

# **ZIMBABWE ELECTION SUPPORT NETWORK**



## **BALLOT UPDATE**

**Towards A New Draft**

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## INTRODUCTION

The period under review witnessed important political developments including an agreement by political parties on the date for the referendum which is on 16 March 2013. The Zimbabwe Electoral Commission chairperson, Justice Simpson Mutambanengwe, also resigned just months before the country holds crucial harmonized elections. The period also noticed raids by police on several NGOs in Bulawayo, Masvingo and Harare where alleged subversive material was seized. Given the call for elections by President Mugabe, the need to continue to monitor the environment remains critical as the country moves towards an imminent election.

The Zimbabwe Election Support Network remains dedicated to the promotion of democratic elections in Zimbabwe. In line with this objective, we continue to analyse the political environment in the 210 constituencies where observers are deployed. This update is informed by observations from these constituencies and broadly captures national political developments in Zimbabwe. For comments and feedback email: [info@zesn.org.zw](mailto:info@zesn.org.zw) or [zesn@africaonline.co.zw](mailto:zesn@africaonline.co.zw).

| ISSUE                         | COMMENT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| THE GPA                       | The unity government has not been a success, hindering progress to the nation's recovery. Key issues stated in the GPA, including an effective National Healing programme, the rule of law and a land audit remain unimplemented. The full implementation of these provisions might not be fully implemented before the coming harmonized elections said. Some provisions however have been met including relative peace, the licensing of two new radio stations, new media houses and a level of economic stability; although the objectivity of some of these stations remains questionable. Parties to the GPA have no choice but to call elections no later than July. Parliament is expected to be dissolved as soon as its term expired, in July. Upon expiration of this term, all ministers will automatically become jobless as they should be drawn from sitting MPs.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| ZIMBABWE ELECTORAL COMMISSION | <p>The Zimbabwe Electoral Commission (ZEC) is making some progress though slow. The Commission has begun the search for polling booths for use during the referendum and the harmonized elections. Tenders have been invited for the supply of various materials and items required including the supply of laptops, computers and the traditional cardboard polling booths. Since voting hours normally last till late in the night, suppliers have also been asked to service and repair gas lamps and generators for lighting at the polling stations particularly those in rural areas or where load shedding is a common practice. Tenderers were expected to be responded to by the 19th of February.</p> <p>Justice Simpson Mutambanengwe resigned this February, citing infirmity as the major reason. His resignation fell on the eve of the announcement of the Referendum date. ZESN is corned with his resignation less than six months before an election. However the principals to the GPA have appointed Justice Rita Makarau as the new Chair of the Electoral Commission. ZESN applauds the Principals for expeditiously dealing with this issue. ZESN hopes that Judge Makarau will execute her duties professionally, without due influence from political parties.</p> <p>Budget wise, ZEC requires US\$85 million and US\$107 million for the referendum and harmonized elections respectively. Treasury is expected to release the money soon, although it is important to note, they are running out of time to organize both elections. Only US\$2 million has been released by the government so far - a meager amount, only allowing for the purchase of indelible inks. ZEC claims finances have also slackened the mobile voter registration process meant to start in early January. ZESN is calling upon the Principals to avail the necessary resources for the election commission to timely and adequately prepare for both the Referendum and the harmonised elections.</p> |
| REFERENDUM                    | A legitimacy and governance crisis motivated the drafting of a new constitution in Zimbabwe. The draft being a product of political negotiations and compromises between the main                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

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| <p>political parties and not a product of a genuinely people-driven process according to public perception is now considered a flawed process which is only going to result in a flawed outcome. The announcement of the referendum date followed the motion passed by the House of Assembly adopting the new COPAC Report on the constitution-making process and noting the draft constitution. SADC has welcomed the declaration of referendum dates scheduled for 16 March 2013. In the referendum, Zimbabweans will vote for or against the COPAC draft constitution. All parties to the GPA have endorsed this draft. The National Constitutional Assembly (NCA) is amongst those groups clamouring for a “NO” vote, notably because the process was not people driven, and a flawed process will result in a flawed outcome. Some in these groups have argued the constitutional drafting process has been basically flawed, generating a puny draft and that because the focus has been on the new constitution; other important reforms have not been attended to or given very little attention. The NCA, Chairperson Professor Lovemore Madhuku has taken the Principals to court to contest the date of the Referendum.</p> |
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The new constitution has been criticized for giving excessive executive powers of the president and failing to embrace the principle of provincial devolution. Zimbabwe Lawyers for Human Rights (ZLHR) recently criticized the draft for failing to abolish the death penalty in the February 2013 Legal Monitor. Zimbabweans in the Diaspora remain unable to vote or participate in political processes; this plight remains unaddressed in the draft constitution.

The draft constitution is also supportive of gender equality and endows significantly more rights to women. Sixty legislative seats will be reserved for women and there shall be 50% representation of women in all constitutional commissions and committees. Furthermore the draft introduces a hybrid system where First-Past-the-Post will be used for the House of Assembly elections and proportional representation for the upper house. There have been some positives however such as that Social and cultural rights (e.g. the right to health, water and education) are now protected in law.

Political leaders have shown that, even though one month to prepare for a successful referendum might be too short, it can be done. They believe adequate information can be shared to enlighten voters on the contents of the draft before the referendum – if there is cooperation from all parties and political institutions. ZESN notes that there is not enough time for adequate civic education for the referendum, especially if citizens are supposed to read, understand and interrogate the clauses stated in the draft. COPAC said that they would be printing 70,000 copies of the draft, which will be translated in the country’s 9 vernacular languages. People can access the draft constitution at their district constituencies and rural schools. ZESN is concerned that COPAC will not reach the majority of citizens before the Referendum. In essence citizens will vote for a constitution whose contents they are unaware of.

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| <p><b>ATTACKS ON CIVIL SOCIETY ORGANIZATIONS</b></p> | <p>Whilst it would have been technically prudent for the Principals to consult ZEC before setting up the Referendum date, the commission heard or read about the date from the media. ZESN is worried with commission's preparedness for the referendum. Ballot papers need to be printed, polling stations set up; ZEC would have to speed the process of accreditation to allow Civil Society Organizations to observe the process.</p> <p>The continued persecution of human rights defenders and their organizations is continuing the constitutional referendum and national elections. Several arrests have been made on activists as WOZA in what can be seen as a mission to frustrate democratic efforts. Civil society is perceived as the opposition's extended hand, therefore investigation and trial procedures are biased most of the time. One is arrested to be investigated and not the opposite which is the right procedure by law. This clampdown is clearly meant to instil fear and daunt civil society organizations from conscientiousness. In the masses on voter registration and the voting process, a responsibility ZimRights has been carried (SW Radio Africa, 15 January 2013). Both international and local organizations are calling for a Unity Government to end state sponsored harassment.</p> <p>A replica of events that unfolded at the Zimbabwe Peace Project (ZPP) offices unfolded at the Zimbabwe Electoral Support Network (ZESN) on the 19<sup>th</sup> of February with seven police officers descending on the property. Police in plain clothes descended on the ZESN office, knocking the Durawall down before entering the offices with a warrant of arrest. The warrant indicated that they were searching for illegal immigrants "unlawful occupants, occupiers, tenants or residents", "any subversive material, documents, gadgets or recordings", "suspected possession of articles for criminal use as defined in Section 40 of the Criminal Law (Codification and Reform) Act Chapter 9:23." Several documents were appropriated in the presence of ZLHR lawyers. In the same breath, unknown assailants are suspected to have broken into ZESN's Masvingo offices the morning of the 19<sup>th</sup> February at 01.00am where they also took t-shirts and other materials. The ZESN Masvingo offices, were again broken into on the morning of 21 February at 01.00 am and a monitor, T-shirts, desk drawers among other items were taken. According to Newsday, National Youth Development Trust offices in Bulawayo were also raided with police searching for alleged voter registration certificates and documents "containing information that may adversely affect". ZESN is worried about this clampdown on NGOs and the close up of democratic space.</p> |
| <p><b>SANCTIONS</b></p>                              | <p>The European Union recently removed six ZANU-PF ministers from the sanctions list. Though most of them are senior ministers, the EU has maintained its measures on President Mugabe and some of his core ministers. Those removed on the list include Webster Shamu, minister of Media, Information and Publicity; Tourism and Hospitality minister Walter Mzembi; minister of Environment and Natural Resources Francis Nhema; minister of State in the Vice President's office Sylvester Nguni; minister of Small and Medium Enterprises Development and Employment creation Sithembiso Nyoni and minister of Lands and Rural Resettlement,</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

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## HUMAN RIGHTS

Herbert Murerwa. According to the Daily News, this is a reward of an agreement by Zimbabwe's ruling parties on a draft constitution and the announcement of a referendum on it.

Standards have been set by the Australian government for the removal of targeted sanctions on Zimbabwe, according to Australia's Foreign Affairs Minister Bob Carr. The sanctions had been imposed on 153 individuals and four companies, facing financial restrictions, arms embargo and travel bans. The conditions include a free and fair constitutional referendum and the announcement of an election date. In the same breathe; the European Parliament has passed a resolution in which they condemned the increase in violence and intimidation of Zimbabwean activists in the build-up to elections.

There seems to be instability in the majority of the provinces in Zimbabwe and political tension remains a major challenge in many constituencies with observers reporting generalised lack of freedom of association and expression. While ZESN has been reporting on the reduction of cases overt violence, the recent politically motivated violence in Headlines where a 12 year old child was burnt to death. This incident could trigger the resurgence of political violence as the country heads for the impending elections. In addition, observers continue to report the presence of intolerance to political diversity. It is critical to note that freedom of expression is generally experienced in fewer constituencies in the provinces mostly urban constituencies and rural constituencies continue to have their freedom of expression infringed. Elections entail the ability of citizens to express themselves and once citizens' freedom of expression is curtailed it has implications for their ability to make electoral choices freely. ZESN continues to call on political parties to exercise tolerance and respect political diversity.

ZESN observers continue to report the existence of discrimination on party lines by political parties in their various constituencies. Discrimination is experienced in terms of access to services and aid or other ancillary services in the constituencies. . Access to services, to aid in some cases has been predicated by which political party one belongs to. Access to land, to housing stands and to food aid has not been free from discriminatory practices. The GPA recognizes the distribution of food to every Zimbabwean in need yet reports shows that distribution of food is being done on partisan basis. This has been observed in the following constituencies under observation: Bindura North, Hurungwe Central, Mutoko East, Chitungwiza, Zengeza, Muzarabani South Chinhoyi, Chegutu East, Gutu North, Matobo South, Insiza, Lupane and Tsholotsho.

Observers in provinces such as Manicaland, Mashonaland West, Mashonaland Central, Mashonaland East, Harare, Masvingo and Matebeleland North and South have noted traces of youth militia activities. These are allegedly mainly led by the youth officers who are stationed in each ward. It is critical that the role of these youth officers be interrogated more

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| <b>CONCLUSION</b> | <p>so as the country heads towards elections in which the stakes are high so that Zimbabwe does not degenerate into another violent election.</p> <p>The voting system should augment voter confidentiality, guarantee free voting scenarios and the absence of intimidation for successful democratic consolidation. “In the 21st century, capable, reliable and transparent institutions are the key to success – strong parliaments and honest police forces, independent judges and journalists, a vibrant private sector and civil society. Those are the things that give life to democracy, because that is what matters in people’s lives...” <i>Anonymous</i></p> <p>ZESN believes that free political activity, where fundamental freedoms of expression, association, assembly and movement are upheld. This is buttressed by respect of human rights and creation of an environment that is violence free. ZESN believes that the referendum should be held in an environment free of fear and intimidation, where citizens freely express their choice.</p> |
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