

- d. What was on the sever was to be compared and if need be contrasted with what was on the V23b forms, the V11 forms and what had been punched into excel.
- 5.6 My agents demanded that the verification process take place. It had to take place by operation of law at any rate. It had to take place for all the issues set out above to be dealt with. The ZEC CEO Mr Salaigwana accepted that position and assured my agents that the results would not be announced without that process taking place and to that end, Mr Komichi was going to be called in for the verification process. Indeed, in terms of that process, Messrs Komichi and Timba had to sign off on the results before they were announced.
- 5.7 An indication had previously been given that there was to be an announcement of the presidential results at 22.00hrs. As at 21.55hrs Mr Komichi had received no call from the CEO, no verification had taken place and no signing of the papers to signify the fact that there had been a verification had also taken place. He accordingly visited the CEO's office who told him that he was still going to contact him as he was still working on some processes. On his part, Mr Komichi was to patiently wait for that call.
- 5.8 As Mr Komichi was still waiting for the call, ZEC started announcing the results on live television. Mr Komichi had been sold a ruse. There was something that ZEC wanted to hide. It is those results that are challenged. It is the declaration made by the Chairperson pursuant to that announcement that is in issue and whose validity the court ought to look into.

(e.i) The remit of the challenge

- 5.9 I have already indicated that all my complaints are relevant to my challenge. The main basis of the challenge is however, narrow and is twofold. The two grounds upon which that challenge is premised are the following:
 - a. There was a failure by ZEC to follow processes relating to the collation and announcement of the results and which processes are meant to establish the credibility of any results to be announced. The integrity of the result announced is therefore in issue for want of adherence by ZEC to that process. The process being both constitutional and statute, there could be no departure from its demands neither is the court in a position to dispense with strict adherence to statute.

- b. The actual results announced by ZEC are themselves afflicted by gross mathematical errors in a manner which affects their validity. The errors are material and materially affect the declaration made by the chairperson of the twenty third respondent. So patent are the inconsistencies it is clear that they were deliberately engineered by ZEC to favour the first respondent.

6.1 I deal with those in turn.

(f) Failure to follow processes

6.2 I contend that ZEC failed to follow mandatory legal processes and that such failure invalidates its processes which have to do with the announcement of the results and the declaration of a winner. The following are the respects in which ZEC deliberately flouted statutory processes bearing on a credible outcome;

(i) No verification of the results

6.2.1 In terms of the law, a presidential election is constituency based. What is collated and verified at the National Command Centre are the v23b forms which show the constituency totals. Those were never made available to me or my agents prior to the announcement of the so called results and the purported declaration of a winner. Those were never verified. Indeed the constituency totals were not even announced by ZEC. What ZEC purported to do was to announce provincial results in a manner that sought to and did mask the many mathematical irregularities afflicting the results. The announcement of results by province does not itself have any known statutory parentage.

Accurate elections results are those that are declared and announced at the Polling Stations and contained in the Forms V11 and collated in v23a forms. Elections cannot be said to be verifiable if the primary source documents are not delivered and confirmed by the person making the final declaration of results.

6.2.2 For results to have any validity, they must be verified by all the players concerned. Queries must be raised and attended to. This is the statutory design. That process was not followed. The results announced not having gone through this process cannot be saved.

(ii) No verification of relevant data

- 6.2.3 Any verification process would have entailed the verification of the data on v23, v11 forms and the details punched into the ZEC sever. That process did not take place. In addition, there was not even any verification of the excel data and the totals allegedly produced by the figures inputed. That failure led to some glaring irregularities that will be related to later on. Indeed Excel sheet cannot form a basis for the announcement of results or a declaration. Excel sheet is the most insecure document that that can deployed in elections. Its contents can be so easily manipulated and changed by the person making the entries or at a later time once the entries are made.

Failure to refer to the V11 Forms and the results posted on the servers would mean the elections are not verifiable. Adopting the use of technology in the elections was in furtherance of constitutional principles of transparency, accountability and verifiability. Sending results in advance to the servers was to protect against tampering with results once a declaration is made at the polling station. If those results cannot be accounted for then the elections fail the test of verifiability and accountability

- 6.2.4 I point out that the most important stage of an election is the process of ascertaining the votes cast. The law has evolved certain safeguards that must be followed when a result is being ascertained. The process preferred by ZEC was meant to murky the waters, lacked transparency and credibility and ought to be interfered with.

(iii) No signing off on results

- 6.2.5 My agents were not afforded the opportunity to sign off on the results before they were announced. After the results had been announced, Mr Salaigwana tried in vain to have my agents sign the returns. It is of concern that this request was made after the announcement of results. This should have taken place before the announcement. As it stands, what is contained on Mr Salaigwana's returns is disputed and is even at variance with the figures his commission announced.

(iv) Irregular announcement

- 6.2.6 In terms of the law, the results of a presidential election must be announced on a constituency by constituency basis. The results challenged were for reasons that have not been stated and which are alien to law announced on a province by province basis. The motivation behind that violation was to

conceal the blatant changes which had been effected to the relevant totals. No explanation was given by the twenty third respondent for that irregularity. It seems twenty third respondent simply decided to turn the law on its head because it could do so. The failure to follow the law in that regard is inexcusable.

The point must be emphasized that presidential elections are constituency based and hence declaration of results are also constituency based. The national figure merely tallies the results as declared for each constituency. Departure from this position affected the manner in which the elections were conducted and final declarations made.

(v) Announcement process contrary to Act

6.2.7 By our law, results of a presidential election must be announced by the Chairperson. In casu, the chairperson delegated, in her presence, the task to all the Commissioners. This was in breach of mandatory statutory provisions. No explanation exists for this breach.

6.3 For all these reasons, I submit that the relevant processes were not followed. That failure to follow processes means that the integrity of the result announced cannot be vouched for. The court has no assurance that the correct result was announced. Indeed wrong results were announced as will be demonstrated below. This is sufficient to yield the vacation of the entire process. Zimbabwe cannot be governed by a person who did not win the election.

(g) Glaring mathematical errors, no win for first respondent

6.4 I must at the outset indicate that on ZEC's own results, first respondent went above the statutory threshold by 0.8%. In real terms that means if thirty thousand (30 000) votes are knocked off from his total, he would have failed to scale the statutory tariff. On ZEC's own results there would be need for a run off. It is in that context that I raise the issues below;

(i) Wrong results announced

6.4.1 I will deal with this issue on a province by province basis for no other reason than that this is the process which twenty third respondent preferred in announcing the results. I intend to make it clear that twenty third respondent announced wrong results, which are at variance with its own data.

6.4.2 I attach hereto and mark as "C" the schedule showing the discrepancies between the votes announced by ZEC and the actual tallies derived from v11 and v23 data.

6.4.3 The results announced by ZEC do not tally with what ZEC has. In addition, this is what a verification process would have eliminated before a wrong result was announced. On that basis, the result cannot stand. The discrepancies are material. They put in issue the integrity of the entire computation process.

(ii) Figures do not tally

6.4.5 The total registered voters for the purposes of this election was given by ZEC as slightly over 5 659 583-00. I point out in passing that the roll released by ZEC a day before the election is not the same one that was used on voting day. Be that as it may, it is accepted that the total number of registered voters is slightly above. It was announced by ZEC that the total votes cast were 72% of the registered voters when parliamentary results were announced. The effect of that is that the votes cast should be slightly above 4 032 000-00 on that computation. The votes announced by ZEC however, give a total, depending on whether one considers the announcement or the data on the CD, some 4 775 640.00 and 4 774 878 respectively. That means from the results announced by ZEC, more than 700 000 votes cannot be accounted for. Obviously that huge figure materially affects the outcome of the election.

6.4.6 In addition, ZEC has made available on disc what it calls the relevant figures relating to this election. The data provided by ZEC on that disc is at variance with the figures it announced as already shown above. I attach hereto and mark as "D series" a comparative schedule showing the discrepancies between what ZEC announced and what it gave us as the data on the basis upon which the announcement was made.

(iii) No tally between parliamentary votes and presidential

6.4.7 The law and the process during voting is that every voter gets all the three ballot papers. If the voter does not want to vote for a House of Assembly representative or a Councillor, they are still required to cast that ballot which will however, be considered spoilt. The net effect is that the total votes cast

for the presidential candidates must tally with those cast for the house of assembly candidates.

- 6.4.8 On the results announced by ZEC, the presidential tally was in all provinces higher than the house of assembly one. What that means is that by some unlawful and illicit process, the presidential tally was modified. The result announced is accordingly unfounded. I attach hereto and mark as "E" the relevant analysis that bears this out. It shows that the tally has an excess of some 40 000-00 votes which circumstance materially affects the outcome of the election.

(iv) Differences between v11 and v23-inflation and deflation

- 6.4.9 There are also instances where ZEC altered the data on its own returns. I attach hereto and mark as the "F1 and F2 series" evidence which shows that my votes were being reduced and those of first respondent being increased. The figure by which my votes were deflated is 19 722 and the figure by which first respondents figures were inflated is 10 343. The discrepancies arise out a consideration of the relevant primary data. The data is in the V11 forms which are in the disc attached hereto as "F3"

- 6.5.1 Once there is such evidence, the credibility of the entire result cannot be vouched for. What is important is that these irregularities are apparent from ZEC's own returns and have an invalidating effect of ZEC's own pronouncement and declaration.

(v) More voters than those registered

- 6.5.3 The evidence attached hereto and marked as the "G series" shows that more people than were registered voted. In some instances, more than a thousand people voted per polling station and yet there could only be a maximum of a thousand registered voters per station. In yet other instances, although the votes recorded are below one thousand, there are still higher than the number of registered voters at those polling stations. That is what created ghost votes which were given to first respondent. The result announced, based as it is on ghost votes can have no validity and that circumstance materially affects the outcome of the election. The discrepancy is some 31

204. The discrepancies come to immediate light when the voters roll we were given which is attached and marked "H" is considered.

6.5.3 It is important to point out that in all instances in which more votes were cast than those registered, it is the first respondent who would amass the bulk of the vote. My vote would always remain within the acceptable range. What that shows with respect is that there was an illegitimate stashing of votes. That also explains why no results were posted at 21% of the polling stations.

6.5.3.1 Further, there are polling stations where ZEC claims there was a plus 90% turnout. This is unimaginable. In those areas where there was a plus 90% turnout, first respondent was given a total of 352 897 votes. I attach hereto the analysis and mark it "I". I also make reference to the affidavits of the experts attached hereto.

(vi) No tally between people who voted and results announced

6.5.4 The results as announced by ZEC are fundamentally different from the actual votes cast. A case in point is that of Mashonaland Central. ZEC announced that the total votes were in excess of 400 000. The correct position however, is that less than 200 000 people voted. The effect therefore is that more than 200 000 votes were created.

6.5.5 The case of Mashonaland Central is quite intriguing. At 17:30hrs on the polling day, ZEC announced that 105 000 people had cast their votes by 17:00hrs. See annexure "J" attached hereto which is an online ZBC report which report is still on line. The results announced by ZEC mean that some 370 000 people voted in two hours. That takes everyone for granted. That is simply ridiculous.

6.5.6 I however, make reference to the attached affidavits which show that no increase in the number of voters towards the close of poll was noted on the day. The plus three hundred and seventy thousand votes simply do not exist.

(vii) Civil servants who did not vote

6.5.7 I have established that some 40 000 teachers did not vote. A lot more other civil servants who were involved in the elections were similarly disenfranchised. The issue had arisen prior to the election and despite promises being made, nothing was done to attend to the problem. It is

disheartening that notwithstanding the clear provisions of the law on the matter, government was at the forefront of violating rights of employees.

6.5.8 There's no doubt that the attempt to disenfranchise them was meant to affect the opposition vote otherwise they would have been allowed to vote.

6.5.9 In this regard, I make reference to the affidavit filed herewith showing the actual numbers of state employees who were disenfranchised. I once again make the point that the numbers involved materially affect the outcome of the election.

(viii) Postal vote

6.6.1 It was advised by the twenty third respondent that a total of some 7500 police officers had applied to vote by postal ballot. The postal voting process is set out in the Act and is not what twenty third respondent superintended over. The video evidence attached hereto and marked as "K series" shows that a mock polling day voting was conducted without even the knowledge of the contesting candidates. The officers were made to vote in the presence of their superiors. Whilst that forms the backdrop, the crux of the matter is that there was no proper voting process in respect of the 7500. The number involved when taken together with the other numbers set out above cannot be ignored and would have a definite effect on the outcome of the election.

(ix) Assisted votes

6.6.2 A disconcerting aspect of this election is the number of assisted voters. At 46% of polling stations nationwide, more than 26 people were assisted to vote. In Masvingo at about 65% of polling stations 26 or more people were assisted to vote. This being in the context of voter intimidation and the SMS which were being sent to prospective voters had a huge effect on the election. This kind of irregularity cannot be ignored without the court condoning serious electoral malpractices.

(x) Collated twice

6.6.2.1 There is also evidence showing that ZEC collated results at some polling stations twice that is to say polling stations were counted twice. I refer the court to annexure "L". This created an increase of 9035 votes. Of those, first respondent was as is the case where all irregularities are apparent the

beneficiary. The mathematics shows that he got 7703. The 7703 votes do not exist and must be subtracted from his total.

(xi) Missing Polling stations and creation of others

6.6.2.1 On voting day 21 polling stations went missing. No explanation for this exists. Further, some polling stations were created such as happened in Hurungwe. I attach hereto and mark as "M" a copy of the returns showing two such polling stations which were created being 1HRDC and 4HRDC. These two were not part of the list of polling stations received from ZEC. It is interesting to note that a total of 5 396 votes is said to have been garnered by first respondent at the ghost polling station. The figures for that ghost polling station do not compare well with those he garnered at other polling stations. There is clear evidence with respect of manipulation. I refer to the affidavit of TAWANDA RLAPH MAGUNJE which relates to this issue.

(xii) No tallies posted

6.6.2.2 At the close of counting the valid votes taken at every polling station the law requires that the results per polling station be affixed to a notice board. The purpose of this is to preserve the integrity of the vote and ensure that the election officials report the truth. At 21% of the polling stations, the relevant results were not affixed. This accounts for more than 2000 polling stations. More than that the breach gave ZEC the opportunity to manipulate the vote, it is one which is totally unpardonable. This is more so the case when one considers the delays that took place in the counting process.

(xiii) Identical results

6.2.2.3 Further clear evidence of fraud is apparent in certain results which are identical. Candidates would get the same number of votes at different polling stations. There are duplicated figures which are replicated at many different polling stations. The chances of that happening in life zero. The analysis attached here and marked as "N" which draws from ZEC's own tally bears that out. It is drawn from some 60 polling stations across the country. There can be no doubt that these results are man made and nothing can depend on them.

(xiv) Percentages not adding up

6.2.2.4 The results which are on ZEC's CD do not add up to 100% as they should. They instead add up to 98.4%. Further, a consideration of that data also reflects first respondent with 50.67% and not the 50.8% announced by ZEC. This also goes on to show the lack of both reliability and credibility of the results announced.

(xv) No voters roll

6.6.3 All these irregularities took place under circumstances where I did not have the final voter's roll. The roll used for polling is one that I have never had, one that I had not seen prior to the 30th of July 2018 and indeed one that I still do not have to the present day. That an election could take place under such circumstances is deeply disturbing. This gave the twenty third respondent the opportunity to illegitimately assist the first respondent.

(xi) After the fact

6.6.4 Even after the declaration of the result, twenty third respondent has involved itself in malpractices which are meant to correct the glaring anomalies that I have referred to above. Polling Agents are being forced to change v11 forms. I attach hereto some sample affidavits dealing with the issues. My technical team is being harassed amidst so many threats of arrests over trumped up charges. The environment has been heavily militarised and shows an administration which is afraid. The question to ask is why would first respondent behave in such a desperate manner if he won the election?

(h) Other violations

- 6.7 There are a series of other violations and discrepancies which I relate to in brief.
- 6.7.1 I attach hereto annexure "O" which shows an analysis on unusual voting patterns. Whenever those patterns manifested, first respondent became the biggest beneficiary of the irregularities. In fact the figures show that a total of 352 897 votes were purportedly cast in favour of first respondent whenever those irregularities manifested. This cannot with respect be ignored.
- 6.7.2 I also point to another disquieting aspect of this election. There are v11 forms which were signed and stamped but without any data been inputted into them. I attach them hereto and mark same "P series". It is these kind of v11's which were used to rig this election.
- 6.7.2.3 I make further reference to aV11 form for Gezi Primary School which I mark as "Q". There are two fraudulent aspects of that return. First, first respondent polled 9 votes but by a clear later interpolation, two figures 5 and 4 were put, albeit clumsily, ahead of the 9 to give first respondent 549 votes. In addition, there is an unsuccessful attempt to rub off the number of total ballot papers which were cast. This was to accommodate the later interpolation referred to above. The fraud is stark and shows how this election was handled. This cannot with respect be got over.
- 6.7.4 I also make reference to another schedule which I attach as "R" which shows further discrepancies in vote tallies.
- 6.7.5 There are other affidavits which I make reference to and attached and which deal with a litany of many other violations. I draw attention to them.

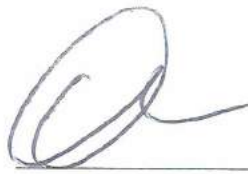
(i) The materiality

- 6.8 It is important that these mathematical violations be considered together with the constitutional and statutory violations that I have already referred to. There is one constant. It is that all irregularities were meant to and did unduly favour the first respondent. The violations go to the root of a proper and credible electoral process. These are accordingly irregularities that cannot be ignored. These are irregularities that do not arise from mistakes.

- 6.9 In addition, it is submitted that these mathematical irregularities have a material bearing on the outcome of the election. The figures show a tally well in excess of 30 000 which subtracts from first respondent's tally. The 0.8% which ZEC claims enabled first respondent to scale the statutory tariff does not therefore exist.
- 7.1 For all these reasons, what ZEC announced does not reflect the will of the people of Zimbabwe. On that basis, the result must be set aside. So too must the declaration relating to first respondent being the winner and accordingly the president elect of the republic.
- (j) Subpoena
- 7.2 I will by separate process subpoena the real results which are in the ZEC system and which it has concealed from the masses. I point out that these arise from the entries made in real time by ZEC before it connived to change the results.
- (k) Relief
- 7.3 I submit that the evidence placed before the court shows gross irregularities which affect the validity of the election and its outcome. That being the case, I submit that the entire process must be declared invalid and accordingly set aside.
- 7.4 As is borne out by the results available to ZEC, I won the election and won it resoundingly. The court is therefore in a position in which it can declare the fact of my victory. This is also clear when the manufactured results given to first respondent are excluded from the final computation.
- 7.5 Alternatively, the court has to order a fresh poll simply because the data that ZEC has is just too compromised to be made the basis of anything.
- 7.6 I also pray for costs such costs being borne by the twenty third respondent.
- 7.7 In the premises, I pray for an order in terms of the draft hereto attached.

THUS DONE AND SWORN TO AT HARARE THIS 9TH DAY OF AUGUST 2018

SIGNED



NELSON CHAMISA

BEFORE ME



COMMISSIONER OF OATHS



IN THE CONSTITUTIONAL COURT OF ZIMBABWE
CCZ____/18

CASE NO

HELD AT HARARE

In the matter between:

NELSON CHAMISA

APPLICANT

And

EMMERSON DAMBUDZO MNANGWAGWA

1ST RESPONDENT

And

JOSEPH BUUSHA

2ND RESPONDENT

And

MELBAH DZAPASI

3RD RESPONDENT

And

NKOSANA MOYO

4TH RESPONDENT

And

NOAH MANYIKA

5TH RESPONDENT

And

PETER WILSON

6TH RESPONDENT

And

TAURAI MTEKI

7TH RESPONDENT

And

THOKOZANI KHUPE
RESPONDENT

8TH

And

DIVINE MHAMBI

9TH RESPONDENT

And

LOVEMORE MADHUKU

10TH RESPONDENT

And

PETER MUNYANDURI

11TH RESPONDENT

And

AMBROSE MUTINHIRI

12TH RESPONDENT

And

**TIMOTHY JOHANNES CHIGUVARE
RESPONDENT**

13TH

And

JOICE MUJURU

14TH RESPONDENT

And

**KWANELE HLABANGANA
RESPONDENT**

15TH

And

EVARISTO CHIKANGA

16TH RESPONDENT

And

DANIEL SHUMBA

17TH RESPONDENT

And

**VIOLET MARIYACHA
RESPONDENT**

18TH

And

**BLESSING KASIYAMHURU
RESPONDENT**

19TH

And

**ELTON MANGOMA
RESPONDENT**

20TH

And

**PETER GAVA
RESPONDENT**

21ST

And

**WILLIAM MUGADZA
RESPONDENT**

22ND

And

**ZIMBABWE ELECTORAL COMMISSION
RESPONDENT**

23RD

And

**THE CHAIRPERSON OF THE ELECTORAL COMMISSION
RESPONDENT**

24TH

And

THE CHIEF ELECTIONS OFFICER

**OF THE ELECTORAL COMMISSION
RESPONDENT**

25TH

I the understated **DR OTUMBA EDGAR OUKO** do hereby make oath and state as follows;

- 1 I am a Dr of Philosophy in Applied Statistics. My certificate is attached hereto an so too is my detailed curriculum vitae and credentials.
- 2 I have also had direct expert experience in analysing statistical information pertaining to various projects, studies, processes and elections regionally.
- 3 I analyse both qualitative and quantitative aspects of any presented data in whatever form.
- 4 I am a considered and respected expert in my field on account of the aforementioned. I have prepared the report below.

SOURCES

For purposes of the present court process and electoral processes. I have considered and applied my mind to the following sources:

1. The second and final voters roll prepared and submitted to the stakeholders by ZEC
2. The electronic Compact Disk presented to all parties with the presidential results which is annexed hereto.
3. The Form V11 returns/forms which have been collected by the contesting parties primarily the MDC Alliance
4. The results announced and declared by the Zimbabwe Electoral
5. The Form V23b/forms returns collected by the polling agents and members of the MDC Alliance and other parties.

CONSIDERATIONS

The following considerations were prioritized in the data analysis process.

1. Repeatability
2. Reliability and validity
3. Determination of **statistical significance**
4. Determination of the effect size (practical significance)

5. Consistent emphasis on accuracy, and objective assessments
6. Triangulation of findings (cross-validation of findings using other techniques)

METHODOLOGY

In the course of my duties, I used the following statistical methodologies which on application are repeatable, exclude the possibility of errors and establish the existence of numerous and systematic manipulation, tampering and in some cases outright miscalculations.

1. **Mean:** The arithmetic mean, more commonly known as “the average,” is the sum of a list of numbers divided by the number of items on the list. The mean is useful in determining the overall trend of a data set or providing a rapid snapshot of data.
2. **Standard Deviation:** The standard deviation, often represented with the Greek letter sigma, is the measure of a spread of data around the mean. A high standard deviation signifies that data is spread more widely from the mean, where a low standard deviation signals that more data align with the mean. Skewness and kurtosis were considered as well.
3. **Hypothesis Testing:** Hypothesis testing assesses if a certain premise is actually true for your data set or population. In data analysis and statistics, you consider the result of a hypothesis test *statistically significant* if the results couldn't have happened by random chance.
4. **Regression:** Regression models the relationships between dependent and explanatory variables, which are usually charted on a scatterplot. The regression line also designates whether those relationships are strong or weak.
5. **Effect size:** When evaluating the differences between large data sets, we do not just limit ourselves to statistical significance, but we need to test for practical significance and this can be tested by measuring the magnitude of the effect size. All the issues raised had a medium to high effect sizes suggesting the findings were practically significant.
6. **Cluster Analysis** – To further confirm the results from the above tests, predictive analytics anomaly detection algorithms were used, and in this case, we relied largely on K-means clustering using SPSS. This helped to classify the anomalies and the final decision was dealt with on a case-by case basis in the context of the statistical results obtained using the methods above.

Findings

The following were the findings of the rigorous analysis of the ZEC results as on the CD and website juxtaposed to the results announcement made by ZEC on ZTV on 3/08/18 and the V11 forms which are on disc.

1. Presidential vs Parliamentary votes inflation (38665 Unaccounted)

In the context of an election a vote includes a valid vote cast, spoiled ballot, unused ballots which must all be accounted for. Whereas the number of valid votes cast may vary, the number of total ballots used in a harmonized election must still tally for all levels be it local government, parliamentary and presidential. For example, on entry to the polling station, each voter is given three ballot papers. one for the local government election, one for the parliamentary election and one for the presidential election. Because all these are given to every individual, the total of all ballots no matter how they are utilized must tally at the end of the process. For example, a person who spoils a vote for a counselor, declines to use one for the Member of Parliament and casts a valid ballot for a presidential candidate is considered to have utilized three ballots albeit in a different manner.

The total amount of voters who voted in the National Assembly elections does not match the total amount who voted in the Presidential election. Using the results provided by ZEC, the total number of the National Assembly votes was 4,734,161 against a total of 4,774,878 for the Presidential election. This gap amounts to 40,717. What should be noted is that out of the 210 constituencies, this gap was accounted for by only 12 constituencies, namely: Mount Darwin West, Zvishavane Ngezi, Hurungwe Central, Mutoko South, Binga South, Mwenezi West, Chipinge Central, Chimanimani East, Mutare North, Hwange East, Hwange West and Chinhoyi. The magnitude of difference in the ballots cast was computed as being statistically significant. Nine constituencies were flagged as having a statistically higher number of presidential voted than those for the house of assembly and these are shown below.

Table 1: Comparison between Presidential and Parliamentary Votes

CONSTITUENCY	PRESIDENTIAL					PARLIAMENTARY				GAP ANALYSIS		
	MDC	ZANU	Other	Total	Valid	MDC	ZANU	Other	Total	Dif. Inc Rej	Dif. Exc Rej	Decision
Hwange East	11,596	4,937	987	17,511	17,500	8,648	4,972	5,618	19,238	-1,397	-1,738	DEFLATED
Hwange West	17,526	8,320	1,299	27,145	27,145	11,580	7,428	9,366	28,374	-863	-1,229	DEFLATED
Chinhoyi	19,740	9,088	555	29,383	29,383	17,931	9,096	3,045	30,072	-410	-889	DEFLATED
Total										-2,670	-3,856	
Mount Darwin West	3,505	20,350	1,608	25,733	25,463	1,572	19,488	3,537	24,597	1,186	896	INFLATED
Zvishavane Ngezi	18,407	13,212	448	30,351	30,067	13,358	15,338	487	29,183	1,169	884	INFLATED
Hurungwe Central	10,119	15,257	642	26,355	26,018	7,439	14,281	3,278	24,998	1,357	1,020	INFLATED
Mutoko South	5,088	19,988	274	25,651	25,331	2,839	20,283	488	23,610	2,041	1,721	INFLATED
Binga South	19,110	7,530	2,087	29,818	28,727	10,357	6,511	10,110	26,978	2,840	1,749	INFLATED
Mwenezi West	1,827	26,475	821	29,588	28,923	1,312	23,778	787	25,877	3,681	3,046	INFLATED
Chipinge Central	9,808	14,814	641	25,660	25,261	7,606	12,187	2,227	22,000	3,660	3,261	INFLATED
Chimanimani East	8,025	16,155	935	25,542	25,115	3,034	16,492	1,476	21,002	4,540	4,113	INFLATED
Mutare North	12,014	18,999	1,329	32,880	32,342	3,962	6,511	3,520	13,993	18,887	18,349	INFLATED
Total										39,370	35,009	INFLATED

The total number of the unaccounted high number of presidential votes to the parliamentary votes was 35,009 if we exclude rejected votes, and 39370 if we include rejected votes. On the other hand, three constituencies had a statistically lower number of presidential votes when compared with the parliamentary votes. In total, the number of such votes affected were 2670 if we include rejected votes, and 3656 if we exclude rejected votes. Overall, the gap between the presidential votes and parliamentary votes was 42040 if we include rejected votes, and 38665 if we exclude rejected votes. Effectively, this gap of 38665 votes would need to be accounted for.

2. Polling Station Voting Behaviour Anomalies (305784+ Potentially Affected)

Another major anomaly that was detected was the atypical variation in the voting patterns that were observed from the presidential results in the CD provided by ZEC. Significant anomalies were observed in the voting patterns between two polling stations that were in proximity, within the same ward. Considering the fact that wards define a community that is in geographic proximity, we would not expect much deviation in the voting patterns among the polling stations within the same ward. However, these anomalies were found to exist. At Mutilikwe Primary School in Chiredzi West, Nelson Chamisa got 42.6%, and Emerson Mnangagwa 54.3% (545 votes), while at Mtilikwe secondary school, Chamisa got 3.1%, and Mnangagwa 94.3% (681 votes). Another case in point is shown in Table 2.

Table 2: Proximity Polling Behaviour Anomaly Detection (Case 1)

1 CONSTITUENCY	WARD NO	POLLING STATIONS	MDC-A	ZANU	OTHER	MDC-A	ZANU	OTHER	Total Votes Rejected	Ballot Paper Unused	Total Votes	ZEC Total Valid Votes	Total Valid Votes Cast
5537 Kadoma Central	11	Lady Tait B Primary School	64.4%	33.9%	1.6%	458	237	18	5	0	716	711	711
5538 Kadoma Central	11	Munhumutapa A Primary School	68.3%	32.9%	1.4%	438	214	9	7	0	669	662	662
5539 Kadoma Central	11	Munhumutapa A Primary School	68.0%	30.2%	1.7%	490	191	11	15	0	647	632	632
5540 Kadoma Central	11	Munhumutapa A Primary School	68.3%	33.4%	1.4%	433	222	9	7	0	671	664	664
5541 Kadoma Central	11	Munhumutapa B Primary School	40.8%	55.4%	1.8%	271	388	25	12	0	676	664	664
5542 Kadoma Central	11	Rimukuta 2 High School	64.8%	34.4%	1.3%	306	161	5	6	0	480	474	474
5543 Muzveve	16	Ngezi A Primary School	63.0%	35.8%	1.2%	354	201	7	3	0	565	562	562
5544 Muzveve	16	Ngezi A Primary School	56.8%	39.2%	1.0%	348	228	6	3	0	585	582	582
5545 Muzveve	16	Ngezi A Primary School	61.2%	38.7%	0.2%	348	220	1	3	0	571	569	569
5546 Muzveve	16	Ngezi B Primary School	72.1%	27.4%	0.3%	445	169	3	3	0	626	617	617
5547 Muzveve	16	Cam & Motor A Primary School	70.0%	29.9%	0.2%	296	124	3	7	0	430	423	423
5548 Muzveve	16	Cam & Motor A Primary School	73.7%	26.9%	1.8%	517	117	8	0	0	442	442	442
5549 Muzveve	16	Cam & Motor B Primary School	69.5%	30.1%	1.4%	571	161	2	2	0	536	534	534
5550 Muzveve	16	Chemukute Secondary School	71.6%	27.3%	1.1%	323	123	5	3	0	454	451	451
5551 Muzveve	16	Chemukute Secondary School	69.8%	30.0%	0.4%	311	154	2	2	0	449	447	447
5552 Muzveve	16	Blagdon Farm Tent	11.8%	88.3%	1.7%	41	301	6	3	0	351	348	348
5553 Muzveve	16	Eiffel Flats Primary School	41.4%	57.4%	1.9%	165	239	5	3	0	402	399	399
5554 Muzveve	16	Hillcrest Shopping Centre Rest	54.6%	43.7%	1.7%	255	204	8	8	0	475	467	467
5555 Muzveve	16	Hillcrest Shopping Centre Rest	63.5%	43.9%	1.8%	251	206	12	8	0	477	469	469
5556 Muzveve	16	Hope Farm Tent	10.6%	89.3%	1.4%	76	600	10	15	0	701	716	716
5557 Muzveve	16	Martin Spur Primary School	51.9%	43.4%	4.7%	268	224	24	9	0	515	516	516
5558 Muzveve	16	Martin Spur Primary School	44.0%	53.5%	1.5%	227	276	18	12	0	516	516	516
5559 Kadoma Central	17	Rimukuta 3 High School	62.0%	37.5%	0.5%	397	240	3	12	0	652	640	640
5560 Kadoma Central	17	Waverley Primary School	63.9%	34.9%	1.2%	469	256	9	5	0	739	734	734

From the above presentation, Blagdon Farm tent and Hope farm tent were isolated as exhibiting atypical voting behavior in Ward 16 of the Muzveve District. While among the rest of the polling stations in that ward there seemed to be a marginal difference in the proportion of votes between MDC-Alliance and ZANU-PF, alternating between 40 and 60% respectively, the voting behavior at Blagdon Farm tent and Hope farm tents showed a very high proportion of voters for ZANU-PF. The margin of difference was 86.5% and 88.0% respectively, and way beyond the variation at the polling stations in proximity. Taking into consideration that these 7 polling stations in ward 16 are close to each other, as also shown by Table 3, Ward 24, these discrepancies could be attributed to some extraneous contextual factors, which could point to possibilities of cases of coercion, or voter intimidation.

Table 3: Proximity Polling Behaviour Anomaly Detection

1 CONSTITUENCY	WARD NO	POLLING STATIONS	MDC-A	ZANU	OTHER	MDC-A	ZANU	OTHER	Total Votes Rejected	Ballot Paper Unused	Total Votes	ZEC Total Valid Votes	Total Valid Votes Cast
3239 Gokwe Mapungautsi	24	Ganyungu Primary School	57.2%	54.2%	1.6%	251	365	58	8	0	682	674	674
3240 Gokwe Mapungautsi	24	Ganyungu Primary School	41.4%	53.9%	1.1%	170	349	33	9	0	661	652	652
3241 Gokwe Mapungautsi	24	Kasikana Primary School	28.5%	68.9%	1.6%	142	338	28	4	0	512	498	498
3242 Gokwe Mapungautsi	24	Mudongwe Primary School	48.8%	44.7%	1.7%	339	311	43	10	0	705	695	695
3243 Gokwe Mapungautsi	24	Murendu Primary School	53.8%	43.7%	1.9%	171	199	8	8	0	306	318	318
3244 Gokwe Mapungautsi	24	Tongwe Clinic	44.5%	50.4%	1.2%	190	215	22	10	0	437	427	427
3245 Gokwe Mapungautsi	24	Tongwe Clinic	37.8%	55.9%	1.6%	154	159	27	6	0	416	410	410
3246 Gokwe Mapungautsi	24	Gwenungu Primary School	40.4%	54.7%	4.8%	234	317	28	11	0	590	579	579
3247 Gokwe Mapungautsi	24	Gwenungu Primary School	41.1%	51.9%	6.8%	237	299	40	19	0	595	576	576
3248 Gokwe Mapungautsi	24	Gwenya Primary School	31.3%	53.8%	1.8%	119	372	20	12	0	523	511	511
3249 Gokwe Mapungautsi	24	Maliyami Primary School	46.1%	50.8%	1.9%	290	315	21	11	0	640	629	629
3250 Gokwe Mapungautsi	24	Makadhi Business Centre Tent	5.8%	94.0%	1.7%	31	507	11	10	0	560	550	550
3251 Gokwe Mapungautsi	24	Manhede Business Centre Tent	29.2%	68.0%	1.8%	152	345	25	8	0	528	520	520
3252 Gokwe Mapungautsi	24	Mtangi SDA Primary School	41.4%	55.7%	1.9%	173	283	12	6	0	424	418	418
3253 Gokwe Mapungautsi	24	Ndebambi Primary School	42.9%	53.3%	1.8%	202	251	18	6	0	477	471	471
3254 Gokwe Mapungautsi	24	St Cuthbert Masoro Primary School	26.0%	68.7%	1.7%	185	489	38	17	0	729	712	712
3255 Gokwe Mapungautsi	24	St Cuthbert Masoro Primary School	23.0%	73.1%	1.6%	166	521	36	20	0	743	723	723
3256 Gokwe Mapungautsi	24	Bluegum Primary School	22.4%	72.8%	4.8%	140	454	30	13	0	637	624	624
3257 Gokwe Mapungautsi	24	Chemwira Primary School	33.7%	57.9%	8.4%	196	307	49	16	0	600	582	582
3258 Gokwe Mapungautsi	24	Chidoma Secondary School	31.4%	62.4%	6.1%	230	457	45	11	0	745	732	732
3259 Gokwe Mapungautsi	24	Krims Primary School	35.2%	60.5%	4.7%	230	395	28	12	0	665	653	653
3260 Gokwe Mapungautsi	24	Machengere Business Centre Tent	36.3%	57.8%	1.9%	135	215	22	9	0	375	372	372
3261 Gokwe Mapungautsi	24	Mwembesi Primary School	25.2%	73.6%	1.2%	115	361	11	10	0	507	497	497
3262 Gokwe Mapungautsi	24	Chevecheve Secondary School	34.7%	60.5%	1.1%	264	457	39	11	0	771	760	760

In the case below, despite the trend of voting in the Wards 2, 3, 4, 5,6 and 7 being consistent, in Ward 8, a significant anomaly was detected at the Eastern Highveld Farm Tent, where

MDC-Alliance got 10.1% of the votes, in sharp contrast to the voting trend in the other polling stations which were in proximity.

Table 4: Proximity Polling Behaviour Anomaly Detection

1 CONSTITUENCY	WARD NO. POLLING STATIONS	MDC-A	ZANU	OTHER	MDC-A	ZANU	OTHER	Total Votes Rejected	Ballot Paper Unanno- unted	Total Votes Cast	ZEC Total Valid Votes Cast	Total Valid Votes Cast
2192 Chipinge Central	1 Tairiro Creche Tent B	89.4%	28.9%	1.8%	858	147	9	4	0	513	509	509
2193 Chipinge Central	2 Gaze O A Primary School A	72.2%	26.5%	1.3%	558	205	10	8	0	781	773	773
2194 Chipinge Central	2 Gaze O A Primary School B	87.7%	30.6%	1.7%	504	228	18	5	0	748	745	745
2195 Chipinge Central	3 Gaze O B Primary School A	82.1%	37.4%	1.3%	828	188	6	2	0	821	820	820
2196 Chipinge Central	3 Gaze O B Primary School B	88.5%	35.2%	1.8%	834	185	7	6	0	831	826	826
2197 Chipinge Central	4 Matrone Primary School A	80.9%	32.3%	1.8%	361	177	10	5	0	553	548	548
2198 Chipinge Central	4 Matrone Primary School B	88.9%	33.2%	0.9%	371	187	5	5	0	566	560	560
2199 Chipinge Central	5 Gaze Community Hall A	59.1%	39.1%	1.8%	257	170	8	2	0	427	435	435
2200 Chipinge Central	5 Gaze Community Hall B	57.5%	41.8%	0.7%	249	181	3	3	0	436	433	433
2201 Chipinge Central	6 Gaze Primary School A	58.7%	38.8%	1.1%	348	230	15	1	0	594	593	593
2202 Chipinge Central	6 Gaze Primary School B	88.8%	34.9%	1.7%	354	197	15	8	0	572	564	564
2203 Chipinge Central	7 Chipinge Primary School	54.0%	45.4%	0.1%	386	249	9	4	0	602	548	548
2204 Chipinge Central	7 Madzwa Primary School	46.2%	53.3%	0.3%	91	101	5	0	0	200	197	197
2205 Chipinge Central	7 Medium Density Shopping Centre Tent	49.0%	33.3%	1.7%	294	202	10	7	0	613	606	606
2206 Chipinge Central	7 Medium Density Shopping Centre Tent	50.7%	32.4%	1.7%	409	209	8	7	0	635	626	626
2207 Chipinge Central	8 Eastern Highveld Farm Tent	18.1%	59.1%	0.8%	82	285	2	9	0	326	317	317
2208 Chipinge Central	8 Ebenezzar Creche Tent A	49.1%	28.4%	1.3%	307	126	11	5	0	452	444	444
2209 Chipinge Central	8 Ebenezzar Creche Tent B	87.7%	31.2%	1.1%	308	142	3	9	0	454	455	455
2210 Chipinge Central	8 Makocheretz Primary School	56.4%	32.0%	0.6%	328	158	8	13	0	507	494	494
2211 Chipinge Central	8 St Kevin Open Space Tent	54.8%	36.0%	0.6%	169	85	0	6	0	270	264	264

Overall, the minimum prejudice to the MDC-A for the first-tier classification set was established as being at least 345784 votes lost as a result of suspected polling-station-specific cases of voter intimidation, voter coercion and/or otherwise potential manipulation.

3. ZEC reported Data – Overvoting

In analyzing the ZEC Results in the CD juxtaposed to the latest voters' roll released on the 27th of July, the data in the ZEC results suggest that in at least 8 polling stations, there were more votes than registered voters. In these polling stations at least 1468 voters are not accounted for. My analysis was in this regard limited to these sample stations.

Table 4: Overvoted Polling Stations (According to the ZEC Presidential Results CD)

Constituency	Polling Station Code	Polling Station	Total Votes Cast	Registered Voters	Percentage
Chiredzi West	1401CTC0702	Chiredzi Government B Secondary School	864	473	182.70%
Gwanda Central	2801GWM0402	Jahunda Primary School	814	461	176.60%
Mhangura	7000MAK1303	Hillrise Farm Settlement	302	175	172.60%
Mberengwa North	0300MBG1702	Rusvinge Primary School	684	422	162.10%
Chiwundura	2901GWM0506	Senga B Secondary School	551	402	137.10%
Chegutu West	3201CHM0803	West End Tent	214	189	113.20%
Mkoba	2901GWM0702	Manbo B Secondary School	642	539	119.10%
Zaka West	8300ZKA2202	Manatsa Business Centre Tent	542	484	112.00%

From the results above, in Chiredzi West constituency, at Chiredzi Government B Secondary School polling station, 473 people appear as the registered voters for the particular polling

[illegible]

Table 7: Duplicate Entries in the ZEC-Provided Presidential CD

[illegible]

Reflecting back, ZEC results files have polling station break downs and then also constituency break downs at the bottom. A constituency total is comprised of the sum total of polling stations assigned to a particular electoral and administrative geo-political area. The sum total of votes in each and every polling station must tally with whatever is indicated as the constituency total. Because some of the constituency totals shown above were incorrect, this, therefore means that the presidential totals were as well incorrect. Further, disregarding these wrong constituency and ward aggregates by ZEC, focusing on the polling station results, I re-calculated the accurate total to be 4774878, with ZEC's by-polling station total being 4774939. Effectively, none of totals announced on the television by ZEC, or the constituency aggregates, or ward aggregates, or the by-polling station aggregates matched raising serious concerns regarding the credibility of the results-processing and quality assurance by ZEC.

There bare various other V11 anomalies which do not form part of this record.

This is how I wish to assist the court.

THUS DONE AND SWORN TO IN NAIROBI, REPUBLIC OF KENYA, THIS 9TH DAY OF AUGUST 2018

SIGNED AND ATTESTED TO:-



EDGAR OUKO OTUMBA

BEFORE ME

