

ZHRC 2018 HARMONISED ELECTION REPORT



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ABBREVIATIONS

BVR	Biometric Voter Registration
CSOs	Civil Society Organisations
DAs	District Administrators
MDC	Movement for Democratic Change
NHRIs	National Human Rights Institutions
NPRC	National Peace and Reconciliation Commission
PAs	Provincial Administrators
ZANU PF	Zimbabwe African National Union - Patriotic Front
ZBC	Zimbabwe Broadcasting Corporation
ZEC	Zimbabwe Electoral Commission
ZHRC	Zimbabwe Human Rights Commission
ZRP	Zimbabwe Republic Police

EXECUTIVE SUMMARY

The Zimbabwe Human Rights Commission (ZHRC) monitored and assessed the 2018 harmonized elections held on the 30th of July 2018. The primary objective was to ensure that the elections were conducted freely and fairly in accordance with national legal frameworks, and regional and international instruments that advance the observance and respect for human rights and freedoms of all citizens.

This report reflects the Commission's findings on how citizens enjoyed and exercised their right to free, fair and regular elections and other civil and political rights enshrined in the Constitution. The report provides an analysis of the policy and legal framework relating to the electoral process, electoral environment, funding of the elections, voter registration, voter education, political party activities, media coverage and any incidents of electoral malpractices. Furthermore, the monitoring missions conducted by the ZHRC assessed the involvement of vulnerable and special interest groups (women, children, youth, elderly and persons with disabilities in the electoral process.

In comparison with previous elections, the 2018 harmonised elections reflected an increase in the creation and participation of political parties, with 133 political parties, and 23 aspiring Presidential candidates participating in the process. These developments gave hope to Zimbabweans as they believed that it was an indication of the opening up of democratic spaces for the ordinary citizen. The 2018 elections brought about some improvements compared to past elections in the form of Biometric Voter Registration (which updated the Voters' Roll), access to media coverage by political players, in both print and electronic media and most importantly the maintenance of peace across the country in the run up to and during the elections.

In as much as the Commission appreciated that the electoral environment up to election time was generally peaceful, it was however concerned by the rise in complaints it received, predominantly relating to voter intimidation and vote buying disguised as distribution of food aid and Presidential Farming Inputs. These incidents instilled fear in the electorate and risked the manipulation of the secrecy of the ballot, thus, infringing the citizens' freedom to select candidates of their choice. Moreover, the post-election violence which occurred on 1 August 2018, and other politically motivated violent incidents which were reported to the Commission

days after announcement of the election results, negatively impacted on the calm and peaceful atmosphere which prevailed before and during the elections.

Therefore, this report lists numerous recommendations to various stakeholders in order to address gaps witnessed by the ZHRC during the whole electoral process. The Commission urges stakeholders to implement these recommendations which require certain actions to be taken in order to ensure that the country's future elections are free, fair and credible.

INTRODUCTION

The Zimbabwe Human Rights Commission (ZHRC) is one of the five (5) Independent Commissions established in terms of Section 232 of the Constitution of Zimbabwe. The Independent Commissions have the objectives of supporting and entrenching human rights and democracy, protecting the sovereignty of the people, as well as securing the observance of democratic values and principles by the State and all institutions and agencies of Government. Section 243 (1) (c) places on the ZHRC the responsibility to monitor, assess and ensure observance of human rights and freedoms. This function is inclusive of the right to free and fair elections as provided for in the Constitution¹ and the Electoral Act². In light of this mandate, the ZHRC monitored the 30th of July 2018 electoral processes contributing to the promotion of an environment conducive to conducting free, fair, transparent and credible elections.

The Commission developed an Election Strategy which guided its work during the whole electoral cycle. The development of the Election Strategy was informed by contributions from various stakeholders including; Zimbabwe Electoral Commission (ZEC), Government Ministries and Departments, Political Parties, Civil Society Organisations (CSOs) and National Human Rights Institutions (NHRIs) from within the Southern African Development Community (SADC) region (i.e. South Africa and Malawi). After these consultations, ZHRC adopted the strategy whose main goal was **“To contribute to the promotion and enforcement of fundamental human rights and freedoms during the electoral process for free, fair and credible elections”**. Therefore, the Commission’s strategy acknowledged and set out the parameters by which the organisation would undertake its role during the electoral period, participating in all processes and ensuring the protection and promotion of human rights within the scope of its broad Constitutional mandate.

¹ Section 67 of the Constitution of Zimbabwe Amendment, (No. 20) Act 2013

² Section 3 Electoral Act, (Chapter 2:13) which stipulates the general principles which apply to a democratic election.

In order to promote the right to vote as provided for in Section 67 of the Constitution, the ZHRC launched an electoral awareness campaign under the theme “**My Vote, My Right, My Choice**” on the 25th of April 2018 at the Zimbabwe International Trade Fair, Bulawayo.



Some of the IEC materials produced by ZHRC before collection by monitors deployed throughout the country to monitor the 2018 elections.

The campaign utilised radio, television, social media, road shows and public gatherings and exhibitions as well as the Commission’s website. Consequently, there was increased interaction between ZHRC and the public resulting in the Commission receiving an increased number of election related complaints and enquiries. The Commission deployed a total of 23 teams across the 10 Provinces of Zimbabwe during the period from 23 July to 06 August 2018 to monitor the elections, continue with awareness raising and handle complaints. Harare Metropolitan Province, Bulawayo Metropolitan Province, Matabeleland Provinces and Mashonaland Provinces had 2 teams each whilst Midlands Province, Masvingo Province and Manicaland Province were monitored by 3 teams each.

In comparison to previous elections, the 2018 harmonised elections exhibited a different and improved political playing field, as evidenced by the emergence of 133 political parties,

although not all of them contested in the elections. Only 48 political parties eventually contested in the elections. Moreover, the fact that 23 candidates were contesting for the Presidential post was an indication of open competition in the political race. The multiplicity of political parties reinvigorated the public to believe that the true democracy they had yearned for in past elections was a real possibility. An opportunity to select from a big pool of candidates augured well for democracy.

The ZHRC welcomed the consistent calls by President Emmerson Mnangagwa for peace in the country. ZHRC participated in the signing of the Peace Pledge which was spearheaded by the National Peace and Reconciliation Commission (NPRC). ZHRC, holds the view that the conveyance of peace messages across the country brought an element of harmony between political parties and independent candidates.

1. LEGAL FRAMEWORK

Below is a list of the legislative frameworks that guided the monitoring of the electoral processes by the ZHRC.

1.1 Constitution of Zimbabwe, 2013

The Constitution is the supreme law of the country, which includes provisions on political rights of every citizen, that is, the right to free, fair and regular elections. Furthermore, it provides the roles, responsibilities and principles that institutions administering elections should adhere to.

1.2 Electoral Act (Including Amendment 6/ 2018) (Chapter 2:13)

The Electoral Act governs electoral processes in Zimbabwe. It sets out rules and procedures which guide elections and the functions of the Zimbabwe Electoral Commission (ZEC), which administers elections in Zimbabwe.

1.3 SADC Principles and Guidelines Governing Democratic Elections, 2014

The SADC Principles and Guidelines provide that member states have an obligation to ensure the transparency and integrity of the entire electoral process. The Principles urge States to ensure that everyone enjoys fundamental human rights and freedoms during the electoral process. Furthermore, States should adhere to promoting and respecting the values of electoral justice which include integrity, impartiality, fairness; professionalism, efficiency and regularity of elections.

1.4 The Constitutive Act of the African Union (AU) (2002) (The Constitutive Act)

Under the Constitutive Act of the AU, the African States have committed to promoting democratic principles and institutions, popular participation and good governance. This also includes promoting and protecting human rights in accordance with the African Charter on Human and Peoples' Rights, and other relevant human rights instruments.

1.5 The African Charter on Human and Peoples' Rights (ACHPR), 1987 and The African Charter on Democracy, Elections and Good Governance (ACDEG) 2007

The ACHPR provides for the right to participate freely in government, either directly or through freely chosen representatives. The ACDEG promotes adherence, by each state party, to the

universal values and principles of democracy and respect for human rights; promotes the holding of regular, free and fair elections to institutionalize legitimate authority of representative government as well as democratic change of government; promotes the establishment of the necessary conditions to foster citizen participation, transparency, access to information, freedom of the press, and accountability in the management of public affairs and promotes best practices in the management of elections for purposes of political stability and good governance.

1.6 African Union Declaration on Principles Governing Democratic Elections in Africa (2002)

Under the African Union Declaration on Principles Governing Democratic Elections in Africa (2002), elections should be conducted freely and fairly, under democratic constitutions and in compliance with supportive legal instruments. Elections should be held at regular intervals as provided for in national Constitutions, by impartial, all-inclusive, competent and accountable electoral institutions staffed by well trained personnel and equipped with adequate resources.

1.7 Universal Declaration of Human Rights (UDHR) (1948)

Article 21(1) of the UDHR recognizes that *“everyone has the right to take part in the government of his country, directly or through freely chosen representatives”*. Article 21(3) further provides that: *“The will of the people shall be the basis of the authority of government; this shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures”*.

1.8 International Covenant on Civil and Political Rights (ICCPR) 1966

The ICCPR recognizes the right of every citizen to take part in the conduct of public affairs, directly or through freely chosen representatives; and to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot. Ideally, this means that although the right to vote is not an absolute right and may be subjected to limitations, such limitations must be reasonable and should not result in any form of discrimination. The Covenant further underpins that civil and political rights are fundamental human rights applicable to every individual, including Persons with Disabilities and other often marginalised groups. The right to vote is the backbone of democracy and

thus Article 25(b) of the ICCPR allows restricting the right only to the extent that such restrictions are not “unreasonable.”

1.9 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979

CEDAW seeks to promote gender equality and non-discrimination in all spheres including in political representation and participation. The Convention avails women the opportunity to participate in political processes of their respective countries through voting and being voted for and further calls for the equal treatment of both men and women in such processes. Gender cannot be a ground for discrimination in participation in political activities of a country. The right to non-discrimination and full inclusion in society encompasses the fundamental right for women to participate in political processes on the basis of equality with men.

1.10 Convention on the Rights of Persons with Disabilities (CRPD), 2006

The CRPD explicitly extends political rights to Persons with Disabilities; setting out that State Parties must guarantee Persons with Disabilities the right to “effectively and fully participate” in political life on an “equal basis with others” and guarantee the “free expression” of their will as electors.

2. METHODOLOGY

The ZHRC received technical support from CSOs and Development Partners through training sessions on civil and political rights and election monitoring in preparation for the 2018 harmonised elections. This empowered the Commission with knowledge and practical tools to use in assessing the fairness and freeness of elections. The ZHRC team learnt about best practices on conflict early warning and was also equipped with knowledge on application of these early warning systems. The trainings enhanced the capacity of the ZHRC Commissioners and Secretariat on elections monitoring and also informed the development of tools used by ZHRC in monitoring the entire electoral process.



ZHRC Commissioners and Secretariat at a training on Civil and Political Rights conducted by Raoul Wallenberg Institute (RWI) held in Harare in the run-up to the 2018 elections.

The ZHRC developed tools which guided monitors in collecting data for pre-election, during and post-election monitoring. This data was collected through observation, interviews and focus group discussions using tools that included checklists, interview guides and questionnaires. The ZHRC conducted engagement meetings with stakeholders including ZEC, Provincial Administrators (PAs), District Administrators (DAs), Zimbabwe Republic Police (ZRP) Officials, political parties and independent candidates, Traditional Leaders,

CSOs, Faith Based Organisations, local and international observers, and members of the public.

Two political parties namely the Zimbabwe African National Union – Patriotic Front (ZANU PF) and the Movement for Democratic Change (MDC) Alliance formally notified the public about the scheduling of primary elections for elective office. The Commission monitored these processes³ to ensure compliance by the political parties with the respective party regulations and generally accepted democratic standards and practices. It was important for the ZHRC to monitor the political parties' primary elections given the importance of these processes to the national electoral process. ZHRC media monitoring reports had indicated a rise in internal conflicts in political parties revolving around the contest for leadership positions and nominations to contest elective positions. Therefore, during the period preceding the primaries, ZHRC engaged with and encouraged political party leaders to be guided by democratic principles and the need for maintenance of peace for both candidates and electors.

In line with the monitoring mandate, provided for in Section 243 (1) (c) of the Constitution of Zimbabwe, ZHRC deployed 23 teams throughout the country's 10 Provinces. These teams used the abovementioned questionnaires and checklists to collect data. Owing to insufficient financial and human resources to cover the whole country, the Commission resorted to monitoring hotspots⁴ in different Provinces, as well as responding to election related complaints reported during the period. The teams which had been deployed around the country took part in the Multi Party Liaison Committee meetings chaired by ZEC in accordance with Section 12 of the Fourth Schedule to the Electoral Act. ZHRC showcased its work and mandate to the committee members, partook in dialogue amongst the political

³ See detailed reports for ZANU PF and MDC alliance primaries on ZHRC website www.zhrc.org.zw

⁴Hotspot areas were identified as indicating occurrences of politically motivated violence. The identified hotspot areas were gathered from ZHRC media monitoring reports, cases reported through the Commission hotlines and stakeholder engagements with various parties who were assessing the electoral environment simultaneously as well as from previous elections.

parties and independent candidates and used the platform to address and resolve certain reported cases which were prevalent in the Districts or Provinces.



Some of the ZHRC monitors captured while discharging their duties during the 2018 General Elections.

The ZHRC established a Communication and Coordination Centre with communication devices (televisions, telephones and laptops) in order to capture and analyse electoral events in real time. The Communication and Coordination Centre Officers were responsible for the data collation and analysis of information from the ZHRC teams deployed around the country. The Communication and Coordination Centre was the hub responsible for the gathering and documentation of reports and press statements publicised by the Commission during the electoral period. Moreover, the Officers housed in the Centre took note of events and incidents which required the Commission's immediate intervention.

This report will explore the findings made by ZHRC during the whole electoral period. The ZHRC scheduled election related activities including monitoring missions, investigative missions, civic education, press releases and stakeholder engagement meetings. These activities informed the findings and conclusions reached by the Commission. The outcomes of the election related activities were divided into three categories namely Pre- Election Phase, Election Day and Post- Election Phase, in line with the participation of ZHRC throughout the electoral process.

3. PRE-ELECTION PHASE

3.1 Legislative Amendments

On the 28th of May 2018, an Electoral Amendment Act was passed and the 2018 Election date was announced thereafter. The Electoral Amendment Act, amended and repealed some sections in the Electoral Act. Some of the stakeholder concerns were addressed. These included the establishment of the Electoral Court as a specialised division of the High Court and the crafting of an Electoral Code of Conduct for political parties, candidates and other interested stakeholders.⁵ Some political actors and CSOs argued that the Electoral Amendment Act neglected to address issues of transparency on procurement and printing of ballot papers.⁶ However, these outstanding issues which were raised by stakeholders could not be addressed once the election day (30 July 2018) had been proclaimed. By operation of law, any amendments to the Electoral Act that could have taken place thereafter would not have applied to the 2018 elections, but future elections.

ZHRC took part in the review of the Electoral Amendment Bill before it was passed into law. One major issue which the Commission sought to have amended related to Section 133H of the Electoral Act.⁷ The Commission, in various platforms raised concern over the composition of the Special Investigation Committees which were supposed to be made up of ZHRC, ZRP and Political Parties. These committees had

⁵ Analysis of the Electoral Amendment Act of 28 May 2018 and Outstanding Reforms of the 30th of July 2018.

<http://kubatana.net/2018/06/22/analysis-electoral-amendment-act-28-may-2018-outstanding-reforms-ahead-30-july-elections/>

⁶Ibid.

⁷ “To assist each special police liaison officer, the Zimbabwe Human Rights Commission shall, in consultation with the Commission (i.e. ZEC), establish a Special Investigation Committee for each provincial centre, to be chaired by a Zimbabwe Human Rights Commissioner or a member of the staff of the Zimbabwe Human Rights Commission chosen by the Zimbabwe Human Rights Commission, and consisting of—(a) the special police liaison officer for the province in question; and (b) two representatives of each political party contesting the election, who shall be selected by the party concerned”.

the potential of compromising the independence of the Commission. The ZHRC's reluctance to be part of the Special Investigation Committees was anchored on the principle that the Commission should undertake investigations independently whilst taking sole responsibility for the outcomes of its investigations. Therefore, the Commission was satisfied when the Section was amended through the Electoral Amendment Act. It should be noted that the amendment did not preclude the ZRP from assigning Special Liaison Officers which the ZHRC noted were stationed at the Provincial Offices around the country and had the responsibility of addressing election related cases.

The ZHRC made submissions on the amendment of the Electoral Act to define its role in elections as that of monitoring and not observing. This is because the Constitution of Zimbabwe gives the Commission powers to monitor the human rights situation in the country, including during elections and to investigate cases of human rights violations in Zimbabwe during the same period. This issue was however not addressed as the Commission was given an observation role in the Amended Electoral Act.

3.2 Biometric Voter Registration

Since 2017, the Commission carried out a number of election related monitoring activities, commencing with the Biometric Voter Registration (BVR) process. The ZHRC welcomed the decision by ZEC to introduce the BVR and to involve various stakeholders in the BVR Site Validation Tests. In addition, ZEC in an effort to improve transparency requested stakeholders, including ZHRC, to comment on the BVR Draft Regulations.

The ZHRC conducted the monitoring of the BVR process in three (3) Provinces in the months of October and November 2017. These were Harare Metropolitan Province, Masvingo Province and Matebeleland South Province. ZHRC monitored a total of 49 BVR Centres across 17 constituencies. These were 11 centres in Harare Metropolitan Province, 18 centres in Masvingo Province and 20 centres in Matebeleland South Province. Furthermore, when the BVR exercise had scaled down at the beginning of 2018, ZHRC continued to monitor the process at District Offices in all the 10 Provinces.

Some challenges noted by the ZHRC during the first phase of the BVR “blitz” related to the process taking too long to complete and registrants complaining about the long queues. However, the BVR process improved during the second phase onwards as the Commission observed shorter queues and the process taking about 3 to 5 minutes for one person to complete. Another issue which affected the BVR process in the initial phases was the turning away of a significant number of prospective registrants owing to failure to show proof of residence in terms of Section 23(1) of the Electoral Act.⁸

3.3 Access to Documentation

ZHRC observed that the BVR centres were equipped with the requisite material for the exercise in terms of Section 24(1) of the Electoral Act.⁹ The Commission was satisfied that ZEC officials adhered to the registration procedures outlined in Section 7 of the Electoral Voter Registration Regulations.¹⁰ ZHRC noted the presence of the Registrar General’s Office in the different parts of the country, and the provision of their services to citizens resident in the rural and remote parts of the country. The issuing of birth certificates and national identity cards was run concurrently with the BVR exercise, thus ensuring that registrants who had the documents for identity card registration were furnished with the requisite documentation which promoted their right to vote.

ZHRC noted the efforts of ZEC and other stakeholders in finding a solution towards the requirement to show proof of residence by encouraging Commissioners of oaths to voluntarily provide free services to commission affidavits at BVR centres across the country. The ZHRC observed during the second phase and subsequent phases that

⁸ “[In order to have the requisite residence qualifications to be registered as a voter in a particular constituency, a claimant must be resident in that constituency at the date of his or her claim. Furthermore, Section 5 of the Electoral Voter Registration Regulations provides a list of documents which constitute proof of residence”.

⁹ Any person who wishes to be registered as a voter on the voters roll for any constituency shall present himself or herself at the appropriate registration office in order for the appropriate prescribed claim form...

¹⁰ S1 2017-85-Electoral (Voter Registration Regulations), 2017. The steps for registration include; completing a VR form, taking a passport sized photo of the claimant and taking the finger prints of the claimant.

registrants were no longer turned away as a Commissioner of Oaths or a Councillor assisted registrants with proof of residence. In rural areas registrants proved their residence through letters drafted by Village Heads. Overall the BVR process moved smoothly at the Centres observed by ZHRC monitors in all the 10 Provinces. The registrants were satisfied with the process.

3.4 Intimidation and Threats to Secrecy of the Ballot and other Human Rights Violations linked to BVR

The ZHRC received a total of 46 complaints from Marange, Bocha, Mutasa, Chipinge, Zaka, Bikita, Gutu, Gokwe, Buhera, Marondera and Glen View on allegations of forced collection and recording of voter registration slip serial numbers. Investigations were conducted in these areas and findings confirmed that citizens were forced to supply serial numbers of their voter registration slips. The perpetrators were identified as Zimbabwe African National Union - Patriotic Front (ZANU PF) political party members and Traditional Leaders. Section 133A (d) of the Electoral Act prohibits the *“persuasion of another person that he or she will be able to discover for whom that person cast his vote or her vote”*. Therefore, the actions of these perpetrators intimidated voter registrants, thereby instilling fear that their votes would not be a secret and could be traceable after the election thus, negatively impacting their right to choose freely.

The Commission was concerned by the escalation in cases of human rights violations particularly the forced recording of serial numbers of BVR slips, since possession of registration slips was also linked to community members' entitlement to food aid and Presidential inputs, contrary to the guarantees of Section 156(c) (i) of the Constitution which prohibits electoral violence and any other electoral malpractices. Therefore, the Commission referred these matters to the police, who responded by investigating the cases and disseminated information encouraging the public to report on such illegal matters. The ZHRC produced a separate and more detailed investigative report on this matter.¹¹

¹¹ See ZHRC website www.zhrc.org.zw for detailed report.

3.5 Voter Education and Civic Education

During the first phase of the BVR exercise, the ZHRC noted that ZEC had not yet rolled out voter education initiatives in most communities. However, this improved as Election Day approached. The ZHRC noticed an increase in awareness on voter registration. Throughout the monitoring missions around the 10 Provinces, registrants confirmed that educators were disseminating information through door to door interactions, flyers, pamphlets, radio and television. ZEC placed posters within communities, informed Village Heads about elections in order for them to cascade to communities conveying messages about elections at gatherings (schools, health centres, churches, and cattle dipping sites). During the pre-election observation and monitoring, ZHRC, monitors distributed IEC promotional materials which included flyers, pamphlets, abridged versions of the Declaration of Rights and posters with awareness messages on electoral rights to enable citizens to be aware of their rights and the available redress mechanisms in cases of human rights violations.

Therefore, in conjunction with the voter education initiatives undertaken by ZEC; ZHRC together with other Independent Commissions, CSOs and Faith Based Organisations also conducted civic education initiatives on human rights with particular emphasis on political rights. Such awareness raising initiatives capacitated the electorate on political rights and the avenues to report incidents of politically motivated violence. ZHRC activities were inclusive of 22 roadshows and outreaches¹² in 5 Provinces. The Commission launched the “**My Vote, My Right, My Choice**” campaign which was conducted through 20 radio programmes (on STAR FM and Radio Zimbabwe) and 8 television programmes and 55 advertisements on television and radio. The campaign showcased the work of the Commission and enhanced the populace’s knowledge of human rights and the areas of redress in the event of violation of those rights.

¹² The outreaches were conducted in Midlands Province 4, Mashonaland Central Province 4, Matebeleland North 4, Mashonaland West 4 and Mashonaland West 6.



The ZHRC Chairperson, Commissioner Elasto Hilarious Mugwadi (Centre) and Executive Secretary, Dr Makanatsa Makonese (Right) getting ready for a television interview on Electoral Rights.

ZHRC developed pamphlets, brochures and posters which addressed political rights and the work of the Commission in receiving and investigating reports of politically motivated violence and in the process reaching out to the masses in remote parts of the country. During the entire electoral process, the ZHRC was acutely aware of the need for increased awareness on human rights particularly in rural areas, thus, the Commission, made efforts to intensify human rights awareness programmes in those areas.

3.6 Nomination Court Process

ZHRC monitored the Nomination Court processes throughout the country from 11 to 15 June 2018. The courts received nomination papers for the positions of President, Senators, Women's Quota, National Assembly Members, Provincial Councils Members and Councillors. The courts sat simultaneously at the High Court in Harare, Provincial Magistrates Courts and Local Authorities Board Rooms. The process sought to confirm candidates representing the different political parties and those standing as independent candidates during the 30 July 2018 National Harmonised

Elections. As part of its constitutional mandate, ZHRC deployed teams nationwide in order to monitor and observe the general human rights situation surrounding the process. A total of 11 teams, being led by the Chairperson were deployed two days before the Nomination day, for a general assessment of the human rights related issues concerning the exercise.

Some issues of concern noted by ZHRC included the following:

- Aspiring candidates delaying in lodging their nomination forms thereby prolonging the finalisation of the process and time of announcement of results e.g. in Mashonaland East.
- Lack of funds for nomination fees by some aspiring candidates e.g. in Mashonaland East.
- Low turnout by female aspiring candidates, youths and Persons with Disabilities.
- The Nomination Court was adjourned late in some Provinces e.g. in Matabeleland North.
- There was inconsistency in the manner in which the proceedings were being handled. In some of the areas the process was very slow and too formal, whilst in others it was swift and rather informal.
- Some of the courts were too small, hence some candidates and observers had to wait outside e.g. in Mashonaland Central
- Some of the buildings were not easily accessible to People with Disabilities.
- The Voter's Roll was unavailable prior to the sitting of the nomination court which made it difficult for candidates to ensure selected nominators were in the Voters Roll.

The Report on the nomination process and recommendations were circulated to stakeholders.¹³ ZEC acknowledged receipt of the report and committed to consider the issues raised in the Report.

3.7 Media

The ZHRC constantly monitored media coverage of electoral processes in order to track access to media coverage by the political parties and independent candidates. Furthermore, the Head of State equally conveyed messages for a free and fair political playing ground for all political parties and access to the media for interested parties. These positive connotations of upholding the indispensable role of the media during

¹³ See detailed report on ZHRC website www.zhrc.or.zw.

the electoral process was in line with Article 3(d) of the African Union Declaration on the Principles Governing Democratic Elections in Africa, which encourages member states to safeguard the human and civil liberties of all citizens including the freedom of movement, assembly, association, expression, and campaigning as well as access to the media on the part of all stakeholders, during electoral processes. In addition, Article 4.1.6 of the SADC Principles and Guidelines Governing Democratic Elections enjoins state parties to *“Promote necessary conditions to foster transparency, freedom of the media; access to information by all citizens; and equal opportunities for all candidates and political parties to use the state media.”* The ZHRC observed that a few months preceding the general election, the Zimbabwe Broadcasting Corporation (ZBC) responsively encouraged all political parties and candidates to bring forward their advertisements to be aired on the national broadcaster. This was however at a cost and therefore did not translate into equal State media coverage opportunities for all political parties.

The ZHRC observed that the 2018 harmonised elections signified an improvement in terms of access to media coverage of political players, in both print and electronic media. However, some shortcomings were that the state media coverage was not fair, providing more coverage to ZANU PF over other parties. This was evidenced from ZHRC monthly media monitoring reports on elections which indicated that state radio stations, the national television station, and state newspapers visibly covered more material for the ruling party as compared to other parties.

Social media such as Facebook, Whatsapp and Twitter were used as communication platforms during the 2018 elections. Some of the positive attributes of the use of social media for such a national process related to promotion of participation of the electorate, boosting voter turnout, soliciting feedback from the public and where possible ensuring views of the public are taken on board. The ZHRC used social media to increase visibility and raise awareness on human rights during the electoral period. In turn, the Commission received numerous complaints particularly through the Whatsapp platform, which the Commission investigated and resolved. However, the ZHRC was concerned about transmission of inflammatory messages and hate speech against some contesting candidates using social media, in particular, Twitter. The

ZHRC therefore continuously conveyed messages encouraging the public to use social media channels responsibly and to respect different political views and affiliations.

3.8 Hate Speech

The ZHRC attended rallies conducted by different political parties across all the 10 provinces. Overall, the rallies undertaken by the different political parties were held peacefully with a few cases of electoral malpractices such as the use of hate speech in songs and speeches which involved character assassination of opposing candidates. Conduct prohibited by Section 6(c) of the Fourth Schedule to the Electoral Act is inclusive of hate speech in speeches, songs and slogans which incites violence towards any individual or group. The following were amongst the incidences where hate speech was used:

- 3.8.1 During a ZANU PF rally in Chiredzi District, Masvingo Province the ZHRC monitors heard supporters of ZANU PF singing a song with lyrics stating that *“chinja inourayisa”*¹⁴
- 3.8.2 At an MDC Alliance rally at Chivhu Stadium, Chikomba West, Mashonaland East Province, the ZHRC heard Presidential Candidate Mr. Nelson Chamisa stating in his speech that *“zvingagona here kuti tipe hutungamiriri hwenyika kuna Mnangagwa naChiwenga mbavha dzagara dzichizikanwa”*¹⁵
- 3.8.3 Through ZHRC media monitoring reports the ZHRC noted hateful language particularly directed towards female candidates on social media for instance; Dr Thokazani Khupe and Ms. Joana Mamombe were named *“mahure”*¹⁶.

¹⁴ Meaning of “chinja” – It is a slogan of MDC Alliance. Therefore, “*chinja inourayisa*” means if you are a supporter of MDC you can get killed.

¹⁵ Meaning of “*zvingagona here kuti tipe hutungamiriri wenyika kuna Mnangagwa naChiwenga mbavha dzagara dzichizikanwa*” – Is it possible to give leadership of the country to Mnangagwa and Chiwenga who have always been known as thieves.

¹⁶ Meaning of “mahure” – is prostitutes.

3.8.4 At Chibuku Stadium, Chitungwiza, MDC Alliance members were playing songs with the lyric such as “*ma ZANU PF mastupid*”.¹⁷

ZHRC continuously advised political parties, independent candidates and the public to refrain from using hateful language as it adversely affected the way parties related to each other and had the potential of causing violence. Moreover, hateful language violated a candidate’s right to dignity and tarnished the public’s perception of him or her.

3.9 Intimidation

Section 133A of the Electoral Act clearly stipulates actions which could be regarded as intimidation. During the pre-election period the ZHRC received numerous complaints of intimidation of the electorate residing in the rural areas by ZANU PF political party members. These matters fell within the confines of the definition of intimidation provided by Section 133A (a) and (c) of the Electoral Act which prohibits “*threatening to inflict bodily injury upon a person or threatening to cause unlawful damage to a person’s property*”. The following are some of the cases of intimidation received by the ZHRC.

- 3.9.1 Two candidates in Goromonzi North indicated that there was intimidation by the headman that people should either vote for ZANU PF or suffer the destruction of their properties/homes.
- 3.9.2 People’s Rainbow Coalition Parliamentary candidate for Murehwa West alleged that their campaigns were being affected by the ruling party actions which included threatening violence against the candidate and his supporters.
- 3.9.3 In ward 7, Hwedza South Constituency unknown people who masqueraded as soldiers were reported to the ZHRC to be threatening to inflict harm on residents in the event of ZANU PF losing the election.

¹⁷ Meaning of “*maZANU PF mastupid*” – is members of the ZANU PF political party are stupid.

3.9.4 In Murehwa South Constituency, the campaign team for the ZANU PF Parliamentary candidate was threatening to inflict harm upon competing parties, in particular the supporters of independent candidate Noah Mangondo.

Intimidation cases by ZANU PF Chairpersons were also received in 6 Constituencies whereby they threatened communities of a repeat of the violence of 2008 if people voted for the opposition. Such complaints were received in areas that included amongst others; Hwedza South Constituency, Maramba Pfungwe Constituency, Murehwa South Constituency, Goromonzi North Constituency, Mazowe South Constituency and Mazowe Central Constituency. Some of these areas are historically violent hotspots from previous elections. It therefore appeared during the 2018 elections that the problem still existed in these areas.

3.10 Partisan Distribution of Food Aid and Presidential Agricultural Inputs

The Constitution safeguards the rights of all persons including the right to equal protection and benefit of the law. Section 56 (2) of the Constitution lists the grounds on which people must not be unfairly treated, inclusive of not being unfairly discriminated on the basis of political affiliation. Furthermore, Section 56 (4) (b) provides the meaning of discrimination to include *“according other people directly or indirectly a privilege or advantage...”* Within the same vein, vote buying which can be equated to bribing a voter to exercise his or a vote in a particular manner is prohibited by the law.¹⁸ Bribery is an election offence which unduly influences voting patterns to favour a particular political party or candidate, thereby violating the right of the electorate to freely vote for candidates of their choice.

The ZHRC received and investigated numerous complaints of partisan distribution of food aid and Presidential inputs which it recorded as cases of vote buying. The findings of the investigations by ZHRC confirmed allegations made by complainants

¹⁸ Section 6 (g) of the Electoral Act Fourth Schedule on the Electoral Code of Conduct for Political Parties and Candidates and Other Stakeholders

concerning ZANU PF political party members unfairly discriminating against community members from other political parties in receiving food aid or Presidential inputs. The following are some of the vote buying incidents conducted by ZANU PF political party members observed by or reported to the Commission:

3.10.1 ZHRC observed at U9C and Grain Marketing Board in Macheke, the distribution of rice packaged in bags written “COFCO Corporation, China Aid” to ZANU PF members at ZANU PF rallies.

3.10.2 The same trend was noted in Masvingo North, Zaka West and Central Constituencies where rice was distributed only at ZANU PF campaign gatherings. Therefore, even though the food was supposed to be equally distributed amongst all needy community members, only ZANU PF members mainly wearing ZANU PF regalia benefited from the programme.

3.10.3 Another incident reported to the ZHRC was in Murehwa South Constituency, where interviewed citizens informed the ZHRC that ZANU PF candidate Mr. Joel Biggie Matiza and his campaign team were buying votes through the distribution of Presidential inputs only at ZANU PF campaign gatherings.

3.10.4 In Hwedza South Constituency, ZHRC attended a ZANU PF rally and observed a lorry stocked with agriculture inputs offloading and the beneficiary list was compiled at the same rally.

The ZHRC produced separate and more detailed investigative reports on these matters.¹⁹

3.11 Participation of Traditional Leaders in Politics

The Traditional Leadership institution is valued and recognised in the Constitution. Traditional Leaders are responsible for performing the cultural, customary and traditional functions of a Chief, Head Person or Village Head for his or her community.²⁰ Thus, Traditional Leaders are accountable for the promotion of sound

¹⁹ See ZHRC website www.zhrc.org.zw for detailed investigative reports

²⁰ Section 280(2) of the Constitution of Zimbabwe Amendment (No.20) 2013.

family values and resolving disputes within their communities, ensuring peace and tranquillity amongst the community.

ZHRC followed with interest the court cases on the involvement of traditional leaders in political activities. ZHRC took more interest in two particular cases which were filed by Elton Mangoma, the leader of the Renewal Democrats political party, as well as the one file by the Election Resource Centre which is a Civil Society Organisation on Elections, Democracy and Good Governance in Zimbabwe. In both the cases, the courts, upheld the provisions of the Constitution which prohibit Traditional Leaders from participating in partisan politics. In the Mangoma case, Justice Garainesu Mawadze, sitting at Masvingo High Court ruled that the President of the Chiefs Council – Chief Fortune Charumbira, and the National Chiefs Council (representing all 282 Chiefs in Zimbabwe) is banned and prohibited from making further political statements on their involvement or allegiance to ZANU PF on any public platform. He further ruled that traditional leaders who include Chiefs, Head Persons or Village Heads as provided in section 280 (2) of the Constitution, must not be involved in partisan politics as this is a violation of the right to a free and fair election as provided for in section 67 (a) of the Constitution. He also stated that conducting of campaigns on behalf of the ruling party by traditional leaders (Chiefs, Head Persons or Village Heads) was unconstitutional and a violation of the right not to be treated unfairly or in a discriminatory manner on the basis of political affiliation.

In the ERC case, the High Court Judge Justice Clement Phiri, ruled that the President of the Chiefs Council, Chief Fortune Charumbira was supposed to withdraw his statement that traditional leaders would support the ZANU PF presidential candidate in the upcoming 2018 harmonised elections. The judge also ordered Local Government Minister July Moyo to take disciplinary action against Chief Charumbira. These two judgements by the Judiciary were a positive development in the promotion of political rights in Zimbabwe and opening the democratic space.

The ZHRC received complaints concerning the participation of Traditional Leaders in partisan politics. Section 281(2) (a-c) of the Constitution outlines actions which Traditional leaders should not partake in and these are inclusive of being members of

a political party, participating in partisan politics or furthering the interests of any political party. The following are examples of some complaints received by ZHRC against Traditional Leaders:

3.11.1 During the pre-election period an Acting Headman (Patrick Mukahanana) from Ward 16, Mutasa Central Constituency in Manicaland, contested for a council seat as a ZANU PF political party member. It was reported that he was directing that all known opposition supporters in his area should be assisted to vote as he would not tolerate any vote for the opposition especially in his ward. ZHRC followed up on this matter and managed to establish that the allegation against the headman was true. ZHRC raised the matter with the police during the frequent briefing sessions which occurred between ZHRC and ZRP. The ZRP officials indicated to ZHRC that they had taken note of the matter and that they would investigate on the allegations. During one of its post-elections monitoring field visits, the ZHRC was then advised that the concerned individual had opted to let go of the traditional leadership acting position to pursue politics. When results for the councillors were announced ZHRC observed at the Ward Commanding Centre that the Acting Headman won the seat for councillor of Ward 16.

3.11.2 Chief Makuni from Ward 19, Rushinga Constituency in Mashonaland Central distributed Presidential inputs based on a beneficiary list that he allegedly compiled and which only benefited ZANU PF supporters. When ZHRC enquired about these allegations from the Chief, he disputed them although there were photographs showing distribution of food to people wearing ZANU PF regalia. The ZHRC further addressed the issue at a full Council meeting in Rushinga where the concerned Chief was present. The Chief indicated that once agricultural inputs are to be distributed in his village, everyone is informed and the inputs are divided amongst everyone. He indicated that the fact that someone is wearing a certain party t-shirt did not prejudice that person from benefiting from the food distribution. ZHRC referred the matter to the police for further investigation, in order to ensure that distribution of food aid and Presidential inputs was conducted fairly amongst all members of the community. However, at the time of reporting, no feedback had been received

from the Police in Rushinga on what had become of the investigation. In fact the general feedback received from the Police was that the Chief had always been very difficult to deal with, as they had received similar complaints about him before, but he was allegedly defying any orders.

These actions by Traditional Leaders contravened Section 281 of the Constitution and warrants their removal from office in terms of Section 283 (c) (i) of the Constitution. Moreover, there is lack of legislation which protects Traditional Leaders from manipulation by political parties. The Commission urges Traditional Leaders to work with their communities in fostering peace and political tolerance and to desist from participating in partisan politics as this has the effect of alienating some of the citizens under their jurisdiction.

3.12 Defacing and Removal of Campaign Posters

The ZHRC engagements with PAs, DAs and ZRP revealed a common pattern of defacing and removal of posters for contesting candidates in contravention of paragraph 6(d) of the Fourth Schedule to the Electoral Act which prohibits this act. The defacing or removal of posters occurred in all Provinces across the Country. The ZRP indicated that it was difficult to pinpoint culprits since posters were defaced during the night. The posters targeted were for any political party. Therefore, during Multi Party Liaison Committee meetings the ZRP, PAs and DAs advised leaders of political parties to encourage their members to desist from the practice. In addition, the ZHRC attended these meetings in the different Provinces²¹ and encouraged political parties to desist from defacing or removing posters which were a means of disseminating information of the candidates' campaign to the citizens in that area. The ZHRC noted efforts of the ZRP to curb defacing of posters in areas such as Gweru urban and Mvuma (Chirumhanzu district), where culprits who had defaced or removed posters were prosecuted leading to convictions and subsequent punishment.

²¹ ZHRC monitors attended a Multi-Party Liaison Committee meeting in Bulawayo Metropolitan Province at Constituency level and in Masvingo at Provincial Level

3.13 Pre-Election Complaints Received and Investigated

A total of 77 cases were received and investigated by the Commission across the 10 Provinces, during the period January to July 2018 when the Commission commenced pre-election monitoring. These cases were more prevalent in Manicaland Province, Mashonaland East Province and Masvingo Province. There were investigations of numerous human rights issues which affected contesting candidates and the electorate. A total of 38 out of the 77 cases concerned matters of intimidation, where the electorate were compelled to vote for ZANU PF or risk infliction of bodily harm or injury or destruction of their property, in contravention of Section 133A (a and c) of the Electoral Act.

Traditional Leaders and ZANU PF political party members were identified and confirmed as perpetrators of these violations. The second highest category of complaints received by ZHRC related to vote buying in the form of partisan distribution of food aid and Presidential Agricultural Inputs. ZANU PF political party members and Traditional Leaders were identified as perpetrators through distribution of these goods at ZANU PF gatherings and rallies only thereby unfairly discriminating against other members of the community who belonged to different political parties. The classification of electoral interference refers to issues relating to hate speech and disruption of political campaigns.



ZHRC Commissioner, Prof Carroll Themba Khombe (Standing and wearing spectacles) meeting some traditional leaders at Nembila High School in Matabeleland North Province before the 2018 Harmonised Elections.

The table below shows the different categories of human rights issues apparent from the 77 cases received by the Commission as well as the number of cases received in each Province:

3.14 Table on Pre-Election Complaints Received and Investigated

Type of Cases	Harare	Bulawayo	Manicalan	Mash Central	Mash East	Mash West	Masvingo	Mat North	Mat South	Midlands	Total
Electoral Interference	2	1	4	2	6	2	0	0	1	3	21
Voter Intimidation	0	0	11	2	9	2	7	2	3	3	39
Vote Buying/Partisan Food Distribution	0	0	0	2	5	1	0	0	2	3	13
Violence	0	0	0	2	1		0	0	1	0	4
Total	6	3	16	8	21	5	9	2	7	9	77

The Commission investigated all the 77 cases most of which were referred to the police. Other cases could not be exhaustively dealt with as they required complainants to report to the police, yet the complainants were reluctant to do so. There was a fear of reprisals within the communities, hence the reluctance to report to the police. This was therefore a challenge to the ZHRC as complainants wanted to report the cases to the ZHRC only and not to the police. This made it difficult for the ZHRC to handle the criminal aspects of the cases which required police intervention. The ZHRC however still encouraged complainants to report incidents of criminal political rights violations to the police and further engaged perpetrators to desist from committing these illegal acts. For cases reported to the police, the ZHRC followed up with the police and ensured that where possible, these were resolved through Multi-Party Liaison Committee meetings, dialogue amongst all the parties and criminal prosecution.

3.15 Disenfranchisement

Section 67 (3) (a) of the Constitution accords every citizen above the age of 18 years the right “to vote in all elections and referendums to which [the] Constitution or any other law applies.” The ZHRC however noted that significant categories of eligible

citizens were unable to vote during the 30 July 2018 harmonised elections. The biggest affected categories were prisoners and citizens living in the diaspora. The major reason that has been given for the non-participation of these citizens was that there were no logistical and administrative mechanisms in place to support their voting. The ZHRC is of the view that this excuse has been given for far too long and that with proper advance planning and the necessary will, these citizens should be able to vote. As the country prepares for the next elections in 2023, it is therefore imperative that proper planning and measures be put in place, starting immediately, to facilitate voting by these citizens so that they do not continue to be disenfranchised.

Section 72 of the Electoral Act provides that persons entitled to postal voting are individuals who are members of the disciplined forces, electoral officers or people outside Zimbabwe on Government business on polling day. Section 73 of the Electoral Act states how a person can apply for postal voting. Applications for members of the disciplined forces, are conducted through their commanding officers who confirm the person's capacity as an employed Government officer. Section 75 further stipulates the procedure for a person to undertake postal voting in secret and dispatching of his/her vote by registered mail or courier service to the Chief Elections Officer. ZHRC was concerned with the undertaking of postal voting for ZRP members who were to be deployed to other duty stations on Election Day. The ZHRC observed the postal voting of ZRP at Ross Camp in Bulawayo and questioned the manner in which the process was handled, where all officers who had applied for postal voting were voting in front of their superiors. The ZHRC noted that that this opened room for manipulation of votes, non-transparency of the process and compromised the secrecy of the ballot. This was in contravention of Section 75 where an applicant is availed the opportunity to vote in private and individually send the ballot paper by registered mail or courier service to the Chief Elections Officer.

Section 72 of the Electoral Act is also restrictive on who can benefit from postal voting. As a result many Zimbabweans were disenfranchised in the July 2018 elections. These include thousands of civil servants who were deployed on election related duties away from the constituencies in which they were registered. Other examples include the ZHRC Commissioners and staff members who were deployed around the

country on election related duties. It is therefore imperative for all genuinely affected organisations and individuals to be considered for postal voting under Section 72 of the Electoral Act.

4. ELECTION DAY

4.1 Location, Structure and Operations of Polling Stations

On Election Day the environment was calm and peaceful throughout the country with the electorate turning out in their numbers to cast their votes with an average voter turnout of 75% in most polling stations according to ZEC. The ZHRC observed during the pre-election period that ZEC undertook training of its Officers in the different Provinces, material for Election Day was in place and other logistical issues were attended to by relevant personnel at the polling stations visited. The ZHRC observed the opening of sealed postal votes during the counting of results at the polling stations observed. Polling stations were visibly marked with appropriate signage.



A polling station in Beitbridge, Matabeleland South Province.

ZHRC observed some shortcomings which must be addressed for future elections. These include amongst others; some polling stations were difficult to access particularly for older persons and Persons with Disabilities owing to the structuring of stairs and lack of ramps; the tent polling stations faced difficulties of lighting and resorted at times to use of candles which were not sufficient to illuminate the polling station and this slowed the voting, and in particular the counting and verification

processes. Some of the Constituencies reported incidents which pointed towards the unpreparedness of the electoral management body for instance, pictures on ballot papers were not clearly visible, failure to establish some polling stations, redirection of voters to new polling stations on Election Day and turning away of voters who confirmed that their names were on the voters roll during the inspection period but were missing on election day.

4.2 Polling Day Procedures

The polling stations observed by the ZHRC commenced the process on time, opening at 7am and closing at 7pm. Polling procedures were appropriately adhered to and the polling officials had clearly marked designation badges and regalia. ZHRC noted long queues at most polling stations visible in the morning and becoming shorter around late afternoon towards closing of the polling station. By closing time there were no voters waiting to cast their votes at most polling stations. No incidences of violence were noted on the election day.

ZHRC noted that ZEC involved Special Interest Groups, such as Persons with Disabilities, the elderly, women and youth in their processes. ZHRC was informed that ZEC recruited Persons with Disabilities as Voter Educators and polling officers. ZHRC observed on polling day that preferential treatment to vote was afforded to pregnant women, nursing mothers, the elderly and Persons with Disabilities. Moreover, the ZHRC observed at majority of the polling stations that more women than men were recruited as polling officers although Presiding Officers upwards were mostly male.

A challenge faced by voters at locations with more than one polling station was the complicated labelling or naming of some of the polling stations. Whilst voters received messages on their mobile phones with information on the polling stations, on arrival it was not very clear which queue to join. At some polling stations, such as in the Gweru Urban Constituency, instead of simple sequential alphabetical order i.e. A, B, C, D most polling stations would be labelled A, AA, AB, BA which made it difficult for some voters to identify their specific polling station. In turn this slowed down the process as election officials had to check thoroughly on the voters' roll before confirming the voter's name, turning away or redirecting them to their appropriate polling station.

“Exclusion lists” were distributed around lunch hour on voting day to most polling stations in Gweru urban and many other constituencies around the country. The exclusion lists contained information on voters who had been excluded from the voters’ roll per polling station. The reasons for exclusion were varied and codes were provided to classify such reasons. This was not covered during the training of election officials by ZEC and the lists were delivered late with no explanation leading to confusion on the use of such lists. Some Presiding Officers erroneously referred to them as supplementary lists that were in use in previous elections.

ZHRC categorised forced assisted voting as a form of intimidation in line with Section 133B (c) (i) of the Electoral Act where *“a person compels or attempts to compel a person or persons generally to vote for a political party or candidate”*. Intimidation reports received by the Commission related to forced assistance on polling day as some members of the community were assigned a person who would accompany them to vote. A high number of assisted voting cases were reported in 7 Constituencies namely, Chivi North, Murehwa South, Buhera South, Gokwe North, Shamva North, Bindura North and Hurungwe West.

5 POST - ELECTION PHASE

5.1 Announcement of Overall Results

In all Provinces, the public anxiously awaited the announcement of results. ZEC announced results within the stipulated time frame prescribed by the law. Local Authority results came out first, followed by the National Assembly results and lastly the Presidential results. The announced results evinced the following regarding the National Assembly seats: ZANU PF 145, Movement for Democratic Change (MDC) Alliance 63, National Patriotic Front 1 and Independent 1. The perceived delay in the announcement of the Presidential results contributed to the unfortunate post-election violence. Even though the announcement of these results was still within the legal timeframe, some citizens felt that there was a delay and that the results were being tampered with. This resulted in demonstrations being held at the National Command Centre, being led by members of opposition political parties. The Electoral Management Body initially announced the results for the top three presidential candidates as; Emmerson D. Mnangagwa having 50.8 percent, Nelson Chamisa having 44.3 percent and Thokozani Khupe having received 0.9 percent of the votes. However, the MDC Alliance filed a Constitutional Court petition challenging the announced results. ZEC, made another announcement stating that Emmerson D. Mnangagwa had received 50.6 percent and that Nelson Chamisa had received 44.39 percent of votes. This change was explained on the basis of mathematical/ statistical errors on the part of the Electoral Management Body.

In the election petition, ZEC acknowledged that the first set of the presidential results was wrong. The ZEC Chairperson in her court papers, conceded that some polling stations may have been counted twice. She stated that after the correction of the observed errors, the results of Nelson Chamisa increased by 4,483 votes (increase of 0.1%), whilst Emmerson D. Mnangagwa's votes were reduced by 4453 (decrease of 0.08%). The Chairperson however argued that these mathematical errors that may have happened, were not gross, neither were they sufficient enough to overturn the

outcome of the presidential election²². Nelson Chamisa on the other hand contended that he had won the election by 60 percent and that if the mathematical errors were corrected, Emmerson D. Mnangagwa's votes would fall to below 50 percent. He argued that the law instructs for results to be verified before being announced, and wanted the results disregarded.

The full bench of the Constitutional Court, upheld the announcement by ZEC, and ruled that Emmerson D. Mnangagwa had won the presidential election.

5.2 Post - Election Violence

The most disturbing post-election incident was the violence that erupted in Harare on the 1st of August 2018, during opposition demonstrations at the National Command Centre, Rainbow Towers Hotel. The opposition supporters took to the streets based on allegations that ZEC had delayed in announcing the Presidential election results. These disturbances resulted in the destruction of property, loss of life of at least 6 civilians who were shot dead and the injury of many, following the intervention of the army. The ZHRC issued a press statement on the 2nd of August 2018 condemning the violence and the loss of life due to the intervention and the use of live ammunition by the army on unarmed civilians and urging all players to maintain peace.

Following the demonstration and the subsequent violence, ZHRC received complaints of members of the military allegedly harassing and beating up civilians in some suburbs in Harare. The Commission went to assess the situation in Kuwadzana and Warren Park in Harare as well as in Chitungwiza following these reports and confirmed that indeed members of the public were being assaulted by people in military uniforms who were moving around the suburbs in military trucks. The Commission was concerned with the fact that no Government Office took responsibility over the deployment of soldiers into communities. On the contrary, the Zimbabwe Defence Forces and the Government denied the deployment. This posed an even bigger danger to communities as it appeared that the 'soldiers' continued to inflict harm and

²² <https://www.dailynews.co.zw/articles/2018/08/18/zec-cuts-ed-s-win>

injury on civilians without being accountable to anyone. The Commission expected prompt investigation and prosecution by the relevant authorities if it was true that the assailants were imposters or rogue agents acting without official deployment.

The ZHRC acknowledges the setting up of the Commission of Inquiry to inquire into the post-election violence that took place on the 1st day of August, 2018. The ZHRC, hopes that the Inquiry will conduct its work diligently and effectively in order to identify those responsible for the violence. The families that lost their loved ones, and those injured should be adequately compensated and assisted by the State. The Commission will continue to monitor the process and consider the outcome thereof including the implications on the protection and enjoyment of human rights in Zimbabwe. ZHRC also finds it imperative that an Act of Parliament be promulgated immediately in order to provide an effective and independent mechanism for receiving and investigating complaints from the public against members of the security services in terms of Section 210 of the Constitution of Zimbabwe.

5.3 Electoral Dispute Resolution

During the electoral period Electoral Courts were established in line with Section 161(1) of the Electoral Act which provides for their establishment as a division of the High Court. These courts were accorded the sole responsibility to adjudicate over election related disputes during the course of the electoral cycle. The designation of these courts placed confidence in both the electorate and contesting candidates as the provision of a legal redress mechanism would ensure that justice would be fairly served in addressing election related disputes.

On the 22nd of August 2018 the Constitutional Court deliberated on the petition from the opposition (MDC Alliance) legally challenging the Presidential election result. In his application, Mr. Nelson Chamisa stated that he won the election with 60% of the vote, contrary to the result officially announced by ZEC where he had 44,3% of the votes and Mr. Emmerson Dambudzo Mnangagwa of ZANU PF had 50,6%. The hearing began on Wednesday the 22nd of August 2018 with the verdict being pronounced on Friday the 24th of August 2018. The Court proceedings were televised live nationally for all interested stakeholders to follow the proceedings. This gave the

public the opportunity to hear and view the whole proceedings as they happened. The Commission noted that Zimbabweans remained commendably calm ahead of the hearing and when the Constitutional Court ruled in favour of the ZANU PF Presidential candidate, Emmerson Mnangagwa.

5.4 Post - Election Complaints Received and Investigated

After the announcement of the results, ZHRC received twenty eight (28) complaints of intimidation of citizens perceived to have voted for the opposition and those who acted as polling agents for opposition²³ parliamentary or council candidates in both urban and rural communities. From the investigations undertaken to date, the ZHRC established that some of the cases on intimidation of or violence on opposition polling agents could not be sustained. For example, a case received on the burning of an opposing candidate polling agent's property (home) in Muzarabani could not be sustained.

The twenty eight (28) cases received by the Commission emanated from five (5) out of the ten (10) Provinces namely, Manicaland Province, Mashonaland East Province, Mashonaland Central Province, Mashonaland West Province and Midlands Province. Seventeen (17) out of the twenty eight (28) cases were related to intimidation. Ten (10) of the total number of cases concerned partisan distribution of food aid and Presidential inputs, where known opposition political party members were unfairly discriminated against owing to the fact that they did not vote for the ruling party.

The table below illustrates the number of cases received by the Commission during the post-election period and the human rights issues involved:

²³ Those who are not members of the ruling party ZANU PF.

Post- Election Complaints Received and Investigated

Type of Cases	Harare	Bulawayo	Manicaland	Mash Central	Mash East	Mash West	Masvingo	Mat North	Mat South	Midlands	Total
Intimidation	0	0	5	3	5	1	0	0	0	4	18
Partisan Food Distribution	0	0	2	1	2	1	0	0	0	4	10
Total	0	0	7	6	7	3	0	0	0	9	28

6 STAKEHOLDER ENGAGEMENTS

During the whole electoral process, the ZHRC continuously engaged and maintained relationships with stakeholders across the ten (10) Provinces. These were actors who played vital roles in ensuring the undertaking of elections in a free and credible manner.



The ZHRC Deputy Executive Secretary for Programmes, Mr Erick Mukutiri addressing participants at a Peace Pledge Meeting organised by the NPR Commission in Midlands before the 2018 General Elections.

The following are amongst the stakeholders that ZHRC interacted with:

6.1 Zimbabwe Electoral Commission

ZHRC engaged the Provincial Elections Officers, District Election Officers, ZEC officials at command centres and polling stations. A few days prior to the holding of the harmonised elections ZHRC was satisfied that ZEC was well equipped to undertake the process, having noted that the ZEC officials were in place, training had been undertaken for polling officers and many other logistical issues had been addressed before election day.

Continuous engagements between ZHRC and ZEC on various platforms cemented relations of the two Independent Commissions, allowing open dialogue on issues affecting the electorate, political parties and independent candidates. The engagements also enabled sharing of ideas and identification of areas for improvement. The ZHRC alerted ZEC of any complaints of election malpractice which needed its intervention. That way, ZHRC provided ZEC with issues they could address at Multi-Party Liaison Committee meetings, ensuring that political parties and independent candidates acted in a manner consistent with electoral regulations.

6.2 Zimbabwe Republic Police

ZHRC was cognisant of and appreciated the cooperation of the ZRP throughout the electoral process. The ZHRC appreciated the positive responses received in addressing complaints that the Commission referred to the police. For instance; during the pre- election period ZHRC brought to the attention of the police cases of forced disclosure of BVR registration, which the ZRP investigated and disseminated information on, encouraging the public to report such illegal matters to the police.

ZHRC continuously engaged the ZRP Office Responsible for Investigations during the Harmonised Elections, which was headed by Senior Assistant Commissioner Erasmus Makonza, who was appointed the Commander 2018 Harmonised Elections. The Senior Assistant Commissioner informed the Commission of the numerous election related activities that the ZRP was undertaking in all Provinces. The police appointed Special Liaison Officers dispatched in all provinces who were responsible

for investigating cases of politically motivated violence in the provinces. These officers, together with the Provincial and District Commanding Officers were focal persons that ZHRC interacted with in addressing cases received within the respective provinces. Furthermore, Officers in Charge at various police stations in each district assisted the ZHRC in resolving politically motivated human rights violation cases. Police Officers in Charge were well versed with information in their policing areas and were generally in control of the situation. The arrests and prosecution of persons who violated the electoral laws contributed to the peaceful environment that prevailed in many parts of the country.

6.3 Provincial and District Administrators

Engagement of the PAs and DAs was crucial to the ZHRC. As key administrators of the Provinces and Districts they had an overview of the issues affecting residents in preparation for the 2018 harmonised elections. Overall these officials informed the ZHRC that the environment was calm and peaceful.

As mentioned earlier in this report, in certain areas monitored, complaints were received concerning Traditional Leaders acting in a partisan manner. ZHRC informed the District Administrators of such matters with the anticipation that they would persuade the Traditional Leaders to refrain from such actions since they oversee and coordinate Traditional Leaders' activities. Not much was achieved in this regard.

In mid-July 2018, the ZHRC observed an election of the Provincial Assembly of Chiefs in Mashonaland Central Province. The programme included a discussion on the Constitution particularly the functions and principles to be observed by Traditional Leaders. The ZHRC noted that constant reference and teachings of the Constitution to Traditional Leaders was vital. Thus, ZHRC anticipates that continued education of Traditional Leaders on their roles, responsibilities and fundamental human rights and freedoms of persons might in the long run change their attitudes pertaining to their participation in partisan politics or treating any person in their community unfairly.

6.4 Civil Society Organisations

During the course of the electoral cycle the Commission was invited to numerous workshops, meetings and other public events that CSOs conducted in the run up to the 2018 harmonised elections. These were platforms for dialogue towards ensuring the maintenance of peace amongst communities and implementing activities which encouraged the public to work towards refraining from political violence like what happened in 2008. CSOs informed each other on the electoral activities they were undertaking and opened room for synergies in order to minimise duplication of activities.

Some CSOs established hubs in all the ten (10) Provinces, created social media platforms and online applications which were tools used in tracking and detecting incidents of politically motivated violence which they would refer to relevant authorities. ZHRC, received a number of cases from CSOs which the organisation independently investigated. Furthermore, in some instances the Commission referred cases to CSOs that had the relevant expertise to address the matters.

In a nutshell, ZHRC continues to establish and maintain relations with various stakeholders that assist the institution in executing its mandate. ZHRC is cognisant of the fact that it cannot operate in a vacuum and thus needs the cooperation of stakeholders towards enhancing the promotion and protection of human rights in Zimbabwe. This is in line with the Paris Principles which require NHRIs to work with Government and CSOs.

6.5 Regional and International Observers



The SADC Election Observer Team (Left) and COMESA Observers (Right) during meetings with ZHRC.

The presence of the regional and international community during the 2018 harmonised elections was vital for the outside world to have a bird's eye view on the electoral process in Zimbabwe. The holding of peaceful, credible, free and fair elections was an opportunity for Zimbabwe to reintegrate itself with both the regional and international community. Throughout the electoral cycle ZHRC hosted several regional and international observer missions inclusive of the African Union, Southern African Development Community, Common Market for Eastern and Southern Africa, Commonwealth, European Union and the National Democratic Institute/International Republican Institute. These partners engaged the Commission, announcing their presence as observers for the 2018 harmonised election. They sought to probe the ZHRC's perception of the human rights situation and the preparedness of ZEC in managing the elections. In addition, the ZHRC's meetings with the regional and international observers fostered dialogue on electoral processes and the sharing of best practices on the different interventions which the Commission could adopt in the promotion and protection of human rights.

7. CONCLUSION

In conclusion the 2018 harmonised elections reflected some improvements compared to past electoral processes. The implementation of the BVR system and the completion of an updated Voters' Roll were positive achievements in the administration of elections. Considering that this was a new initiative, ZEC indeed experienced challenges at the beginning of the BVR exercise but overall handled the process in line with the law.

Some of the recommendations which were proposed by ZHRC after the 31st July 2013 harmonised elections were implemented by relevant stakeholders. For instance; the date for the 2018 elections was proclaimed timeously, allowing ZEC adequate preparation for the electoral process. In 2013 the Commission urged Government to ensure that the Constitutional Court is properly constituted in addressing electoral dispute resolution mechanisms, this recommendation was executed as evidenced by the full bench which deliberated on the petition from the opposition (MDC Alliance) legally challenging the Presidential election result.

Respect for the role of the media is necessary throughout any electoral process. Allowing the media access to public political meetings, demonstrations and rallies gives political parties and candidates an opportunity to publicise their campaign messages. In 2013 the ZHRC recommended that the Zimbabwe Media Commission should be strengthened to monitor the performance of the media in providing fair and balanced coverage to all political parties and candidates in terms of the Constitution and the Electoral Act. Therefore, the Commission continues to hold the same sentiments in 2018 urging equal media access by all political contestants and the Media Commission to be fully constituted.

A concern which the Commission highlighted in 2013 which remained apparent during the 2018 harmonised elections was in relation to the large number of assisted voters.

Therefore, the Commission continues to urge ZEC to sensitise the electorate on secrecy of the ballot and for the ZRP to encourage citizens to report threats of forced or coerced assisted voting prior to polling day.

The 2018 harmonised elections have been a mixed bag. Whilst this election could be hailed as one of the most peaceful elections post 2000, the ZHRC's findings point to challenges in fulfilling the right to vote as provided for in the Constitution. Some citizens of Zimbabwe were subjected to conditions that made it impossible for them to enjoy their human rights in full as they were exposed to intimidation, threats and vote buying shenanigans.

8. RECOMMENDATIONS

8.1 Zimbabwe Electoral Commission

- 8.1.1 ZEC to strengthen its voter education programmes to dispel myths and misinformation on what happens on polling day.
- 8.1.2 ZEC should emphasis on secrecy of the ballot when conducting Voter Education campaigns.
- 8.1.3 Exclusion lists should be minimised and where they are used, they should be explained to election officials during training and also delivered before polling starts.
- 8.1.4 There is need for ZEC to include the mandate and role of the ZHRC in its training manual in preparation for the next elections.
- 8.1.5 The ballot papers for future elections should reflect identifiable pictures and ballot papers should be publicised.
- 8.1.6 To educate the citizens on the effect of registration slips and serial numbers.
- 8.1.7 To educate the citizens on postal voting.

8.2 Zimbabwe Republic Police

- 8.2.1 To expedite investigation of all electoral cases reported.
- 8.2.2 ZRP must be adequately financially resourced in order to execute its duties effectively throughout the whole country.
- 8.2.3 The ZRP should tighten security at rallies by increasing their presence at venues to reduce electoral malpractice such as partisan food distribution and intimidation.
- 8.2.4 ZRP to increase awareness and public engagement campaigns around the country in order to regain confidence of communities about their work.
- 8.2.5 ZRP awareness campaigns should urge the public to report on electoral malpractices or any cases of human rights violations.

8.3 Zimbabwe Defence Forces

- 8.3.1 The army should refrain from use of live ammunition on civilians during demonstrations.
- 8.3.2 Support the implementation of Section 210 of the Constitution of Zimbabwe.

8.4 Parliament of Zimbabwe

- 8.4.1 The ZHRC maintains that Section 40K of the Amended Electoral Act giving the Commission an observation and not monitoring role in elections is unconstitutional and must be repealed. Parliament must therefore work to ensure that this provision is repealed in order to guarantee that the ZHRC is able to effectively implement its constitutional mandate during elections.
- 8.4.2 Parliament is urged to promulgate a law which operationalises section 210 of the Constitution, which provides for enactment of mechanisms to enable the public to make complaints against members of the security services, and to provide remedy.

8.5 Ministry of Public Service, Labour and Social Welfare and Grain Marketing Board

- 8.5.1 The Ministry and GMB should have transparent systems for distribution of food aid and Presidential Farming Inputs that do not advance certain political agendas.
- 8.5.2 Food distribution towards elections should be suspended to avoid political manipulation of the process, with the establishment of a mechanism which ensures that beneficiaries receive adequate allocations in advance of the election period.

8.6 Political Parties

- 8.6.1 All aggrieved parties should approach the Electoral Court for peaceful resolution of disputes.
- 8.6.2 All Political parties should embrace the inclusion of sign language translators to cater for deaf people as was the case at some MDC Alliance rallies.
- 8.6.3 Political Parties must desist from using hate speech in order to maintain peace.
- 8.6.4 Political parties are urged to desist from undertaking electoral malpractices e.g. defacing of posters or partisan food distribution.
- 8.6.5 Political parties to desist from issuing threats and intimidation to potential voters and the Multi Party Liaison Committee should continuously convey this message.
- 8.6.6 Political Parties should allow all media houses to their campaign activities.
- 8.6.7 Political Parties should ensure the removal of campaign material post elections.

8.7 Traditional Leaders

- 8.7.1 Traditional leaders must desist from participating in partisan politics.
- 8.7.2 Traditional Leaders should refrain from conducting partisan distribution of inputs and food aid.
- 8.7.3 Traditional Leaders should not threaten to assist people to vote on polling day thereby compromising secrecy of the ballot.
- 8.7.4 Traditional Leaders should not threaten people who vote for the opposition with eviction from their villages.
- 8.7.5 Traditional Leaders should represent the interests of communities with no discrimination.

8.8 Media

8.8.1 State media in the future should provide equal, balanced and accurate coverage to all contesting candidates.

8.8.2 Both State and private media should be transparent and ensure access to information to all citizens.

8.8.3 Zimbabwe Media Commission to be fully constituted.

8.8.4 The Commission urges Zimbabwean citizens to use social media responsibly and refrain from posting fake news.