliations by local observers or monitors. This created a situation where there were suspicions that some of the domestic observers including ZESN, ERC, FAZ⁴⁸⁷ and many other organisations were fronting the interests of the political masters.⁴⁸⁸ In future, these organisations and individuals are urged to proactively declare their conflict of interest before the campaign season starts.

International election observers or monitoring missions invariably made official announcements where they communicated their composition and objectives. During the 2023 electoral cycle, international election monitoring included missions established by regional or inter-state formations, including the African Union, the Commonwealth and the European Union. The 14-member Commonwealth Observer Group was selected from across the member states following an invitation to observe the elections from Zimbabwe's Ministry of Foreign Affairs and International Trade.⁴⁸⁹ The group deployed 10 Long-Term Observers (LTOs) and four core team analysts to assess the election situation before, during and after the elections. The core team focused its analysis on the political, electoral, legal, media and gender issues related to the electoral process, while the LTOs assessed the process in all the 10 provinces in Zimbabwe. It issued its preliminary statement two days after the election day.⁴⁹⁰ Most of the international observer missions managed to publish their preliminary reports⁴⁹¹ within 30 days and final reports⁴⁹² within 90 days as recommended by the guidelines.

The AU Commission deployed a joint AU and COMESA Election Observation Mission (EOM). The Joint AU-COMESA EOM comprised 73 Short-Term Observers (STOs) and three core teams

486 L Ndebele 'Zimbabwe votes: Another legal challenge, ballot-paper chaos, "exit poll" desks' *News24* 23 August 2023.

487 'Discredited FAZ to campaign for Zanu-PF in controversial by-elections' *Nehanda Radio* 3 November 2023.

488 L Ndebele 'Zimbabwe votes: 39 election activists arrested for preparing projections on poll outcome' *News24* 24 August 2023.

489 'Commonwealth Observer Group arrives in Zimbabwe' <https://thecommonwealth.org/news/commonwealth-observer-group-arrives-zimbabwe> (accessed 6 March 2025).

490 V Holdsworth 'Commonwealth Observers release Interim Statement on Zimbabwe elections' *Commonwealth* 26 August 2023.

491 'The Carter Center, Preliminary Statement on Zimbabwe's 2023 Harmonized Elections' August 2023 https://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/zimbabwe/zimbabwe-preliminary-election-statement-2023.pdf (accessed 6 March 2025).

492 'SADC Elections Observer Mission Final Report on Zimbabwe Elections | veritaszim' <https://www.veritaszim.net/node/6662> (accessed 6 March 2025).

of electoral experts. It was led by H.E. Goodluck Jonathan, the former President of the Federal Republic of Nigeria, in collaboration with Rt. Hon. Dr Ruhakana Rugunda, former Prime Minister of the Republic of Uganda.⁴⁹³ COMESA deployed a short-term election observer mission on 21 July. The mission was led by Ashraf Gamal Rashed, a member of the COMESA Committee of Elders from Egypt. The joint EOM engaged with several stakeholders and observed the final preparations and polling process. It issued its preliminary statement four days after the election day.⁴⁹⁴

The Joint AU-COMESA EOM drew its mandate from various AU and COMESA instruments, most importantly: the African Union Guidelines for Elections Observation and Monitoring Missions (2002);⁴⁹⁵ the OAU/AU Declaration on Principles Governing Democratic Elections in Africa (2002);⁴⁹⁶ African Charter on Human and Peoples Rights⁴⁹⁷; African Charter on Democracy, Elections and Governance;⁴⁹⁸ and COMESA Elections Observation Guidelines⁴⁹⁹ among others. The observer mission was also in line with Aspiration No. 3 of the AU Agenda 2063,⁵⁰⁰ which aims to ensure good governance, democracy and respect for human rights, justice, and the rule of law.

The SADC Electoral Observation Mission (SEOM) headed by former deputy president of Zambia, Dr Nevers Mumba, also deployed its observers nationwide in Zimbabwe.⁵⁰¹ In a statement, SEOM said its mandate was to 'assess the conduct of the elections against a set of central principles stipulated in the revised SADC Principles and Guidelines Governing Democratic Elections of 2021, which include, amongst others, full participation of the citizens in the democratic and development processes, measures to prevent political violence, intimidation, and intolerance, equal opportunity for all political parties to access the state media as well as access to information by all citizens, and acceptance of and respect for the election results by all political parties.'⁵⁰² SEOM deployed a total of 63 short and long-term observers to observe Zimbabwe's elections.⁵⁰³ The mission was launched on 21 July by Tete António, Secretary of

493 'AU-COMESA joint Election Observation Mission set to be deployed to the upcoming Zimbabwe Elections | African Union' <https://au.int/en/pressreleases/20230803/au-comesa-joint-election-observation-mission-set-be-deployed-upcoming> (accessed 6 March 2025).

494 'Preliminary Statement: African Union and the Common Market for Eastern and Southern Africa Election Observation Mission to the 23 August 2023 Harmonised Elections in Zimbabwe | African Union' <https://au.int/en/pressreleases/20230828/preliminary-statement-african-union-and-common-market-eastern-and-southern> (accessed 6 March 2025).

495 ACHPR 'Guidelines for African Union Electoral Observation and Monitoring Missions, 2002.

496 Declaration on the Principles Governing Democratic Elections in Africa, 2002.

497 African Charter on Human and Peoples' Rights, 1981.

498 African Charter on Democracy Elections and Governance, 2007.

499 'Election Observer Missions – Common Market for Eastern and Southern Africa (COMESA)' <https://www.comesa.int/peace-and-security/election-observer-missions/> (accessed 6 March 2025).

500 'Agenda 2063: The Africa We Want' <https://au.int/en/agenda2063/overview> (accessed 6 March 2025).

501 L Ndebele 'Zimbabwe elections: SADC to deploy observers this week ahead of polls' *News24* 14 August 2023.

502 'Head of SADC Electoral Observation Mission to Zimbabwe arrives in Harare' *Press Statement* 16 August 2023.

503 'Regional, international organisations deploy observers for Zimbabwe polls' *Knowledge for Development* 26 July 2018.

State in the Angolan Ministry of External Relations, on behalf of Angolan President João Manuel Gonçalves Lourenço. The SADC observers were drawn from Angola, Botswana, the Democratic Republic of Congo, Lesotho, Namibia, Malawi, Mauritius, Mozambique, South Africa, the United Republic of Tanzania, and Zambia. They were deployed to all 10 provinces. At the time of writing, SEOM had submitted its final report to the SADC Chair, Hakainde Hichilema, Zambian President.⁵⁰⁴ The report had also been tabled before the SADC Extraordinary Summit, which issued a communique⁵⁰⁵ on 4 November 2023.

For the first time in nearly two decades, observers from Western countries were invited to witness the August 2023 elections. The EU was among the international organisations who had not been invited to observe Zimbabwe's elections since 2002 by former president Robert Mugabe who accused them of alleged bias in favour of the opposition.⁵⁰⁶ The EU was among the first groups to deploy an election observation mission to Zimbabwe. The European body deployed a 54-member election observer mission. The mission's core team of 10 analysts arrived in Zimbabwe on 6 June and stayed until the completion of the electoral process. The core team was joined by 44 long-term observers who were also deployed across the southern African country. The EU EOM included a core team of 60 observers, 44 LTOs deployed in 10 provinces and 46 STOs.⁵⁰⁷ In total, the EU EOM comprised about 150 observers from all 27 member states, as well as Canada, Norway and Switzerland.⁵⁰⁸ The short-term observers covered all 10 provinces in both urban and rural areas and observed polling, counting, collation of results and the general election environment.⁵⁰⁹ Prior to their deployment, the short-term observers received a two-day in-depth briefing by the EU Ambassador to Zimbabwe in Harare on the electoral background, voting procedures, the political environment, code of conduct and other topics.⁵¹⁰ The website of the EU EOM provided detailed information with the names of key officials, partnerships, schedules, and areas of assessment.⁵¹¹ The EU EOM released its preliminary observation statement on 23 August 2023.⁵¹² It released its final report on 17 November 2023.⁵¹³

Other international election observation groups included the Commonwealth Observer

504 <https://www.veritaszim.net/sites> (accessed 3 March 2025).

505 'Communique of the Extra-Ordinary Summit of SADC Heads of State and Government' *SADC News* 4 November 2023.

506 D Majaha 'Regional, international organisations deploy observers for Zimbabwe polls' *Knowledge for Development News* 26 July 2018.

507 'EU Election Observation Mission deploys 44 short-term observers | EEAS' https://www.eeas.europa.eu/eom-zimbabwe-2023/eu-election-observation-mission-deploys-44-short-term-observers_en?s=410326 (accessed 6 March 2025).

508 In total, the EU EOM will comprise about 150 observers from all 27 member states, as well as Canada, Norway and Switzerland.

509 'EU Election Observation (n 507 above).

510 As above.

511 'European Union Election Observation Mission Zimbabwe 2023 | EEAS' https://www.eeas.europa.eu/eom-zimbabwe-2023_en?s=410326 (accessed 6 March 2025).

512 European Union Election Observation Mission Zimbabwe, Preliminary Statement 25 August 2023.

513 As above.

Group,⁵¹⁴ and United States-based institutes, such as the Carter Centre.⁵¹⁵ The election observation and monitoring missions released their preliminary reports for the August polls.⁵¹⁶

As of 5 May 2024, some of the observer missions had not released their final reports. Only the EU EOM⁵¹⁷, Commonwealth and the Carter Centre⁵¹⁸ had published their final reports.

ZEC developed the Code of Conduct for Election Observers in line with the First Schedule of the Electoral Act.⁵¹⁹ The First Schedule provides a Code of Conduct for Chief Election Agents, Election Agents and Observers. It stipulates that:

- a. An observer shall obey every lawful instruction of an electoral officer.
- b. An observer shall not hinder or obstruct an electoral officer in the lawful conduct of his or her functions.
- c. No observer shall wear any apparel sporting a prohibited symbol or apparel indicating any affiliation with a candidate or political party participating in the poll, nor in any other way canvass for any candidate or political party while observing the poll.
- d. An observer shall at all times within a polling station, constituency centre or ward or council centre wear a badge or label bearing proof that he or she has been duly accredited in terms of this Act.
- e. An observer shall not obstruct or accost any voter at a polling station or on his or her way thereto or therefrom, nor interview any voter at a polling station.
- f. An observer shall not do anything which compromises the secrecy of the ballot.
- g. If an observer considers that there has been any irregularity in the conduct of the poll or the counting of the votes, the observer shall bring such irregularity or apparent irregularity to the attention of the presiding officer or constituency elections officer at the polling station, constituency centre or ward or council centre concerned.
- h. An observer shall, generally, conduct himself or herself in a manner conducive to the peaceful, dignified and orderly conduct of the poll.

6.1.1 Recommendations

- a. Domestic and international observer missions are strongly encouraged to publish names of the election observers and monitors deployed throughout the electoral cycle.

514 Commonwealth 'Commonwealth Observer Group arrives in Zimbabwe'

<https://thecommonwealth.org/news/commonwealth-observer-group-arrives-zimbabwe> (accessed 6 March 2025).

515 M Cartaya 'Carter Center Issues Final Report on 2023 Zimbabwean Elections' *The Carter Center* 12 February 2024.

516 As above.

517 'European Union Election Observation Mission, Final Report: Harmonised Election: Zimbabwe' 23 August 2023 https://www.eeas.europa.eu/eom-zimbabwe-2023/final-report-eu-eom-zimbabwe-2023_en?s=410326 (accessed 6 March 2025).

518 Cartaya (n 516), above.

519 Zimbabwe Electoral Commission 'Code Of Conduct for Election Observers' <https://www.zec.org.zw/code-of-conduct-for-election-observers/> (accessed 6 March 2025).

The list of names should include areas of deployment and declarations of conflict of interest.

- b. All the observer missions should declare their sources of funding prior to deploying election monitors/ observers. They should list their donors and funders on their websites and at the end of their preliminary and final reports.
- c. Organisations such as ZESN, ERC and FAZ involved in parallel tabulation of results and conducting exit polls should declare their sources of funding.
- d. International and domestic election observers should proactively disclose any conflict of interest or their political affiliations.



PART SEVEN

Assessing Compliance by Law- Enforcement Agencies to the Guidelines on Access to Information and Elections on Africa

Part Seven: Assessing Compliance by Law-Enforcement Agencies to the Guidelines on Access to Information and Elections on Africa

7.1 Compliance with Guideline 24 (maintenance of law and order)

In section 7, the focus is on how law enforcement agencies (such as the Zimbabwe Republic Police, Zimbabwe National Army, and Zimbabwe Prison Services) performed with regard to the requirement for proactive disclosure of certain information during the electoral cycle.⁵²⁰ This is important given the role law enforcement agencies play in maintaining law and order in highly charged moments like elections.⁵²¹ A hallmark of free and fair elections is providing a level playing field for all political parties and candidates where they can campaign and canvass for votes without any hindrance, intimidation, or fear.⁵²² Guideline 24 of the Guidelines on Access to Information and Elections in Africa enjoins law-enforcement agencies to proactively disclose certain information during the electoral cycle.

Compliance with Guideline 24 (Maintenance of Law and Order)		
No.	Description	Status of compliance
A	Code of conduct and roles during the electoral period	Partial compliance
B	Training and operational plan and manuals for the electoral period	Partial compliance
C	Deployment plans from pre-election through to post-election period	Partial compliance
D	Budgetary allocations and actual expenditure for the electoral period	Non-compliance
E	Details of any reported election related crimes, including the number of cases reported and steps taken to investigate, prosecute or withdraw such cases	Partial compliance
F	Details of any arrangements whereby any other persons or groups are authorised by law enforcement agencies to perform specific law enforcement related tasks during the electoral period	Non-compliance

520 S Maymi & E Chitukutuku 'Policing and the Credibility of the 2023 Elections in Zimbabwe' *Kujenga Amani* 15 February 2024.

521 Ace Project 'Elections and Security' <https://aceproject.org/ace-en/focus/elections-and-security/onePage> (accessed 6 March 2025).

522 GS Goodwin-Gill *Free and Fair Elections* (2006).

The formal security sector is comprised of the Zimbabwe Republic Police (ZRP), Zimbabwe Defence Forces, the Central Intelligence Organisation, and the Zimbabwe Prison and Correctional Services. In this formal security cluster, the primary state institution responsible for the security and safety of citizens is ZRP.⁵²³ The multiple law-enforcement agencies operating in the 2023 harmonised election cycle included ZRP,⁵²⁴ the National Prosecuting Authority of Zimbabwe,⁵²⁵ the National Peace and Reconciliation Commission (NPRC),⁵²⁶ the Zimbabwe Anti-Corruption Commission,⁵²⁷ and the Ministry of Home Affairs and Cultural Heritage.⁵²⁸ The ZRP was accused of selectively using the Maintenance of Peace and Order Act of 2019 thereby denying the Citizens Coalition for Change (CCC) opposition party access to campaign rallies.⁵²⁹ This selective use created an unlevel playing field during the campaign season.⁵³⁰

Interviews with the police showed that their organisation did not explicitly make available its code of conduct in the run-up to the election, in various press conferences, the Police Commissioner emphasised the mandate of the law enforcement agencies.⁵³¹ Addressing election observers and journalists in Harare, Commissioner-General Godwin Matanga is on record as having assured all stakeholders that the police were going to uphold their constitutional duties.⁵³² He, however, bemoaned the killing of CCC's activist Tinashe Chitsunge, who was allegedly stoned to death while fleeing a ZANU-PF mob in Glen Norah, Harare.⁵³³

There is evidence of training sessions on human rights and policing as well as the safety of journalists during elections which the police attended. The United Nations Development Programme (UNDP) convened a workshop for police officers on human rights, elections and policing.⁵³⁴ The police officers, drawn from ZRP's training departments from all the 10 provinces,

523 S Maymi & E Chitukutuku (n 520 above).

524 The Zimbabwe Republic Police is the country's law enforcing and maintaining organ. It was established in 1980 evolving from the Rhodesian Police and incorporated members from both the Rhodesian and the nationalist forces. It operates under the Ministry of Home Affairs and Cultural Heritage.

525 The National Prosecuting Authority of Zimbabwe is established under Section 258 of the Constitution while the Office of the Prosecutor General is established in terms of Section 259. Section 258 provides that there is a National Prosecuting Authority which is responsible for instituting and undertaking criminal prosecutions on behalf of the State and discharge any functions that are necessary or incidental to such prosecutions.

526 The National Peace and Reconciliation Commission (NPRC) was constituted in accordance with the Constitution of Zimbabwe Amendment (No.20) Act 2013 and the National Peace and Reconciliation Act Chapter 10:32 of 2018.

527 The Zimbabwe Anti-Corruption Commission (ZACC) is an independent commission created to combat corruption and crime.

528 This is the ministry responsible for ensuring safety and security, immigration, issuance of identity documents and cultural preservation.

529 'Crush Them Like Lice, Repression of Civil and Political Rights Ahead of Zimbabwe's August 2023 Election' *Human Rights Watch News* 13 August 2023.

530 'Zimbabwe: Police ban 92 CCC opposition party campaign rallies' *The Africa Report.com* 20 July 2023.

531 N Ziana 'Police guarantee peaceful voting' *New Ziana* 16 August 2023.

532 As above.

533 'Police Commissioner General Godwin Matanga Says Deceased CCC Activist Chitsunge Was Not Stoned to Death by Zanu PF Supporters' *VOA* 18 August 2023.

534 'Police train in upholding Human Rights for elections' <https://www.undp.org/zimbabwe/news/police-train-upholding-human-rights-elections> (accessed 6 March 2025).

took part in the five-day intensive course focusing on human rights policing, community policing, policing in elections, gender and policing, and international standards relevant to elections.⁵³⁵ The Zimbabwe Gender Commission and Zimbabwe Human Rights Commission also provided additional facilitation during the course as key institutions mandated to promote and enforce human rights.⁵³⁶

According to section 3(19) of the Police Act, the functions of the ZRP include law enforcement and the investigation of offences.⁵³⁷ Police officers are deployed at polling stations to ensure that law and order is maintained in line with provisions of the Constitution of Zimbabwe and the Electoral Act.⁵³⁸ The duties of police officers at polling stations are to manage and monitor the station.⁵³⁹ The role of the security sector in elections is to promote peace and ensure that the will of the people prevails. There were allegations that police officers were deployed at polling stations to aid illiterate or physically handicapped voters⁵⁴⁰, which is the responsibility of Presiding Officers in the presence of two ZEC electoral officers or employees and a police officer on duty. Section 29 of the Electoral Act stipulates that in a situation where an illiterate or handicapped voter does not have a person of his or her own choice (confidante) to assist him or her to exercise a right to vote the Presiding Officer must assist the voter.⁵⁴¹

The same section of the Act provides for the conditions of assisted voters. It says: any person selected by the voter to assist them polling station presiding officer in the presence of two other electoral officers or employees of the Zimbabwe Electoral Commission (ZEC) and a police officer on duty. It goes further to stipulate that any person permitted to assist a voter does not need to be a registered voter but should not be a minor, electoral officer, accredited observer, chief election agent, election agent, or a candidate in the election. He/she has to identify himself or herself with the presiding officer by producing proof of identity and shall complete and sign the register. He/ she is not permitted to assist more than one voter in any election. Section 59 (4) of the Electoral Act reads: “ A presiding officer permitted to assist a voter in terms of subsection (1)(b), together with the other persons there mentioned, shall there and then mark the ballot paper in accordance with the voter’s wishes and place the ballot paper in the ballot box, and if the wishes of the voter as to the manner in which the vote is to be marked on the ballot paper are not sufficiently clear to enable the vote to be so marked, the presiding officer may cause such questions to be put to the voter as in his or her opinion, are necessary to clarify the voter’s intentions.”

According to Section 59(5) of the same act no person other than the person selected by the voter or the presiding officer shall take part in assisting an illiterate or physically handicapped voter, and no person who is entitled to be in a polling station should attempt to ascertain how

535 As above.

536 As above.

537 Police Act, No. 1 of 2020.

538 'ZRP Has Clarified The Role Of Police Officers At Polling Stations' *The Zimbabwean* 21 August 2023.

539 As above.

540 As above.

541 As above.

the voter is voting. The Electoral Act further states that the presiding officer shall cause the name of every voter who has been assisted and the reason why that voter has been assisted, to be entered on a list. The role of the police in electoral processes has become a subject of intense debate in the recent past.⁵⁴² This is largely because there are cases where in the past, police commanders were deployed by ZANU-PF ruling party as Presiding Officers.⁵⁴³

Since independence, members of the ZRP have been castigated for acting in ways that oppress or exclude the political opposition and favour the ruling party.⁵⁴⁴ The police engage in practices that are exclusively focused on regulating the activities of the opposition political parties.⁵⁴⁵ One of the pieces of legislation, which is often weaponized by the police to limit opposition parties' freedom of assembly for purposes of election campaigning is the Maintenance of Peace and Order Act (MOPA).⁵⁴⁶ Under section 3 of the MOPA, political parties are required to give police a seven-day notice of their intention to hold political rallies.⁵⁴⁷ This requirement is reduced to a three-day notice during electioneering periods. In its report, the SEOM noted that the police applied this law inconsistently, insisting on a seven-day notice period and cancelling CCC's campaign rallies based on flimsy or unreasonable grounds.⁵⁴⁸

The CCC cancelled its 2023 election campaign launch in Bindura after the ZRP officer commanding Bindura District disallowed the rally to be held at their preferred venue.⁵⁴⁹ The police released a statement on their X handle citing the 'lack of access roads [and] ablution facilities' at the proposed venue as the reasons for disallowing the rally.⁵⁵⁰ This is contradictory to regular practice since most rallies in rural areas are held at venues without some of these required facilities. One opposition political party, the Zimbabwe African People's Union was denied its request on the grounds that it failed to declare the colour of the bibs its private security operatives would be wearing.⁵⁵¹ On many occasions, the police declined to authorise rallies on the pretext that the organisers lacked sufficient security personnel. Ironically, the police are always in attendance in their numbers and in full strength to enforce bans on opposition political parties' election rallies.⁵⁵²

The police also subjected opposition party officials and supporters to arbitrary arrests based on suspicions and unproven allegations of violating the Electoral Act. Based on statements on the ZRP's X handle @PoliceZimbabwe, more than 100 CCC members of Parliament, officials, and supporters have been arrested since August 2023.⁵⁵³ Conversely, not even a single ZANU-

542 As above.

543 As above.

544 As above.

545 As above.

546 The Maintenance of Peace and Order Act.

547 As above.

548 <https://www.veritaszim.net/sites/veritas> (accessed 3 March 2025).

549 'Election Tensions Rise in Zimbabwe After Police Bar Opposition Party Rally' *Voice of America* 9 July 2023.

550 "The ZRP Statement on the alleged CCC rally in Bindura," X July 8, 2023.

551 As above.

552 As above.

553 S Mazingaizo 'Police in Zimbabwe arrest 40 CCC party members after "unsanctioned car rally"' *TimesLive*

PF supporter or official was arrested, even though there was evidence of gross violations of election laws and perpetration of violence, putting the safety of citizens at risk⁵⁵⁴. The police often arrested and detained opposition leaders without any real evidence and no chance of securing any conviction.⁵⁵⁵ The police also targeted civic society organisations whose activities were considered hostile to the interests of the ruling party or constituted a threat to law and order.⁵⁵⁶

On 23 August 2023, the police arrested the Zimbabwe Election Support Network and the Election Resource Centre election monitors on allegations of subversive and criminal activities.⁵⁵⁷ These alleged activities were identified as the unlawful tabulation of election voting statistics and results from polling stations throughout the country. The police alleged that these organisations sought to announce the results of the presidential election on 24 August 2023, at the instigation of CCC president Nelson Chamisa.⁵⁵⁸ The arrest of election observers⁵⁵⁹ raised international alarm, including concerns by the United Nations. The parallel tabulation of voting results is not a criminal offence, and it is part of ensuring the election was credible and the result was not manipulated.⁵⁶⁰ At the same time, the police did not act on the activities of the ZANU-PF-linked FAZ, which set up 'exit poll' desks at all polling stations.⁵⁶¹

The security services also did not proactively disclose information related to budgetary allocations and actual expenditure for the electoral period. This means that they were non-compliant as far as the guidelines are concerned.

7.1.1 Regulatory agencies sought to enforce the law

The NPRC was established pursuant to the Global Political Agreement which was enacted in the aftermath of Zimbabwe's lowest moment in recent years following the 2008 post-election violence.⁵⁶²⁵⁶³ The NPRC is one of the five Independent Commissions established under Chapter 12 of the Constitution of Zimbabwe Amendment (No. 20) Act 2013.⁵⁶⁴ Its mandate includes supporting and entrenching a culture of human rights and democracy; protecting the sovereignty and interests of the people; promoting constitutionalism; transparency and accountability in public institutions; securing the observance of democratic values and principles by the State and all institutions and agencies of government; and ensuring that injustices are remedied as

17 August 2023.

554 As above.

555 As above.

556 L Ndebele 'Zimbabwe votes: 39 election activists arrested for preparing projections on poll outcome' *News24*, 24 August 2023.

557 As above.

558 As above.

559 As above.

560 'ZEC urged them to do parallel vote tabulation. They did, then they got arrested' *newZWire* 24 August 2023.

561 'Knives out for Faz after election disaster' *Zimbabwe Situation* 3 September 2023.

562 National Peace and Reconciliation" <https://www.nprc.org.zw> (accessed 6 March 2025).

563 As above.

564 As above.

provided for in section 233 of the Constitution.⁵⁶⁵ NPRC has the mandate to ensure post-conflict justice, healing and reconciliation, including developing programmes that promote national healing, unity and peaceful conflict resolution.⁵⁶⁶

The NPRC is mandated to bring about national reconciliation by encouraging people to tell the truth about the past and facilitating the making of amends and the provision of justice, and to develop procedures and institutions at national level to facilitate dialogue among political parties, communities, organisations and other groups, in order to prevent conflicts and disputes arising in the future.⁵⁶⁷ This is important for facilitation proactive information disclosure relating to conflict mediation, grievance handling and promoting peace, conciliation and mediation of disputes among communities, organisations, groups and individuals. The Commission is mandated to conduct investigations into any dispute or conflict, to conduct research on the nature, scope, extent and causes of disputes and come up with intervening strategies for disputes and conflict.⁵⁶⁸

7.1.2 Recommendations

Law-enforcement agencies should proactively disclose:

- a. Their deployment plans from the pre-election to the post-election period;
- b. Their budgetary allocations and actual expenditure in adequate detail for the public's understanding;
- c. Details of any reported election-related crimes, including the number of cases reported and steps taken to investigate, prosecute or withdraw such cases; and
- d. Details of any arrangements whereby any other persons or groups are authorised by law enforcement agencies to perform specific law enforcement-related tasks during the electoral period.

565 As above.

566 As above.

567 As above.

568 As above.



PART EIGHT

Assessing Compliance by Media and Internet Regulatory Bodies to the Guidelines on Access to Information and Elections in Africa.

Part Eight: Assessing Compliance by Media and Internet Regulatory Bodies to the Guidelines on Access to Information and Elections in Africa.

8.1 Compliance with Guideline 25 (Regulations on media coverage during elections)

Section eight looks at how traditional and digital media platforms performed in terms of covering political parties and candidates before, during and after the elections in Zimbabwe. It examines how media and internet regulatory bodies adopted regulations on media coverage during elections that ensure fair and balanced coverage of the electoral process and transparency about political advertising policy on media and online media platforms. According to guideline 25 of the Guidelines on Access to Information and Elections in Africa, media organisations are expected to ensure fair and balanced coverage of the electoral process.

Compliance with Guideline 25 (Regulations on media coverage during elections)		
No.	Indicator	Level of compliance
A	The complaints procedure against media organisations that violate the regulations	Significant compliance
B	The enforcement mechanism for ensuring compliance with the decisions taken and sanctions imposed	Partial compliance
C	The code of conduct for online media	Total Compliance
D	Details of all complaints or petitions received during the electoral period and how these were addressed	Non-compliance

Zimbabwe has both the statutory regulatory body the Zimbabwe Media Commission (ZMC) and the self-regulatory mechanism the Voluntary Media Council of Zimbabwe (VMCZ). VMCZ is a professional media self-regulatory body set up in 2007 by Zimbabwean journalists and other stakeholders in civil society who subscribe to the principles of media freedom, accountability, independence, and ethical journalism.⁵⁶⁹ The two bodies work to ensure professionalism, ethical journalism, and judicious handling of complaints by various stakeholders.

The Zimbabwe Media Commission Act (ZMCA) [Chapter 10:35] establishes the ZMC whose functions include:⁵⁷⁰

⁵⁶⁹ 'Voluntary Media Council of Zimbabwe' <https://vmcz.co.zw> (accessed 6 March 2025).

⁵⁷⁰ Zimbabwe Media Commission Act, No. 9 of 2020.

- a. To uphold, promote and develop freedom of the media;
- b. To promote and enforce good practices and ethics in the media;
- c. To monitor broadcasting in the public interest and, in particular, to ensure fairness and diversity of views broadly representing Zimbabwean society; and
- d. To encourage the formulation of codes of conduct for persons employed in the media and, where no such code exists, to formulate and enforce one.

VMCZ drafted the Code of Conduct for Zimbabwean Media Practitioners, which provides a set of common reporting standards for media practitioners and media institutions in the print, broadcast, television, and new media sectors in Zimbabwe to ensure professional and gender-sensitive coverage of news and information.⁵⁷¹⁵⁷² The code provides guidelines on a range of ethical dilemmas such as accuracy and fairness, correction of inaccuracy or distortion, right of reply, comment, bribes and inducements, pressure or influence, hatred or violence, reporting on elections, reporting of police investigations and criminal court cases, privacy, intrusions into grief or shock, interviewing or photographing children, children in criminal cases, victims of crime, innocent relatives and friends, surreptitious gathering of information, national security, plagiarism and protection of sources.⁵⁷³ On reporting elections, the code obliges journalists to:

- a. Ensure that media coverage of elections is comprehensive, fair and balanced and make certain that all candidates, parties and election issues are given equitable and gender sensitive coverage.⁵⁷⁴
- b. Obtain, wherever possible, a comment from the candidate or party against whom the allegation has been made especially where the allegation has been made by an opposing candidate or an opposing political party.
- c. Decline any gift, reward or inducement from a politician or candidate.
- d. Report the views of candidates and political parties directly and in their own words, rather than as they are described by others.
- e. Take extra care in reporting the findings of opinion polls.⁵⁷⁵

The main media and regulatory bodies in Zimbabwe are the Zimbabwe Media Commission (ZMC), Broadcasting Authority of Zimbabwe (BAZ) and the Postal and Telecommunications Authority of Zimbabwe (POTRAZ). The Zimbabwe Media Commission is a constitutional body mandated with functions that include the duty to uphold, promote and develop media freedom, enforce good practices and ethics and well as fair competition and diversity.⁵⁷⁶ The Broadcasting Authority of Zimbabwe was established by the Broadcasting Services Act.⁵⁷⁷ Its primary mandate is to plan, manage, allocate, regulate and protect broadcasting frequency spectrum and the regulation

571 <https://vmcz.co.zw/code-of-conduct/> (accessed 6 March 2025).

572 As above.

573 As above.

574 As above.

575 As above.

576 Zimbabwe Media Commission Act (n 570), above.

577 The Broadcasting Services Act <https://www.itu.int/ITU-D/projects> (accessed 6 March 2025).

and licensing of broadcasting services and systems.⁵⁷⁸ The Postal and Telecommunications Regulatory Authority is responsible for issuing licenses in the postal and telecommunications sector.⁵⁷⁹ However, during the 2023 electoral cycle, various stakeholders complained about state media bias favouring the incumbent governing party (ZANU-PF). Opposition parties and civil society organisations (CSOs) noted that although airtime was made available, many media outlets required payment for slots, which proved unaffordable.⁵⁸⁰

The Zimbabwe Electoral Commission (ZEC) in line with section 160K of the Electoral Act is mandated to establish a Media Monitoring Committee to monitor the conduct of media in local elections coverage.⁵⁸¹ The Media Monitoring Committee is chaired by ZEC, which is assisted by the Zimbabwe Media Commission and the Broadcasting Authority of Zimbabwe to monitor the print and broadcast media.⁵⁸² The committee is guided by the provisions of the Electoral Act as read with Statutory Instrument 33 of 2008 (Media Coverage of Elections Regulations 2008).⁵⁸³ The Committee is required to produce a report on media coverage of elections, yet at the time of writing this report, the committee had not yet published its final report.⁵⁸⁴

ZEC also engaged the Zimbabwe Online Content Creators in the run-up to the 23 August election. This engagement was meant to capacitate content creators on responsible and ethical coverage of the electoral process. Zimbabwe Online Content Creators is a voluntary membership-based group of individuals who create content online and are driven by an ambitious desire to eliminate the creation and distribution of falsified news among members.⁵⁸⁵ It frames itself as an association for ethical, professional, and credible content creators in Zimbabwe. This association of online content creators started off in 2016 with a membership of over 50 bloggers, vloggers, animators and satirists.⁵⁸⁶ The Association has its own agreed set of professional ethical principles such as accuracy, truthfulness, responsibility, and balance as a way to enhance the credibility of its work. Although the code is not readily accessible online, interviews with members of the association indicated that there are physical copies which have been shared with all the members. The code of ethics created by the Zimbabwe Online Content Creators is not substantially different from the Digital Media Code of Ethics⁵⁸⁷ crafted and administered by VMCZ.⁵⁸⁸ The code of ethics for online content creators recognises balance,

578 <https://baz.co.zw/> (accessed 6 March 2025).

579 'Telecommunications Licence for Network Services' <https://www.potraz.gov.zw/wp-content/uploads/2022/01/Network-Services-Licence.pdf> (accessed 6 March 2025).

580 European Union Election Observation Mission '2023 Harmonised Elections Report', 2023.

581 Zimbabwe Electoral Commission 'Role of Civil Society & Media' https://old.zec.org.zw/pages/role_of_civic_society_and_media (accessed 6 March 2025).

582 As above.

583 As above.

584 As above.

585 S Tsarwe 'Searching for elusive journalism values in the era of fake news: a qualitative study on the experiences of a blogging community in Zimbabwe' (2019) 38 *Communicare: Journal for Communication Studies in Africa* 16.

586 As above.

587 As above.

588 As above.

objectivity, truthfulness, accuracy, and independence as seals of credibility in their work.⁵⁸⁹ The association also relies on what they call a “peer review system” – implying an oversight system where members flag the work of fellow associates to avoid the violation of the agreed ethics.⁵⁹⁰

The African Union Election Observation Mission (AU-EOM) flagged the partisan and polarized nature of reporting which led to unfair representation of the candidates.⁵⁹¹ The SADC Electoral Observation Mission (SEOM) observed that the public broadcaster, the Zimbabwe Broadcasting Corporation (ZBC), and state-owned newspapers were in favour of one political party.⁵⁹² This was contrary to the sections 61 and 62 of the Zimbabwe Constitution⁵⁹³, the Electoral Act, and the Revised SADC Principles and Guidelines Governing Democratic Elections, which require state-owned media to be impartial.⁵⁹⁴ Most preliminary observer reports noted that ZEC should enhance mechanisms for monitoring the media, and its reports or updates should be publicised. The public broadcaster should ensure fair and balanced coverage of all contestants, as well as the different geographical regions.⁵⁹⁵ The Zimbabwe Election Support Network (ZESN) called for ZEC to be independent of government so that it exercises power in addressing media violations brought to its attention.⁵⁹⁶ The joint National Democratic Institute (NDI) and International Republican Institute (IRI) Election Observation Mission Final Report revealed that digital media was more open than traditional media but focused excessively on personalities rather than pertinent electoral issues.⁵⁹⁷

The European Union Election Observation Mission (EU EOM) noted a need for comprehensive legal reform in order to harmonise media regulations with the Constitution, to adequately safeguard freedom of expression.⁵⁹⁸ The Commonwealth Election Observer Mission recommended that ZEC consider putting in place a strategy to ensure balanced media coverage for all parties and candidates on public-owned media (electronic and print).⁵⁹⁹ The NDI/IRI EOM called on the Zimbabwean government to eliminate laws that impede constitutionally protected freedoms to free speech, right to association and assembly.⁶⁰⁰ The Zimbabwe Media Monitors observed that although the media was able to extensively cover election-related developments,

589 As above.

590 As above.

591 N Mhuruyengwe ‘Factsheet: How did Zimbabwe media cover the last general elections?’ *ZimFact* 28 May 2023.

592 ‘SADC Electoral Observation Mission to the 2023 General Elections in the Republic of Zimbabwe’ <https://www.sadc.int/document/sadc-electoral-observation-mission-2023-general-elections-republic-zimbabwe> (accessed 6 March 2025).

593 As above.

594 As above.

595 Mhuruyengwe (n 591 above).

596 Zimbabwe Election Support Network ‘2023 Harmonised Election Report’ (2023) <https://www.zesn.org.zw/wp-content/uploads/2015/10/ZESN-2023-Harmonised-Election-Report.pdf> (accessed 6 March 2025).

597 IRI/NDI ‘Zimbabwe International Election Observation Mission Final Report’ (October 2018) https://www.ndi.org/sites/default/files/Zimbabwe%20ZIEOM%20FINAL%20REPORT%20Printer_updated.pdf (accessed 6 March 2025).

598 As above.

599 As above.

600 As above.

they were unable to clearly articulate and follow up on the impact of the electoral irregularities and malpractices that were recorded.⁶⁰¹

8.2 Compliance with Guidelines 26-28 (Internet or Other Media shutdowns)

In this sub-section, the report discusses the extent to which media regulators and public or private providers of telecommunication services refrained from shutting down the internet or other media during the electoral process. This is in line with guidelines 26-28, which call upon media regulators and internet intermediaries to desist from shutting or throttling the internet during competitive electoral contests.

Compliance with Guidelines 26-28 (Internet or Other Media Shutdowns)		
No.	Indicator	Level of compliance
A.	Media regulators and public or private providers of telecommunication services should refrain from shutting down the internet or other media during the electoral process.	Significant compliance

Between 2016 and 2019, Zimbabwe experienced two major state-ordered internet shutdowns, which were accompanied by gross human rights violations and a spike in the circulation of mis- and disinformation.⁶⁰² The first shutdown focused on the partial closure of a specific social media platform, WhatsApp, for at least four hours in July 2016, while the shutdown in January 2019 was characterized by the total closure of all internet services for at least 7 days.⁶⁰³ They occurred at a time when the ruling party, ZANU-PF, was going through some of the most brutal internal fights in its history.⁶⁰⁴ Both shutdowns also coincided with the resurgence of social and digital activism in response to the worsening socioeconomic crisis and closure of the democratic space.⁶⁰⁵ Although Zimbabwe has not yet experienced a full-blown election-related internet shutdown, there are fears that ZANU-PF can resort to 'pulling the switch' if it feels its power is under threat. These fears were more pronounced in the run-up to the August 2023 elections. Reports by NetBlocks showed that the quality of internet access was degraded on 22 August

601 As above.

602 S Mpofu & A Mare '#ThisFlag: Social Media and Cyber-Protests in Zimbabwe' (2020) in Martin N Ndlela and Winston Mano (eds) *Social Media and Elections in Africa 2: Challenges and Opportunities* 153-173.

603 A Mare 'Internet Shutdowns in Africa | State-Ordered Internet Shutdowns and Digital Authoritarianism in Zimbabwe' (2020) 14 *International Journal of Communication* 42.

604 As above.

605 Mpofu & Mare (n 602), 153-173.

2023,⁶⁰⁶ affecting millions of individuals who rely on the internet for accessing information.⁶⁰⁷ Throttling of the internet has become a recurrent issue in Zimbabwe.⁶⁰⁸ Cases abound where location-specific throttling of the internet was used to curtail the live-streaming of campaign rallies by Nelson Chamisa and his CCC party.⁶⁰⁹

8.3 Recommendations

Media and internet regulatory bodies should proactively:

- a. Disclose the enforcement mechanisms for ensuring compliance with the decisions taken and sanctions imposed by the regulators; and
- b. Provide details of all complaints or petitions received during the electoral period and how these were addressed.
- c. The government of Zimbabwe should keep the internet on throughout the electoral process. The shutting down of the internet per se constitutes a serious and overwhelming limitation on the freedom of expression and the right of access to information, which is unlikely to be permissible under international human rights law.
- d. Limitations on freedom of expression and information, must be provided for by law which is consistent with international human rights standards. Limitations must comply with the principle of legality, by which they are set in law in clear, non-ambiguous, and non-overbroad terms, such that the scope and terms of their application and consequences are foreseeable.
- e. Any limitations on human rights, including restrictions on freedom of expression and the right of access to information, must in their purpose, design and implementation, not discriminate on grounds of race, colour, sexual orientation or gender identity, age, gender, religion, language political or other opinion, citizenship, nationality or migration status, national, social or ethnic origin, descent, health status, disability, property, socioeconomic status, birth or other status

606 MISA Zimbabwe 'Internet degrade on the eve of elections'
<https://zimbabwe.misa.org/2023/08/22/internet-degrade-on-the-eve-of-elections/>
(accessed 6 March 2025).

607 'Zimbabwe: Elections marred by arbitrary arrests and fears of internet shutdown - Zimbabwe' *ReliefWeb* 24 August 2023).

608 T Karombo 'Zimbabwe throttles the internet as political wrangling intensifies' *ITWeb Africa* 23 February 2022).

609 G Butler 'Zimbabwe experiences significant Internet service slowdown during major political rally'
<https://www.datacenterdynamics.com/en/news/zimbabwe-experiences-significant-internet-service-slowdown-during-major-political-rally/> (accessed 6 March 2025).



PART NINE

Assessing Compliance by Media Platform Providers on the Guidelines on Access to Information and Elections in Africa

Part Nine: Assessing Compliance by Media and Online Media Platform Providers to the Guidelines on Access to Information and Elections in Africa.

9.1 Compliance with Guideline 29 (Media and Online Media Platform Providers)

Section nine zeroes in on how traditional media and online media platform providers adhered to guideline 29, which requires these entities to proactively disclose certain information. It starts by providing insight on the media context in Zimbabwe. It then proceeds to unpack how different media platforms facilitated access to information during the elections. It also assesses information disclosure by media as per the Guidelines on Access to Information and Elections in Africa.

Compliance with Guideline 29 (Media and Online Media Platform Providers)		
No.	Description	Status of compliance
A	Editorial and/or ethical codes or guidelines utilised in undertaking election coverage, including provisions prohibiting incitement to discrimination, hostility or violence	Total Compliance
B	Sanctions for transgressions of these codes or guidelines	Non-compliance
C	Complaints procedures for handling breaches of these codes or guidelines	Partial compliance
D	Number of complaints received and how these were addressed	Non-compliance
E	Code of conduct for staff on procedural matters	Non-compliance
F	Criteria for the allocation of airtime or news coverage for political campaign advertisements and activities	Non-compliance
G	Polling methodologies and margins of error	Non-compliance
H	Actual allocation of airtime or news coverage for political campaign advertisements and activities	Non-compliance
I	Plan for transparent repository of all political advertisements, including those targeted at individuals or specific groups on online media	Partial compliance
J	Coverage plan for election day	Partial compliance
K	Criteria for the selection of election commentators, political analysts or other experts	Non-compliance

L	Guidelines on responsible use of online media	Significant compliance
M	Conflict of interest media ownership information, political affiliations or party support arrangements	Non-compliance

9.1.2 Statutory regulation

A number of statutes regulate the criteria for allocating airtime or news coverage for political campaign activities and advertisements. These include the Section 61 and 62 of the Constitution, section 21B of the Electoral Act of 2004 and the Media Regulations Statutory Instrument 33 of 2008. Section 21B of the Electoral Act requires the Zimbabwe Broadcasting Corporation (ZBC), as the state broadcaster, to provide independent and impartial broadcasting services in English, ChiShona, IsiNdebele and other languages. ZBC is obligated to keep a fair balance in the allocation of broadcasting hours between different political viewpoints. During the electoral season, ZBC is expected to ensure fair and balanced coverage of all the political parties. The Electoral Act also states how the media should conduct itself during elections.

Section 21B of the Electoral Act which focuses on media coverage of elections stipulates ways in which the private and public media should perform their public interest roles.⁶¹⁰ For instance, section 160G of the Act stipulates that public broadcasters should afford all political parties and independent candidates contesting an election such free access to their broadcasting services as may be prescribed. It also discusses the total time to be allocated to each political party and candidate and the duration of each broadcast that may be made by or on behalf of a party or candidate; and the times at which broadcasts made by political parties and candidates are to be transmitted.⁶¹¹ It emphasises the importance of giving fair and balanced allocation of time to all political parties and independent candidates.⁶¹² Another important clause is 160H of the Act, which focuses on political advertising in broadcasting and print media. It states that a broadcaster or print publisher is not obliged to publish any advertisement by or on behalf of a political party or candidate contesting an election.⁶¹³ The Act calls upon broadcasters or publishers to ensure fairness in how they charge for political advertisements.⁶¹⁴

The Code of Conduct for Zimbabwean Media Practitioners specifically deals with reporting of elections in section 11. It provides that 'media practitioners and media institutions must ensure that media coverage of elections is comprehensive, fair and balanced and make certain that all candidates, parties and election issues are given equitable and gender-sensitive coverage.'⁶¹⁵ It adds that:⁶¹⁶

⁶¹⁰ The Electoral (Consolidated) Act.

⁶¹¹ As above.

⁶¹² As above.

⁶¹³ As above.

⁶¹⁴ As above.

⁶¹⁵ As above.

⁶¹⁶ VMCZ Code of Conduct (n 571).

- a. Before reporting a damaging allegation made against a candidate or a political party, a media practitioner should obtain, wherever possible, a comment from the candidate or party against whom the allegation has been made especially where the allegation has been made by an opposing candidate or an opposing political party.
- b. A media practitioner or media institution must not accept any gift, reward or inducement from a politician or candidate.
- c. As far as possible, a media practitioner or media institution should report the views of candidates and political parties directly and in their own words, rather than as they are described by others.
- d. A journalist must take care in reporting the findings of opinion polls. Any report should wherever possible include details about the methodology used in conducting the survey and by whom it was conducted.

The Code provides for sanctions for transgressions of these codes or guidelines. However, the Voluntary Media Council of Zimbabwe is often seen as a toothless bulldog without sanctioning power. This compromises the efficacy of self-regulatory mechanisms.

The Code provides for complaints procedures for handling breaches. It stipulates that within thirty (30) days of the date of the alleged violation of the Code, the complainant must complete the complaint form.⁶¹⁷ The complaint should clearly and succinctly state the name of the complainant highlighting her/his/its full contact details; the name of the media practitioner, media institution, media owner or publisher against whom the complaint is directed.⁶¹⁸ The complaint should capture the date/s of publication and/or broadcast; and the page number of the publication, or the time of broadcast; the main points of complaint; and the provision/s of the Code which is/are alleged to have been violated.⁶¹⁹ The complaint must be accompanied by evidence (such as a newspaper cutting, a recording, a screenshot of a tweet or post) of the alleged breach.⁶²⁰ This should be sent to the Executive Director of VMCZ by post, facsimile or electronic mail. A complainant who makes a complaint more than thirty (30) days after the initial publication or broadcast must explain the delay and give reasons why the complaint is one of those rare, special cases where the thirty-day guideline should be waived. In these circumstances, the Executive Director will have discretion as to whether to accept or reject the complaint.⁶²¹

Upon receipt of the complaint with all the documentation, including the signed legal waiver, the Chairperson will refer the complaint to the Media Complaints Committee (MCC) for consideration.⁶²² A copy of the complaint will immediately be forwarded to the media practitioner, media institution and media. The owner or publisher concerned with a request

617 Voluntary Media Council of Zimbabwe (VMCZ) 'Complaints Procedure' <https://vmcz.co.zw/complaints-procedure/> (accessed 6 March 2025).

618 VMCZ Code of Conduct (n 571).

619 VMCZ Code of Conduct (n 571).

620 VMCZ Code of Conduct (n 571).

621 VMCZ Code of Conduct (n 571).

622 VMCZ Code of Conduct (n 571).

should make a formal written response to the MCC within fourteen (14) days. The complaint will be made public by the MCC within seven (7) days of the complaint being referred to it by the Chairperson.

Where a response is not received from the media practitioner, media institution, media owner or publisher concerned, the MCC will adjudicate in favour of the complainant.⁶²³ The MCC, through the Chairperson, may request further information from any party to the complaint at any time. Parties must respond promptly to requests from the MCC and comply with any time limits set.⁶²⁴ Where correspondence is not responded to within the stipulated time limits, the MCC will normally treat the complaint or defence as abandoned, depending on the party in default.⁶²⁵ The MCC will be convened at such time and venue to be decided upon by the Chairperson to consider the complaint.⁶²⁶ The complaint will be adjudicated upon based on the documentation provided, and there will be no formal hearing or attendance by the parties to the complaint. Parties will however be notified by the Executive Director of the date upon which the complaint will be considered.⁶²⁷ Once a date for consideration of the complaint has been notified, the MCC will not accept any further written material from either party without the approval of the Chairperson.⁶²⁸

An adjudication should be made by the MCC within thirty (30) days of referral of the complaint by the Chairperson to the MCC, save where there are compelling reasons for the MCC to extend the time limit. In such a case, the adjudication must be made within forty-five (45) days of referral of the complaint by the Chairperson to the MCC. The Committee is guided by the goal of promoting and protecting a set of common professional standards of conduct for media practitioners, media institutions, media owners, and publishers and providing all parties, including members of the public, with an adequate opportunity to obtain a redress where there has been a violation of the Code. The MCC will consider a complaint by any individual and/or institution concerning possible breach/es of the Code by any media practitioner, media institution, media owner or publisher in Zimbabwe, whether a member of the Voluntary Media Council of Zimbabwe or not.

Interviews with editors and reporters showed that all the major news organisations did not publish their coverage plan for election day, except online media start-ups such as CITE Zimbabwe and Heart & Soul TV which indicated their plans.⁶²⁹ The owner of CITE Zimbabwe, Zenzele Ndebele, stated that their media house would have a rolling coverage of the elections

623 VMCZ Code of Conduct (n 571).

624 VMCZ Code of Conduct (n 571).

625 VMCZ Code of Conduct (n 571).

626 VMCZ Code of Conduct (n 571).

627 VMCZ Code of Conduct (n 571).

628 VMCZ Code of Conduct (n 571).

629 UNESCO 'Zimbabwe Media commended for improved elections reporting in 2023'

<https://www.unesco.org/en/articles/zimbabwe-media-commended-improved-elections-reporting-2023>
(accessed 6 March 2025).

on their X (Twitter) handle.⁶³⁰ CITE Zimbabwe also deployed journalists in different provinces for the timely dissemination of electoral information. The Head of News and Current Affairs at HSTV, Blessed Mhlanga, also notified their audiences via X (Twitter) about their election coverage plan.⁶³¹ Although ZBC did not publish its coverage plan it shared information about its broadcasting schedule outlining how airtime would be allocated to different political parties during the upcoming general elections.⁶³² This was after MISA Zimbabwe wrote two letters to the Zimbabwe Electoral Commission requesting the schedule.⁶³³ The schedule was published in The Herald of Friday, 28 July 2023.⁶³⁴ The schedule was meant to aid civil society in monitoring how public media discharged its duties and if this was in keeping with provisions of the Constitution.⁶³⁵ Section 61 (4) (c) of the Constitution states that all state-owned media of communication must afford fair opportunity for the presentation of divergent views and dissenting opinions. This is further buttressed by section 160G of the Electoral Act which states that public broadcasters should afford all political parties and independent candidates contesting an election such free access to their broadcasting services as may be prescribed.

9.1.3 Traditional media

Mainstream media (radio, television and newspapers) remain the most important communication channels to inform the electorate about the policies and platforms of political parties and candidates running for office. These include The Herald, The Chronicle, Sunday Mail, Manica Post, NewsDay, The Standard, Zimbabwe Independent, Daily News, Daily News on Sunday and The Financial Gazette. Radio stations included Star FM, ZiFM Stereo, Radio Zimbabwe, National FM, Power FM, Classic FM, Hevoi FM, Diamond FM, Capitalk, and Skyz FM. It is, therefore, essential that the media present all viewpoints during a campaign so that voters can make an informed choice. In Zimbabwe, the traditional media is polarised into two irreconcilable camps. The state-owned media like ZBC, ZTN, and Zimpapers are biased towards the ruling party and against the main opposition party, Citizens Coalition for Change (CCC).⁶³⁶ Political parties noted that although airtime was made available, many media outlets required payment for slots, which proved unaffordable.⁶³⁷ This imbalance in coverage started well before the 2023 election campaign began.⁶³⁸ Media monitoring reports by Media Monitors ahead of the 23 August election found that the media remained unbalanced in the coverage

630 Z Ndebele 'How to survive and thrive by embracing AI' *LinkedIn* 28 June 2024.

631 'Heart and Soul Broadcasting Service Unpacks Zimbabwe's Elections' VOA 10 August 2023.

632 MISA Zimbabwe 'ZBC publishes elections broadcasting schedule' <https://zimbabwe.misa.org/2023/08/01/zbc-publishes-elections-broadcasting-schedule/> (accessed 6 March 2025).

633 As above.

634 As above.

635 As above.

636 A Munoriyarwa & A Chibuwe 'This Is a Punishment to America' Framing the COVID-19 Pandemic in Zimbabwe's Mainstream Media' (2022) in CA Dralega and A Napakol (eds) *Health Crises and Media Discourses in Sub-Saharan Africa*.

637 As above.

638 <https://www.veritaszim.net/node/6527> (accessed 7 March 2025).

of political parties.⁶³⁹ ZANU-PF received the most coverage at 60%, CCC (28%), MDC-T (6%), and Independent (Kasukuwere) 3%. Other parties received the remaining 3%. The other parties featured include DUZ, UZA, FreeZim Congress, LEAD, ZAPU and ZRF.⁶⁴⁰ This was reiterated in the preliminary observer report released by the EU Election Observation Mission (EU EOM).⁶⁴¹ The report indicated that while most of the media legal framework is in line with the Constitution, media analysis showed that ZBC devoted over two-thirds of news and current affairs coverage to ZANU-PF, President Emmerson Mnangagwa, and the government.⁶⁴²

Election reporting in Zimbabwe has always been a challenge mainly due to the high staff turnover in most newsrooms, biased reportage, polarisation, media ownership, undue pressures and safety and security challenges for media personnel.⁶⁴³ Given the polarised media environment, trust in media has been on the decline for a long time in Zimbabwe. Various surveys have shown that Zimbabwe has low levels of trust in the mainstream media.⁶⁴⁴ This was even more pronounced during the electoral campaign season. Privately owned media and diasporic online media platforms mostly framed ZANU-PF negatively.⁶⁴⁵ These include *News Hawks*,⁶⁴⁶ *Nehanda Radio*,⁶⁴⁷ *Zimbabwe Situation*,⁶⁴⁸ *New Zimbabwe.com*,⁶⁴⁹ *Bulawayo 24*,⁶⁵⁰ *Voice of America Zimbabwe*,⁶⁵¹ and *ZimLive.com*.⁶⁵²

Like most countries, journalists in Zimbabwe are governed by the Code of Conduct for Media Practitioners.⁶⁵³ Some journalists from the state-owned media do not recognise the code which was introduced by the Voluntary Media Council of Zimbabwe. In the run-up to the August election, MISA also pushed forward a media pledge, where the media promised to uphold the highest ethical practices during the election.⁶⁵⁴ The pledge was an idea that was borne out of our engagements during the elections in Lesotho in 2022, where MISA mobilised the media to agree on certain principles to minimise both attacks and exposure during the election. This idea was then replicated in Zimbabwe in the run-up to the elections.

639 'Media Coverage of the 2023 Harmonised Elections: Proclamation to Nomination' *Media Monitors Zimbabwe* 6 September 2023.

640 As above, 21.

641 As above, 21.

642 As above, 21.

643 A Mare 'Transforming Fragile Media in Post-Coup Zimbabwe' (2019) 9 *African Conflict and Peacebuilding Review* 98-122.

644 M Ndlovu 'State of News Media in Zimbabwe' <https://www.kas.de/documents/277198/277247/The+State+of+News+Media+in+Zimbabwe+Report.pdf/19d73587-41c2-a217-ae92-abc15881d0de?version=1.0&t=1697035665954> (accessed 2 March 2025).

645 As above.

646 <https://thenewshawks.com/> (accessed 7 March 2025).

647 'Zimbabwe News and Internet Radio Station' *Nehanda Radio* 6 March 2023.

648 <https://www.zimbabwesituation.com/> (accessed 7 March 2025).

649 <https://www.newzimbabwe.com/> (accessed 7 March 2025).

650 <https://bulawayo24.com> (accessed 7 March 2025).

651 <https://www.voazimbabwe.com/> (accessed 7 March 2025).

652 <https://www.zimlive.com/> (accessed 7 March 2025).

653 As above.

654 'Zimbabwean media pledge to uphold ethical standards in covering 2023 election' <https://zimbabwe.misa.org/2023/08/16/zimbabwean-media-pledge-to-uphold-ethical-standards-in-covering-2023-election/> (accessed 7 March 2025).

9.1.4 Social media platforms

Most of the visible political campaigns and engagement around the 2023 election took place on social media platforms such as X (formerly Twitter), Facebook, YouTube, Instagram, WhatsApp, TikTok and Threads.⁶⁵⁵ Whilst social media provided an alternative platform for voters and politicians to access information, express their views and thoughts and contacting practices,⁶⁵⁶ it also played a negative role by enabling the spread of disinformation, surveillance of political opponents and cyberbullying amongst other dark forms of political participation.⁶⁵⁷ X Spaces, Facebook livestreaming and TikTok videos provided veritable sites for convivial political debates, discussions and campaigns. Interviews with social media influencers, public intellectuals and bloggers showed that citizens, civil society organisations and political parties made use of X Spaces and Facebook live-streaming before, during and after the elections.⁶⁵⁸ Disinformation reigned supreme offline and online. Most of the generated and circulated false narratives related to imposter content.⁶⁵⁹ For instance, celebrity journalists were impersonated on Twitter, and imposter content related to the nomination courts in Bulawayo and Harare was also circulated. Imposter content related to court judgments was also circulated when the twelve Bulawayo Member of Parliament candidates for the CCC were initially barred by the high court from contesting for filing their papers outside the prescribed cut-off time.⁶⁶⁰ After the judge postponed the hearing to another day, false tweets claimed that the court challenge by the twelve CCC candidates had been dismissed by the high court.⁶⁶¹

During the campaign period, imposters also shared false and misleading videos and audios. For instance, in one video false context was used to present Nelson Chamisa, the presidential candidate of the opposition CCC, allegedly making controversial statements about land reform in the event of his party's election victory.⁶⁶² This was fact-checked and found to be manipulated content. In another video, ZANU PF's aspiring candidate for Bikita South, Energy Mutodi, was alleged to have brandished a gun during a CCC rally in Gutu.⁶⁶³ The elections were also characterized by an abundance of fabricated content, the most harmful of which circulated on the eve of the elections. Posters and leaflets, allegedly generated by Chamisa, carried a message supposedly from the CCC leader, instructing his supporters not to vote because the elections were already rigged.⁶⁶⁴ Another kind of electoral disinformation related to the generation and circulation of manipulated videos, audios, and text messages. In one video, Emmerson Mnangagwa, the ZANU PF's presidential candidate, was alleged to have conceded defeat to Chamisa before the ZEC announced the final results.⁶⁶⁵

655 As above.

656 K Theriault & A Mare 'Electoral Disinformation during the Disputed 2023 Elections in Zimbabwe' *Kujenga Amani* 15 February 2024.

657 As above.

658 As above.

659 As above.

660 As above.

661 As above.

662 As above.

663 As above.

664 As above.

665 As above.

In the post-election period, citizens were also subject to fake cabinet lists bearing the president's signature.⁶⁶⁶ One such list had names of new members of Parliament (such as Tafadzwa Mugwadi, Tatenda Mavetera, and Ngonidzashe Mudekunya) and the old guard (such as Kindness Paradza, Frederick Shava, July Moyo, and Paul Mavima) of ZANU-PF dominating the new cabinet.⁶⁶⁷ When Mnangagwa eventually announced his cabinet, some of the names on the fake cabinet lists were actually confirmed as ministers.⁶⁶⁸ It is generally believed that the fake cabinet list was a ploy by ZANU-PF to test public sentiment by releasing an unofficial list before the formal one. These included MPs like Tatenda Mavetera. In the aftermath of the disputed elections, the disinformers also circulated false congratulatory messages from United States President Joe Biden.⁶⁶⁹ Election observer missions were not spared from these targeted disinformation campaigns. These include the European Union observer mission, the Carter Center, and the Southern African Development Community (SADC) observer mission.⁶⁷⁰ As soon as the SADC observer mission, led by Dr. Nevers Mumba—former Zambian vice president—released its preliminary statement condemning the conduct of elections in Zimbabwe, the head of mission was subjected to a barrage of false and misleading information by state-owned media houses and social media trolls.⁶⁷¹

Interviews indicated that some political parties and civil society organisations used X Spaces for fundraising, debunking disinformation claims and mobilising voters to vote and defend their votes. Civil Society Organisations (CSOs) such as Team Pachedu, Crisis in Zimbabwe Coalition, MISA Zimbabwe, CITE Zimbabwe and several digital influencers,⁶⁷² such as Hopewell Chin'ono, Boss Salani, Zenzele Ndebele, Freeman Chari, and many others were instrumental in hosting and organising X Spaces. Unlike any other election, the 2023 was unique in the ways in which social media influencers were crucial as mediators and intermediaries of information.⁶⁷³ On Facebook, Twitter and TikTok, digital political influencers were highly visible. These include Hopewell Chin'ono, Freeman Chari, Skilled Labourer, Passion Java, Mai TT, Nicole Hondo (believed to be Nicky Mangwana), Tinoedza Zvimwe (believed to be George Charamba), Jonathan Moyo, Temba Mliswa, Killer Zivhu, and Madam Boss.⁶⁷⁴

Although misinformation, disinformation and mal-information were more pronounced on social media than offline, fact-checking organisations such as ZimFact and FactCheckZW Media lab were instrumental in debunking claims.⁶⁷⁵ WhatsApp and TikTok dominated the rapid spread of disinformation during the 2023 elections,⁶⁷⁶ with the former's encryption and

666 As above.

667 As above.

668 As above.

669 As above.

670 As above.

671 As above.

672 'Digital influence: Lessons for South Africa's 2024 elections' *Medium* 26 April 2024.

673 A Mare 'Understanding the role of social media in political campaigns' *The Zimbabwe Independent* 9 June 2023.

674 As above.

675 N Mhuruyengwe 'Zim Elections' *ZimFact* 11 December 2022).

676 J Okong'o & D Tendai 'Zimbabwe election disinformation spreads on WhatsApp' *AFP Fact Check*

closed group functionality making it harder for fact-checkers like ZimFact and FactCheckZW to counter electoral mis- and disinformation.⁶⁷⁷ Media literacy initiatives were also mounted by CSOs such as MISA, Media Monitors, Community Podium, CITE ZW,⁶⁷⁸ Internews, VMCZ, Media Centre and Gender & Media Connect. Unlike in Kenya where Meta, the parent company of digital media platforms such as Facebook, Instagram, Threads, and WhatsApp, intervened by rolling out a number of steps to prepare for the 2022 general election, in Zimbabwe, the social media giant did not do much. Besides inviting a few members of the civil society organisations and fact checkers for training in Johannesburg, little was done to deal with hate speech on their platforms. The company, however, partnered with local fact-checkers such as ZimFact.⁶⁷⁹ There was no announcement about the hiring of content moderators who are conversant in ChiShona, IsiNdebele, Tonga, Kalanga, Venda and so forth. No efforts were made to form a task force for the protection of female public figures during the elections. Little was done to improve digital and media literacy, including by raising awareness amongst youth, teachers, parents and guardians on topics such as online safety, privacy, digital citizenship, news and media literacy. Platform companies did not make political advertising more transparent on X, TikTok, YouTube, Facebook and Instagram, including by requiring advertisers to verify their identities and to label their adverts with a 'paid for by' disclaimer.

9.1.5 Safety of journalists

Safety for journalists is a key condition for the news media to report without fear and to be able to supply voters with facts to make informed decisions.⁶⁸⁰ In the context of media convergence, journalists are vulnerable to offline and online forms of abuse and harassment.⁶⁸¹ Unlike the 2018 election, the 2023 plebiscite was different in the sense that a few journalists were attacked, incarcerated and injured. At the time of the elections, at least less than 20 journalists had been physically attacked in their line of duty.⁶⁸² This significant improvement has been attributed to the work conducted by media advocacy organisations since 2017. For instance, MISA Zimbabwe, the police and international media development partners signed the Police Media Action Plan in 2017, which was implemented in 2018.⁶⁸³ After realising that most attacks against journalists were perpetrated by the police, media and CSOs embarked on a campaign to engage with the security services.⁶⁸⁴ CSOs also rolled out various initiatives under the

4 August 2023.

677 'Zimbabwe fights fake news with lessons in spotting disinformation' *News24* 23 October 2022.

678 LB Harris 'CITE launches media literacy project to fight fake news' *CITE* 22 April 2022.

679 D Funke 'Amid political turmoil in Zimbabwe, a fact-checking project prepares to launch' <https://www.poynter.org/fact-checking/2017/amid-political-turmoil-in-zimbabwe-a-fact-checking-project-prepares-to-launch/> (accessed 7 March 2025).

680 <https://www.unesco.org/en/safety-journalists> (accessed 2 March 2025).

681 S Waisbord 'Can Journalists Be Safe in a Violent World?' (2020) *Journalism Practice*, 16(9).

682 'Journalist assaults, arrests ahead of Zimbabwe's elections' <https://jamlab.africa/journalists-assaulted-harassed-ahead-of-zimbabwes-elections/> (accessed 6 March 2025).

683 O Tangen 'Zimbabwe: Elections are over but "our work continues"' *Deutsche Welle* 4 October 2023.

684 As above.

Media Defense Fund work,⁶⁸⁵ which supports journalists from unforeseen attacks. However, journalists were threatened, abused and cyberbullied on social media platforms by politicians, trolls and government spokespersons. For instance, in April 2023, Deputy Chief Secretary in Presidential Communications, George Charamba threatened journalists with imprisonment if they continued to report on the Gold Mafia story.⁶⁸⁶ In a threatening tweet, Charamba, who uses an account that he has confirmed to be his, despite the fact that its profile is not in sync with his position and the role he plays in the government, warned that:

“FRIENDLY ADVICE TO ALL RECKLESS JOURNALISTS: Al Jazeera is not a court of law before whose claims impart privileges to defamatory utterances. It is merely some weaponized channel. If you are reckless enough to repeat what its phoney documentary defamatorily says, hoping to plead: ‘I heard/saw it on Al Jazeera,’ you will be sorry for yourself. Do not for once think there is grit to act against defamatory and politically motivated journalism. Faceless Twitter names egging you on will not be a factor when brickbats come. Be warned.”

9.2 Recommendations

- a. ZEC, ZMC, BAZ, and VMCZ are urged to ensure the implementation of measures that require impartiality in the coverage of political events by state-owned media.
- b. ZEC should ensure that the Media Monitoring Committee produces timely and periodic reports about how private and public media report on elections. The report should have granular data on sanctions for transgressions of editorial and/or ethical codes or guidelines utilised in election coverage and the number of complaints received and how these were addressed.
- c. The government of Zimbabwe should desist from engaging in partial and total internet shutdowns. There is evidence that the internet had been throttled on the eve of the general election through significant downgrades, which affected four internet service providers.
- d. The Data Protection Act should not securitise speech acts and criminalise falsehoods. This creates a chilling effect which affects access to information during elections.
- e. The public broadcaster is urged to be proactive in publishing its broadcasting schedule and should do so as closely as possible to the election proclamation date and the sitting of the Nomination Court.
- f. Broadcasting media houses should be encouraged to publish the criteria for and actual allocation of airtime or news coverage for political campaign advertisements and activities. Conflict of interest, media ownership information, political affiliations or party support arrangements should be declared by editors, owners, and journalists ahead the electoral cycle.

685 ‘SOS hotline: Legal help for journalists in distress’ <https://zimbabwe.misa.org/hotline/> (accessed 6 March 2025).

686 ‘Six secrets uncovered by Al Jazeera’s Gold Mafia investigation’ *Al Jazeera* 14 April 2023.

- g. The Zimbabwe Republic Police is urged to ensure the safety of journalists is prioritised. Those who harass, intimidate, and kill journalists should be duly prosecuted.
- h. Platform companies should take active steps to prevent online voices of journalists and the public on their services and apps from being silenced through cyber-misogyny and cyber-militias.
- i. Platform companies like Meta, Byte Dance, X, and Alphabet (Google) are subject to the United Nation's Guiding Principles on Business and Human Rights, which call for the due diligence to be done, risk-mitigation steps to be put in place and the outcomes to them be communicated to the public.



PART TEN

Assessing Compliance by Civil Society Organisations to the Guidelines on Access to Information and Elections in Africa

Part Ten: Assessing Compliance by Civil Society Organisations to the Guidelines on Access to Information and Elections in Africa

10.1 Compliance with Guideline 30 (Civil Society Organisations)

Section eleven is concerned with assessing the levels of compliance exhibited by civil society organisations in Zimbabwe. Given their role in democratic deepening and fostering good governance, it was important to measure the extent to which adhered to guideline 30, which requires CSOs involved in the electoral process to proactively disclose certain information.

Compliance with Guideline 30 (Civil Society Organisations)		
No.	Indicator(s)	Level of compliance
A.	Organisational aims and objective	Significantly complied
B.	Membership and composition	Partly complied
C.	Details of key staff and office bearers	Total Compliance
D.	Sources of funding	Partly complied
E.	Operational plans, methodology, manuals and their implementation for civic and voter education	Significantly complied
F.	Possible conflict of interest, which may include the promotion of a particular religious, ethnic or political interest or bias or prejudice in cases where they participate in both voter education and election observation	Non-compliance
G.	Campaign funders	Non-compliance

Virtual ethnography and interviews showed that selected and notable civil society organisations (such as ZESN, Crisis Coalition in Zimbabwe, Election Resource Centre) proactively disclosed information about their organisational aims and objectives.⁶⁸⁷ For instance, the Election Resource Centre (ERC) was very explicit in terms of its quest to improve the quality of democracy and elections at all tiers in Africa.⁶⁸⁸ The ERC envisions 'an Africa with transparent,

687 'Election Resource Centre – Resourcing for electoral excellence!' <https://ercafrica.org/> (accessed 7 March 2025).

688 As above.

credible and inclusive electoral and democratic processes at all tiers of society.⁶⁸⁹ In the same vein, the Zimbabwe Electoral Support Network (ZESN) was very clear that its primary aim was to promote democratic processes in general and fair elections in particular.⁶⁹⁰ Crisis in Zimbabwe Coalition endeavoured to bring about democratic change in the country.⁶⁹¹ Forever Associates of Zimbabwe (FAZ) website provided that it existed to foster Zimbabwe's economic development, socio-economic well-being and political stability by contributing to all programmes and processes that support continuity.⁶⁹² Civil society organisations like Team Pachedu,⁶⁹³ and Project 263,⁶⁹⁴ also launched SMS and WhatsApp chatbots that allowed voters to verify registration and other particulars including their polling stations.⁶⁹⁵

With regards to membership and composition, some CSOs were proactive in their disclosure whilst others were evasive for fear of political harassment. For instance, ZESN revealed that it is a coalition of 37 non-governmental organizations formed to coordinate activities pertaining to elections.⁶⁹⁶ Crisis in Zimbabwe Coalition indicated that is an amalgamation of more than 75 civic society organisations.⁶⁹⁷ Its membership is drawn from churches, women's groups, social movements, residents' associations, labour unions, human rights lawyers, teachers' groups and health professionals. However, organisations such as the FAZ⁶⁹⁸, which worked with ZANU-PF, were secretive about its membership and funding.

Some of the surveyed CSOs complied with the requirement to provide the details of key staff and office bearers on their websites and official communication.⁶⁹⁹ They also made sure that the contact details of executive directors and communication specialists were mentioned in press statements.⁷⁰⁰ Of those assessed, most CSOs provided training manuals, and their implementation plans for civic education. These include the ERC, ZESN, Crisis in Zimbabwe Coalition, WeLead Trust,⁷⁰¹ Girls Table,⁷⁰² and Zim Rights.⁷⁰³ Although FAZ conducted exit polls and civic education on behalf of ZANU-PF, it did not proactively share its manuals and materials. Most of the surveyed CSOs did not provide details about their funders. This could be attributed

689 As above.

690 <https://www.zesn.org.zw/> (accessed 7 March 2025).

691 'Crisis in Zimbabwe Coalition' <https://www.crisiszim.org> (accessed 7 March 2025).

692 'Forever Associates Zimbabwe' <https://thesentry.org/reports/forever-associates-zimbabwe/> (accessed 7 March 2025).

693 'Team Pachedu (@PacheduZW) / X' <https://x.com/pacheduzw> (accessed 7 March 2025).

694 'Project Vote – Be The Change You Wish To See' <https://projectvote263.org.zw/> (accessed 7 March 2025).

695 'In Zimbabwe, Team Pachedu develops app to counter vote rigging' <https://www.theafricareport.com/319535/in-zimbabwe-team-pachedu-develops-app-to-counter-vote-rigging/> (accessed 7 March 2025).

696 As above.

697 As above.

698 As above.

699 As above.

700 'ZESN Press Statement on IDs and Postponement of Mobile Voter Registration' <https://kubatana.net/2021/11/26/zesn-press-statement-on-ids-and-postponement-of-mobile-voter-registration/> (accessed 6 March 2025).

701 'WeLead Trust' <https://weleadteam.org/> (accessed 6 March 2025).

702 GirlStable 'Facebook' <https://www.facebook.com/girlstable/> (accessed 6 March 2025).

703 'ZimRights – Campaigners for Human Rights' <https://www.zimrights.org.zw/> (accessed 6 March 2025).

to the fact that the ruling party often accuses the CSOs of working with regime change agents, the organisations have found a way of hiding such information to protect their funders. Even on their websites, there was little information about their sources of funding.

At the time of the 2023 election, the country was waiting for the President to ascent the controversial NGO Bill, which is expected to severely curtail civic space and the operations of voluntary and private organisations.⁷⁰⁴ Local and international stakeholders have criticised the new law,⁷⁰⁵ the Private Voluntary Organisation Amendment Bill⁷⁰⁶, which has been passed by parliament and senate.⁷⁰⁷ However, President Emmerson Mnangagwa claimed the Bill was necessary to protect and defend the country's sovereignty from destabilizing foreign interests, and to stop 'the turning of a small section of mercenaries in our midst into the proverbial Trojan Horse for attacking our sovereignty, our values and our politics.'⁷⁰⁸ The provisions of the Act would allow the government to cancel the registration of organisations deemed to have 'political affiliation' with little to no recourse to judicial review. Actions considered to violate certain provisions of the law could even lead to criminal prosecution, with penalties ranging from heavy fines to imprisonment.⁷⁰⁹ The existing Private Voluntary Organisation Act was used to deregister several civil society organisations ahead of the 2023 general elections.⁷¹⁰ The proposed bill will further threaten freedom of association in the country and contravene several international human rights instruments that Zimbabwe has ratified.

Ahead of the 23 August elections, ZEC called on non-governmental organisations interested in conducting voter education to declare their source of funding.⁷¹¹ In a statement, ZEC said the objective of the voter education collaboration between the electoral management body, civil society organisations, private voluntary organisations and Faith-Based Organisations (FBOs) was to increase the participation of voters in the elections.⁷¹² In addition, when it comes to FBOs, ZEC said the voter education must be conducted in accordance with a course or programme of instruction furnished or approved by the Commission.⁷¹³

CSOs play a pivotal role in providing voter education, observing elections, advocating for electoral reforms, safeguarding human rights, and offering legal, medical, and psycho-social

704 'Zimbabwe: Draft law threatens existence of NGOs'

<https://www.amnesty.org/en/documents/afr46/5880/2022/en/> (accessed 6 March 2025).

705 S Ncube 'ZLHR condemns Senate approval of controversial PVO Amendment Bill' *CITE* 24 October 2024.

706 The Private Voluntary Organisations (Amendment) Bill, 2024.

707 D Kode 'Zimbabwe's PVO Act: Another repressive tool in the hands of government' *Vanguard Africa* 6 June 2022.

708 I Nassah 'Zimbabwe's President Shouldn't Sign Repressive NGO Bill'

<https://www.hrw.org/news/2023/02/21/zimbabwes-president-shouldnt-sign-repressive-ngo-bill> (accessed 7 March 2025).

709 As above.

710 As above.

711 'Declare source of funding, ZEC to NGOs seeking to conduct voter education' *The Zimbabwean* 14 May 2023.

712 As above.

713 As above.

assistance to victims of human rights violations.⁷¹⁴ CSOs spearheaded a number of progressive campaigns to support the 2023 election. As already discussed, a number of civil society networks, including Zimbabwe Election Support Network, Electoral Resource Centre, Crisis in Zimbabwe Coalition, Zimbabwe Council of Churches, Evangelical Fellowship of Zimbabwe, Zimbabwe Human Rights Forum, Zimbabwe National Students Union (ZINASU), Zimbabwe Congress of Trade Unions, Girls Table, We Lead, and MISA Zimbabwe participated in election monitoring activities. However, a number of human rights defenders including Dr. Musa Kika, Dr. Blessing Vava and others were denied accreditation to observe the elections by ZEC.⁷¹⁵ This was allegedly due to security risks. Some local citizens encountered intimidation, harassment, and threats from unidentified people after engaging with international observers.⁷¹⁶

The August 2023 election saw the country grabbing international headlines for deporting Good Governance Africa (GGA), CEO, Chris Maroleng, and three of his colleagues on 17 August.⁷¹⁷ This was after being given permission to enter the country by officials at the Zimbabwean Embassy in Pretoria. Maroleng and his colleagues had arrived in the country to conduct field research on election conditions and challenges ahead of the elections. They had interviews set up with high-profile people in the capital Harare and in the country's second-largest city, Bulawayo.⁷¹⁸ They were deported two days later after immigration officials accused them of making 'misrepresentations' and for not complying with accreditation requirements.⁷¹⁹

FBOs, including the Zimbabwe Council of Churches (ZCC), the Zimbabwe Catholic Bishops' Conference (ZCBC), and the Evangelical Fellowship of Zimbabwe also played key roles in the election process. FBOs showed their support for different candidates and called on the electorate to vote for leaders who supported their faiths' particular priorities.⁷²⁰ CSOs that participated in the 2023 election had different levels of proactive disclosure on the profiles on their websites. These include the Zimbabwe Election Support Network, Electoral Resource Centre, Crisis in Zimbabwe Coalition, Zimbabwe Council of Churches,⁷²¹ Evangelical Fellowship of Zimbabwe,⁷²² Zimbabwe Human Rights NGO Forum,⁷²³ Zimbabwe National Students Union

714 "Election violence is a cover for ideological ambivalence and lack of substantive programmes" *Civics* 28 August 2023.

715 S Ncube 'ZEC denies accreditation to prominent lawyer' *CITE* 17 August 2023.

716 'Zimbabwe election: Dozens of poll monitors arrested as tense vote enters second day' *The Citizen*, 24 August 2023.

717 T Lekabe 'Zim deports Good Governance Africa CEO and team for misrepresentation' *City Press*, 18 August 2023.

718 E Masson 'Good Governance Africa head Chris Maroleng and team deported from Zimbabwe' *The Mail & Guardian* 17 August 2023.

719 As above.

720 P Samasumo 'As Zimbabweans vote, Bishops call for peaceful and non-violent elections' *Vatican News* 22 August 2023.

721 ZCC <https://zccinzim.org/> (accessed 7 March 2025).

722 'Evangelical Fellowship of Zimbabwe' <https://efzimbabwe.org/> (accessed 7 March 2025).

723 'Zimbabwe Human Rights Forum | HR Forum' <https://www.hrforumzim.org/> (accessed 7 March 2025).

(ZINASU),⁷²⁴ Forever Associates of Zimbabwe, Zimbabwe Congress of Trade Unions⁷²⁵, Girls Table, Team Pachedu, Project 263, WeLead Trust, and Misa Zimbabwe.

10.2 Recommendations

- a. There is need to ensure that FBOs, PVOs and CSOs in Zimbabwe working in the areas of democracy, good governance and human rights take an active role in the dissemination of credible and newsworthy information related to the electoral process.
- b. All CSOs involved in voter education and election monitoring and observation should proactively disclose their sources of their funding. They should find creative ways of mitigating fears of government retaliation.
- c. CSOs should update their websites and social media handles before, during and after elections so that the public are informed about election-related activities, events, and processes.
- d. CSOs are encouraged to declare conflict of interest before the electoral campaign season begins. This will help safeguard their credibility and integrity during the electoral cycle.
- e. CSOs must also provide accurate information on their membership and composition.

724 'ZINASU' <https://zinasu.org/> (accessed 7 March 2025).

725 <https://www.zctu.co.zw/> (accessed 7 March 2025).



PART ELEVEN

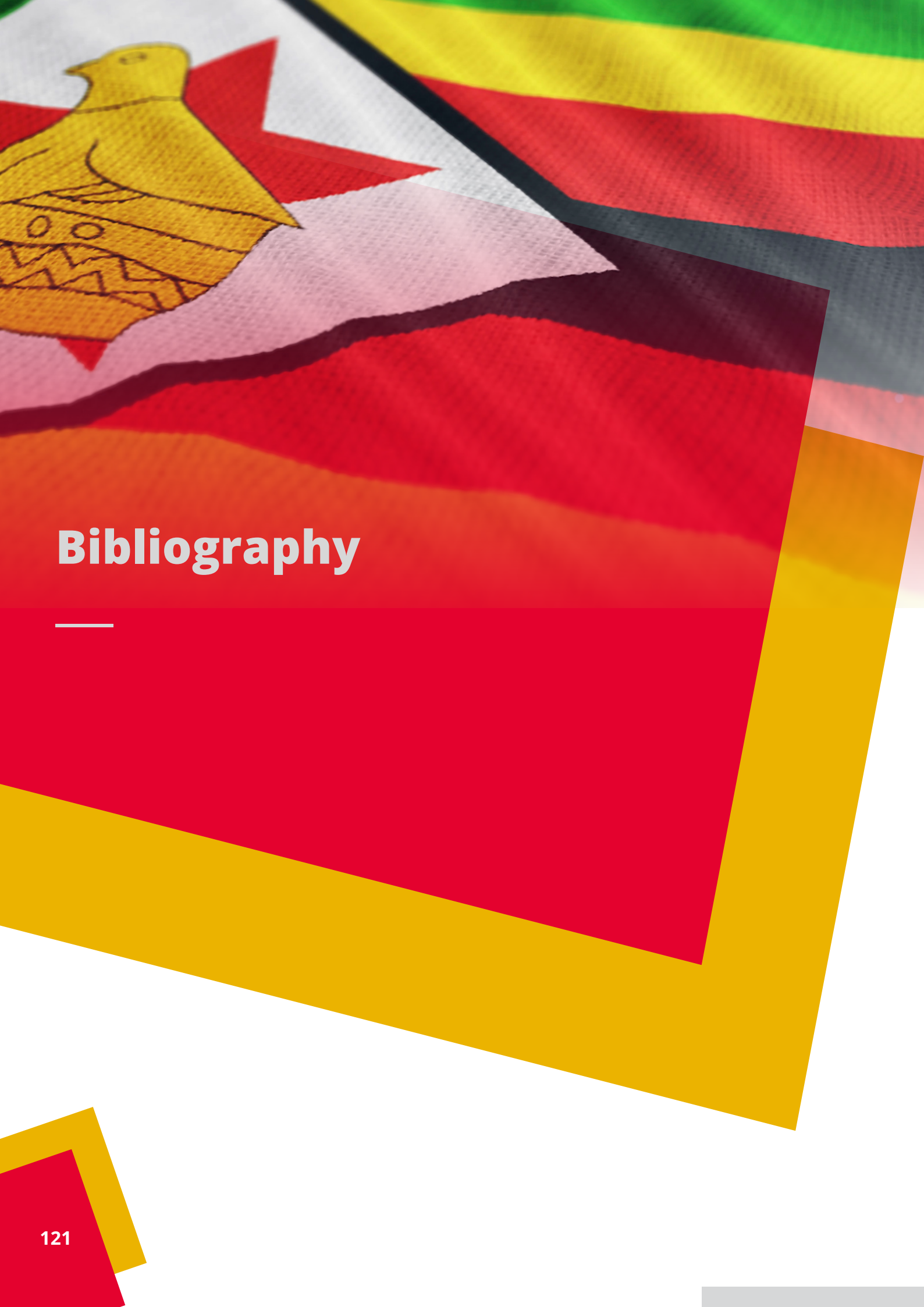
Conclusion

Part Eleven: Conclusion

11.1 Conclusion

Given the mass permeation of traditional and digital media platforms, the Zimbabwean electorate was spoilt for choice in terms of access to both verified and unverified electoral information. Besides mainstream media organisations, political parties, civil society, citizen campaigners, the electoral management body and social media companies provided sites of communication, and electoral debating spaces. The electoral body made sure that the local council, members of parliament and presidential results were posted outside every polling station. CSOs like Team Pachedu also used chatbots like Mandla to collect and process election results in real-time.⁷²⁶ The app by data scientist and engineer Freeman Chari allowed opposition Citizens Coalition for Change (CCC) supporters to check their correct polling stations as well as bona fide CCC candidates. Media organisations like Zimpapers, Alpha Media Holdings and Associated Newspapers Group also had rolling coverage of the campaigns on their newspapers, broadcast media and social media platforms. News start-ups like Cite ZW also had a dashboard where citizens could follow the results in real-time. Social media influencers had rolling coverage on X Spaces which also enabled the connected to follow the results at their homes, offices and workstations. Voters in rural areas relied on radio stations and WhatsApp updates, which also covered the election extensively. However, given the polarised nature of the Zimbabwean media environment, propaganda and disinformation continued to pollute the offline and online public spheres. This meant that information integrity was gravely affected by media and political structural factors.

726 V Langa 'In Zimbabwe, Team Pachedu develops app to counter vote rigging' <https://www.theafricareport.com/319535/in-zimbabwe-team-pachedu-develops-app-to-counter-vote-rigging/> (accessed 7 March 2025).



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