



2023 HARMONISED ELECTION

HUMAN RIGHTS ALERT

24 August (1500hrs to 0000hrs) - 25 August

1.0 Introduction

This report captures human rights developments between Election Day (24 August 2023) from 1500hrs to 25 August and 0000hrs on 25 August 2023. The emerging issues have been identified by accredited Zimbabwe Human Rights NGO Forum (the Forum) short-term observers deployed in various polling stations. Some of the information in this report is derived from verified media reports, from members of the Forum and updates from the broader civil society organisation reports.

2.0 Summary of Highlights

As the nation waited for the finalisation of vote counting and the announcement of the presidential election results, there were emerging issues of note that occurred.

24 August Updates

- 40 arrested CCC members from Glen View South were granted bail.
- ZRP responds to allegations of FAZ interference on polling day.
- ZRP demystifies charge levelled at 39 ERC and ZESN arrested members.
- Interparty violence in Buhera South.
- ZANU-PF convenes a press conference at 2200hrs and “announces results”.

25 August Updates

- Various Foreign Observer Missions issued their Pre-Election and Polling Phase Preliminary Statements. These included SADC EOM, AU COMESA, ECDF-SADC, Indian Election Observer Mission Commonwealth EOM, EU EOM and Carter Center.
- The US Embassy stated the harmonised elections.
- ZANU-PF spokesperson Chris Mutsvangwa convened a SADC-EOM rebuttal press conference.
- Ziyambi Ziyambi convened a conference reminding people of the “cost of liberation”.
- SADC EOM Head, Dr. Nevers Mumba responded to Mutsvangwa’s utterances.
- Reports of attacks on CCC polling agents in Mutasa Central.

4.0 Emerging Issues

4.1 40 CCC members granted bail

The 40 CCC members who were arrested appeared before Harare Magistrate, Learnmore Mapiye on 24 August 2023. 39 were facing the charge of disorderly conduct, whilst Glen View South

candidate Grandmore Hakata was facing a separate charge of failing to notify the police about the intended car rally. They were all granted bail of USD \$100 each. The conditions of bail included reporting to the police every fortnight and not interfering with state witnesses. Bail was granted based on the fact that the evidence led by the state through Charlotte Chikore, the prosecutor, could not lead the accused persons to be denied bail. The court was of the view that the accused persons were good candidates for bail. This was the ruling that was made by Mapiye. The granting of bail comes after they were not able to vote on 23 August. However, Grandmore Hakata emerged victorious in the member of parliament race for Glen View South.

4.2 ZRP responds to allegations of FAZ interference on polling day

During a press conference held on 24 August, Assistant Commissioner Paul Nyathi, the spokesperson for the Zimbabwe Republic Police (ZRP), stated that the police have been tirelessly working to ensure that no political players disrupted the electoral processes. In the process, he dismissed the claims of disturbances caused by FAZ. He assured that the police were entrusted with a Constitutional mandate of maintaining law and order during electoral processes. Nyathi concluded by urging political leaders to consistently communicate the truth when addressing the public. This press conference comes hot in the heels after social media was awash with nationwide FAZ shenanigans, especially in the rural areas on polling day. Furthermore, not so long ago FAZ was implicated in many cases of voter intimidation and violence and this was documented by the Forum Weekly and Daily Election Monitoring Reports before 23 August.

4.3 ZRP demystifies charge levelled against 39 ERC and ZESN arrested members

The police made the claims to justify the arrest of election observers from the Zimbabwe Election Support Network (ZESN) and the Election Resource Centre (ERC) for conducting an illegal parallel vote tabulation exercise. Whilst addressing a press conference in Harare on 24 August, police spokesperson Assistant Commissioner Paul Nyathi alleged that the ERC and ZESN exercise was part of a wider CCC strategy to announce election results before the Zimbabwe Electoral Commission (ZEC).

“We are also aware that this was part of some politicians’ strategy, like what was announced by the CCC leader (Nelson Chamisa) that they were going to announce results by August 24, 2023. “This was part of the strategy and we are also aware that the information they were receiving was being co-ordinated by some observers and also some political party agents who were deployed at the polling stations.”

Citizens Coalition for Change (CCC) has since refuted those allegations. This ZRP press conference was the second to be convened on the same day. Furthermore, is informed by the early morning raids and dragnet arrests that occurred at the ZESN and ERC offices of 39 staff members. Additionally, they were held incommunicado for over 12 hours by ZRP without access to legal counsel. They were being charged with contravening section 66 of the Electoral Act.

4.4 Interparty violence erupts in Buhera South

At around 1951hrs on 24 August, the Forum received a report that political violence had occurred in Buhera South. It was alleged that CCC member of parliament candidate Solomon Hodhera was attacked by ZANU-PF supporters at Mudzokomba, Ward 25. During the attack, a gun was pointed at him to scare him away. Furthermore, the attack resulted in the damage of his motor vehicle.

4.5 ZANU-PF convenes a press conference at 2200hrs and “announces results.”

In an almost midnight press conference on 24 August, whilst addressing journalists the ZANU-PF party announced that it had won the 2023 election by 65% through Patrick Chinamasa. Such a declaration contravenes the provisions of Zimbabwe’s Electoral Act, which states that no announcements may be made ahead of the official results from the Zimbabwe Electoral Commission (ZEC). Chinamasa said this without legal consequence. Whilst just hours before, police had arrested 41 election observers, including a 19-year-old, from ZESN and ERC). They were charged with tabulating election results. In 2019 Tendai Biti, a then MDC top official and former Minister of Finance was arrested, convicted and sentenced to six months imprisonment for unlawfully announcing election results of the 2018 harmonised elections. It is left to be seen if ZRP will level the same charge on Patrick Chinamasa or if this will just be another instance where there is a selective application of the law.

4.6 International and Regional Observer Missions Preliminary Statements

4.6.1 Organisation of African, Caribbean and Pacific States (OACPS) publishes statement on the Zimbabwe 2023 Harmonised Elections

On 24 August 2023 at 1940hrs, Permanent Secretary for Information Publicity and Broadcasting Services, Nick Mangwana, published an update on social media platform X indicating that the “first observers report” was out. The update however instead featured a press statement issued by the Organisation of African, Caribbean and Pacific States (OACPS). In it, the OACPS conveyed gratitude to Zimbabwean the authorities for extending the invitation to observe the 2023 Zimbabwe harmonized elections and also conveyed its support for the electoral process currently underway in Zimbabwe. The OACPS then went on to lament the continued sanctions against Zimbabwe and averred that their negative impact on economic development in Zimbabwe greatly affects ordinary citizens. The OACPS further indicated that it visited 10 polling stations in Harare and spoke to various stakeholders including voters. It satisfactorily noted the high numbers of women participating as polling officials, agents and in the electorate as well as the fact that local and foreign observers were given full access to the polling stations. OACPS concluded by calling on the Zimbabwe Electoral Commission (ZEC) to continue to be diligent in its functions and called on all political parties and their supporters to accept the outcome. It ultimately congratulated all concerned for “the transparent, peaceful, and orderly conduct at the polling stations”.

No mention was made in this statement of the various electoral irregularities raised by voters, and observed by accredited Forum short-term observers deployed at various polling stations which include the delayed opening of polling stations, the absence of voting material in polling stations, non-appearance of names on the voters’ roll, voters intimidation through the intimidatory conduct of Forever Associates Zimbabwe (FAZ) in setting up “Exit Poll Survey” desks in the proximity of polling stations nationwide as well as widespread human rights violations that encompassed

reported cases of assault against voters and opposition polling agents as well as the arbitrary arrests of ZESN and ERC staff members and volunteers.

4.6.2 SADC EOM, AU COMESA and ECF-SADC Observer Missions issue joint statement on Zimbabwe 2023 Harmonised Elections.

On 25 August 2023, the SADC Electoral Observation Mission (SADC EOM), the African Union – Common Market for Eastern and Southern Africa (AU-COMESA) and the Electoral Commissions Forum of SADC (ECF-SADC) collectively issued a Preliminary Pre-election and Polling Statement on Zimbabwe’s 2023 Harmonised Elections. The Mission was comprised of 68 observers in total, of which 50 were deployed to the 10 provinces in Zimbabwe. The statement presented the Mission’s preliminary observations of the pre-election period and the poll day activities. The statement was read by the Head of SADC EOM to Zimbabwe, Dr Nevers Mumba, former Vice President of Zambia raised the following findings:

- i. The political and security environment was generally calm and peaceful;
- ii. That the delimitation exercise was marred with controversy, constituted gerrymandering and failed to meet the constitutional requirements for such an exercise. The mission noted the divisions amongst ZEC commissioners regarding the veracity of the report and that the major shortcoming of the final delimitation report submitted by ZEC was that it failed to observe the correct methodology for calculating the 20% variance constitutional rule concerning minimum and maximum sizes of the 210 electoral constituencies.
- iii. There had been delayed release of the voters roll in a searchable and analyzable format which ultimately denied stakeholders the opportunity to audit the voters roll and give the public confidence about the veracity of the voters roll. Here the mission noted the provision under section 62 of the 2013 Constitution of Zimbabwe which guarantees the right to access information so far as the information required is in the public interest. The Mission further noted the concerns raised by ZEC as justification for the delayed release of the voters roll -namely, the introduction of the Cyber and Data Protection Act which enjoins all institutions and agencies to protect the privacy of information entrusted to them. The mission however noted that:

“ZEC is obliged to give effect to the Constitution as the supreme law, instead of relying on legislation that negates the specific constitutional requirement that mandates ZEC to deliver fair and transparent elections”.
- iv. That the right to freedom of assembly for election campaign purposes had been compromised. The Mission cited the unreasonable cancellation and/or banning of opposition political party, Citizens Coalition for Change (CCC) rallies as well as the inconsistent and/or selective application of the Maintenance of Peace and Order Act (MOPA) in terms of the notice period for election campaign purposes as some political parties would be required to give seven-day prior notice instead of the three-day notice period that is applicable during election periods.
- v. That the Patriot Act resulted in severe restriction of freedom of expression and that the offence created under the Patriot Act of “willfully injuring the sovereignty and national interest of Zimbabwe” was too vague under the law.
- vi. That there had been an unprecedented amount of litigation surrounding the elections. Further Saviour Kasukuwere had been unfairly disqualified as a presidential candidate but this had been ignored by the courts.

- vii. That the revised nomination fees were unduly restrictive to fair political participation. Nomination fees were raised from US\$1000 to US\$ 20,000 for the presidential election and from US\$50 to US\$1000 for the National Assembly election.
- viii. That despite the 30% female quota in respect of councillors for local authorities, a lot more still needs to be done to achieve gender parity in political positions.
- ix. That the independence of the judiciary had been compromised by the recent awarding of substantial financial and material incentives to the judiciary.
- x. That the rural vote may have been compromised by alleged intimidation attributed to the ZANU-PF affiliate group, Forever Associates Zimbabwe (FAZ).
- xi. There was considerable concern about postal voting by members of the Zimbabwe Republic Police by alleged forced voting.
- xii. The coverage of state-owned media remained biased and in favour of one political party contrary to the 2013 Constitution of Zimbabwe, the Electoral Act and the Revised SADC Principles and Guidelines Governing Democratic Elections which require state-owned media to be impartial.

In its general observations on Polling days (23 – 24 August 2023), the Mission noted:

- That 64% of the voting stations observed opened on time (by 7 am as the stipulated opening time) while 36% did not open on time – some polling stations opened more than 12 hours after the stipulated time and by 6 am on 24 August 2023, some voters in Bulawayo and Harare had still not voted. This resulted in some voters leaving without casting their vote. Here the Mission noted two important considerations:
 - i. Under section 52(1) of the Electoral Act, ZEC is meant to ensure that every constituency is provided with sufficient voting material and importantly that
 - ii. ZEC had assured the Mission and various stakeholders that all necessary voting materials were available and ready for use before election day and that therefore ZEC's subsequent averment on the actual poll day that they did not have adequate polling papers cast doubts on the credibility of the elections.
- That ballot boxes remained unlocked and/or unsealed at 2% of the voting stations
- That FAZ conducted a country-wide exercise of electoral intimidation through the setting up of exit poll survey desks at which FAZ members and other unidentified personnel who were not polling officials were observed taking down the names of voters before they cast their votes. He identified that FAZ was present in about 36,000 polling stations nationwide on polling day.

In submitting its recommendations the Mission recommended the following for future election processes:

- That ZEC should strictly follow Constitutional provisions on transparency and access to information and avail the voters roll timeously;
- That ZEC should enhance openness and inclusivity of the political process by engaging all stakeholders in revising nomination fees;
- Regulatory media authorities in Zimbabwe should ensure impartiality in the coverage of political events by State-owned media;
- That ZEC should enhance transparency in the procurement process and delivery of all voting material and that the Electoral Act should be amended to put in place clear timelines within which these processes should be completed.

Tellingly, the Mission ultimately concluded the statement by saying that:

“Some aspects of the Harmonised Elections fell short of the requirements of the Constitution of Zimbabwe, the Electoral Act and the SADC Principles and Guidelines Governing Democratic Elections”.

In the history of Zimbabwe elections, this was the first time SADC EOM had taken a hard stance on how ZEC had conducted the elections.

4.6.3 Indian Election Observer Mission statement on the Harmonised elections

On 25 August 2023, the Election Commission of India (ECI) issued its press statement on the 2023 Zimbabwe Harmonised Elections. The ECI was comprised of a five-member delegation which visited Zimbabwe from 17 to 25 August 2023 to observe the harmonised elections. The delegation submitted a copy of its press release to Ambassador Vijaya Khanduja before returning to India. In the statement, the EIC indicated that:

- The campaign was peaceful to a large extent except for the few incidents reported in the media;
- The team had interacted with the polling personnel at one of the remotest polling stations in Hwange one day prior to Election Day and found that they were well aware of the procedure, rules and regulations pertaining to elections;
- The EIC visited a number of polling stations at Bulawayo and Harare on the main polling day (23 August 2023) and observed that a large number of voters were queued up to cast their vote “with great enthusiasm which displays their faith in democracy”.

The EIC ultimately concluded that “the polling was largely peaceful and successful”; further the election was transparent and generally credible.

4.6.4 Carter Center Preliminary Statement on the Harmonised Election

On 22 August 2023, the Forum learnt that 30 out of 48 applications for accreditation to observe elections by Carter Center were unsuccessful. On 25 August 2023, the Carter Center issued its preliminary statement on the 2023 Harmonised Election in Zimbabwe which made the following findings:

- Polling stations in Harare, Bulawayo and Manicaland opened late – 11 hours after the stipulated 7 a.m. time Further despite ZEC extending voting hours and the Government officially proclaiming 24 August 2023 as an additional voting day, logistical delays dissuaded most voters from voting;
- That the raid conducted by Zimbabwe security forces of ZESN and ERC offices as well as the subsequent arrest of 39 staff and volunteers including the seizure of their phones and equipment was unnecessary and constituted serious restriction of the fundamental civil and political rights of these organizations and individuals;
- That the administration of elections lacked transparency in key areas as the ZEC did not provide critical information in a timely manner during various stages of the process;

- Only the ruling party managed to submit party lists and candidates for every constituency and ward election during the nomination court process and thus ran uncontested in around 10% of wards;
- That tensions and polarization increased in the months preceding the elections due to restrictive legislation in the form of the Patriot Act and the PVO Amendment Bill which cumulatively “produced a stifling effect on Zimbabwean civil society”;
- The campaign took place in a highly restrictive and polarized environment as seen through the banning of 300 public gatherings as well as through instances of violent intraparty and interparty clashes. The Carter Center cited interparty violence which resulted in the death of Tinashe Edson Chitsunge on 3 August 2023 as an example.

4.1.5 EU EOM Pre-Election and Polling Day Preliminary Statement

The EU EOM also made its Preliminary Statement on the 23 August Zimbabwe Elections on 25 August 2023. Amongst other issues that had already been echoed by the SADC EOM and others, of interest, the EU EOM said the following:

- The European Parliament had asked for the immediate release of the 39 arrested civic society members
- The Preliminary statement concluded that;

“The Zimbabwe election fell short of the regional and international standards of a democratic election.”

4.1.6 Commonwealth Pre-Election and Polling Day Preliminary Statement

The Commonwealth EOM, led by Ambassador Amina Mohamed, Kenya’s Former Cabinet Secretary for Education and Foreign Affairs also issued a Pre Election and Polling Day Preliminary Statement. The Mission made some of the following findings:

- The delimitation process was conducted without a final census report;
- Accreditation of media was a challenge;
- During the campaign, MOPA was used to create an unlevel playing field;
- State media bias was apparent in favour of the ruling party;
- FAZ at polling stations was intimidatory;
- ZEC could have done more to build trust in its independence;
- New laws being introduced 6 months before elections created an uncertain legal environment for example the Patriotic Act & PVO law.

4.1.7 US Embassy issues press statement on Zimbabwe Harmonised elections

On 25 August 2023, the United States Embassy issued a statement where it highlighted that it shared the deep concerns raised by SADC and other international electoral observation missions. SADC’s August 25 preliminary statement noted the elections “fell short of the requirements of the Constitution of Zimbabwe, the Electoral Act, and the SADC Principles and Guidelines Governing Democratic Elections (2021).” These missions cited problems with the transparency, independence, fairness, and credibility of electoral processes; undue restrictions on the rights to freedom of assembly and association, and freedom of expression that are guaranteed by Zimbabwe’s Constitution and reflected in

regional guidelines; reports of voter intimidation; and the disenfranchisement of candidates, particularly women. Thus, the US Embassy was also gravely concerned by the arrest of civil society members that they believed were conducting lawful, non-partisan election observation work.

4.2 Instances of political intolerance

4.2.1 39 arrested ZESN and ERC employees and volunteers appear at Harare Magistrates Court for their initial court appearance

On 25 August 2023, 39 Zimbabwe Election Support Network (ZESN) and Election Resource Centre (ERC) staff and volunteers appeared at the Harare Magistrates Court for their initial court appearance. The 39 arrived escorted by anti-riot police officers, are charged with contravening section 66(A)(1)(a) of the Electoral Act which speaks to the offence of “purported publication of results before official announcement”. The state did not oppose bail at the close of their lawyer’s submissions thereby paving the way for the 39 to be granted US\$200 bail each. They were also ordered to reside at their given addresses and to not interfere with witnesses as part of their bail conditions.

4.2.2 Intolerant reactions to preliminary poll results and/or observations

- i. Award-winning freelance journalist, Hopewell Chin’ono noted that the ruling party, ZANU-PF Member of Parliament candidate for Chinhoyi, Thomas Chidzomba locked the borehole he drilled after losing to opposition CCC’s Leslie Mhangwa. Chidzomba then returned after some time and dismantled the equipment for the borehole.
- ii. Reports also emerged of threats of violence in Mabvuku following the ruling party, ZANU-PF’s Member of Parliament candidate for Mabvuku-Tafara Constituency, Scott Sakupwanya’s loss to Munyaradzi Kupahakuzizwe from the opposition CCC party. Sakupwanya accepted his loss graciously and issued a statement affirming his continued support of development initiatives in Mabvuku. However, audio recordings emerged on various social media platforms in which unidentified ZANU-PF supporters can be heard threatening violence in Mabvuku. In one audio recording, an unidentified male ZANU-PF supporter can be heard angrily demanding why people took money and incentives from Sakupwanya if they knew they were not going to vote for him. In the audio recording, the ZANU-PF supporter can be heard indicating that people in Mabvuku will walk from their homes to town because “you don’t bite the finger that feeds you.” He then goes on to say *“manje toda kukukiyai big time, hamusati matanga...makajaidzwa”* which loosely translated means “You grew too comfortable, this time we want to thoroughly beat you”. In another audio recording, a female ZANU-PF supporter angrily retorts: *“kuda Munyaradzi, Munyaradzi anechii imbwa zvayo inofamba isina chinhu...kana kuine vatenges, muchaona moto, ngazvitwe vanhu ngavarohwe”*

Which loosely translated means “Why would people want Munyaradzi, Munyaradzi is just a dog walking around with nothing...sellouts will see fire, the beating of people should go ahead.”

- iii. On 25 August 2023, former Vice President of Zambia and Head of the SADC EOM, Dr. Nevers Mumba, faced severe backlash from ruling party ZANU-PF officials on social media platform X (formerly known as Twitter) following his presentation of the SADC EOM Preliminary Statement on Zimbabwe’s 2023 Harmonised Elections. Mumba was

throughout the evening of 25 August 2023 subjected to vitriol and hate speech which described him as among other things, a puppet and a sellout who was compromised. In making these statements, the attackers placed heavy reliance on Mumba's political standing as an opposition political party member. In this regard, they pointed out how Mumba was elected to his current role of head of the SADC EOM by the current chair of SADC President of Zambia Hakainde Hichilema because Mumba was president of Zambia's opposition Movement for Multiparty Democracy. The attackers further linked Mumba's ties to a network of opposition politicians called the Southern African Partnership for Democratic Change (SAPDC), which was established in the region at the end of October 2016 to share expertise and advise each other on governance issues. Zimbabwe media house, Newshawks also published an update which indicated that the X account belonging to ZANU-PF's George Charamba had been suspended following his use of his X platform to slander, insult and threaten the SADC EOM observer missions releasing unfavorable observations of the polls.

- iv. On 25 August 2023, ZANU-PF held a press conference that was addressed by the Minister of Information, Publicity and Broadcasting Services who also is also ZANU-PF Spokesperson, Christopher Mutsvangwa. The Press Conference was in response to the adverse observer mission reports on Zimbabwe's 2023 Harmonised Elections. In the press conference, Mutsvangwa highlighted that there was only one referee in a match, there could never be four or five whistles in a match. He indicated further that *"Zimbabwe is a sovereign state and can be challenged by those who harbour Western interests"*. Mutsvangwa also bashed Dr Nevers Mumba who is heading the SADC Election Observer Mission to Zimbabwe's general elections during the press conference. He stated that Dr. Nevers Mumba, without prior consultation from his colleagues – fellow observer missions from sovereign states, decided to delve into matters that have nothing to do with his mandate. Mutsvangwa claimed that SADC's Constitutional Review Committee is the only SADC body that has jurisdiction to interrogate political issues in Zimbabwe. He then went on to state that Mumba had delegated to himself the functions of the Constitutional Review Committee. Mutsvangwa proceeded to call Mumba to order on that basis and emphasized that *"you don't delve into the laws of Zimbabwe"*. He directed Mumba to take up his issues with Zimbabwe to SADC relevant institutions (not the SADC EOM) who would then take up the matter with the SADC secretariat in Zambia. Mutsvangwa went on to allege that Mumba is aligned with the opposition political party CCC and also accused him of bias through favouring other civic organizations such as ZESN while castigating the ZANU-PF affiliated pressure group, FAZ.

Nevers Mumba in a subsequent press conference, issued his response and/or rebuttal to Christopher Mutsvangwa's scathing attack. In the press conference, Mumba indicated that: *"we laughed about it because it is a ridiculous statement, we come here to observe every participant"*. He indicated further that they had not gone to observe with opposition leader Nelson Chamisa but that Chamisa had arrived when they were already there observing and there had been no eye or verbal contact between them and Chamisa. He also rebutted claims that SADC stands for the East or the West and averred that SADC observers observed elections as Africans and thus for the benefit of the region.

- v. On 25 August 2023, ZANU-PF member Ziyambi Ziyambi, held a press conference in response to the various observer mission reports at 1700hrs at the Ministry of Justice Boardroom, New Government Complex. This made this the 3rd press conference in 24 hours convened by ZANU-PF to respond to the same issue - election complaints. In the

press conference, Ziyambi indicated that observers should not come to Zimbabwe to rewrite the country's laws. He stated further that:

"...when observers come to the country, their mandate is limited to fact-finding related to the specific poll and not to a collection of grievances as witnessed in the reports by SADC and EU"

He concluded by asserting that observers must *"pinpoint things that will enrich our democracy rather than becoming a tool to attack our sovereignty"*.

4.3 Reports of attacks on CCC polling agent in Mutasa Central

On 25 August the Forum received reports that a CCC polling agent had been viciously attacked by ZANU-PF candidate Innocent Dambudzo Benza in Mutasa Central. It was also reported that

//ENDS//