



ZIMBABWE 2023 HARMONISED ELECTIONS

WEEKLY MONITORING REPORT

12 June 2023 – 21 June 2023

1.0 Introduction

On 31 May 2023, His Excellency President Emmerson Dambudzo Mnangagwa, through Statutory Instrument (SI) 85 of 2023 proclaimed 23 August 2023 as the date Zimbabwe will go for harmonized elections. In the proclamation, 21 June 2023 was set as the date on which the nomination court would sit to receive the nomination of party-list candidates. Furthermore, the proclamation also set 2 October 2023 as the run-off date should it become necessary. The Zimbabwe Human Rights NGO Forum (the Forum) consequently embarked on a monitoring and documentation exercise of the pre-electoral environment which would run from the date of proclamation to the day of the actual poll on 23 August. This is consistent with the Forum's mandate of coordinating the human rights agenda in Zimbabwe through consistently monitoring the human rights environment, analysing national trends and designing advocacy strategies to promote and protect human rights for all.

2.0 Methodology

Information contained in this report has been compiled through:

- Desktop review of verified and duly referenced social media accounts, independent media reports and/or sources;
- Participatory observation, due to the Forum providing legal representation and rapid response in some of the cases in the monitoring reports.
- Verified data from cases handled directly by the Forum through its Public Interest Litigation Unit and those handled by members of the Forum.
- Verified data from trained community champions across the country.
- Verified information from Forum members and partners.

3.0 Emerging Issues

3.1 Fresh legal bids for nullification of nomination fees fail

In the last two weeks, the Constitutional Court and the High Court have been inundated with challenges to Statutory Instrument (SI) 144 of 2022 which hiked nomination fees for Presidential candidates to US\$20,000 per candidate, \$1,000 for parliamentary seats and \$100 for local authority seats. On 9 June 2023, the Constitutional Court heard a challenge by the Nationalists Alliance Party (NAP), Devine Mhambi Hove who submitted that the nomination fee was too high. Hove, through his lawyer, Professor Lovemore Madhuku argued that the Parliament should be held responsible as the Parliamentary Legal Committee (PLC), which reviews laws that had not considered this SI's constitutionality. The Constitutional Court then ordered Parliament to review the candidates' fees within a week. On 14 June 2023, the Parliamentary Legal Committee issued a non-adverse report which paved the way for the Zimbabwe Electoral Commission to charge exorbitant fees. On 19 June 2023, the High Court heard yet another challenge on the exorbitant nomination fees submitted by opposition politicians and pro-democracy campaigners, who wanted the fees reduced before the sitting of the Nomination Court on 21 June 2023. The case involved Citizens Coalition for Change (CCC) legislator Allan Rusty Markham,

2018 Presidential aspirant Egypt Dzinemunezva, and student leader Tapiwa Chiriga who lodged a complaint with ZEC last year following the gazetting of Statutory Instrument 144 of 2022 by the government. The applicants sought withdrawal of the nomination fees and had also made a submission that the regulations, which amended the nomination fees for the 2023 general elections, were unconstitutional, unreasonable and had the effect of disenfranchising aspiring candidates from participating in elections. This matter had been filed initially as an ordinary court application but with the nomination court beckoning, the applicants made an urgent chamber application seeking an order that the matter be heard as an urgent matter. The Judge ruled further that the matter should be set down for hearing on a normal and ordinary court roll.

3.2 Increase in instances of hate speech ahead of the 2023 poll

3.2.1 Biti makes use of hate speech

An escalation in instances of hate speech has been observed just two months away from Zimbabwe's 2023 harmonized election. Outgoing Harare East legislator Tendai Biti was captured in a video in which he can be heard making use of inflammatory language while urging CCC supporters to nominate him as the Member of Parliament for Harare East. On 12 June 2023, Newshawks shared a two minute 51 seconds long video clip on their Twitter account in which Biti can be heard saying in reference to his rival Allan Markham:

“hatisi kuda nyoka muHarare East, hatisi kuda tsukukuviri...nyoka tiri kunoitsika musoro”

This loosely translates to: “We do not want a snake in Harare East, we do not want a two-headed snake...we will step on the snake's head”. In the video, Biti also discourages CCC supporters from walking with or supporting “vasina mabvi” or “those without knees,” which is a derogatory term or racial slur used to describe white people.

3.3 Deepening polarization through politicising religion

3.3.1 ZANU PF's politicisation of religion

On 19 June 2023, ZimDaily published a one-minute, eighteen-second clip in which a passage from the Bible was intentionally paraphrased and read aloud to indicate that the sceptre or staff of power will never fall out of President Mnangagwa's hands. In the clip, a religious leader likens ZANU PF to the House of Judah to insinuate that ZANU PF rule is God-ordained. The religious leader further states that the only way to taste how it feels to rule Zimbabwe is by joining ZANU PF.

Another video also published on 19 June 2023 by ZimDaily shows a ZANU PF official making use of politically inflammatory language. In the twenty-one seconds long clip, the official heatedly refers to the elections as “war” and declares that the war now was no longer between ZANU PF and other opposition parties but between God and the devil and in his words “ZANU PF represents God”. The insinuation therefore is that all other opposition political parties in Zimbabwe are from the devil. Multi-party democracy is however guaranteed in Zimbabwe's 2013 Constitution under section 3 (2) (a) and (d) which declares that Zimbabwe is a multi-party democratic political system governed by respect for the rights of all political parties. Such utterances thus raise serious concern as to whether the ruling party will peacefully relinquish power should they emerge non-victorious in the upcoming August harmonized election.

3.3.2 President Mnangagwa's visit to the Bernard Mizeki Shrine

On 17 June 2023, President Emerson Mnangagwa visited the Anglican Church of the Province of Central Africa's 56th Pilgrimage, celebrating the life and ministry of Bernard Mizeki at the Bernard Mizeki Shrine in Marondera. During the visit, President Emmerson Mnangagwa pampered the Anglican Church with funds ostensibly channelled to rehabilitate its shrine in Mashonaland East before pleading with the church to support the ruling party in the upcoming polls. President Mnangagwa who was accompanied by his deputy Vice President Constantino Chiwenga who is also Health Minister and ZANU-PF national chairperson Oppah Muchinguri, who is also Defence minister took advantage of the numbers of people gathered for the pilgrimage and called for cooperation between the church and government during the visit. He also used the opportunity to canvass for support ahead of the upcoming election. He is quoted as having said:

“There is a relationship between the State and the church. Whatever you ask you shall be given, I am now asking you for August 2023. You are believers and you take heed of God’s word”.

President Mnangagwa’s visit to the Anglican Church’s Bernard Mizeki pilgrimage in Marondera where he begged for votes ahead of the August 23 poll has reportedly left the church heavily divided with some members demanding a public apology from the leadership. Disgruntled church members said the politicisation of the event violated their freedom of worship and association, saying they did not want to be associated with Mnangagwa’s administration.

3.4 Continued use of lawfare for the suppression of dissent

3.4.1 Job Sikhala

On 14 June 2023, Job Sikhala clocked exactly one year in pretrial incarceration. Sikhala was arrested on 14 June 2022 following the violence that erupted in Nyatsime after the body of slain CCC activist Moreblessing Ali was found mutilated in a well. Sikhala is the Member of Parliament for Zengeza West. Sikhala appeared at the Harare Magistrates Court on 14 June 2023. He has been denied bail a record 15 times. On 3 May 2023, he was convicted of the charge of obstructing the course of justice and was sentenced to a wholly suspended prison sentence plus a US\$600 fine which was paid on 5 May 2023. He however remains in custody as he has other pending matters. His continued pretrial incarceration has ensured his inability to represent his constituency and his exclusion from participating in the upcoming August election. Consequently, CCC’s list of party candidates was submitted to the nomination court with his name missing on 21 June 2023.

3.4.2 Jacob Ngarivhume

Opposition political party Transform Zimbabwe leader Jacob Ngarivhume has also remained behind bars during the nomination court sitting. Ngarivhume was convicted of charges of incitement to commit public violence on 27 April 2023. On 28 April 2023, he was sentenced to an effective three years’ imprisonment without an option of a fine. On 14 June 2023, Forum member Zimbabwe Lawyers for Human Rights (ZLHR) indicated that High Court Judge, Justice Chikowero had dismissed Ngarivhume’s application for bail pending appeal against both conviction and sentencing. His continued incarceration has also meant that Ngarivhume who was one of the Presidential aspirations in the 2018 elections will not contest in the upcoming 2023 harmonized election.

3.4.3 ZINASU 6

Further, by 21 June 2023, four University of Zimbabwe Students who are members of the Zimbabwe National Students Union (ZINASU) had spent 35 days in remand prison without bail. The four, who are being represented by the Forum, are part of six students who have so far been arrested as part of a brutal clampdown on student activists by the State. The four, Emmanuel Sitima; Comfort Ncekuyenkosi Mpofo; Tawanda Benjamin Watadza and Lionel Andrew Madamombe are facing seven counts of malicious damage to property for scribbling “Free Job Sikhala” graffiti on government buildings and a church in Harare Central Business District. They were arrested on 17 May 2023. The other two who were subsequently arrested are Gamuchirai Chaburumunda and Darlington Chingwena.

3.4.4 Itayi Uthant Makombe

Itayi Uthant Makombe who made headlines after he parked his vehicle in the middle of the road and started singing and shouting Mbuya Nehanda had resurrected was on 22 June 2023, convicted of disorderly conduct and unlawful possession of a firearm. He was sentenced to serve 6 months in prison of which 2 months were suspended on condition of good behaviour for the next 3 years and for the remaining 4 months of imprisonment, he was committed to serve 140 hours of community service for the disorderly conduct charge. He was further fined USD \$200 or its ZWL equivalence on the second charge of possession of a firearm without a valid licence. The fine is payable by 30 June. He was being represented by Forum member, Zimbabwe Lawyers for Human Rights. Itayi was exercising his right to protest peacefully when he was arrested.

3.5 Nomination Court proceedings and announcement of successfully nominated candidates

Nomination Court took place on 21 June. Presidential aspirants filed their papers at the High Court throughout Zimbabwe. Parliamentary aspirants who included House of Assembly members and a list of Senators and Women Representatives to be elected through proportional representation were filed at the various provincial and regional Magistrates Courts countrywide. For local authorities, the nomination court sat at various local authority offices throughout the country.

At the Magistrate's court, in Harare ZANU-PF MPs filed early and were done by 10 am. CCC members filed around 3 pm. MDC-T MPs only submitted papers but failed to nominate both parliamentary and local government candidates due to financial constraints. In Masvingo, Mutare, and Midlands, the processes went well. However, both ZANU-PF and CCC recorded a high number of members registering as independent candidates. In Bulawayo, CCC failed to submit the senatorial list and three MPs were reported to have filed out of time. The issue was later resolved into the night and the senator list and the 3 later managed to file. CCC failed to field candidates in rural wards. The actual number has not yet been ascertained.

On 22 June 2023, ZEC through Deputy Chairperson Rodney Kiwa said that 21 presidential candidates had submitted their nomination papers on 21 June 2023, and 10 were not accepted. The reasons for the rejection include failure to pay the USD \$20 000 nomination fee or not having enough nominations from registered voters. Each candidate was required to have 10 nominations from each of the country's 10 provinces.

The Presidential candidates who managed to file their nomination papers successfully are;

- i. **Busha Joseph Makamba (Freezim Congress Party)**
- ii. **Chamisa Nelson (Citizen's Coalition for Change)**
- iii. **Chikohora Trust (Zimbabwe Coalition for Peace and Development)**
- iv. **Kasiyamhuru Blessing (Zimbabwe Partnership for Prosperity Party)**
- v. **Kasukuwere Saviour (Independent Candidate)**
- vi. **Madhuku Lovemore (National Constituent Assembly (NCA))**
- vii. **Mnangagwa Emmerson Dambudzo (ZANU-PF)**
- viii. **Mubaiwa Wilbert – (National People's Congress)**
- ix. **Muzorewa Gwinyai (United African National Council (UANC))**
- x. **Mwonzora Douglas (MDC-T)**
- xi. **Peters Wilson Harry (Democratic Opposition Party)**

Linda Masarira (Labour, Economists and African Democrats (LEAD)) failed to file nominations due to financial constraints. She and her co-applicants Tendai Lynette Mudehwe and Institute for Young Women Trust filed a court application challenging the exorbitant nature of both the presidential and parliamentary nomination fees. She highlighted that her party is struggling to fund the fielding of all candidates due to financial constraints.

On the other hand, Elizabeth Valerio, Zimbabwe Democratic Alliance leader failed to file after she experienced problems with paying the ZWL \$138 million required. Her application had initially been approved but when she submitted proof of payment which was bank stamped by the branch, the proof of payment was rejected by ZEC. She went on further to highlight there was a hold-up for the whole day with the RBZ and this did not allow them to obtain the payment reference number for the bank transfer. Despite the banking having made a manual payment transfer and providing her with the proof of payment, ZEC rejected her payment. However, ZEC issued a statement on 21 June 2023 highlighting that it had noted that some prospective candidates were disqualified from lodging their nomination papers due to difficulties experienced in the banking system. As a result, ZEC issued a statement calling upon all candidates who were victims of these difficulties to approach the nomination courts where their papers were lodged and make the necessary payments no later than 1600hrs on 22 June 2023.

3.6 SI 114 of 2023 Legality and consistency with the Constitution in question

On 20 June, SI 114 of 2023 was gazetted. ZEC issued a statement on 21 June that the Statute Law Compilation and Revision (Correction of Constitution of Zimbabwe, Amendment (No.2), 2021), Notice

2023 seeks to correct an error that was made by the 2021 Amendment No.2 to the Constitution. Section 268 of the Constitution provided for the 10 provincial or metropolitan councils elected by proportional representation. Of concern is the fact that the SI is ultra vires the Constitution. The SI materially alters the Constitution by deleting the word “women” and replacing it with the word “persons”. This in fact means that the SI purports to amend the Constitution yet the procedure to amend the Constitution is clearly espoused in section 328. Amending the Constitution via a procedure that is not sanctioned by the Constitution makes the act by the law reviser unconstitutional. Furthermore, section 157 (5) of the Constitution espouses that where an election has been called, there can be no change to the Electoral law or any other law relating to elections or have the effect for the purpose of that election. There is need for the implementation of section 268 (1) of the Constitution which makes it clear that political party lists for provincial and metropolitan councils must be constituted by a chairperson of the council, elected in terms of section 272; and the mayors and chairpersons, by whatever title they are called, of all urban and rural local authorities in the province concerned; and ten women elected by a system of proportional representation referred to in subsection (3).

3.7 ZANU PF MP Dexter Nduna becomes a victim of alleged intra-party violence at the Nomination Court

On 21 June 2023, ZANU-PF legislator, Dexter Nduna was allegedly beaten up at the Chinhoyi Magistrates Court by supporters of Farai Chigavazira who beat Nduna at the primaries. Nduna claims he was attending court for a legal case but Farai’s supporters believed that he had come to file nomination papers despite losing at the ZANU-PF primary elections.

3.8 ZESN refutes allegations by ZANU PF that it was training political party agents

On 22 June 2023, Zimbabwe Election Support Network (ZESN) issued a statement firmly rejecting the allegations made by ZANU-PF which claimed that the organisation was engaged in training political party agents for the August 23 elections. ZANU-PF issued a statement on 21 June accusing ZESN, other civic society organisations and foreign governments of providing a donation to the tune of USD \$10 million. It was alleged that these funds are to fund the training of political party agents. According to ZANU-PF, this act violates the Political Parties (Finance Act) and makes funding illegal. ZESN strongly denied these allegations and clarified that it does not offer training to political party agents and has not received funding for such purposes.

4 Conclusion

In keeping with the democratic ethos of the country’s 2013 Constitution, it is imperative for all relevant stakeholders to uphold transparency, fairness and the protection of basic human rights in the lead-up to the 2023 harmonized election. However, from the emerging issues highlighted above, it is manifestly clear that these are truly dark times indeed and even more darker times lie ahead if the civil and political ills bedevilling the country are not approached with utmost care and with genuine political will on the part of our duty bearers.
