



Zimbabwe
HUMAN RIGHTS
N G O F o r u m

**Can the elections in Zimbabwe be
free and fair in the current
environment?**

Zimbabwe Human Rights NGO Forum

18 March 2008

N.B: THIS DOCUMENT DEALS WITH DEVELOPMENTS UP TO 18 MARCH 2008. DEVELOPMENTS AFTER THIS DATE WILL BE INCLUDED IN A FURTHER BRIEFING PAPER THAT WILL BE PUBLISHED ON OUR WEBSITE IN DUE COURSE.

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This briefing paper describes the pre-election environment in Zimbabwe and concludes it is not possible to hold free and fair elections under the prevailing conditions.

1. Ingredients for a free and fair election

An election is a process, not an event. For an election to be free and fair the entire process must be free and fair. The electoral process includes the pre-election period, polling day, counting of ballots, announcement of the results and acceptance thereof as well as the post-electoral period.

- All eligible persons wishing to register as voters must be permitted to do so.
- In the lead-up to an election political parties contesting the election must be able to campaign freely.
- Voters must be able to attend whatever political rallies they wish.
- The public media should be obliged to provide voters with balanced and accurate information about the political contestants in the election and all - important information about the electoral processes.
- No political party should be permitted to use violence and intimidation to force voters to vote for them against their will.
- Voters must be assured that they will not face persecution before or after they vote because of their electoral preference.
- The police force must impartially enforce electoral laws and provide protection against political intimidation.
- The body responsible for running the election must be independent and impartial and must do its utmost to ensure that the voting and counting processes are scrupulously fair and honest so that the outcome of the election will accurately reflect the preferences of the electorate.
- All voters who wish to vote in an election must be given a fair opportunity to do so.
- Foreign and local observers of the elections should be encouraged as their presence helps to reassure voters and enhance the legitimacy of the electoral process.
- The ruling party must not be permitted to use State rather than party resources to gain an unfair advantage in the election.
- The military must accept the democratic outcome of the election.

All parties, observers and monitors must agree that the following features concerned with the integrity of the election can be verified before the result can be confirmed:

- clear, public and verifiable information on the printing, distribution and auditing of the ballot papers;
- clear and public tabulation, verification and announcement of results following tallies at local polling stations;
- clear, explicit information on the postal votes, their numbers and their allocation through constituencies;
- no unexplained discrepancies between the figures announced by the Electoral Commission and the official results for some constituencies;
- No marked discrepancies between the numbers of people being turned away or the numbers of spoilt papers which is significant in relation to the margin of victory in constituencies.

2. The objective of the SADC political mediation process

The legitimacy of recent elections in Zimbabwe has been much disputed. There have been numerous accusations that political parties opposed to the government have been prevented from campaigning, that voters have been subjected to widespread intimidation and that the results of the elections have been fraudulently manipulated.

The main objective of the 2007 SADC political mediation process was to create political conditions for the holding of free and fair elections in Zimbabwe, the outcome of which would not be disputed. The negotiations led to a series of changes to the Constitution, the electoral laws, the laws regulating freedom of assembly and expression, and the operation of the print and electronic media.

This document describes why the SADC initiative has failed to achieve its objective of establishing an electoral environment in Zimbabwe in which free and fair elections will take place. It demonstrates how most of the changes to the law have either not been implemented or, where they have, they have made little difference on the ground.

3. Background

The ruling party in Zimbabwe adamantly refuses to accept the core democratic principle that Zimbabweans have the right freely to choose whom to elect into government. It believes that only it has the right to govern Zimbabwe and characterises all its opponents as sell-outs and lackeys of the West. Although it goes through the motions of holding elections, it is prepared to do whatever is necessary to ensure that it will win these elections.

Consistent with this belief, which has been openly expressed by its service chiefs, the ruling party is entirely intolerant of opposition and dissent and has set out to smash all opposition, using the state security apparatus for the purpose. A highly politicised police force has been employed as one of its main instruments of repression, backed up by the intelligence service (the CIO) and the army. The

police force has largely abrogated the right of freedom of assembly for opponents of government. It has freely allowed meetings and demonstrations by ruling party supporters, but has frequently disallowed and brutally broken up meetings and demonstrations by the opposition and by organisations that are critical of the Mugabe administration. The police have arrested on spurious charges large numbers of opposition supporters and critics of the government and, in many instances, have subjected them to torture.

Particularly in the lead-up to elections, ruling party supporters, including war veterans and indoctrinated youth militia, have violently attacked many opposition office bearers, candidates and supporters. Political campaigning by opposition parties has been severely disrupted and the mass media, which the ruling party dominates, have acted as propaganda mouthpieces for the ruling party in support of its election campaign. Government functionaries and traditional leaders have tried to force rural people to support the ruling party by withholding food relief supplies from opposition supporters or threatening to expel them from their villages. The ruling party has also engaged in widespread vote buying, using state resources for this purpose.

The high levels of violence against opposition supporters in past elections have had a cumulative impact on the minds of the voters generally. They have created fear that if they vote for the opposition they may themselves be victimised and subjected to violence. They may therefore believe that they cannot freely choose how they will vote. The damage done cannot be quickly repaired. Even if more favourable conditions are created, it will take time for voters to regain confidence in the freeness and fairness of electoral processes.

4. Instruments of violence and intimidation

The SADC mediation process did not result in the dismantling of the ruling party's armoury of instruments for violence and intimidation. It has used these in previous elections to obstruct political campaigning by the opposition and to intimidate opposition supporters. These instruments remain as strong as ever and continue to be used countrywide, with little attempt to restrain them. These instruments include the war veterans, the youth militia, the police force, the intelligence service, the army and the traditional leaders.

In the lead up to the 2008 elections levels of violence appear to be on the increase. Zimbabwe Peace Project warned of increasing political violence as elections approach. It said that since November 2007 the project had recorded 1775 incidents of political violence compared with about 1000 in the comparable period leading up to 2005 general elections. Most of the violence, it says was perpetrated by ruling party supporters. The Zimbabwe Human Rights NGO Forum has confirmed that there have been increasing levels of political violence. It reports that over the last 12 months there has been relentless violence and suppression in which the security forces have played a major role. It says that,

despite the South African mediation, in 2007 the country experienced some of the worst violence and human rights abuses.¹ It said that there is no doubt that politically motivated violence informs and influences political thinking amongst citizens and, ultimately, voting patterns in favour of those responsible for the violence. This has already tainted the upcoming elections in March.

Although most violence has been perpetrated by ruling party supporters in the past, there must also be zero tolerance of violent actions by members of the opposition.

Government functionaries and traditional leaders continue to try to force rural people to support the ruling party by withholding, or threatening to withhold, food relief supplies from opposition supporters or threatening to expel them from their villages.

5. Utterances by service chiefs and misuse of the army

The commanders of the uniformed services are supposed to be apolitical and should be prepared to serve under any government that is popularly elected. They are not entitled to try to subvert the democratic outcome of an election by announcing before the election that they will not allow a certain candidate to rule even if he wins the election.

Regrettably, as they have done in the past, the service chiefs appointed by the Mugabe administration have again thrown their weight fully behind the ruling party's political campaign. Only weeks before the March 2008 elections, the heads of the army, the police and the prison service, all of whom participated in the liberation struggle, publicly proclaimed that they would not serve any President other than President Mugabe and instructed those under their command to vote for the ruling party.

These utterances are a gross abuse of office and are tantamount to treason, as they are in effect threatening to stage a military coup if the people vote out of office the sitting President. They are a complete negation of the right of the people to elect the government of their choice. The statements are a crude attempt to apply undue influence upon voters to re-elect the current President in violation of the provisions of the Electoral Act which prohibit all forms of intimidation and undue pressure.

The Head of Police, Commissioner Chihuri, told senior officers to back President Robert Mugabe and reminded them he had given them farms, resources and other perks. Just two weeks before the election, he was quoted as saying that Western supported "puppets would not be allowed to rule". He went on to say,

¹ Here see Appendix 1 for a brief summary of the statistics based on the cases seen by the Human Rights NGO Forum since July 2001.

“this time we are wiser and we are determined and this must serve as a warning to puppets”.

The Head of Prison Service, retired Major General Zimondi, said he would not serve under a President other than Mugabe. He ordered his officers to vote for Mugabe and told them that they would go to hell if they did not do so.

The Commander of the Army, General Chiwenga, stated that the army would not recognise a government led by a person other than Mugabe. He dismissed Tsvangirai and Makoni as “sell-outs” and agents of the west.

Chiwenga's comments come on the back of indications that hundreds of soldiers have been deployed into the rural areas, the ruling Zanu PF party stronghold, ahead of the elections in an apparent effort to coerce the rural population to vote for Mugabe and his party candidates.

In February the government awarded massive salary increases to soldiers' with the lowest ranked receiving Z\$1.3 billion up from \$300 million. Coming just a few weeks ahead of the elections, these salary increases were clearly intended as bribes to try to ensure the loyalty of soldiers to the Mugabe Government.

After they were given these increases, it was reported that many soldiers were instructed to take leave and go to their rural homes to assist in campaigning for ZANU PF. In past elections, soldiers have played a decisive role in ensuring Mugabe wins the vote in the past two elections through establishing "bases" in rural areas where they have led party militia as coercing agents to intimidate and harass the rural electorate.

6. Policing of elections

The police force has been transformed into a politicised force which is there to serve the interests of the ruling party and to suppress the opposition. The Commissioner of Police is a self-proclaimed ruling party supporter. Police officers who are not seen as being ruling party loyalists have been expelled from the force and war veterans and youth militia personnel have been recruited into it. War veterans have often been placed in effective charge of police stations. Police officers who do not vigorously display their complete loyalty to the Mugabe government are at times brutally punished.

This police force has become notorious for its partisan application of the law. It clamps down on real or invented contraventions of the law by opposition party members but mostly turns a blind eye even to gross violations of the law by ruling party supporters.

Yet this unreformed partisan police force is supposed to be responsible for the impartial application of the electoral laws.

As the International Bar Association points out in its October 2007 report entitled *Partisan policing: An obstacle to human rights and democracy in Zimbabwe*:

Instead of conducting itself as a national security force charged by the Constitution and statute with ensuring public order and security in the country, the ZRP has abandoned its constitutional mandate in favour of an approach to policing which is blatantly partisan. The police repeatedly characterise government opponents and critics and their lawyers as 'agents of the West' or 'enemies of the state' and routinely violate the rights of these persons during policing operations.

*Biased policing further polarises Zimbabwean society and heightens insecurity and political tensions. Everyone in Zimbabwe should be guaranteed equal protection of the law. The IBAHRI asserts that **the absence of such protection is a major obstacle to democracy in Zimbabwe and a considerable impediment to free and fair elections.** (emphasis added)*

The amendments to the electoral laws introduced the specific criminal offence of intimidation. This makes all forms of intimidation a serious electoral offence. This offence encompasses such practices as:

- inflicting or threatening to inflict bodily harm, causing or threatening to cause bodily harm or abducting a person if these actions compel a person or persons generally to vote for a political party or to refrain from voting or to attend a political meeting;
- withholding or threatening to withhold any assistance to which a person is entitled to compel another person to vote for a political party. [This covers threats by traditional leaders to expel villagers if they do not vote for the ruling party or traditional leaders or government officials who withhold or threaten to withhold food aid to persons unless they vote for the ruling party];
- using intimidation to prevent or obstruct or attempt to prevent or obstruct a political party or candidate from campaigning in any election;
- preventing or discouraging persons from voting by taking, destroying or damaging their identity documents.

These amendments will need to be enforced strictly, but there can be little confidence that the police force and other law enforcement agencies will suddenly change their patterns of behaviour and enforce the new provisions vigorously, professionally and in a politically neutral manner so as to create an environment in which free and fair elections can take place. There is certainly no evidence of this in the way the pre-election period has been policed so far.

7. Vote buying

There has been massive vote buying by President Mugabe and other ruling party leaders. The beneficiaries of these large-scale donations were ruling party supporters. During his campaign President Mugabe has handed over vehicles

and agricultural equipment worth millions of US dollars. The government controlled *Sunday Mail* reported on 9 March 2008 that, on one day alone, President Mugabe presided over the distribution of 300 40-seater buses, 500 tractors, 20 combine harvesters, other farming machinery, 50 000 ox-drawn ploughs and thousands of other implements for peasant farming, 3000 grinding mills, 680 motorcycles and 100 000 litres of petrol. On 13 March handed over forty-three 40-seater buses to villagers in the Mashonaland West area.

The giving of these “gifts” (which have been given too late to be of any use in the current agricultural season) amounts to bribery and yet the Zimbabwe Electoral Commission and the police have failed to take any action to stop such abuses.

Again just a few weeks ahead of the elections, President Mugabe announced that teachers and public servants were going to receive very substantial increases in salaries. This can only be construed as an attempt to purchase the loyalty of these persons ahead of the election.

When asked by a reporter about whether this was unfair or illegal, the ZEC chairman said, “We are the last people able to comment on issues like that because they are of a political nature, in essence.” He went on to say, “It is difficult for us to comment on what is an inducement, unless of course someone has filed a charge, and it has been sustained in the proper forum.” He said he could not say anything as his hands were tied. He pointed out that if he said the practice was wrong, he would be prejudging the matter without knowing the facts.

It is regrettable that the ZEC chairperson, who has the duty to ensure the freeness and fairness of the elections, is not even prepared to indicate in broad terms what would constitute illegal vote buying.

8. Hate speech

Ruling party leaders, particularly the President, are using inflammatory language during their speeches, which amounts to hate speech. For instance during his birthday speech and at rallies President Mugabe has referred to his presidential opponents as traitors and sell-outs, political witches, political prostitutes, political charlatans and the two-headed political creatures. He referred to Makoni as “worse than a political prostitute” and likened him to lice that can be easily crushed.²

9. Political campaigning and the right to protest

² Hate speech has been a serious concomitant of the violence, and its association with violence, both during and between elections, has been a cause of concern for the Human Rights Forum. Here see Zimbabwe Human Rights NGO Forum (2007), *Their Words Condemn Them: The Language of Violence, Intolerance and Despotism in Zimbabwe*, May 2007, HARARE: ZIMBABWE HUMAN RIGHTS NGO FORUM.

Freedom of assembly and freedom of association are fundamental democratic rights, essential for the holding of democratic elections. For elections to be free and fair, all political parties must be allowed to campaign freely in the period leading up to elections. They must have the right to hold meetings and rallies in order to explain their policies to voters and try to persuade voters to elect them to power. They must exercise their rights in a peaceful manner, however, and reasonable measures may be taken to protect public order if abuse of their rights leads to violence.

The police force and other law enforcement agencies are expected to ensure that these rights can be freely exercised. In the past, however, the police force has freely allowed meetings and demonstrations by ruling party supporters, but has frequently disallowed and brutally broken up meetings and demonstrations by the opposition and by organisations that are critical of the Mugabe administration. Thus the right to freedom of assembly was effectively taken away from those who opposed the current government

The SADC mediation led to certain changes to the law which were intended to help restore the right of freedom of peaceful assembly of everyone. Regrettably, the changes have not had this effect because the police force is applying the provisions in a blatantly biased fashion and is finding tenuous excuses for preventing opposition parties and “unfriendly” non-governmental organisations from mounting protest marches. It is also continuing to obstruct electioneering by the opposition parties by disallowing some of their rallies. This is illustrated by the following incidents: From December 2007 to Mid March 2008.

- In December 2007 the police allowed a “Million Man March”, organised by supporters of President Mugabe, to proceed. In January 2008, on the other hand, they banned a “Freedom March” organised by the opposition MDC in Harare and also prohibited MDC “Freedom Marches” in two other centres.
- The police violently dispersed marches by civic organisations such as Woman of Zimbabwe Arise (WOZA) and refused to allow a meeting by a Christian organisation.
- The police intervened in a partisan way in a dispute between an Anglican bishop who is sympathetic towards President Mugabe and a bishop who has been installed in his place and assaulted congregants loyal to the new bishop.
- Nine leaders of the Progressive Teachers Association of Zimbabwe were allegedly set upon by ZANU (PF) militia while they were distributing fliers in the Central Business District of Harare setting out their organisation’s views on the education crisis in Zimbabwe. They were allegedly taken to an underground room at the nearby ZANU (PF) offices where they were severely beaten with sticks and metal

poles and were forced to recite party slogans and proclaim that President Robert Mugabe would rule in perpetuity. The organisation's president sustained a fractured arm and deep cuts. A police spokesman issued a statement alleging that the leaders had gone to the ZANU (PF) provincial headquarters and behaved provocatively, and had thrown fliers at party members; the leaders were to be charged with disturbing the peace. The police did, however, arrest two of the ZANU (PF) supporters involved in the incident.

- When WOZA tried to stage a peaceful demonstration to urge better care for the nation's children the police violently dispersed the protesters and severely beat some of the demonstrators
- A peaceful student demonstration was similarly broken up and the students who were arrested were severely beaten whilst in custody. This occurred with student demonstrations in both Harare and Bulawayo.
- MDC (Tsvangirai) has complained that in recent weeks the police have banned all rallies in Masvingo and that armed riot police broke up one of their rallies in Kadoma. Tsvangirai complained that the amendments to POSA had made no difference to the police attitude when it came to MDC rallies as they contrived to find spurious excuses to prevent them. However, it seems that political campaigning is taking place in some areas without interference.

The Police Commissioner recently summed up the general attitude of the police towards demonstrations when he said:

I challenge all political parties to organise rallies and meetings in accordance with the law of the land. Right now, what our people need is peace and tranquillity and not endless demonstrations, marches and processions, which waste their precious time for development. This is not the time for demonstrations and marches, but for constructive campaigning devoid of intimidation.

Hardly the views of a man who was prepared to implement the new provisions of POSA.

10. Media coverage of elections

The SADC election guidelines call for fair and balanced coverage of election campaigns.

All political parties must be able to use the mass media to disseminate information to the electorate about their political policies in order to try to persuade voters to vote for them. Radio is a particularly important medium in this

regard, as it is capable of reaching large numbers of people, including people who are illiterate.

The ruling party controls electronic broadcasting and it operates the only daily newspaper in the country. These media have been disseminating a constant stream of pro-ruling party propaganda. They have largely ignored opposition campaigns except when vilifying the opposition.

This has given the ruling party a completely unfair political advantage. Until three weeks before the election, despite being under a legal obligation to do so, the Zimbabwe Electoral Commission (ZEC) had done nothing to ensure that there was fair and balanced coverage of elections by the government controlled media.

The reforms to the Broadcasting Services Act (BSA) were supposed to have led to some relaxation of the stifling controls over the broadcast media and to open up private and community organisations outside the government-controlled Zimbabwe Broadcasting Corporation which presently is the sole electronic broadcaster in the country. The reforms to the Access to Information and Protection of Privacy Act (AIPPA) were supposed to relax the stifling restrictions that were used to harass independent journalists to prevent them from operating freely and to close down newspapers considered to be anti-government. The only independent daily newspaper, *The Daily News*, that was closed down under AIPPA has still not been allowed to operate again.

These reforms are far too little far too late. The new regulatory authorities that are supposed to implement the altered legislative provisions have not been established and the old pro-ruling party bodies continue to operate. Additionally, the reforms have not resulted in media diversity in Zimbabwe and journalists continue to be subjected to harassment from the same body that harassed them before the amendments.

ZBC continues to be the sole public broadcaster. It operates national television and radio-broadcasting services. There are no commercial or community broadcasters. The recent changes to the BSA have not led to the opening up of the airwaves (as publicly promised by senior government officials) and the government monopoly over electronic broadcasting remains in place. No other broadcasters will be allowed to start broadcasting before the elections.

The ruling party has used this monopoly to disseminate a constant stream of one-sided self-serving propaganda. The detailed reports of Media Monitoring Project of Zimbabwe (MMPZ) clearly establish that with only a few weeks left before the elections, the public broadcaster was continuing to provide partisan coverage of the election campaign. There was massive, favourable coverage of ZANU PF's election campaign and minimal coverage of the campaigns of the opposition. The little airtime devoted to the opposition was mostly of a disparaging nature.

Under reforms to the Zimbabwe Electoral Commission Act ZEC has a legal duty to ensure that all news media must equitably report all political parties and candidates in regard to the extent of their coverage and the timing and prominence of their news coverage. It is also supposed to ensure that their reports are factually accurate, complete and fair and that they avoid language encouraging hatred or any incitement to violence. Up to a few weeks before the elections, ZEC had conspicuously failed to take any action to prevent the public broadcaster and the government-controlled newspapers from behaving in a completely partisan fashion in their election coverage. Finally, with just three weeks to go before the elections, it passed regulations setting out the obligations of the public broadcaster to give impartial and balanced coverage of election campaigns. However, the overburdened ZEC has no capacity to carry out effective monitoring of the coverage of ZBH and to prevent it from continuing to broadcast blatantly pro-ruling party propaganda. But even if it were able now to apply effective monitoring, much damage has already been done and the public broadcaster would have got away with its blatantly partisan coverage since the election date was announced.

The sole provider of daily national newspapers is a company which is controlled by the ruling party and its publications' editorial coverage is completely biased in favour of the ruling party. The closure of the only other daily newspaper, the *Daily News*, has brought about a complete lack of diversity in the print media. The weekly financial newspapers are beyond the reach of most ordinary people, as is the only independent Sunday newspaper. The government-controlled newspapers have continued to engage in a constant stream of virulent propaganda strongly supporting the ruling party and disparaging opposition parties. The two government-controlled dailies (Harare and Bulawayo) have acted as the messengers of offensive and abusive attacks on opposition figures by ruling party officials. Some of these statements border on incitement to violence.

In order for foreign journalists to come in to report on the elections they must obtain letters of invitation from the Ministry of Foreign Affairs before coming to the country. The attitude of the government to foreign journalists was demonstrated by a recent utterance by the Minister of Information who told a meeting of journalists in Bulawayo that those media organisations deemed "hostile" will not be allowed to cover the polls. In the past the BBC, in particular, has been excluded from Zimbabwe on the grounds that it "peddles falsehoods" about the situation in Zimbabwe. Foreign journalists will also have to pay exorbitant accreditation fees.

11. Election organisation and management

The SADC election guidelines require that the body managing the elections must be independent and impartial and be composed in a manner that ensures this.

The body that is supposed to organise the elections and ensure that they are free and fair is the Zimbabwe Electoral Commission (ZEC). The electoral reforms have not changed the composition of ZEC and it continues to be headed by a senior ex - army officer, Justice Chiweshe, who is a staunch supporter of the ruling party.

ZEC's handling of the 2005 election process was criticised, and with good reason. When the results in 30 constituencies came in, there were major discrepancies between ZEC's official pronouncements on the number of votes cast and the final totals accorded to each candidate. These discrepancies have never been explained.

For the 2005 elections ZEC's chairperson also headed a separate delimitation commission. Opposition parties complained that the delimitation commission re-drew the boundaries in a manner designed to give the ruling party a distinct advantage.

ZEC's handling of the 2008 process has also attracted heavy criticism. The way in which ZEC carried out the delimitation process smacked of gerrymandering in favour of the ruling party. The delimitation exercise was hurriedly conducted very close to the elections. The final delimitation report was published only a few days after the date for the holding of the Nomination Court had been set, leaving opposition parties little time to decide upon their candidates for the various constituencies. This was exacerbated by the fact that there were 60 new constituencies and significant changes to the existing ones. No time was given to Parliament to debate the report before the President officially published it.

There has been also been much criticism of its preparations for the 2008 elections.

Although ZEC is supposed to be in charge of the registration of voters, the office of the Registrar-General of voters has carried out the whole process. The Registrar-General is a fervent supporter of the ruling party and has repeatedly been accused of displaying blatant bias when carrying out his duties. The recent voter registration exercise was selective and fairly chaotic and was carried out in a manner designed to maximise the registration of ruling party supporters and to minimise the registration of opposition supporters. In the past the voters' roll has been highly inaccurate and the ZEC chairperson has brushed aside allegations that the current voters roll is still very inaccurate. There has been no independent audit of the roll.

Under the electoral reforms, ZEC is not supposed to engage any military personnel in any administrative capacities. However, there are numerous ex-military officers in key election management and administrative positions and a serving army officer now heads a provincial office of ZEC. These persons are

likely to carry out their duties in a politically biased fashion. There is apprehension that any fraudulent rigging of results could be carried out by military and intelligence personnel at the Joint Operational Command Centre.

According to the new electoral laws, the main source of administrative staff for the elections should be public servants, government health personnel and personnel from local government bodies. However, as government teachers and nurses are presently on strike a large number of persons who could have been used may not be available. There is a danger therefore that, despite the prohibition against this, security personnel may be called in to assist in administrative capacities.

The Mugabe government refused entirely reasonable pleas to delay elections to allow adequate time to prepare properly for the complex multi-vote elections. Because of this the preparations for the upcoming elections have been very rushed and completely unsatisfactory. ZEC has had inadequate capacity to perform its various functions.

The electoral law requires that voter education commence 90 days before the election. ZEC's voter education programme started far too late and has been poorly conducted. Its educational materials have contained fundamental errors. For instance, it had to issue a correction to the contents of one of its pamphlets that erroneously stated that voters had to produce proof of residence before they could vote and that persons requiring assistance to vote would be assisted by police officers. Despite its lack of capacity to conduct an effective voter education programme, ZEC has barred an NGO with vast experience in voter education from conducting its own voter education programme.

Voter education is particularly important for the forthcoming elections because each voter will be expected to cast four votes (for the President, a Member of the House of Assembly, a Senator and a local authority councillor) and will have to cast those votes in the ward in which he or she is registered. Voters will therefore have to ascertain in which ward in which constituency they are registered. The wards have been substantially altered as a result of the new delimitation so voters cannot assume that they will be able to vote in the same wards they voted in previously. Regrettably, ZEC allowed only a short space of one week for inspection of the voters' rolls. This means that many registered voters will not know in which ward they must vote, and by the time they find out on polling day, the voting process may have been finished.

Only persons registered on the ward voters' roll are entitled to vote. However, if a person's name does not appear on the roll, that person will still be entitled to vote if he or she produces to the presiding officer a voters' registration certificate issued to him or her, so long as the certificate shows that the person was registered not later than 24 hours before the nomination day (14 February). It is important that observers keep a close eye on the production of these registration

certificates to check whether they are being abused. This is particularly so because in a recent statement at one of his rallies, the President seemed to imply that persons who register after 14 February would be allowed to vote. He exhorted ZANU PF supporters to continue to register to vote in large numbers even though the voters' roll had been closed. The closing of the voters' roll does not mean the roll was closed to all people of the required age. Even if they had turned 18 yesterday, they could still register to vote. He said people were still free to register as their names would be put on the supplementary voters' roll. It should be noted that in the 2002 Presidential election President Mugabe won by a margin of 400 000 votes. This was approximately the same number of voters on the supplementary voters' roll, which voters were able to vote in that election. (The date for the closing of the supplementary voters' roll was extended on a number of occasions and the supplementary roll was never made public.)

Under section 55 of the 2007 Electoral Act police officers were not be allowed into polling stations except to vote; this amended provision was intended to allay fears, expressed in previous elections, that the police were taking over the voting process and that their presence inside the polling stations could be intimidatory. This provision required police officers to remain at least 100 metres from polling stations. However, under presidential regulations passed only 11 days before the elections, this has been completely reversed and police officers are now permitted to enter polling stations. The 2007 Act also precluded police officers from being involved in the process of assisting voters who required such assistance to cast their ballots. Again this has been completely reversed and now police officers are allowed to be involved in this process. This again could well be very intimidatory for voters needing assistance.

Another area of concern is that of postal voting. The opposition pleas to allow postal voting by the millions of Zimbabweans outside the country fell on deaf ears. Postal votes can still only be cast in advance of polling day by diplomats outside the country and members of the police and army that will be on duty outside their constituencies on polling day. The privacy of the ballot could be compromised by police officers and soldiers having to cast their vote in the presence of their commanders. The allocation of these postal votes to wards and constituencies must be fair and transparent.

The numbers of polling stations that will operate in urban centres will be totally inadequate to allow all urban voters to cast their ballots on the election day. The Zimbabwe Election Support Network (ZESN) has complained that the distribution of polling stations is designed to give the ruling party an unfair electoral advantage. In urban centres where the opposition is strongly supported there are far too few polling stations whereas in rural areas where the ruling party has its strongest support, there are plentiful polling stations. It points out that in Harare there will be 379 polling stations for about 760 000 registered voters which is an average of about 2022 voters per polling station. On polling day, stations will be

open for 12 hours. Thus if all voters turn out to vote at their station the only way that they would be able to all vote is if each voter took only 22 seconds to vote. ZESN further points out that in one city district which has 4600 voters, each voter would have to take only 9 seconds in order for all registered voters to be able to vote. Thus in urban centres even if the hours of opening of a station were to be extended, it would still be impossible for everyone to vote. Many urban voters will thus be effectively disenfranchised as they were similarly disenfranchised in the 2002 Presidential elections because again there were far too few urban polling stations. The unfair nature of the distribution of polling stations is demonstrated by the fact that in rural areas, the average number of voters per polling station is only 600.

On 13 March 2008, the Electoral Court turned down an MDC application for an order compelling ZEC to supply a copy of the electronic roll in a searchable format that did not allow it to be electronically searchable. The Electoral Court maintained it did not have jurisdiction to deal with this matter yet this was the very court set up to resolve electoral disputes quickly and thereby enhance transparency and accountability in the electoral processes. The MDC is now having to take this case to the High Court. The MDC also sought a full print out copy of the roll from ZEC, only to be told that this could only be supplied after the election.

The MDC is also applying to the High Court for an order compelling ZEC –

- to disclose the number of ballot papers that have been printed and the identity of the firm contracted to print them;
- to allow inspection and auditing of ballot papers;
- to disclose the number of postal votes cast, where they come from and where these votes will be allocated;
- to disclose the number of voter registration certificates that have been issued to persons whose names are not on the electoral roll and when these were issued.

12. Foreign and local observers

The African Union Guidelines for African Union Electoral Observation and Monitoring Missions states:

International, regional and national observers have come to play an important role in enhancing the transparency and credibility of elections and democratic governance in Africa.

Because there has been widespread doubt about the fairness and integrity of the election process in Zimbabwe in the past, it is vitally important that there should be extensive observation of the upcoming election by a wide cross-section of observation teams.

However, the statements by members of the Mugabe government show that it may only allow in foreign observers who are likely to be biased in favour of the ruling party and whom the ruling party thinks will endorse the elections if the ruling party wins even if there is clear evidence of gross electoral irregularities.

In February President Mugabe and the Minister of Justice, Legal and Parliamentary Affairs publicly stated that observers from “unfriendly” countries would not be allowed in. In early March the Foreign Minister announced that “those who believe that the only free and fair election is where the opposition wins, have been excluded since the ruling party, ZANU PF, is poised to score yet another triumph.” He said that European Union member states, the United States and the Commonwealth would not be permitted to observe the elections. The only observers that would be invited would be from the African Union, SADC and countries that were allies of the ruling party such as such as China, Iran, Venezuela and Russia.

Because the government has cherry picked observers and has severely restricted the numbers of invitees, it is imperative that SADC observers perform their duties meticulously and impartially. This is particularly important given the fact that the SADC mediation was intended to ensure that elections would be free and fair so that the results would not be contentious. The SADC team must therefore fully test whether this objective has been observed. They should not limit their scrutiny to what has happened in the last few days before the elections but should examine the freeness and fairness of the conditions prevailing in the lead up period to the election.

The exclusion of many foreign observer groups will mean that those allowed in will have great difficulty in conducting comprehensive monitoring during polling, especially in remote rural areas where the scope for irregularities will be most pronounced. It will be a tall order to monitor polling at some 11 000 polling stations all around the country.

As regards local observers, one of the important local NGOs with extensive experience in monitoring elections, the Zimbabwe Election Support Network has applied to the Ministry of Justice, Legal and Parliamentary Affairs to be accredited to observe the elections but as at 12 March it had still not received any response to its application.

ZEC has indicated that it will only accredit journalists to give them official status to cover the elections if they are first accredited by the regulatory body under AIPPA. The problem is that it is impossible presently for journalists to obtain accreditation under AIPPA as the old regulatory body is supposed to have been replaced by a new body but this has not yet been done. The old body has no legal power to accredit journalists and the new body is not yet in existence. This

has not stopped the old body from purporting to prohibit a senior journalist from operating because he is not accredited he was refused accreditation by it.

13. Conclusion

Conditions do not exist for the holding of free and fair elections in March 2008.

1. The ruling party's instruments of intimidation of the opposition remain as strong as ever and are being used countrywide, with little attempt to restrain them.
2. Political campaigning by the opposition is still being obstructed by ruling party supporters and the police.
3. The important mass media remain firmly under the control of the ruling party although the law now requires them to give fair coverage to election campaigning. These media have continued to operate mostly as pro-ruling party propaganda organs. Until just a few weeks before elections what little coverage of the opposition election campaigns has been mostly of a negative nature.
4. The body responsible for running the elections continues to operate in a politically partisan manner and the key personnel who will run the elections on the ground are pro-ruling party sympathisers, such as ex-army officers and intelligence officers.
5. The ruling party continues its massive abuse of state resources for its election campaign and for vote buying purposes.

Appendix I

Brief summary of statistics based on reports to the Zimbabwe Human Rights NGO Forum, July 2001 to December 2007.

As can be from Table 1 below, the Human Rights Forum has had reports of nearly 30,000 violations since July 2001, when the Forum began to put out its *Monthly Political Violence* reports. Obviously 2007 has been the worst year since recording began, and there has been a steady linear increase in the number of violations reported since 2005.

Table 1

Consolidated statistics [numbers of violations reported] per year

	2001	2002	2003	2004	2005	2006	2007	Total	% of total
Abductions	116	223	52	62	18	11	19	501	1.7
Arrest & detention	670	274	627	389	1286	2611	2766	8623	29.4
Assault	0	86	388	401	530	486	865	2756	9.4
Attempted murder	0	2	10	8	1	3	0	24	0.1
Death threats	0	12	80	35	9	7	7	150	0.5
Disappearance	0	28	4	0	0	0	0	32	0.1
Displacement	0	11	208	189	609	55	6	1078	3.7
Freedoms	12	39	809	760	1036	1866	3500	8022	27.3
Murder	34	61	10	3	4	2	3	117	0.4
Political discrimination	194	388	450	514	476	288	980	3290	11.2
Property violation	356	807	153	132	61	55	16	1580	5.4
Rape	0	7	6	3	4	1	0	21	0.1
School closure	0	45	1	0	0	0	0	46	0.2
Torture	903	1172	497	160	136	366	603	3837	13.1
Total	2285	3155	3295	2656	4170	5751	8036	29348	
Mean monthly	381	263	275	221	348	479	670	376	

As the Human Rights Forum has pointed out on many occasions, there is a marked increase in violations in periods during which there are elections, or in periods when opposition parties or civil society organizations undertake public demonstration of their views or dissatisfactions. For, example, the stay aways and demonstrations in 2003, as well as the demonstrations by the NCA and WOZA in 2007, all evoked numerous complaints of gross human rights violations.

As can be seen from the Table below, this trend is strongly confirmed by simple statistical analysis of the Human Rights Forum's data. There are a total of 22 months in which elections took place, which included the month

immediately prior to the election being held. For the purposes on comparison, all elections, both national and bye-elections, were included, as well as three months in which major national protests took place. A total of 12,514 [42%] violations were recorded in the 22 months in which elections or protests took place as opposed to 17,226 [58%] in all the other 56 months. The association with elections and the suppression of protest could not be more graphically put.

Furthermore, it can also be seen that very serious violations – abductions, attempted murder, death threats, disappearances, murder, rape and torture – all increase during the election/protest months.

Table 2
Months with elections compared to months without elections.

	Elections [n=22]	No Elections [n=56]
abduction*	3%	0.70%
arrest & detention	24%	32%
assault	10%	9%
attempted murder*	0.10%	0.10%
death threat*	1%	0.30%
disappearance*	0.10%	0%
displacement	2%	5%
interference with freedoms	17%	34%
murder*	0.50%	0.20%
political discrimination*	18%	6%
property violation	6%	5%
rape*	0.10%	0.10%
school closure	0%	0%
torture*	18%	8%

**all significant at p=0.05 or greater*

The **Zimbabwe Human Rights NGO Forum** (also known as the “Human Rights Forum”) is a coalition comprising 17 member organisations. It has been in existence since January 1998 when non-Governmental organisations working in the field of human rights joined together to provide legal and psychosocial assistance to the victims of the Food Riots of January 1998.

The Human Rights Forum has now expanded its objectives to assist victims of organised violence, using the following definition:

“Organised violence” means the inter-human infliction of significant avoidable pain and suffering by an organised group according to a declared or implied strategy and/or system of ideas and attitudes. It comprises any violent action, which is unacceptable by general human standards, and relates to the victims’ mental and physical well-being.”

The Human Rights Forum operates a Research and Documentation Unit and offers legal services to assist victims of organised violence and torture claim compensation from perpetrators through its Public Interest Unit.

Member organisations of the Human Rights Forum are:

- Amnesty International (Zimbabwe) (AI (Z))
- Catholic Commission for Justice and Peace (CCJP)
- Gays and Lesbians of Zimbabwe (GALZ)
- Human Rights Trust of Southern Africa (SAHRIT)
- Legal Resources Foundation (LRF)
- Media Institute of Southern Africa (MISA)
- Media Monitoring Project of Zimbabwe (MMPZ)
- Nonviolent Action and Strategies for Social Change (NOVASC)
- Transparency International (Zimbabwe) (TI (Z))
- Women of Zimbabwe Arise (WOZA)
- Zimbabwe Association for Crime Prevention and the Rehabilitation of the Offender (ZACRO)
- Zimbabwe Association of Doctors for Human Rights (ZADHR)
- Zimbabwe Civic Education Trust (ZIMCET)
- Zimbabwe Human Rights Association (ZimRights)
- Zimbabwe Lawyers for Human Rights (ZLHR)
- Zimbabwe Peace Project (ZPP)
- Zimbabwe Women Lawyers Association (ZWLA)

The Human Rights Forum can be contacted through any member organisation or through:

The Administrator, P O Box 9077, Harare – email: admin@hrforum.co.zw

The Public Interest Unit, P O Box 9077, Harare – email: legal@hrforum.co.zw

The Research Unit, P O Box 9077, Harare – email: research@hrforum.co.zw

Address: 8th Floor Bluebridge North, Eastgate, Harare; Telephone: 250511 - Fax: 250494

The International Liaison Office, 56- 64 Leonard Street London EC 2A 4JX– email: IntlO@hrforumzim.com
Telephone+44-20-7065-0945

Website: www.hrforumzim.com