

ZIMBABWE ELECTION SUPPORT NETWORK [ZESN]

ZIMBABWE CONSTITUTION REFERENDUM REPORT AND IMPLICATIONS FOR THE NEXT ELECTIONS

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1. Executive Summary

A referendum is a direct democracy procedure that provides for a vote by the electorate on critical national issues and as such includes citizens in decision making. Referendums in Zimbabwe are currently regulated by the Referendum Act, Chapter 2: 10, which came into force on the 11th of January 2000 as part of the preparations for the first Constitutional referendum that yielded a 'NO' vote outcome. The political landscape of Zimbabwe since attaining political independence in 1980 has been a complex one. The current Constitution has been amended nineteen times since the Lancaster House Conference. As part of the measures to restore stability and to pave the way for credible elections, political parties in the government of national unity were mandated by article 6 of the Global Political Agreement (GPA) to craft a new constitution for Zimbabwe.

On the 16th March 2013, the people of Zimbabwe voted in a historic Referendum for the New Constitution for their country, the second time they have done so since achieving independence in 1980. The first time was in February 2000 when citizens rejected the draft constitution but 13 years later, they overwhelmingly endorsed the draft supreme law. This paves the way for the enactment of the draft into the substantive new constitution for the country, signalling the end of a long and rugged road. This also clears the way for the anticipated watershed elections before the end of the year, bringing to an end a fragile coalition government.

The draft constitution followed a protracted and highly contested process led by the Parliamentary Constitution Select Committee (COPAC) drawn from Members of a two chamber Parliament of Zimbabwe in April 2009. COPAC reflected the composition of the 7th Parliament (2008-2013) in terms of the three parties to the Global Political Agreement signed in September 2008 (ZANU PF, MDC-T and MDC).

ZESN observed the Referendum and was able to draw lessons and recommendation which are outlined in this report. This report gives a background to the Constitutional reform process in Zimbabwe, tracing developments from 1980 to the current state. The report makes an analysis of the legal framework pertaining to elections in Zimbabwe. It also contains observations made by the network on Referendum day.

2. Background to the 2013 Zimbabwe Constitution Referendum

A constitution is more than the supreme law of a country. It is a socio-political contract that binds citizens to the state and that creates and sustains rights and obligations on the part of both the citizen and the state. Zimbabwe has the historical oddity of achieving its political independence via a protracted armed revolutionary struggle – a people’s war in every sense – and yet in 1980, it gained its independence on the basis of a negotiated, elite-crafted Constitution without any discernible input from the people that had anchored the revolution. A people’s war had harvested an elite-driven constitution, commonly referred to as the Lancaster House Constitution (hereafter, LHC).

In effect then, for the past 33 years, and despite 19 amendments in that short historical period, a large majority of Zimbabweans had never felt emotionally attached to the Constitution. In other words, for the past 33 years, there has been almost universal consensus across the political and social divide and across generations to have a new social contract that they would call their own¹. There has been a universal quest for a new constitution, an *indigenous* constitution made in Zimbabwe, *by* Zimbabweans, *for* Zimbabweans. The LHC was made in London, for Zimbabweans, by a tiny political and military elite of Zimbabweans. This was an unsatisfactory situation and proof of this came just one year after independence with the first amendment (Constitutional Amendment, Act 27 of 1981). There were 11 amendments in the first decade of independence, an equivalent of more than one amendment a year.

After the formation of the National Constitutional Assembly (NCA) in 1997 as a conglomeration of many civic organizations, the call for a new constitution reached a crescendo, compelling President Robert Mugabe to establish a Constitutional Commission in May 1999, under Justice Godfrey Chidyausiku. The NCA condemned the Commission and boycotted the process as being not ‘people-driven’. Nonetheless, the Commission conducted nation-wide consultations and produced its draft in November 1999. Meanwhile, an opposition party, the Movement for Democratic Change (MDC) had been formed in September 1999 and immediately became an outlet for the deep-seated grievances of an increasingly unhappy population.

¹ In an Afrobarometer survey conducted in 2005, nearly half of adult Zimbabweans (47%) disagreed with the statement that “Our constitution expresses the values and hopes of the Zimbabwe people”; less than a third (30%) agreed. Another survey conducted by Freedom House in late 2009, revealed massive gaps in public knowledge on constitutional issues. Only 40 percent had ever heard of the country’s Constitution. Further, and more importantly, among those who had heard about the Lancaster House Constitution, 88 percent favoured its reform; just 7 percent felt that “the current constitution meets the needs of Zimbabwe and should be retained.”

The combined efforts of the NCA and the MDC resulted in the February 2000 rejection of the Constitutional Draft when 54.7% of the Zimbabweans voted 'No' while 45.3% endorsed it. The country then retained the much-maligned LHC which had by then been amended 16 times². Two more amendments were to follow in 2005 and 2007 before the September 2008 Global Political Agreement (GPA) which gave birth to the 19th Constitutional Amendment of February 2009³.

The post-referendum period spawned a multilayered and deep-seated crisis that later prompted the Southern African Development Community (SADC) to actively intervene in search of a viable but elusive solution to the protracted and worsening crisis. The inconclusive March 2008 presidential elections and the ensuing violent run-up to the June 2008 presidential run-off election deepened the crisis. SADC then redoubled its efforts to find a solution satisfactory to incumbent President Robert Mugabe's Zimbabwe African National Union-Patriotic front (ZANU-PF), and the two formations of the opposition Movement for Democratic Change (MDC), the main wing led by Morgan Tsvangirai and the other by Arthur Mutambara.

Thus, a SADC negotiating team, headed by then-President Thabo Mbeki of South Africa, forced the contending parties to compromise. Following rocky negotiations, three principals – Mugabe, Tsvangirai and Mutambara – signed the GPA which mandated the formation of a tripartite transitional Government of National Unity (GNU). The GPA was put into effect by Constitutional Amendment No. 19 in February 2009, in time for the formation of the GNU.

The GPA was a political treaty that sought to define the strategic direction of the country after what it acknowledged were "multiple threats to the well-being of our people". The signatories agreed "to create a genuine, viable, permanent, and sustainable and nationally acceptable solution" and sought to resolve "once and for all the current political and economic situations and charting a new political direction for the country"⁴. One of the flagship provisions of the Agreement is Article VI which acknowledged "the fundamental right and duty of Zimbabwean

² Many observers and analysts believe most of the amendments, especially those in the first decade, were in the direction of monopolising executive power and creating a dominant one-party state rather than democratising the polity. This was particularly so with Constitutional Amendment No. 7 of 1987 which fused the offices of Prime Minister (and Head of Government) and that of President (and Head of State) to create an Executive Presidency.

³ Another attempt for a Zimbabwean Constitution was in September 2007 during which the three major parties signed and agreed on some draft dubbed the 'Kariba Draft'. There were criticisms that the draft retained most contentious clauses in the rejected 2000 draft, especially the retention of excessive presidential powers.

⁴ Article VI of the Global Political Agreement, Harare

people to make a constitution by and for themselves” and that the process must be “inclusive and democratic”.

Table 1: The Constitution-Making Process, 2009-2013

Phases	Dates	Comment
GPA signed	15 September 2008	Article VI is on process for drafting new Constitution
Appointment of the Parliamentary Constitution Select Committee	April 2009	
First All Stakeholders Conference	July 2009	The first day of the two-day conference was disrupted by suspected ZANU-PF party activists.
Outreach Consultations	June-October 2010	A highly charged process with incessant clashes, especially in rural areas where parties had coached their supporters to echo particular positions or to keep quiet, deferring to speakers chosen prior to the consultation meetings.
Data Uploading		
Sitting of Thematic Committees	Started 3 May 2011	
Drafting of New Constitution		
COPAC releases first official draft Constitution	July 2012	Draft endorsed by the two MDCs but rejected by ZANU-PF which makes 266 amendments and produces it's on draft.
Second All Stakeholders Conference	October 2012	Conference fails to bridge gap between parties; Principals later take over process
Principals agree on Draft Constitution	17 January 2013	
COPAC adopts Draft Constitution	31 January 2013	
Draft Constitution Debated in Parliament	February 2013	Multi-partisan acceptance of draft
Referendum	16 March 2013	Overwhelming (93%) endorsement of draft constitution
Gazetting of the Constitution Bill	Within 1 month of referendum	Pending in April 2013
Constitutional Bill introduced in Parliament	Within 1 month after expiration of 30days from the date of gazetting	Pending – sometime in May 2013
President assents to the Bill and is gazette as the Constitution of Zimbabwe	Within 21 days of President receiving the Bill from Clerk	Pending

	of Parliament	
Synchronization of statutory laws with new Zimbabwe Constitution	Normally takes 6-18 months	Unlikely to be completed before next elections

Source: Adapted from COPAC, see <http://www.copac.org.zw/>; other sources.

The COPAC process is captured in Table 1 though the last stages are outside its mandate. Article VI stipulates some timeframes that anticipated a draft constitution document within one and half years. This process took almost three years due to deeply rooted and widely polarised views mainly between the two MDC formations and the ZANU-PF party. Many internal and external actors were involved, including the SADC regional body whose steadfastness and insistence on a new constitution prior to harmonised elections is often underrated.

3. Legal and Institutional Framework for Elections and Referendums

The key legal instruments governing elections in Zimbabwe are the Constitution of Zimbabwe as amended by Constitution Amendment No. 19 of 2009, the Electoral Act [Chapter 2:13] as recently amended by Electoral Amendment Act No. 3 of 2012 and the Referendum Act [Chapter 2:10]. In addition to these, Referendum Regulations (Statutory Instrument 26, 2013) were gazetted shortly before the Referendum. The Constitution makes provisions for the overarching electoral architecture and defines the key electoral issues such as elected institutions and their terms, voter and candidate eligibility, the establishment, powers and functions of the country's election management body known as the Zimbabwe Electoral Commission (ZEC)⁵.

The detailed electoral arrangements are spelt out in the Electoral Act (Chapter 2:13), the latter recently amended extensively by the Electoral Amendment Act No. 3 of 2012. There are many other pieces of legislation that have either a direct or indirect bearing on the running of elections in the country including but not limited to the Referendum Act, the Zimbabwe Human Rights Commission Act of 2012, the Access to Information and Protection of Privacy Act (AIPPA), the Zimbabwe Media Commission Act, the Broadcasting Services Act (BSA), the Public Order and Security Act (POSA), and the Criminal Law (Codification and Reform) Act. The Constitution and these statutes collectively define the country's juridical architecture for elections and referenda.

Standing above the thicket of statutes is the Electoral Act which has been for a long time a terrain of bitter contestation between those political actors in power and those who aspire to get in. Since 2009, both the former ruling party (ZANU-PF) and the erstwhile main opposition

⁵ Wilbert P. Mandinde, "Legal Framework – An Analysis of the Electoral Amendment Act", 2012, 1.

party (MDC-T) are incumbent in the GNU, a development that qualitatively differentiates the present pre-election period from previous post-2000 elections.

4. General Principles of Democratic Elections in Zimbabwe

The Electoral Act (as amended by the Electoral Laws Amendment Act of 2008 and the Electoral Amendment Act, No. 3 of 2012) explicitly outlines the general principles undergirding democratic elections and the cardinal principle is that:

The authority to govern derives from the will of the people demonstrated through elections that are conducted efficiently, freely, fairly, transparently and properly on the basis of universal and equal suffrage exercised through a secret ballot [Zimbabwe's Electoral Act, Section 3 (a)]

One of the most significant changes introduced by the Electoral Amendment Act was repealing the Zimbabwe Electoral Commission Act and incorporating its provisions into the Electoral Act. The net effect of the Amendment was to put all electoral issues in one basket with the exception of those aspects of other pieces of statutory law that also have a bearing on elections as already highlighted above. Below, the Report discusses some of the key tenets and processes covered under the new Electoral Act. The Electoral Act operationalises the Zimbabwe Electoral Commission (ZEC)⁶ which is provided for in Constitutional Amendment 19. It was one of four independent commissions, the other three being the Zimbabwe Media Commission (ZMC) covering the mass media, Zimbabwe Human Rights Commission (ZHRC) covering human rights, and the Anti-Corruption Commission (ACC) to fight corruption.

As already noted, the amended Electoral Act now consolidates almost all statutory provisions related to elections except those noted below. It is the Report's opinion that the juridical foundation for the autonomy of the electoral body is now reasonably robust and certainly much firmer than it has ever been.

However, the legal framework falls short in respect of Section 100C (1) (b) i.e. the supervision of the voter registration. The actual registration of voters and preparation of the voters roll is to be done by the Registrar-General's Office. ZEC is constitutionally an independent commission but whose 'parent' ministry is the Ministry of Justice whereas the Registrar-General's Office is a separate department falling under a different ministry, that of the Ministry of Home Affairs. An anomalous situation is thus created whereby ZEC supervises another government department of the same rank or more specifically, the ZEC chairperson supervising the Registrar-General. It

⁶ Also referred generally to as the Electoral Management Body (EMB)

may be remembered that the Registrar-General's Office (and the present RG) has for a long time been one of the most controversial agencies in the elections chain.

However, the Minister of Justice vigorously defended the delegation of voter registration to the RG's Office: "The R.G. has offices in every Administrative District which has all this data and to have ZEC doing the registration means a duplication of all that data which could be very costly and clearly unnecessary"⁷. Notwithstanding the Minister's robust defence of the arrangement, the issue is one that merits further attention, ideally before the next elections. Unfortunately, this will require a constitutional amendment as the provision is in the supreme law of the country and therefore, there is little likelihood of this constitutional amendment in the near term.

There are also other areas of concern that tend to undermine the independence of the electoral agency. Particularly troublesome is that the Commission does not get a direct budgetary allocation from the Consolidated Revenue Fund but from the Ministry of Justice. In fact, the larger issue is about the problematic formal relationship between ZEC and the Ministry. Why should a constitutionally independent body be treated like a parastatal organisation that falls under a given 'parent' ministry? It appears the root of the problem lies in the fact that Zimbabwe has no tradition of *independent* commissions which the Government continues to treat like extensions of a given government ministry.

Compounding matters is that any donation offered to ZEC must be approved by two Ministers, the Minister of Justice and the Minister of Finance. Informed commentators point out that this "takes away the independence of ZEC provided in the Electoral Amendment Act"⁸. It is therefore imperative that ZEC gets a direct allocation from the Consolidated Review Fund and be free, with the usual requirements for transparency and accountability, to receive donations from donors and bona-fide well-wishers.

Another problem area is more political than legal and its resolution therefore lies in the political domain. This is that ZANU-PF's coalition partners and many in civil society have expressed reservations about lower tiers of ZEC. They contend that, despite the appointment of a new ZEC Board (that makes policy), the old ZEC Secretariat (which implements policy) remains in place despite the credibility blemishes arising from its management of the 2008 elections. This is a matter that has been an 'outstanding issue' in the negotiations for crafting a roadmap for

⁷ Parliament of Zimbabwe, Parliamentary Debates, House of Assembly, Vol. 38, No.47, 10 July 2012, 4028-4029.

⁸ ZESN, Report on CSOs Election Strategy Conference, Harare: 15 November 2012, 12.

elections as mandated by SADC. The two MDC formations in the coalition and their civil society allies allege that the Secretariat is staffed by many serving and retired security personnel⁹.

A debilitating challenge that ZEC faces is in terms of the requisite operational resources. For instance, due to the financial stress faced by the EMB, it was announced in mid-December 2012 that there will be no fresh delimitation of constituencies: "There is no delimitation this time around. The 210 constituencies will remain like what they are now. Even in wards, we will use what is there now,"¹⁰ announced Joyce Kazembe, the Deputy Chair of the electoral management body.

The present reality is that ZEC has no resources to carry out its constitutional mandate. It had no money even to start the preparatory work for such elections e.g. the \$1 million required for an outreach programme to create awareness among voters a week before voter registration started. The mobile voter registration programme, a critical cog in the elections wheel, failed to kick off as scheduled on 3 January 2013 thanks to lack of funds.

The dire financial straits in which the electoral agency finds itself cannot be overemphasised. ZEC does not even have sufficient funding to meet its obligations to the Commissioners as the Justice Minister revealed:

I am informed that they (Commissioners) have started work full time but there is no money from Treasury to meet their conditions of service. ZEC does not even have vehicles for its staff to execute its duties¹¹.

Further, it was exposed that ZEC is operating with less than half of the required staff of around 700 but could not hire more personnel because it lacked the funds and due to a government freeze on staff recruitment¹². All these problems exist just a few months before the watershed elections. Clearly, this is as things should *not* be.

A prominent casualty of the under-resourced status of ZEC is voter education. The electoral process is a chain and voter education is a critical part of that chain and yet this appears to be a

⁹ ZEC has always been mandated to recruit temporary workers for its work from the state sector but the gripe among the non-ZANU-PF parties and civil society has been that the pool for such recruitment has predominantly been from the security sector, especially in respect of the key Secretariat positions in the EMB.

¹⁰ Takunda Maodza, "ZEC slashes poll budget ... No cash for delimitation commission, Constituencies remain unchanged", *The Herald*, 15 December 2012. ZEC was briefing senior Government officials on preparations for elections.

¹¹ Quoted in Felex Share, "Tsvangirai under fire," *The Herald*, 5 January 2013.

¹² Chidza, Richard. "Zec 1 million in the red", *Daily News*, 30 December 2012. Available at: <http://www.dailynews.co.zw/article/News/0cc1dab8-e5be-4ca2-a35f-13a8835d30bf>

very weak performance area for ZEC and up to the time of writing, the electoral agency had not embarked on discernible programme for voter education. The EMB blames lack of funding for this, promising that “voter education would start anytime soon after donors ... provided funding for the exercise”¹³. In early April 2013, it was reported that instead of the voter registration exercise preceding the inspection of the voters roll by voters, both processes could be done simultaneously¹⁴.

Voter education is absolutely essential for people to be able to participate in the overall voting process including: registering to vote after providing the required documentation; inspecting the voters’ roll to make sure ones name is recorded and that it is correctly recorded; turning out to vote and how to do it; and, more critically, making the right electoral choices. ZEC has historically been found wanting in this regard. To its credit, the EMB did put in place a voter education process by deploying two voter educators per ward for a week (6-13 March 2013) to inform the electorate on their constitutional right to vote, the nature of identity documents required in order to vote, the voting process and other ancillary issues. There were however complaints that the ZEC voter educators seemed to have been hastily trained and deployed and were not competent to answer some queries from the public¹⁵. This was not helped by the fact that the EMB had printed few copies of the draft constitution; the SADC-PF Observation Mission noted that people “decried not having had access to the actual COPAC Draft Constitution on which they were supposed to decide during the Referendum”¹⁶.

According to the Electoral Act, ZEC has the sole mandate to conduct voter education but the same Act wisely allows the EMB to approve and authorise other organisations and individuals provided they apply and are vetted to do so. The electoral agency also approves the education materials and programmes before dissemination to the public. In early October 2012, ZEC invited civic organisations interested in conducting voter education to register with it within four days; for the referendum, it was reported that the EMB had accredited approximately 15 civic society organisations which were trained to assist in voter education. There were also advertisements and public notices in the mainstream media and fliers that were distributed. In

13 See “ZEC, RG to clean up voters’ roll”. Available at:

<http://www.zim.gov.zw/index.php/component/content/article/111-october-news/5918-zec-rg-to-clean-up-voters-roll->

14 See, “Latest on voters’ roll, education”, The Herald, 4 April 2013. It may be noted that the official quoted in the article, one of the co-chairpersons of COPAC, is not a bona fide authority to comment on the two processes.

15 See Sokwanele, “Shambolic state of affairs”, 15 March 2013. Available at:

<http://www.sokwanele.com/thisiszimbabwe/shambolic-state-affairs/15032013>

16 SADC PF, Interim Mission Statement by the SADC PF Referendum Observation Mission to the 2013 Zimbabwe Constitution Referendum, Harare, 2013, 11.

addition, political parties carried out voter education, primarily via party rallies and the mass media. In the rural areas, traditional authorities also played the role of voter educators.

As part of the preparations for the expected 2013 elections, the EMB announced in September that it had finalised the manual for voter education to prepare people for elections and ensure that they are familiar with the electoral processes¹⁷.

5. ZESN's Pre-Referendum Assessment

The untimely departure of the Zimbabwe Electoral Commission (ZEC) Chair Justice Simpson Mutambanengwe; the extremely limited time provided to ZEC to prepare for the Referendum; the inadequacies in voter education on the contents of the draft constitution, the inadequate and subsequent delay in allocating funding to ZEC; as well as the intimidation/harassment of civic organisations, contribute to our concerns.

ZESN noted with concern some of the new regulations introduced by ZEC. For instance, there is now a limitation on the number of observers allowed in a polling station at any given period. It would be rational if this provision was only applicable for regional and international observers who will be roaming from one polling station to another. We urge ZEC to urgently reconsider this decision to enable local observers to carry out a comprehensive polling observation exercise to enable them to report empirically.

On the issue of mobile phones, ZESN noted the explanation given by ZEC that these could be used to intimidate voters. However, observers should be allowed to discretely use their phones at polling stations as long as they do not interfere with the voting process. It is against this backdrop that we strongly deplore the continued introduction of new regulations as noted in the two observer briefings. ZESN believes such spontaneous additions create an atmosphere of uncertainty which might culminate in the loss of confidence in the Commission as well as the whole electoral process.

6. ZESN Referendum Day Observations

6.1 Methodology

As a non-partisan body, ZESN observes elections to ensure that Zimbabweans are able to freely exercise their right to vote and to provide citizens with independent information on the process. As an umbrella network ZESN takes no position on the merits or demerits of the new draft constitution. ZESN conducts its observation efforts in conformity with the Declaration of

¹⁷ See "ZEC finalises voter education manual", *The Herald*, 13 September 2012.

Global Principles for Citizen Election Observation and Monitoring which was launched at the United Nations on 03 April 2012^[1] as well as the Principles for Election Management, Monitoring and Observation in the SADC Region (PEMMO).^[2]

ZESN deployed 600 observers comprising mobile observer teams, stationary polling station observers at specific polling stations, and constituency observers deployed to ZEC Constituency Centres to witness the collating of results.

6.2 Accreditation

For the first time ZEC added a third accreditation centre in Masvingo. This was a positive step, making it easier for citizens to exercise their right to observe the electoral process. ZESN hopes that the accreditation of observers will be decentralised to all the country's 10 provinces even down to the district levels.

ZEC refused to accredit all ZESN members as observers under the umbrella body as has always been the case over the years. Instead, ZEC required ZESN member organisations to resubmit their applications as separate bodies to *“unbundle the membership”*. In addition to being administratively burdensome, this violated the ZESN members' fundamental right to association.

6.3 Setup and Opening of Polling Stations

The setup and opening of polling stations generally went well with most polling stations having adequate materials to commence voting. In isolated incidents, ZESN observers reported that polling stations opened late.

ZESN received three isolated reports of accredited observers initially being denied access to polling stations, but these issues were ultimately positively resolved.

There were a few reports of missing materials at polling stations, such as the official ZEC stamp (four) and indelible ink (five). The vast majority of polling stations were set up so that voters could mark their ballot paper in secret.

ZESN received reports of the presence of police officers inside polling stations, yet Section 19 of the Electoral Act as read with Schedule 2 of the Electoral Regulations 2005 as amended by Statutory Instrument 32 of 2008, states that only members of the Zimbabwe Electoral Commission, electoral officers on duty, election agents and accredited observers are allowed within the polling station.

^[1] see <http://www.gndem.org/declaration-of-global-principles>

^[2] see <http://www.eisa.org.za/EISA/publications/pemmo.htm>

6.4 Voting

ZESN observers reported compliance on many levels including ballot papers stamped with the ZEC seal being issued and voters' fingers marked with indelible ink. Observers at polling stations reported that voters without a proper ID identifying their citizenship were not permitted to vote. Campaigning within 100 metres of polling stations was not permitted and there were no incidents of violence or intimidation; or attempts to disrupt the process.

In addition, the processing of voters was efficient which reduced waiting time for most voters. However, ZESN received several reports of unauthorized persons inside the polling station as well problems with assisted voters being unable to select the person who would assist them to vote.

6.5 Counting

Counting processes went on well except for a few incidents reported by observers. All ZESN polling station observers reported that the seals on the ballot box were intact when counting started.

Observers reported 14 requests for recounts of the ballots. Public posting of results took place in most polling stations except in a few cases (six) where ZESN observers reported that the official results were not publicly posted.

6.6 Critical Incidents

ZESN received a total of 178 voting incidents – primarily from its mobile observer teams.

The largest number of incidents, 38 reports, relate to violations of the voting procedures followed by 22 reports of unauthorized persons in the polling stations. There were also isolated reports of ZEC polling officials lacking identification badges and an incident of a ZANU-PF supporter in Mataga, Midlands Province, positioned within a five-metre radius of the polling station taking down names of the people who are voting.

The largest number of incident reports was received from Bulawayo, Harare and Masvingo provinces with 27, 22 and 22 reports respectively.

6.7 What Observers Said about the Referendum?

As in all the post-2000 elections, Zimbabwe has selectively invited foreign observers with Western observers being barred as a matter of policy. This position was reiterated for the 16 March 2013 Referendum with the Foreign Affairs Minister – from ZANU-PF – fuming that Western observers would not be invited because of sanctions on ZANU-PF leaders for alleged human rights abuses: “To be an observer, you have to be objective and once you impose

sanctions on one party, your objectivity goes up in smoke”¹⁸. However, observers from the African Union and African regional blocs were invited, including the Southern African Development Community Parliamentary Forum (SADC PF).

The SADC PF – which was in Zimbabwe from 11 to 19 March 2013 – issued its interim statement on 18 March 2013 (2013:7) where it observed that these rights and liberties were generally respected and exercised without undue hindrance prior, during and after the March 16 Constitution Referendum. Its overall assessment of the Referendum was that:

Based on its overall findings, the Mission is of the view that there existed a substantially conducive and peaceful environment in which the Referendum was conducted. The Zimbabweans were accorded the opportunity to freely express their will in voting for a Referendum outcome of their choice.

The SADC PF Election Observation Mission to the 2013 Zimbabwe Constitution Referendum is therefore of the view that the 2013 Zimbabwe Constitution Referendum was, on the whole, a credible reflection of the will of the people of Zimbabwe¹⁹.

The assessment by the SADC PF was widely shared. However, the Zimbabwe Lawyers for Human Rights (ZLHR) in its Pre-Referendum Statement alleged that the police had since November 2012, amongst others, raided premises of five major CSOs, namely the Counselling Services Unit (CSU), Zimbabwe Human Rights Association (ZimRights), Zimbabwe Peace Project (ZPP), Zimbabwe Election Support Network (ZESN), and Radio Dialogue. It further reported that a total of 358 human rights defenders from CSOs have either been harassed through interrogation, arrest and detention though most they were subsequently released without charge. ZESN, in its interim Report on the 17th March 2013, agrees with the observation made by the SADC PF during and after the Referendum though, like the ZLHR, it also expressed reservations about the pre-Referendum period. It notes, for instance, that there was intimidation and harassment of CSOs especially those involved in citizen election observation.

The ZLHR expressed concern on a three week period provided for the dissemination, publication and voter education of the public on the contents of the constitution. The Media Monitoring Project in Zimbabwe (MMPZ) observed that the media was dominated by the “Vote

¹⁸ Reuters, “Zimbabwe to bar Western election observers – paper”, March 5 2013. Available at: <http://uk.reuters.com/article/2013/03/05/uk-zimbabwe-elections-idUKBRE92408520130305>

¹⁹ SADC PF, Interim Mission Statement by the SADC PF Referendum Observation Mission to the 2013 Zimbabwe Constitution Referendum, Harare, 2013, 15.

YES Campaigns” as opposed to educating the public on the contents of the Constitution; the same allegation was levelled against the COPAC campaigns. The SADC PF Interim Statement observed that some members of the society especially in the remote parts of the country did not have a chance to peruse the contents of the draft constitution. COPAC printed and circulated only 70 000 copies against an estimated voter population of six million. The Statement further noted that the draft constitution was also not translated into other vernacular languages as promised before the Referendum.

In terms of media coverage, Part XXIB of the Electoral Act compels both print and broadcasting media to ensure that contesting parties in an election are treated equitably in their news media, with regards to the extent, timing and prominence of coverage accorded to them. The Media Monitoring Project Zimbabwe, in its Daily Media Referendum Watch of March 10, 2013 observed that both the state and private media promoted the Vote Yes Campaign.

The SADC PF Interim Statement noted that the circulation of media both print and broadcasting was largely restricted to urban areas, leaving most of the rural parts of the country without media coverage.

ZESN also observes that the gazetting for the Referendum date came very late and did not appear to have been done in consultation with ZEC, the electoral body. This shows that there was very limited time for preparations. The late disbursement of \$31 million to ZEC out of an initial bid of \$85 million meant that there was no adequate time for ZEC to conduct the voter education and the training necessary for the polling officers recruited from various government departments to assist in the conduct of the Referendum.

Both local and regional observers agreed that the Referendum took place in a conducive and peaceful environment. The EU and the USA ambassador were also some of the notable international observers that commented positively on the Referendum. But what is the import of the Referendum results with specific reference to the upcoming elections?

7. Analysis of the Referendum Results

The referendum has been described as ‘low-key’ and yet, like most social processes, there are lessons to be drawn for purposes of improving on future conduct of similar electoral events. A number of points need to be noted regarding the referendum. The first is that the referendum was not itself about gaining or retaining power; rather, it was about the institutional rules of the political game which define who gladiates for power, how, and the manner in which power, once gained, is to be exercised. As we will show below, this time around, the referendum process and its outcome were *not* a high-stakes political game.

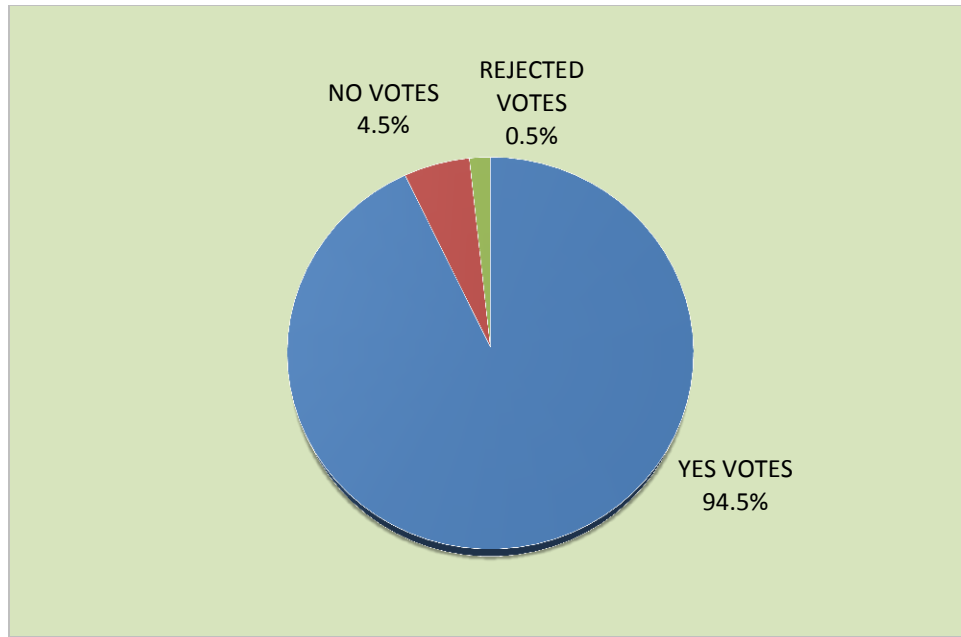
The second salient point is that the four-year constitution-making process that culminated in the draft was characterized by bitter and sometimes violent inter-party struggles with each seeking the supremacy of its own preferences. However, the sharp contestation suddenly and surprisingly evaporated the moment the party Principals (Mugabe, Tsvangirai, Mutambara and Welshman Ncube) agreed on 17 January 2013, and against the wind of public expectations, on the content of the draft. The terrain of contestation and competition was quickly transformed into a terrain of blissful consensus and cooperation. This was symbolically captured in the carnival inter-party atmosphere that pervaded Parliament when the draft was approved; “Legislators in the House of Assembly broke into song and dance after the Speaker Mr Lovemore Moyo announced the adoption of the motion (on the Constitution-making process)”²⁰.

However, the happy consensus and cooperation had the perverse effect of robbing the referendum process – including the campaign – of its popular dynamism and enthusiasm. In fact, many well-meaning people even questioned the need for and the value of the referendum, especially in light of the acute shortages of the required funds to finance the process. Even the Principals themselves took the ‘Yes’ vote for the draft for granted, which explains why they gave the referendum campaign just one month. This prompted some civic organizations, led by the NCA, to take the Government to court, challenging the short campaign period and seeking a two-month extension. Actually, the clearly unjustified decision for a short campaign period pumped some wind into to NCA-led ‘vote No’ campaign with several key civil organizations condemning the arrogance of the Principals. This Report speculates that the energized ‘No’ campaign actually had the effect of raising awareness which persuaded more people to go out to vote for their respective preferences. The referendum outcome no longer became as predetermined as it had appeared before the court challenge. Without the ‘No’ campaign, the referendum could have been duller and the overall turnout lower.

According to the figures released by ZEC Chief Elections Officer, 3 079 966 people voted for the adoption of the draft constitution (about 94.5% of the total votes) while 179 489 (or 5.5%) voted against it. A total of 56 627 ballots were rejected bringing the total number of voters who participated in the referendum to 3 316 082 see Figure 1.

Figure 1: Summary Results of Referendum

²⁰ Farirai Machivenyika and Obert Chifamba, “Parly clears pathway to referendum”, *The Herald*, 7 February 2013.



It is a source of gratification that the referendum took place without major incidents of violence and intimidation. There was no menu of violence and intimidation, which had become a standard staple in most electoral processes in Zimbabwe. This is as things ought to be. However, attempts to use these results as portending violence-free harmonised elections are unwarranted and stretching things too far. As already noted, the traditional political protagonists were not competing with one another but were aligned and it is not clear who the violence dispensers could have targeted when all major parties were singing in unison. All parties to the GPA were in a bullish and celebratory mood. The MDC-T spokesman and COPAC co-chairperson Douglas Mwonzora exemplified this post-referendum exuberance:

There was no violence in the referendum itself although there were isolated reports of violence especially in Mbare. If the next elections are run this way then Zimbabwe will be a very good country during elections²¹.

Many commentators hailed the seemingly high voter turnout to assert that it represents a breakthrough in the development of the country towards a democratic order. Further, that the overwhelming affirmative vote signifies popular legitimation of that new order. For example, Minister of State in the Prime Minister's Office Jameson Timba effused: "The people have

²¹ "Parties in GNU, churches congratulate Zimbabwe", The Herald, 19 March 2013. Available at: http://www.herald.co.zw/index.php?option=com_content&view=article&id=71127:parties-in-gnu-churches-congratulate-zimbabwe&catid=38:local-news&Itemid=131

spoken loudly in favour of democratic change. There can be nothing more people-driven than this”²².

But closer analysis warrants scepticism on this claim. The sometimes unrestrained celebrations were based on the voter turnout as compared to many pre-referendum predictions that the plebiscite would be a damp squib characterised by unprecedented apathy. Most based their calculations of high voter turnout on the number of registered voters on the voters roll, wilfully oblivious of the plain fact that the referendum did not use the voters roll. For instance, the MDC-T Minister Timba claimed that “the total valid votes cast are 55 percent of the total registered voters hence the referendum is credible and legitimate and represents the will of the people”²³. In fact, anyone who was 18 years and above and had a national registration card could vote and do so *anywhere* in Zimbabwe and without having registered on the voters roll.

The ‘high’ voter turnout is therefore based on an estimate of registered voters of about 5 589 355 million as at end of November 2012, according to the Registrar General²⁴. The country’s voter’s roll is notoriously known for being hopelessly out of date. However and as already noted, the quality of the voter’s roll was immaterial for the referendum as it was not used. Therefore, the correct reference figure to be used as the denominator for purposes of calculating the voter turnout is the total number of eligible voters, that is, the voting age population (VAP). The VAP in Zimbabwe is anyone aged 18 years and above.

Unfortunately, the final 2012 census report is not yet out which should contain more detailed data, including the age breakdown. In the absence of 2012 age distribution data, one resorts to computing VAP based on the presumed age pyramid of the population. According to the *CIA World Factbook*²⁵, the population of Zimbabwe that is 18 years and above is 51.3%; this constitutes the voting age population (VAP) of the country. The 2012 population according to ZIMSTAT is 12 973 808 and 51.3% of this is an estimated 6 650 000. If this is so, then the turnout in the March 16 referendum was 48.9% and the proportion of Yes votes – which was 3

²² Quoted in Tichaona Sibanda, “Zimbabweans approve new constitution”, 19 March 2013. Available at: <http://www.swradioafrica.com/2013/03/19/zimbabweans-approve-new-constitution/>

²³ Ibid.

²⁴ Felix Share, “5.5 million on voter’s roll: Mudede”, *The Herald*, 21 December 2012. Available at: http://www.herald.co.zw/index.php?option=com_content&view=article&id=60899:55m-on-voters-roll-mudede&catid=37:top-stories&Itemid=130

²⁵ CIA – The World Factbook – Zimbabwe, available at: https://www.cia.gov/library/publications/the-world-factbook/population/populationtemplate_ZI.html

079 966 – was 46.3%. This means less than half of the eligible voters (the VAP) turned out to vote and even less voted Yes.

Table 2: Voter Turnout in Referendum, by Province

Provinces (1)	Population – 2012			Voters in Referendum (5)	Provincial ranking	
	Total 2012 census (2)	Adults (est) (3)	Rank (4)		by voter turnout (6)	Voter Turnout rate (7)
Harare	2 098 199	1 076 376	1	517,458	1	48.1%; 6
Manicaland	1 755 000	900 315	2	417,785	2	46.4%; 8
Midlands	1 622 476	832 330	3	407,522	3	49.0%; 4
Masvingo	1 486 604	762 627	4	404,889	4	53.1%; 3
Mashonaland West	1 449 938	743 818	5	363,624	6	49.9%; 5
Mashonaland East	1 337 059	685 911	6	396,827	5	57.9%; 2
Mashonaland Central	1 139 940	584 789	7	356,973	7	61.0%; 1
Matabeleland North	743 871	381 605	8	177,277	8	46.5%; 7
Matabeleland South	685 046	351 428	9	142,576	9	40.6%; 9
Bulawayo	655 675	336 361	10	131,151	10	39.0%; 10
Total	12 973 808	6,655,560		3,316,082		

Assuming that this statistic is evenly distributed across the country, it can be applied to calculate the VAP by province – the Zimstat Preliminary Report has the country’s population by province. A provincial analysis can thus also be done. Table 2 presents the provincial breakdown of the adult population (the VAP) – see column 3. It shows that Harare has the largest VAP, followed by Manicaland and Midlands and that Bulawayo has the smallest VAP, followed by Matabeleland South and North – see the rank order in column 3. Column 5 is the number of people who actually turned out to vote in each province.

Column 7 presents an interesting picture in that it reveals the enthusiasm to turn out to vote, perhaps based on the mobilisation efforts of the parties and other stakeholders. The turnout rate ranges from a paltry 39% to a high of 61%. Top of the league in terms of the turnout rate is Mashonaland Central (61%), followed by Mashonaland East (58%) and Masvingo (53%). Anchored at the bottom is Bulawayo (39%), followed by Matabeleland South (41%) and Manicaland as well as Matabeleland North (46% each) – see Figure 2.

Figure 2: Voter Turnout Rate, by Province



Figure 2 displays only the turn out rate in each province and it confirms higher rates in the Mashonaland provinces. Matabeleland provinces, especially Bulawayo, are a laggard in this respect.

This Report is of the view that while it might be appealing and even irresistible to use the referendum process and its results as a portent of the upcoming election, the exercise can be deceptive. Such an exercise is likely to reveal less than it hides. For instance, there is no way of knowing, with even remote precision, the partisan affiliations and voting intentions of those who voted in the referendum. Further, there is no way of knowing whether those who voted will again turn out to do so in the harmonised elections. Nor do we know the voting decision of those who preferred to stay away from the ballot on 16 March, and these were more than half the adult population. If they turn out to vote, who are they likely to vote for? And, vitally, what proportion of the voting age population is not registered and is likely to remain unregistered at the time of the harmonised elections?

When all is said and done, the above analysis takes for granted the veracity of the results and discounts allegations of rigging in favour of the Yes vote. The rigging thesis has been articulated in both civil society and in some government circles. In civil society, the Election Resource Centre (ZERC) entitled its Report on the referendum: ““Miracle Votes”: An Analysis of the March 2013 Referendum” and puzzled over the source of the “recent flurry of votes” from the referendum²⁶. It surmised that most CSOs feared that “the referendum could have been rigged and that the high turnover was manipulated through ballot stuffing (sic)”²⁷.

In the GNU, Tendai Biti, the MDC-T Minister of Finance publicly expressed similar fears that the referendum results were tampered with. He said: “There is a 10 to 15% variance between ZEC’s figures and those collated by our own team of agents who covered all the polling stations nationally”²⁸. He further alleged that some constituencies and districts recorded a higher turnout than the population ordinarily resident in the areas according to the last (2012) census statistics.

The allegations by civil society and Biti cannot be entirely dismissed. In any case, such allegations have been common ever since the founding general election in 1980. Such charges are given credence in the context of the worrisome decision by ZEC to print 12 million ballot papers, almost twice the number of registered voters and just a million less than the total population of Zimbabwe of just under 13 million, according to the preliminary report of the 2012 national census. Surprisingly, COPAC printed only 70 000 copies of the draft constitution! It is baffling what rationale justified such an exceedingly high number of ballot papers. Clearly, in any election, this would give rise to credible fears and rumours of ballot stuffing i.e. rigging of the election. It is hoped that the electoral management body will avoid such an indefensible position in the future.

7.1 Lesson Drawing

Several lessons arise from the 16 March 2013 referendum experience. The first lesson is that prior agreement on the rules of the game can facilitate a calm and relatively tension-free electoral environment. For instance, the 17 January 2013 inter-party consensus on the draft

²⁶ Election Resource Centre, ““Miracle Votes’: An Analysis of the March 2013 Referendum”, Harare, March 2013.

²⁷ Ibid, 10.

²⁸ Paidomoyo Muzulu, “Referendum results manipulated – Biti”, The Independent, 28 March 2013. Available at: <http://www.theindependent.co.zw/2013/03/28/referendum-figures-manipulated-biti/>

constitution robbed the referendum contest of the high-stakes character of the game. As a consequence, the political and security atmosphere became free of the volatility that had defined such occasions since independence. In this sense, the referendum was qualitatively different from previous electoral contests, including the 2000 referendum. The volatility-free atmosphere contributed to the freeness and fairness of both the campaign and the actual ballot. In other words, the *incentive* to vote and to do so without fear of the *after-vote* consequences was a key factor in the ‘miraculously’ high officially announced turnout. In sum, the inducement to vote was generated by the ‘right’ conditions that prevailed *before* and *during* the poll and the attendant confidence that there would be no adverse consequences *after* the ballot. Therefore, the lesson to be drawn here is that the right conditions – i.e. the absence of the twin evils of violence and intimidation and their corollary, the fear of after-poll reprisals – can act as a big incentive to vote. The lesson is for all election stakeholders to ‘take home’, but more so the competing political parties and the electoral management body.

The second lesson, still located in the realm of enticements, is that the incentive to go out and vote lay in the simplicity of the voting process and minimum requirements to do so. The virtue of the referendum conditions was in the dramatic reduction in the *cost* of voting. The only eligibility criterion was in being an adult citizen of Zimbabwe. The question then is: How can the cost of voting in the upcoming ‘critical’ elections be reduced? Part of the answer, and a big part of it, is in simplifying the requirements for registering as a voter. This lies squarely in ZEC’s mandate to come up with such appropriate but simple i.e. voter-friendly requirements that make voter registration less onerous than it presently is. Requirements for registration as a voter, especially the tedious one of providing proof of residence, were likely to disenfranchise a number of potential voters²⁹. According to the Registrar-General’s Department, the following constitute proof of residence:

Urban Dwellers

- A certificate of occupation/title deeds or
- Lodgers permit/card or
- Rates/water statement in applicant's name, or
- Electricity statement in applicant's name, or
- Credit store statement showing the physical address of the applicant, in the respective area.
- Written statement from landlord, parent or friend confirming the applicant's address accompanied by a house card, electricity bill, rates bill or any similar document in the name of the landlord, parent or friend staying with applicant.

²⁹ Section 23 (4) of the Electoral Act.

- Sworn statement by employer or applicant confirming applicant's address.
- Hospital bill or envelopes with post markings reflecting applicant's address and any other information or document sufficient to ascertain the applicant's residence.

Rural/Farm Dwellers

- Confirmation by the Village Head or
- Resettlement Officer or
- Farm Owner³⁰

As an incentive for voter registration through reducing the cost of voter registration – in terms of time, effort, convenience, travelling etc – it has been seriously suggested that the exercise be done electronically, an innovation that was proposed by the MDC formations led by Welshman Ncube. The GNU was divided on the matter with “the techno-savvy political parties – both formations of the MDC – rooting for on-line voter registration while the techno-peasant ZANU-PF says it will have none of it”³¹. The Registrar-General of Voters, Tobaiwa Mudede, also rejected the proposal arguing that “online registration does not have adequate checks and balances to detect electoral fraud.” Elaborating, he said: “There is a strong probability that some people will be involved in the abuse of passwords to register or transfer voters without their consent to deliberately distort and corrupt the voters’ roll”³². It is accepted that the electronic voter registration facility would be more accessible to the more ‘techno-savvy’ urban youth than their ‘techno-peasant’ rural counterparts and the more elderly population. Nonetheless, any innovation or measure that induces prospective voters to register should be actively encouraged and not summarily (and casually?) dismissed out of hand.

The third lesson is that based on the experience of past elections, it is realistic to expect the next elections to be violent; it is the degree of violence that may be an unknown. Nonetheless, voters pray and hope for as peaceful and largely incidence-free balloting as was the case in the referendum. This is another challenge for all electoral stakeholders, especially the structures and mechanisms provided for under Part XVIII B of the Electoral Act. This refers to “measures against politically-motivated violence and intimidation”. Section 133H of the Electoral Act

³⁰ Registrar-General’s Department, available at: <http://www.rg.gov.zw/index.php/services/voters>

³¹ See “GNU divided over proposed on-line voter registration”, Financial Gazette, 16 January 2013.

Available at: <http://www.financialgazette.co.zw/top-stories/15645-gnu-divided-over-proposed-on-line-voter-registration.html>

³² Quoted in Ntungamili Nkomo, “Mudede Rejects Online Voter Registration Proposal”, VOA, 15 January 2013. Available at: <http://www.voazimbabwe.com/content/mudede--rejects-online-voter-registration-pitch-president-robert-mugabe/1584328.html>

provides for the creation by the Zimbabwe Human Rights Commission (ZHRC) of a Special Investigation Committee (SIC) for each province, to be chaired by a ZHRC official. The SIC in fact assists the Special Police Liaison Officer – a senior police officer appointed in each province by the Commissioner-General of Police, in consultation with the ZHRC – whose defined duty is the “expeditious investigation of cases of politically motivated violence or intimidation within the province”. The structural problem with the otherwise noble and creative idea of creating a SIC is that the core institution involved, the ZHRC, is hardly functional and has essentially been moribund since its establishment in 2010. Its founding chairman resigned in December 2012, apparently frustrated with lack of progress, and was contentiously replaced by Jacob Mudenda, a former ZANU-PF apparatchik.

In order for the upcoming elections to resemble the March 16 referendum in terms of tranquillity and tolerance, it is vital that all the structures and processes provided for in the new Electoral Act be established and fully activated. These include the SIC mentioned above and the Multiparty Liaison Committees (MLCs), a conflict resolution mechanism provided for in Article 160B of the Electoral Act. These Committees have to be created at local authority, constituency, district, provincial, and national levels after nomination of candidates contesting an election. However, and as noted by some of the referendum observers e.g. the SADC PF, the composition of the MLCs is limited to ZEC members and representatives of contesting political parties. Like SADC PF, we strongly recommend that the composition of the MLCs be more inclusive by broadening the membership to include other stakeholders like civil society – including the Church and media – the security organs and JOMIC. However, we are not quite sure of the feasibility of the other recommendation by SADC PF i.e. to make the Committees “a permanent inter-electoral stakeholder conflict resolution framework as opposed to constituting them just before elections”³³. These MLCs may as well subvert or unnecessarily overlap with the envisaged National Peace and Reconciliation Commission that is provided for in Part 6 of the new Constitution of Zimbabwe.

Finally the stampeding that characterised preparations for the referendum revealed that sometimes the left hand did not seem to know what the right hand wanted or was doing. For instance, while as ZEC’s constitutional mandate is to “prepare for, conduct and supervise elections and referenda and to ensure they are conducted efficiently, freely, fairly, transparently and in accordance with the law”, the electoral body was not consulted at all in

³³ SADC PF, Interim Mission Statement by the SADC PF Referendum Observation Mission to the 2013 Zimbabwe Constitution Referendum, Harare, 2013, 12.

the determination of the date for the referendum. ZEC members and staff received the news either unofficially or from the press prompting VERITAS to lament that:

It is astonishing that a date has been fixed without considering whether or not the body responsible for the Referendum will be able to do what is necessary within the period allowed. Had those making the decision forgotten – or not been told – that ZEC has consistently said it needs 60 days lead time before polling if they are to conduct a credible poll?³⁴

ZEC had no option but to comply even when it had just a month to prepare for the referendum in the face of serious financial, logistical, legal and technical problems. A week before the poll, an influential Zimbabwe weekly commented that: “As things stand, ZEC is struggling to put together preparations for the referendum largely because it was not given enough resources and sufficient time.”³⁵

7.2 Recommendations

Despite the short notice, the ZEC was able to organize a generally smooth and credible Election Day process. However, there were shortcomings that ZEC should address in advance of the harmonised elections.

For the harmonised elections, ZEC should ensure:

- Police officers are deployed outside of polling stations as stipulated in the law (not inside);
- Sufficient voter education is conducted (inclusively involving civic organisations) to ensure voters bring the correct identification documents to polling stations;
- Polling officials are fully trained on the procedures for assisted voting, and voters are informed about their right to make their own choice of who will assist them, and that voters requiring assistance are permitted to select a person of their choice to assist them;
- Polling officials post the official results outside of all polling stations for public inspection. This will ensure a transparent process.
- The voters’ roll is amended and updated.

³⁴ Veritas Zimbabwe, “Constitution Watch 6/2013”, 18 February 2013, 1.

³⁵ *The Independent* Editorial, “Referendum ZEC test case”, 8 March 2013. Available at: <http://www.theindependent.co.zw/2013/03/08/referendum-zec-test-case/>

- Further early decentralisation of the accreditation process to make it less cumbersome and cost effective.

ZESN again notes that additional electoral reforms are needed before the harmonised elections take place.

These reforms should include:

- Providing in-depth understanding of the proportional representation system to the electorate.
- The ZEC Commissioners, as an entity rather than the Chief Elections Officer, announce all election results
- Repressive laws, such as the Public Order and Security Act (POSA) should be repealed before new elections.
- All political parties must be able to have equal access to and coverage by the state electronic media and all political parties must be able to campaign in every province and constituency.
- The campaign of intimidation against civic organisations must stop immediately and they must be allowed to conduct civic and voter education as well as observe the electoral process if the harmonised elections are to be credible.

Further, the campaign of intimidation against civic organisations must stop immediately and they must be allowed to conduct civic and voter education as well as observe the whole electoral process if the harmonised elections are to be credible.

The 16 March 2013 referendum has come and gone. By common agreement, it was a generally violence-free activity throughout the country with all the three stages of the electoral cycle – before, during and after the ballot – being peaceful. But it was not because the political psychology of violence and intimidation and attendant fear had undergone fundamental change. On the contrary, and as the Report demonstrates, the calmness was engendered by the incentives in-built in the process, especially the simple requirements for voting and whereby the whole country was one constituency.

However, attempts to impute or transpose what transpired in the referendum – where there was interparty consensus about how to vote – to the upcoming elections is overstretching things. It is tantamount to committing a fallacy based on assumptions that clearly are not generalisable. The referendum lacked the violence-generating tension and high-stakes quality that has defined Zimbabwe elections since independence, and especially since 2000. In short,

the Report cautions against election stakeholders resting on their laurels as the country prepares for the widely anticipated – and feared – elections.

ZEC REFERENDUM RESULTS AND ZEC 2008 HARMONIZED PARLIAMENTARY RESULTS

REFERENDUM COMPARATIVE BY CONSTITUENCY				
ZEC REFERENDUM RESULTS		ZEC 2008 HARMONIZED PARLIAMENTARY RESULTS		
HARARE		HARARE		
CONSTITUENCY	TOTAL	CONSTITUENCY	TOTAL VOTES	WINNING PARTY
Chitungwiza North	17224	Chitungwiza North	10393	MDC-T
Chitungwiza South	20340	Chitungwiza South	11734	MDC-T
St. Mary's	18164	St. Mary's	10365	MDC-T
Zengeza East	17188	Zengeza East	12041	MDC-T
Zengeza West	16555	Zengeza West	11803	MDC-T
Budiriro	23879	Budiriro	16127	MDC-T
Dzivarasekwa	16333	Dzivarasekwa	9906	MDC-T
Epworth	36615	Epworth	11435	MDC-T
Glen Norah	11817	Glen Norah	9190	MDC-T
Glenview North	13955	Glenview North	9741	MDC-T
Glenview South	13585	Glenview South	10751	MDC-T
Harare Central	21216	Harare Central	9218	MDC-T
Harare East	23242	Harare East	10964	MDC-T
Harare North	19159	Harare North	10512	MDC-T
Harare South	29037	Harare South	12319	ZANU PF
Harare West	16273	Harare West	10988	MDC-T
Hatfield	18361	Hatfield	11468	MDC-T
Highfield East	16312	Highfield East	11529	MDC-T
Highfield West	13106	Highfield West	9841	MDC-T
Kambuzuma	11511	Kambuzuma	6319	MDC-T
Kuwadzana	16972	Kuwadzana	11067	MDC-T
Kuwadzana East	13086	Kuwadzana East	10004	MDC-T
Mabvuku-Tafara	15886	Mabvuku-Tafara	11443	MDC-T
Mbare	31690	Mbare	15112	MDC-T
Mount Pleasant	13464	Mount Pleasant	7191	MDC-T
Mufakose	9376	Mufakose	7679	MDC-T
Southerton	13258	Southerton	8526	MDC-T
Sunningdale	13002	Sunningdale	10390	MDC-T
Warren Park	16852	Warren Park	12966	MDC-T
Total	517458	Total	306971	MDC-T
BULAWAYO		BULAWAYO		
Constituency	Total	Constituency	Total	
Bulawayo Central	19,896	Bulawayo Central	8737	MDC T
Bulawayo East	9,931	Bulawayo East	5430	MDC T
Bulawayo South	8,727	Bulawayo South	5022	MDC T
Makokoba	10,218	Makokoba	8159	MDC T
Pelandaba/Mpopoma	10,218	Pelandaba-Mpopoma	BY ELECTION	

Entumbane/Emakhandeni	9,275	Emakhandeni-Entumbane	7481	MDC T
Lobengula	8,556	Lobengula	7149	MDC T
Luveve	11,652	Luveve	8286	MDC T
Magwegwe	7,456	Magwegwe	6589	MDC T
Nkulumane	12,664	Nkulumane	8449	MDC T
Pumula	10,786	Pumula	7640	MDC T
Nketa	11,837	Nketa	9592	MDC T
Total	131,216	Total	82534	MDC T

MASVINGO		MASVINGO		
Constituency	Total	Constituency	Total	
Bikita East	14154	Bikita East	13601	MDC- T
Bikita South	13265	Bikita South	12502	MDC- T
Bikita West	16556	Bikita West	14077	MDC- T
Chiredzi East	13144	Chiredzi East	9141	ZANU PF
Chiredzi North	31980	Chiredzi North	21428	ZANU PF
Chiredzi South	10624	Chiredzi South	8623	ZANU PF
Chiredzi West	25546	Chiredzi West	12052	MDC- T
Chivi Central	16618	Chivi Central	15151	ZANU PF
Chivi North	12628	Chivi North	12755	ZANU PF
Chivi South	16510	Chivi South	12799	ZANU PF
Gutu Central	12771	Gutu Central	11165	MDC- T
Gutu East	10839	Gutu East	11502	MDC- T
Gutu North	9657	Gutu North	9388	MDC- T
Gutu South	11343	Gutu South	11220	MDC- T
Gutu West	15636	Gutu West	11520	ZANU PF
Masvingo Central	12464	Masvingo Central	11489	MDC- T
Masvingo North	14924	Masvingo North	10342	ZANU PF
Masvingo South	13687	Masvingo South	10572	ZANU PF
Masvingo Urban	21706	Masvingo Urban	14822	MDC- T
Masvingo West	12947	Masvingo West	9688	MDC- T
Mwenezi East	20426	Mwenezi East	12763	ZANU PF
Mwenezi West	24395	Mwenezi West	14213	ZANU PF
Zaka Central	15238	Zaka Central	12490	MDC- T
Zaka East	11180	Zaka East	9333	ZANU PF
Zaka North	14949	Zaka North	12676	MDC- T
Zaka West	10924	Zaka West	9418	MDC- T
Total	404111	Total	314730	MDC- T

MANICALAND		MANICALAND		
Constituency	Total	Constituency	Total	
Buhera Central	17351	Buhera Central	17955	MDC T
Buhera North	13836	Buhera North	14346	ZANU PF
Buhera South	20082	Buhera South	16446	MDC T
Buhera West	16904	Buhera West	15590	MDC T
Chimanimani East	16734	Chimanimani East	13440	ZANU PF
Chimanimani West	16018	Chimanimani West	15666	MDC T
Chipinge Central	19995	Chipinge Central	12239	ZANU PF
Chipinge East	12566	Chipinge East	11,169	MDC-T

Chipinge South	15379	Chipinge South	16139	MDC T
Chipinge West	25276	Chipinge West	12334	MDC T
Dangamvura-Chikanga	18626	Dangamvura-Chikanga	15002	MDC-T
Headlands	15471	Headlands	12783	ZANU PF
Makoni Central	15523	Makoni Central	12400	MDC-T
Makoni North	13120	Makoni North	12194	MDC-T
Makoni South	16532	Makoni South	14,072	MDC-T
Makoni West	11671	Makoni West	11692	MDC-T
Musikavanhu	10782	Musikavanhu	13,220	MDC-T
Mutare Central	15523	Mutare Central	10,383	MDC-T
Mutare North	21349	Mutare North	16,760	ZANU PF
Mutare South	17799	Mutare South	15,762	ZANU PF
Mutare West	20203	Mutare West	15,710	MDC-T
Mutasa Central	14590	Mutasa Central	15,712	MDC-T
Mutasa North	14315	Mutasa North	15,955	MDC-T
Mutasa South	16807	Mutasa South	12,028	MDC-T
Nyanga North	16029	Nyanga North	13,129	MDC-T
Nyanga South	18027	Nyanga South	13,542	ZANU PF
Total	430508	Total	365668	MDC-T

MASHONALAND EAST		MASHONALAND EAST		
Constituency	Total	Constituency	Total	
Chikomba Central	11141	Chikomba Central	10760	MDC-T
Chikomba East	9691	Chikomba East	9729	ZANU PF
Chikomba West	19739	Chikomba West	13779	ZANU PF
Goromonzi North	16596	Goromonzi North	104741	ZANU PF
Goromonzi South	26706	Goromonzi South	13646	MDC-T
Goromonzi West	18783	Goromonzi West	12124	ZANU PF
Maramba Pfungwe	22517	Maramba Pfungwe	17289	ZANU PF
Marondera Central	17588	Marondera Central	12036	MDC-T
Marondera East	17968	Marondera East	9891	ZANU PF
Marondera West	12514	Marondera West	9671	ZANU PF
Mudzi North	14205	Mudzi North	14963	ZANU PF
Mudzi South	15611	Mudzi South	13854	ZANU PF
Mudzi West	14205	Mudzi West	12931	ZANU PF
Murewa North	17610	Murewa North	13891	ZANU PF
Murewa South	19984	Murewa South	12729	ZANU PF
Murewa West	17332	Murewa West	13637	ZANU PF
Mutoko East	15193	Mutoko East	12566	ZANU PF
Mutoko North	17871	Mutoko North	14175	ZANU PF
Mutoko South	17877	Mutoko South	14654	ZANU PF
Seke	20663	Seke	13241	ZANU PF
Uzumba	21022	Uzumba	16366	ZANU PF
Wedza North	15400	Wedza North	9853	ZANU PF
Wedza South	9650	Wedza South	9313	ZANU PF
Total	389866	Total	385839	ZANU PF

MASHONALAND CENTRAL		MASHONALAND CENTRAL		
Constituency	Total	Constituency	Total	

Bindura North	28792	Bindura North	16181	ZANU PF
Bindura South	19159	Bindura South	12940	MDC-T
Guruve North	22708	Guruve North	15578	ZANU PF
Guruve South	20185	Guruve South	13932	ZANU PF
Mazowe Central	14246	Mazowe Central	11001	MDC-T
Mazowe North	16414	Mazowe North	8704	ZANU PF
Mazowe South	16968	Mazowe South	8264	MDC-T
Mazowe West	15517	Mazowe West	8004	ZANU PF
Mbire	18264	Mbire	15747	ZANU PF
Mount Darwin East	21263	Mount Darwin East	19995	ZANU PF
Mount Darwin North	17677	Mount Darwin North	14553	ZANU PF
Mount Darwin South	21150	Mount Darwin South	12298	ZANU PF
Mount Darwin West	22161	Mount Darwin West	15915	ZANU PF
Muzarabani North	15616	Muzarabani North	12577	ZANU PF
Muzarabani South	18951	Muzarabani South	won uncontested	ZANU PF
Rushinga	24856	Rushinga	18614	ZANU PF
Shamva North	19843	Shamva North	13543	ZANU PF
Shamva South	23207	Shamva South	12030	ZANU PF
Total	356977	Total	229876	ZANU PF

MASHONALAND WEST

Constituency	Total	Constituency	Total	
Chakari	18929	Chakari	11138	ZANU PF
Chegutu East	17897	Chegutu East	13164	ZANU PF
Chegutu West	14952	Chegutu West	11235	MDC-T
Chinhoyi	18214	Chinhoyi	11731	MDC-T
Hurungwe Central	16848	Hurungwe Central	6890	ZANU PF
Hurungwe East	17653	Hurungwe East	11038	MDC-T
Hurungwe North	11792	Hurungwe North	9499	ZANU PF
Hurungwe West	11200	Hurungwe West	10198	MDC-T
Kadoma Central	16551	Kadoma Central	10918	MDC-T
Kariba	19656	Kariba	14460	MDC-T
Magunje	11387	Magunje	10754	ZANU PF
Makonde	18253	Makonde	11417	ZANU PF
Mhangura	20544	Mhangura	13402	ZANU PF
Mhondoro-Mubaira	14900	Mhondoro-Mubaira	13684	ZANU PF
Mhondoro-Ngezi	17450	Mhondoro-Ngezi	12880	ZANU PF
Muzveze	19510	Muzveze	11648	ZANU PF
Norton	18695	Norton	11532	MDC-T
Sanyati	12930	Sanyati	10973	ZANU PF
Zvimba East	15572	Zvimba East	8751	ZANU PF
Zvimba North	17254	Zvimba North	9429	ZANU PF
Zvimba South	17019	Zvimba South	9659	ZANU PF
Zvimba West	15268	Zvimba West	11082	ZANU PF
Total	362474	Total	245482	ZANU PF

MATEBELELAND NORTH

Constituency	Total	Constituency	Total	
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Binga North	18533	Binga North	19281	MDC-T
Binga South	18972	Binga South	13720	MDC-T
Bubi	15078	Bubi	13502	ZANU- PF
Hwange Central	14277	Hwange Central	7454	MDC-T
Hwange East	15121	Hwange East	10847	MDC-T
Hwange West	9762	Hwange West	12719	MDC-T
Lupane East	11082	Lupane East	10144	MDC-T
Lupane West	9722	Lupane West	8360	ZANU- PF
Nkayi North	10881	Nkayi North	10802	ZANU- PF
Nkayi South	11926	Nkayi South	10634	MDC-T
Tsholotsho North	9946	Tsholotsho North	8922	INDEPENDENT
Tsholotsho South	10755	Tsholotsho South	8979	MDC-T
Umguza	21223	Umguza	12812	ZANU- PF
TOTAL	177278	TOTAL	148176	MDC-T

MATEBELELAND SOUTH		MATEBELELAND SOUTH		
Constituency	Total	Constituency	Total	
Beitbridge East	14141	Beitbridge East	8046	ZANU PF
Beitbridge West	9092	Beitbridge West	7037	ZANU PF
Bulilima East	11726	Bulilima East	8465	MDC
Bulilima West	9463	Bulilima West	5413	ZANU PF
Gwanda Central	14495	Gwanda Central	9768	MDC
Gwanda North	8553	Gwanda North	9427	MDC
Gwanda South	8564	Gwanda South	BY ELECTION	
Insiza North	13887	Insiza North	10689	MDC
Insiza South	7665	Insiza South	10327	MDC
Mangwe	11762	Mangwe	8849	MDC
Matobo North	10195	Matobo North	8603	MDC
Matobo South	7732	Matobo South	7536	MDC
Umzingwane	15087	Umzingwane	11785	MDC
Total	142362	Total	105945	MDC

MIDLANDS		MIDLANDS		
Constituency	Total	Constituency	Total	
Chirumanzu	12561	Chirumanzu	11,172	ZANU-PF
Chirumanzu-Zibagwe	18453	Chirumanzu-Zibagwe	12,493	ZANU-PF
Chiwundura	18003	Chiwundura	13,203	ZANU-PF
Gokwe	14315	Gokwe	11,376	ZANU-PF
Gokwe-Chireya	18920	Gokwe-Chireya	16,095	ZANU-PF
Gokwe-Gumunyu	14411	Gokwe-Gumunyu	11,745	ZANU-PF
Gokwe-Kabuyuni	16362	Gokwe-Kabuyuni	14,390	MDC-T
Gokwe-Kana	13252	Gokwe-Kana	12,191	ZANU-PF
Gokwe-Mapfungautsi	16626	Gokwe-Mapfungautsi	15,399	ZANU-PF
Gokwe-Nembudziya	16305	Gokwe-Nembudziya	15,821	ZANU-PF
Gokwe-Sasame	15287	Gokwe-Sasame	17,130	ZANU-PF
Gokwe-Sengwa	12318	Gokwe-Sengwa	12,094	ZANU-PF
Gweru Urban	14495	Gweru Urban	9,849	MDC-T
Kwekwe Central	11349	Kwekwe Central	8,583	MDC-T
Mberengwa East	10436	Mberengwa East	9,159	ZANU-PF

Mberengwa North	17294	Mberengwa North	12,074	ZANU-PF
Mberengwa South	13872	Mberengwa South	10,484	ZANU-PF
Mberengwa West	9812	Mberengwa West	8,735	ZANU-PF
Mbizo	11828	Mbizo	9,767	MDC-T
Mkoba	13356	Mkoba	11,916	MDC-T
Redcliff	14798	Redcliff	BY ELECTION	
Shurugwi North	15011	Shurugwi North	11,523	ZANU-PF
Shurugwi South	12053	Shurugwi South	10,298	ZANU-PF
Silobela	15826	Silobela	11,544	MDC-T
Vungu	10782	Vungu	9,988	ZANU-PF
Zhombe	16880	Zhombe	12,856	MDC-T
Zvishavane Ngezi	18509	Zvishavane Ngezi	11,551	ZANU-PF
Zvishavane Runde	14478	Zvishavane Runde	13,115	ZANU-PF
Total	407 592	Total	324551	ZANU-PF
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