



# Ballot Update

# Bulletin

February 2012

A Newsletter of Zimbabwe Election Support Network Issue 1

FREE

## Is Zimbabwe ready for an Election?

*“To determine whether an election has been free and fair the election must be conducted under conditions that enable the voter to cast his or her vote as he or she wishes purely on his or her accord. The condition must be such as the voter is able to cast his or her vote for whomever candidate he or she wishes to vote for. There must be no obstruction, harassment, hindrance, threats or intimidation. There must be no bribery to induce the voter to vote in one way or the other. There must be no conditions creating fear in the minds of the voters for prosecution or victimisation after elections have taken place.”*

This is according to James Nits in his book Management Dimension of Free and Fair Elections.

In Zimbabwe it has been noted that threats and intimidation have been and are still used to bring about certain electoral outcomes. The continuation of human rights violations in communities will affect voter turnout and lead to further polarisation of already divided communities.

The prevalence of the various forms of human rights violations deny citizens a voice. The UNDP publication on Elections and Conflict Prevention (2009) states that, “Elections that give voice to citizens are a critical means of conflict management through peaceful deliberations and decision making processes in which “winners” carry out promised policy initiatives and programmes and losers are given an opportunity to serve as loyal opposition and to try again in future elections”.

### Election news quotes

#### Polls in 2012 a recipe for disaster

“Zimbabwe is not ready for elections. People don't want an early and unsustainable election. I am talking about an election that is not going to deliver change and an election marred by violence-an election that you will end up with us negotiating again. People don't want that.” **Hon Tendai Biti. The Zimbabwe Independent (17-23 February).**

#### We want elections yesterday: President

“No! We want elections, we wanted them yesterday, we want them today, we want them any day, but others are saying no, no, no, we can't have elections. First, they were saying 2012, now they are saying in 2013. But perhaps when we get much further without elections they will say no elections at all; let us remain in power without elections.” **President Mugabe. The Herald (21 February).**

The muzzling of citizens voices is a threat to free expression of citizen choices and so this needs to be jealously guarded as the genuineness of an election hinges on freedom of choice. Continued human rights violations have the effect of reducing voter turnout which has already plummeted and this is evidenced by the ZEC's 2008 harmonised election analysis. Zimbabweans are divided along fault-lines of political party affiliation creating an “either you are with us or them” mentality.

The Organ on National Healing and Reconciliation needs to play a critical role in the achievement of social cohesion. This is a role they obviously cannot play alone given past performance. This gives impetus to the need for collaborative efforts between the organ and civil society. In this issue ZESN provides more information on these and other human rights issues that impact on electoral processes.

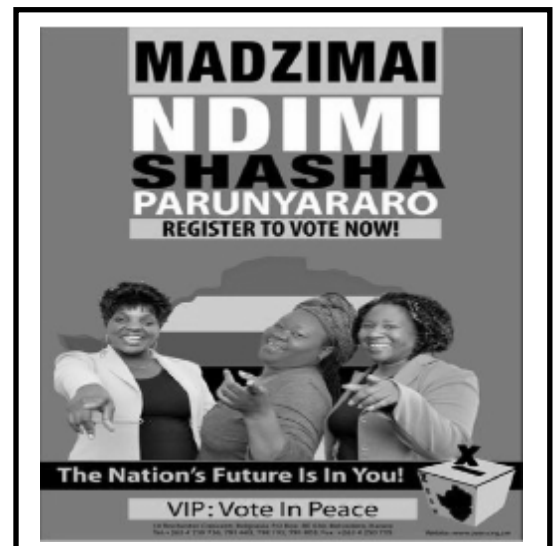
ZESN remains adamant that the prerequisites to ensure a free and fair election are:

- Legal reforms that strengthen the electoral processes
- Securing the independence of ZEC and strengthening its capacity to enforce the code of conduct for political parties.
- Public awareness efforts on fundamental rights and freedoms such as the right to a free vote and freedom from intimidation and harassment
- Training political parties on peaceful methods of campaigning and cultivating a culture of tolerance
- Engagement with the media on reporting that promotes social cohesion and respects the rights of citizens to accurate information

**“The condition must be such as the voter is able to cast his or her vote for whomever candidate he or she wishes to vote for. There must be no obstruction, harassment, hindrance, threats or intimidation”**

- Creating community structures for community conciliation
- Peace campaigns
- Traditional leaders' forums on human rights and their role in the protection of these rights
- Strategic leadership development and training

In conclusion, though the year 2011 was characterised by opportunities and challenges, successes and failures in the governance of Zimbabwe. The parties in the GPA agreed to the promotion of values and practises of tolerance, respect for human rights and non violence. However, differences in political ideologies as well as lack of political will to reform remain evident, characterised by increased polarisation, hate language, simmering violence and tensions in the Inclusive government. The need for political reform remains alive and critical in Zimbabwe as we prepare for the referendum and the general election. To bring finality to the Zimbabwean crisis, there is need for an election that ushers in a legitimate government chosen by the people. Elections are meant to provide citizens with real and genuine opportunities to make choices. Let the citizens speak through the ballot.



sms election related comments to: 0773 782 870



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## Editorial



### Another VOICE – ZESN Ballot Update!

ZESN welcomes you to the first edition of its Newsletter 'the Ballot Update' Newsletter. This newsletter seeks to provide our various stakeholders with information pertaining to democracy and good governance, with particular emphasis on election related news.

This newsletter comes by public demand with many of our stakeholders having suggested that there was need for a wider dissemination of information that is generated by the Network. It is our sincere hope that this newsletter will be instructive as the nation heads towards a possible referendum and general elections in the near future.

We note that our country has been and continues to be in an electoral mode since its last elections that were held in 2008. The respective principals in the Global Political Agreement and some of their officials have been incessantly calling for elections since 2010. Thus this newsletter comes at an opportune time seeking to unpack these pronouncements, statements and actions so that citizens are kept informed.

Since 2000, election periods in Zimbabwe have been associated with many human rights violations. Political parties have always been at warfare with each other and with consequences cascading to the electorate. The need to document such incidents cannot be condoned hence in addition this newsletter will also cover human rights issues in relation to elections. The newsletter will also provide an opportunity for the communities to contribute to the election discourse in the country through instructive comments.

As the country gears yet for another round of elections, which include the referendum on the constitution as well as the subsequent harmonized elections, the environment is awash with signals that a repeat of the 2008 scenario if not worse is likely to take place. ZESN therefore continues to strongly call for reforms that will create an environment that will ensure the holding of credible, democratic and that ushers in a legitimate government.

This issue of the Ballot Update newsletter will dwell on a number of issues that have come to light so far in the year and which might have a bearing on the electoral and political environment in the country.

ZESN hopes that this will not just be another publication added to your list but a relevant and useful tool in the provision of vital information on elections and democracy issues in Zimbabwe. The editorial team wishes you a happy and insightful reading!

## Zimbabwe yakagadzirira here kuita sarudzo yakasununguka?

Munyori weZESN

Munyori anonzi James Nits mubhuku rake *Management Dimension of Free and Fair Elections* anotaridza pachena zvinofanira kuvapo kuti tikwanise kuti sarudzo dzaitwa zvakasununguka pasina kubiridzira. Anoti: “Munhu wese anoda kuvhota anofanira kunzwa akasununguka kusarudza munhu kana boka raanoda pasina kumbunyikidzwa. Hapafaniri kuva nekudziviswa, kushungurudzwa, kurambidzwa, kana kutyisidzira. Munhu haafaniri kupihwa chioko-muhomwe kuti asarudze munhu kana boka raasingade. Uyezve vanhu havafanire kutyisidzira kuti vachasungwa kana kuudzwa kuti vachatambudzika mushure mekunge sarudzo dzaperu.”

Zvakaonekwa kuti kutyisidzira nekuvhundutsira inzira dzakamboshandiswa musarudzo dzakapfuura uyezve dzichiri kushandiswa kumbunyikidza vanhu kuti vavhotere zvasingadi. Ongororo yakaitwa mushure mesarudzo dzemuna2008 yakataridza kuti kutyisidzira nekushungurudzwa kwevanhu kunodzika hwanu hwevanhu vanohota uyezve nekuedzera kusawirirana pakati pevanhu vari mumatunhu akasiyana siyana. Kuita sarudzo murunyararo kunodzivirira makakanwa uye kunopa vanenge vabudirira musarudzo mukana wekuita zvirongwa zvakavimbisa.”

“ Kuita sarudzo murunyararo kunodzivirira makakanwa uye kunopa vanenge vabudirira musarudzo mukana wekuita zvirongwa zvakavimbisa.”

Ongororo yakaitwa neZEC mushure mesarudzo yakataridza zvakare kuti kusawirirana kuri kuwedzera nekuti munhu umwe neumwe anenge achiti “kana usingatsigiri bato rangu uri muvengi wangu”. Naizvozvo boka rinoona nezvekunzwisisana nekuregerana rinofanira kushanda pamwe chete nemwamwe mapoka pakuedza kukurudzira kuti pave nekubatana. Muchinyorwa chino, ZESN inotsanangura zvizere pamusoro penyaya deezvemaitirwo esarudzo nekuchengetedzwa kwekodzera dzevanhu.

Boka reZESN rinokohomedza kuti zvinotevera zvinofanira kutanga zvagadziriswa kuti sarudzo dzigokwanisa kuitwa zvakasununguka pasina kumbunyikidzwa kvevavhoti:

- Kugadziriswa kwemitemo inechekuita nekufambiswa kwesarudzo
- Kuwana kuzvimirira kweZEC nekuwana masimba ekukwanisa kutsiura mapato ezvematongerwo enyika.
- Kudzidzisa vanhu pamusoro pemitemo inovamirira semuzaniso vane kodzero yekusarudza zvanoda pasina kutsidzira nekumbunyikidzwa.
- Kudzidzisa kwemapato ematongerwo enyika nzira dzine runyararo dzekushambadzira mapato avo kuvanhu uye vachikurudzirawo kuwirirana kwevanhu vanotsigira mapoka akasiyana siyana.
- Kukurudzira mapoka ezvekufambiswa kwemashoko kuti akurudzire kubatana kweruzhinji pamwe nekukoshesa kuzivisa ruzhinji nhau dzechokwadi.
- Kugadziriswa kwemapoka anobatanidza vanhu munharaunda
- Kushambadza mapato ezvematongerwo zvine runyararo.

Muchidimbu gore ra2011 raive nezvakawanda zvakaite pane zvevatongerwo enyika. Mapato ari mumuMubatanidzwa wehurumende akabvumirana kuti vachakurudzira tsika dzinokoshesa maonero evamwe, kuremekedza kodzero dzevanhu pamwe nekusavepo kwemhirizhongwa. Changosara ndechekuti vaite zvakawirirana nekuti zvakaosha kuti vanhu vasarudze hurumende yavanoda pasina kumbunyikidzwa kana kushungurudzwa.



### Nyambo yesarudzo

“Nhai baba”, akabvunza mwanasikana, “ngano dzose dzinotanga nekuti 'paivapo here?’  
“Kwete mwanangu”, vakapindura baba, “dzimwe ngano dzinotanga nekuti, 'kana ndakunda musarudzo....’



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## AN ANALYSIS OF 2011:

### RESPECT FOR HUMAN RIGHTS AND IMPLICATIONS FOR FREE AND FAIR ELECTIONS

This update seeks to provide an analysis of the human rights situation in Zimbabwe and implications for free and fair elections. It is a synthesis of the findings from 210 long term observers deployed by the Zimbabwe Election Support Network (ZESN) for the duration of 2011. In February 2011, the Government of National Unity (GNU) celebrated 2 years of existence and this has not been smooth sailing for citizens and the government. While the GNU has brought a semblance of normalcy to the country, on the political scene, it has been a mixed bag of successes and failures to implement its letter and spirit. This update is a synthesis of data from observers deployed from April to December 2011. 1800 questionnaires were collected and analysed using Statistical Package for Social Sciences (SPSS).

## I Zimbabwe ilulungele na ukhetho?

UJames Nits, ebhala egwalweni lwakhe oluthiwa Management Dimension of Free and Fair Elections, olukhuluma mayelana lokuqhutshwa kokhetho olukhululekileyo njalo olungela bandlululo, uthi:

*“Ukuze kubonakale ukuthi ukhetho belukhululekile njalo lungela bandlululo, kumele luqutshwe ngaphansi komumo ovumela abavotayo ukuba bavote santando bechelesile. Lowomumo kumele uvumele ovotayo ukuba avotele yiloba ngubani oncintisayo angabe ethanda ukumvotela. Akumelanga kube lokujinjezelwa, ukukhululuzwa, ukwenqatshelwa, ukufungelwa ijoyi kumbe ukwethusehwa. Akumelanga kube lokuthenga kumbe ukutshotshozela ovotayo ukuba avote ngendlela ethile loba ethize. Akumelanga kube lomumo obangela ukwesaba okuphathelane lokubotshwa loba ukukhahlanyezwa ngenxa kokhetho emikhumbulweni yabavotayo.”*

Sekutholakale ukuthi ukwethusela kuyasetshenziswa ekuqutshweni kokhetho eZimbabwe ukuze kuzuzakale umphumela othile. Ukubakhona kokwephulwa kwamalungelo abantu ngendlela ezehlukeneyo kwephuca izizalwane ilizwi lazo. Ugwalo lweUNDP olumayelana lokwenqatshelwa kwezimfazo eziphathelane lezokhetho, oluka2009, luthi lona, *“ukhetho olumika izizalwane ilizwi luyindlele emqoka yokwenqabela imfazo ngokukhulumisana okuzothileyo lokuqutshwa kwezinqumo lapho abanqobileyo bagwalisa izithembiso zabo zemigomo lezinhlalo ezidwetshiweyo, kuthi abanqotshiweyo baphive ithuba lokusebenza bekhuthela njengebandla eliphikisayo baze bazozama ukuncintisa njalo kukhetho oluzayo”*. Ukuklanywa kwelizwi lezizalwane kuyingozu ekuqutshweni kwentando yazo, ngakho-ke kumele kulimukwe ngempela njengoba ubuqotho bokhetho bugxilise impande zabo ekukhululekeni kwabantu ukukhetha abakufunayo bekhululekile.

Ukuqubeka kokwephulwa kwamalungelo abantu kuvame ukwehlisa inani labantu abazavota, lona eselivele lehla kabanzi njengokuvezwe yinhlolisiso yeZEC eyamavoti alumbanisiweyo aka2008 Ugatsha olubona ngokuPhozwa langokuKhumisana Umlotha Elizweni (iOrgan on National Healing and Reconciliation) ilomlandu omqoka ekuzuzweni komanyano lokudlelana kwabantu. Kubalulekile ukuthi lo ngumlandu abangeke bawuthwala bodwa nxa sekukhangelwe okwenzakalayo esikhathini esidluleyo, okuzeza indingeko yokusebenzelana ndawonye phakathi kwaloloGatsha lenhlangothi ezisebenzela umphakathi zizimele zodwa. Kulolugwalo iZESN inika ulwazi mayelana lezamalungelo abantu eziphathelane lokuqhutshwa kokhetho.

IZESN ikholwa ngokupheleleyo ukuba nxa kujongwe ukhetho olukhululekileyo njalo olungela bandlululo kudingeka ukuthi kube khona okulandelayo:

- Inguquko yemithetho eletha ukuqhutshwa kuhle kokhetho
- Ukwenza iZEC izimele ngokupheleleyo lokuyinika amandla okuqinisa izimiso zokuziphatha kwamabandla ezombusazwe
- Ukwenza imizamo yokufundisa uzulu mayelana lamalungelo abo amqoka kanye lezinkululeko, okufana lelungelo lokuvota ukhululekile lokungethusehwa kumbe ukukhululuzwa
- Ukufundisa amabandla ezombusazwe izindlela zokukhankasa ezilokuthula, kanye lokukhuthaza umkhuba wokwamukelana loba abantu behlukene emibonweni
- Ukukhuthazana labonozindaba mayelana lokukhipha imibiko evumela ukumanyana komphakathi ibuye ihlonipheamalungelo abantu avokuthola imibiko eqinisekileyo
- Ukulungisa izimo emphakathini ezanelisa umanyano
- Imikhankaso yokuthula
- Inkundla zabameli bezifunda ezimayelana lamalungelo abantu kanye lomlandu wazo ekuvikelweni kwalawa malungelo
- Imfundiso kanye lokwakhiwa kobuthungameli obuqotho

Njengendlela yokuphetha, loba ne imnyaka ka2011 wawuqubethe amathuba lezinkinga, izimpumelelo kanye lamaphutha ekubusweni kwelizwe leZimbabwe, amabandla akuHulumende womanyano wamabandla amathathu, iGPA, avumelana ukuphatheka emicimbicimbini ekhuthaza ukuthula, ukumanyana, ukuhlonipha amalungelo abantu kanye lokwenqaba udlakela. Kungasenani, ukwahluka kwemibono yalamabandla kanye lokuswela ukuzimisela kwawo ukuguquka ezimeni ezibi zezombusazwe kwala kulokhu kubalulekile njalo kuvezwa yikungezwani kwabantu, inkulumbo ezigwele inzondo, ukugawelana ngodlakela, kanye lokungahlaliseki phakathi kukaHulumende. Indingeko yokuguquka kwezombusazwe lokhu ikhona egekeni njalo imqoka kweleZimbabwe lapho sibhekane lamavoti esisekelo sombuso esitsha kanye lokhetho lwabameli lomongameli. Ukuze kunqatshwe kokuphela isimo lesi eZimbabwe kudingakala kube lokhetho oluzaletha uHulumende oqotho okhethwe ngabantu mathupha. Injongo yokhetho yikunika izizalwane amathuba aqinisekileyo awukwenza izinqumo. Izizalwane mazivunyezwe ukukhuluma ngamavoti.

This analysis will take cognisance of the provisions in the GPA as the measure of success and as a benchmark for implementation. The transitional government formed through the GPA is meant to ensure reforms that will lead to free and fair elections. ZESN recognises that the implementation of the desired reforms will create conditions for free and fair elections. Political leaders in Zimbabwe have realised that the fundamental problem in Zimbabwe is the politics and once this fundamental area has been resolved, all else will fall into place.

#### Freedom of assembly and association

The GPA recognises the need for freedom of association which had been greatly hampered by partisan application of the law and the culture of intolerance that characterised Zimbabwe in the last decade. In light of this knowledge, parties in the GNU agreed to work together in a way that guarantees the full implementation and realisation of the right to freedom of association and assembly.

The implementation of these conditions to enable freedom of assembly and association is a variable that ZESN evaluated. ZESN observers reported that while political parties were able to conduct rallies, there were some parties which enjoyed this freedom more than others. To a large extent, ZANU PF was able to conduct meetings and rallies more freely than other parties. It seems as if ZANU PF was not subjected to the rigorous requirements for them to convene meetings as was required for the two MDC formations and civic organisations. At times even when police clearance was obtained, meetings were disrupted and clearance was revoked on the pretext of lack of security or other excuses.

Observers reported that ZANU PF was able to conduct meetings to the exclusion of other parties.

27% of reports showed that citizens were forced to buy ZANU PF party cards. This behaviour is again inimical to freedom of association as citizens must freely choose which party to support. Some provinces experienced more coercive selling of party cards than others. Provinces such as Mashonaland East and Mashonaland Central recorded high percentages of people being forced to buy party cards whilst others such as Midlands and Manicaland recorded low percentages. The diagram below shows the percentage distribution in six provinces of the country.

		Province					
		Mash-East	Mash-Central	Mash-West	Harare	Midlands	Manicaland
Yes	64%	52%	40%	37%	29%	22%	
No	36%	48%	60%	63%	71%	78%	



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### Freedom of expression and communication

Parties recognised the importance of the right to freedom of expression and the role of the media in a multiparty democracy. In this vein, parties agreed to ensure media reforms through the issuing of print and broadcasting media licences to ensure the promotion of media pluralism. Parties agreed to reform public media so that it provides a balanced and fair coverage to all political parties, that private and public media refrain from using abusive language that may incite hostility, political intolerance and ethnic hatred that would unfairly undermine political parties. A number of new publications have been licensed such as the *Newsday*, *The Mail* and the *Daily News*. Although two new radio stations belonging to Zimpapers (Talk Radio) and AB Communications (ZiFM) were given the green light to operate, analysts have argued that there is no proper opening up of the airwaves as these stations are affiliated to Zanu Pf more than any other political party. Other stations have seen their license requests rejected such as Kiss FM. ZESN notes that more radio stations need to be licensed in order to promote media diversity and plurality. The political landscape of Zimbabwe was such that citizens were not able to express themselves even through wearing their party regalia. 53 % of reports show that citizens are not free to wear party regalia unless it is ZANU PF.

### Security of persons and prevention of violence

ZESN reports show that violence remained a real threat in a number of provinces and constituencies in Zimbabwe. In 30 per cent of cases, observers reported political harassment to citizens such as threats of violence, forced attendances to political meetings and denial of the right to read newspapers of their choice. 37% of reports indicated the prevalence of human rights violations in the various provinces. Observers' reports also show that in 37% of rallies observed, threats of violence were prevalent.

Violations included but were not limited to:

- Denial of the right to assembly and association
- Discrimination of the basis of political affiliation
- Infringements on the right to information
- Restrictions of the freedom of expression
- Increased insecurity of persons
- Mounting of places of torture in some areas
- Psychological abuse through reminiscing about violence e.g. liberation war songs and war cries /slogans

After the accelerated incidents of violence in Harare in Highfield, Chitungwiza, Hatcliffe and Lupane principals to the GPA and the national executives of the MDC T and MDC as well as ZANU PF's Politburo members called an Indaba to denounce violence. The existence of different forms of violence can be explained by the activities of various groups such as the Mbare based Chipangano militant group backing ZANU PF in Harare and the presence of war veteran leader Jabulani Sibanda in some provinces such as Masvingo in 2011.

### The erection of political bases

ZESN notes that in some areas bases were mounted in several areas and later dismantled. 10% of reports reveal that some bases had been erected while 90% of the reports indicated that there were no bases in their areas. The mere existence of these bases is a cause for concern. ZESN reports were validated by reports from the Zimbabwe Peace Project and ZimRights that also highlighted the mounting of "bases". These bases served as places of torture and gross acts of human rights violations were perpetrated. It is critical that political parties respect citizens' rights and their dignity as well as political choices without resorting to force.

### The constitution making process

In the GPA, the parties determined "to create conditions for our people to write a constitution for themselves ...and ensure that the new constitution deepens our democratic values and principles and the protection of the equality of all citizens..." In addition, the GPA envisaged a process that is owned and driven by the people, which is inclusive and democratic. In 2011, ZESN observed the thematic committee processes and has kept up with the progress of COPAC during the drafting processes. Indications reflect that the desire for a people driven constitution has been overtaken by political party preferences which have taken centre stage and affected the progress of the process. The thematic committee stage was marked by disruptions due to political parties misunderstanding on methodological issues. Questions of the quantitative against qualitative ways of interpreting data were central to the conflicts that ensued and delayed the work.

### State organs and institutions

Parties agreed that "state institutions and organs do not belong to any political party and should be impartial in the discharge of their duties". Reports from observers reveal the continued use of state institutions to serve political party ends. Observers reported on the partisan nature of state institutions such as the police and the district administrators in the discharge of their duties. This has resulted in continued discrimination that does not foster social cohesion which is critical for national healing and reconciliation.

### The Elections Roadmap

SADC Summit of Heads of State and Government held in Windhoek on the 17<sup>th</sup> of August, 2010, it was resolved that the inclusive Government and the political parties should "find an uninterrupted path to free and fair elections and the removal of all impediments to the same". Parties that are signatories to the Global Political Agreement assigned their negotiators to draw up a roadmap defining milestones to be executed and implemented before the next election. The roadmap intended to usher in free and fair elections after implementation of all provisions. These milestones and signposts include:

- a) the lifting of sanctions,
- b) the constitutional process,
- c) media reform,
- d) electoral reform,
- e) rule of law,
- f) freedom of association and assembly,
- g) Legislative agenda and the actual election.

The roadmap is supposed to usher in democratic elections which will bring to an end the transitional government. As of the end of the year five issues pertaining to, the staffing of ZEC, security sector, violence, repealing POSA and observers had not yet been finalised. Key issues of national healing and reconciliation were omitted from the document, yet there is need for restitution. The roadmap if finalised might pave the way for the holding of credible elections.

### National healing

ZESN noted that discrimination remains rife in constituencies and the party one belongs to is important for access to state institutions and services among others. Observers also reported that citizens that had been displaced during the violence of June 2008 have not been able to return. Reports show that 57% of the displaced in these communities have not been able to return against the 43% who have returned.

### The Legislative Framework

Various bills were gazetted in 2011. The GPA and Constitutional Amendment number 19 recognise that legislative reforms are of paramount importance for creating an enabling environment for credible elections. The Human Rights Commission Bill and the Electoral Amendment Bill were gazetted towards the middle of the year in 2011. Public hearings for both bills were conducted, albeit marred with violence. The Human Rights Commission Bill was introduced in Parliament. Progress on amending the POSA has been stalled in Parliament by the senate.

