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09 July 2018

A newsletter published by Zimbabwe Lawyers for Human Rights for members & human rights defenders

COST: FREE

Elections Special Edition 2

Distributed without any inserts

ZESN speaks on nomination

Introduction

The Zimbabwe Election Support Network (ZESN) deployed Long Term Observers (LTOs) to observe the Nomination Court proceedings in all 10 provinces across the country. The Nomination Court sat on 14 June 2018 to receive papers from candidates for local authority, National Assembly, and presidential elections set for 30 July 2018.

The LTOs observed proceedings in a total of 116 Nomination Courts including Ward level, national assembly and the presidential nomination courts across all 10 provinces on the day of the court sitting on 14 June 2018.

Key observations

This report is primarily based on observations by the LTOs deployed by ZESN to observe the Nomination Court proceedings.

Opening and closing of nomination courts

Of the nomination centres where ZESN observed, 82% opened on time and had started receiving nomination papers by 10:30 am. On average, the courts handled between 20 and 140 applications. Only 33% of the courts completed verification of nomination papers by 17:00 pm while the majority were still checking nomination documents until very late in the evening. For instance, in Mutare candidates were still queuing to submit their papers to the Nomination Court at 19:00 pm while the The Nomination Court for Matabeleland South (Magistrates Court in Gwanda), Mashonaland West (Chinhoyi Civil Court), completed the process the following day at 02:00 am.

Unsuccessful nomination applications

ZESN observers reported instances where some candidates could not successfully submit their nomination applications. On average, at least 2 applications were rejected at each nomination court. Of concern is that, at some centres where ZESN observers were stationed, the ZEC officials refused to provide information on the reasons for the rejection of nomination papers of some prospective candidates. In spite of this, observers identified the following as some of the reasons for disqualification:

1. Incorrect and incomplete documentation

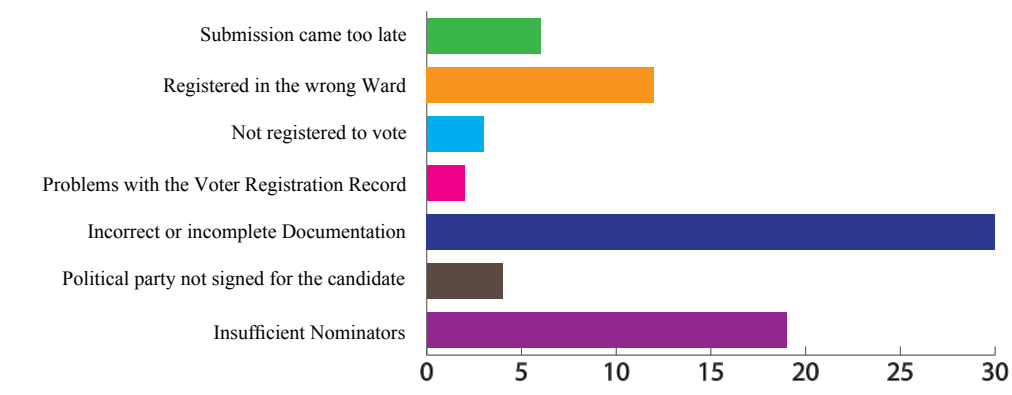

Fig 1: Reasons for rejection of nomination papers

Incorrect and incomplete documentation was identified as one the most common reason for unsuccessful nominations, as illustrated in Figure 1. LTOs noted that in some cases, the nomination courts had an extremely strict interpretation of the legal requirements and would not accept copies of the birth certificate, or a passport in place of a national ID card. This was notably the case at Makoni Rural District Council in Rusape under Makoni West constituency in Manicaland Province where one candidate did not have an original birth certificate while another wanted to use a valid passport in place of a birth certificate.

In Bulilima East, Matabeleland South Province, at the local Registrar General's Offices, one candidate did not have a long birth certificate and could not alternatively use the short version of the same document. Regrettably, Candidates could have easily circumvented these challenges had they submitted their papers prior to the day of the sitting of the Nomination Court, as permitted by law.

2. Issues with the voters' roll

Some prospective candidates' applications were rejected either because they could not be found on the voters' roll or because of inconsistencies between the applicant's national registration details and the information on the voters' rolls that were being used by the courts on nomination day. For instance, a prospective candidate for Ward 4 in Harare West had his nomination papers rejected because his name was not found on the voters' roll despite the fact that he was in possession of his registration slip that indicated that he was a registered voter. Similarly, a prospective candidate for Insiza Rural District Council in Matabeleland South was rejected because the serial number on his voter registration slip was said to be similar to someone else's on the voters' roll.

These incidents, though few, are a direct consequence of the voters' roll not having been finalised and made available to the political parties until after the day of the Nomination Court, in contravention of the Electoral Act1. Hence the law needs to provide a specific time frame when the final voters' roll can be availed to the political contestants before the sitting of the Nomination Court.

3. Prospective candidates registered to vote in different wards

ZESN received reports of instances where prospective candidates for the local authority elections were rejected on the basis that they were registered to vote in wards different to the ones they wanted to contest in. This may be a pointer into the inadequacies in voter education for nomination prior to the commencement of the process.

Political Environment

The nomination process was generally peaceful with few incidents of disturbances being recorded on Nomination day. There were two cases of disruptions reported at the Nomination Courts arising from disputes over primary elections. For instance, In Uzumba Maramba Pfungwe, Mashonaland East Province, police had to be called in to remove one aspiring candidate who had forced his way into the Nomination Court having been withdrawn by the party.

In another case, at the Chitungwiza Municipality Office, in Harare Province, some supporters of the MDC Alliance blocked the gate, preventing some people who had lost in the primary elections from entering the Nomination Court. In Shamva South, Mashonaland Central, one candidate forced a vendor outside the Court to append her signature so that the candidate could have the required number of nominees.

Earlier on, ZESN LTOs had observed 54 primary elections in May. Voting for the final candidate took place by secret ballot in 42 of these cases. Furthermore, LTOs subsequently reported on 8 incidents arising from contestants disputing the results of the primaries or decisions by the party. Such incidents included the disruption of a rival's campaign rally and instances where two candidates from the same party tried to stand for nomination as happened with two People's Rainbow Coalition candidates in Epworth. In view of these observations, there is need to improve party primary processes so as to reduce/avoid such disputes and cases of people trying to submit nomination forms without the approval of their parties.

Presence of political party agents

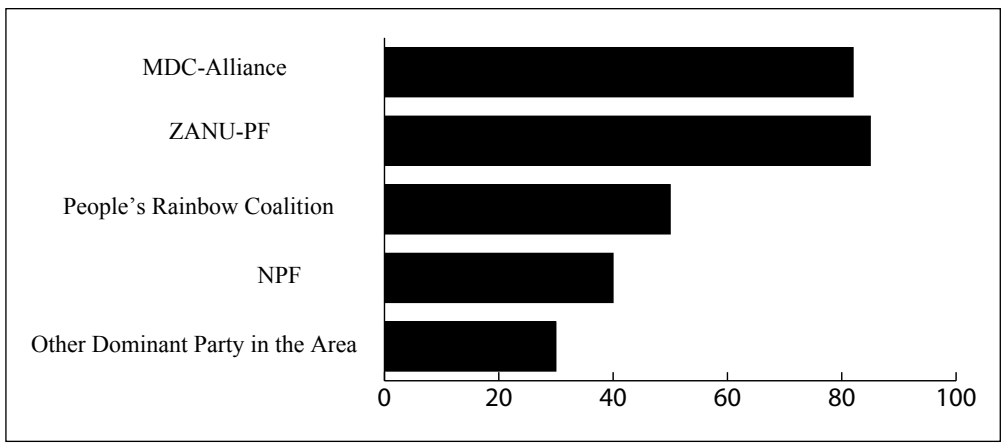

Fig.2: Presence of party agents at nomination courts by political party Presidential Candidates

In three quarters of the Nomination Courts where ZESN observed, political party agents and other observers were present. The MDC Alliance and ZANU-PF were the political parties that deployed agents more comprehensively across the country followed by the People's Rainbow Coalition (PRC). Figure 2 below depicts the presence of party agents by political party.A record 23 candidates will contest the 2018 presidential election. Only four of the 23 candidates are female. The number of Presidential candidates has significantly increased as compared to previous elections, in 2008 there were four candidates while in 2013 there were five. All Presidential candidates for the 2008 and 2013 elections were male.

The lists of candidates for the 2018 Presidential election are as follows: Busha Josepht Makamba (FreeZim Congress), Chamisa Nelson (MDC Alliance), Chiguvare Tonderai Johannes (People Progressive Party), Chikanga Eceristo Washington (Rebuild Zimbabwe), Dzapasi Melbah (1980 Freedom Movement Zimbabwe), Gava Mapfumo Peter (United Democratic Front), Hlabangana Kwanele (Republicans Party of Zimbabwe), Hove Mhambi Divine (National Alliance of Patriotic and Democratic Republicans), Kasiyamhuru Blessing (Zimbabwe Partnership for Prosperity), Khupe Thokazani (Movement for Democratic Change T), Madhuku Lovemore (National Constitutional Assembly) Mangoma Elton Steers (Coalition of Democrats), Manyika Noah Ngoni (Build Zimbabwe Alliance), Mariyacha Violet (United Democratic Movement), Mnangagwa Emmerson Dambudzo (ZANU PF), Moyo Nkosana (Alliance for People's Agenda), Mteki Bryn (Independent), Mugadza William Tawonezvi (Bethel Christian Party), Mujuru Joice Teurairopa (People's Rainbow Coalition) Munyanduri Tendai Peter (New Patriotic Front) Mutinhiri Ambrose (National Patriotic Front), Shumba Daniel (United Democratic Alliance), Wilson Harry Peter (Democratic Opposition Party)

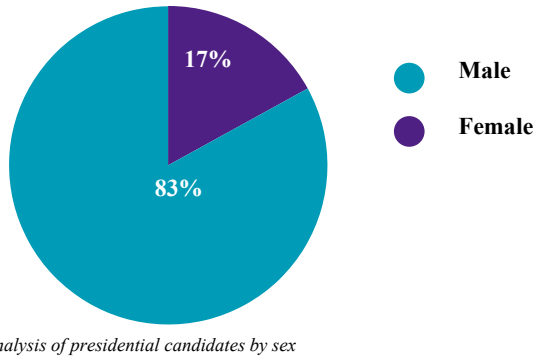

Fig 3: Analysis of presidential candidates by sex

Female candidates are featuring for the first time as electoral contestants in Zimbabwean Presidential Elections representing 17% of the candidates.

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Analysis of the outcomes of the National Assembly Nomination Court

An analysis of the nomination court results indicates that, of all the contesting political parties, only ZANU-PF managed to field candidates in all the 210 National Assembly seats. On the other hand the MDC Alliance failed to field candidates in four constituencies namely Mbare, Hurungwe East, Chiredzi West and Insiza North. The PRC deployed in 74% of the constituencies failing to field candidates in 54 constituencies.

The Thokozani Khupe led MDC-T is contesting in 52% of the 210 seats, having forgone to field candidates in 101 constituencies. In some cases, the contesting political parties have cases where they are represented by more than one candidate seeking election on the party ticket (twin-candidature).

The MDC Alliance has the highest number of double candidates in constituencies such as Mazowe North, Mazowe South, Mazowe West, Muzarabani North, Goromonzi West, Bikita East, Gutu Central, Gutu North, Gutu West, Masvingo South, and Zaka West.

Analysis of Gender representation

Zimbabwe is a signatory to a number of international treaties that require it to eliminate all barriers that prevent women from participating in the political sphere.

The Convention on the Elimination of Discrimination Against Women (CEDAW) is one such instrument. Articles 3 and 7 of the CEDAW implore member states to take all necessary action including legislative to ensure the full development and advancement of women in all spheres including political participation.

The African Union also clearly urges all states to take measures for equal representation in the political sphere. Article 9 of Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa states that 'States Parties shall take specific positive action to promote participative governance and the equal participation of women in the political life of their countries through affirmative action, enabling national legislation and other measures to ensure that: a) women participate without any discrimination in all elections; b) women are represented equally at all levels with men in all electoral processes…' The constitution of Zimbabwe in the spirit of international conventions mandates the state to promote gender balance in all spheres of life. Section 17 states that the 'state must promote full gender balance in Zimbabwean society'.

Section 56 also states that women and men have the right to equal treatment including right to equal opportunities in political, economic, cultural and social spheres.' However the Electoral Act is silent on the matter of women being equally represented in political spheres. Even though women's groups have been calling for ZEC to reject political party lists which do not have 50 percent representation, ZEC made it clear that this was beyond their mandate.

The representation of women in political parties remains low pointing to the lack of compliance with the Constitution and international conventions. For the 2018 harmonised elections, none of the contesting political parties attained 50-50 representation between males and females for the National Assembly elections.

In fact, 91% and 90% of the candidates for the major contending parties, namely ZANU-PF and the MDC Alliance respectively, are male. In the interest of upholding the constitution and enhancing democracy, ZESN strongly recommends that political parties put in place mechanisms to ensure equal representation between men and women.

Political party	Number of candidates fielded in the 210 constituencies	Total number of candidates	Number of constituencies with more than one candidate	Number of constituencies where parties did not field candidates
ZANU-PF	210	211	1	0
MDC Aliance	206	220	14	4
PRC	206	157	1	54
MDC-T	206	110	1	101
NPF	94	95	1	116
CODE	43	44	1	167
ZAPU	37	36	1	174

Fig 4: Analysis of candidates fielded by the main political parties

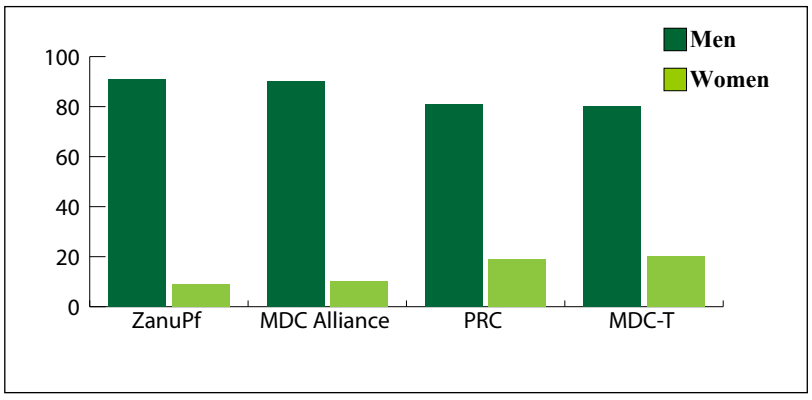

Fig 4: Comparison between male and female candidates for the 2018 elections

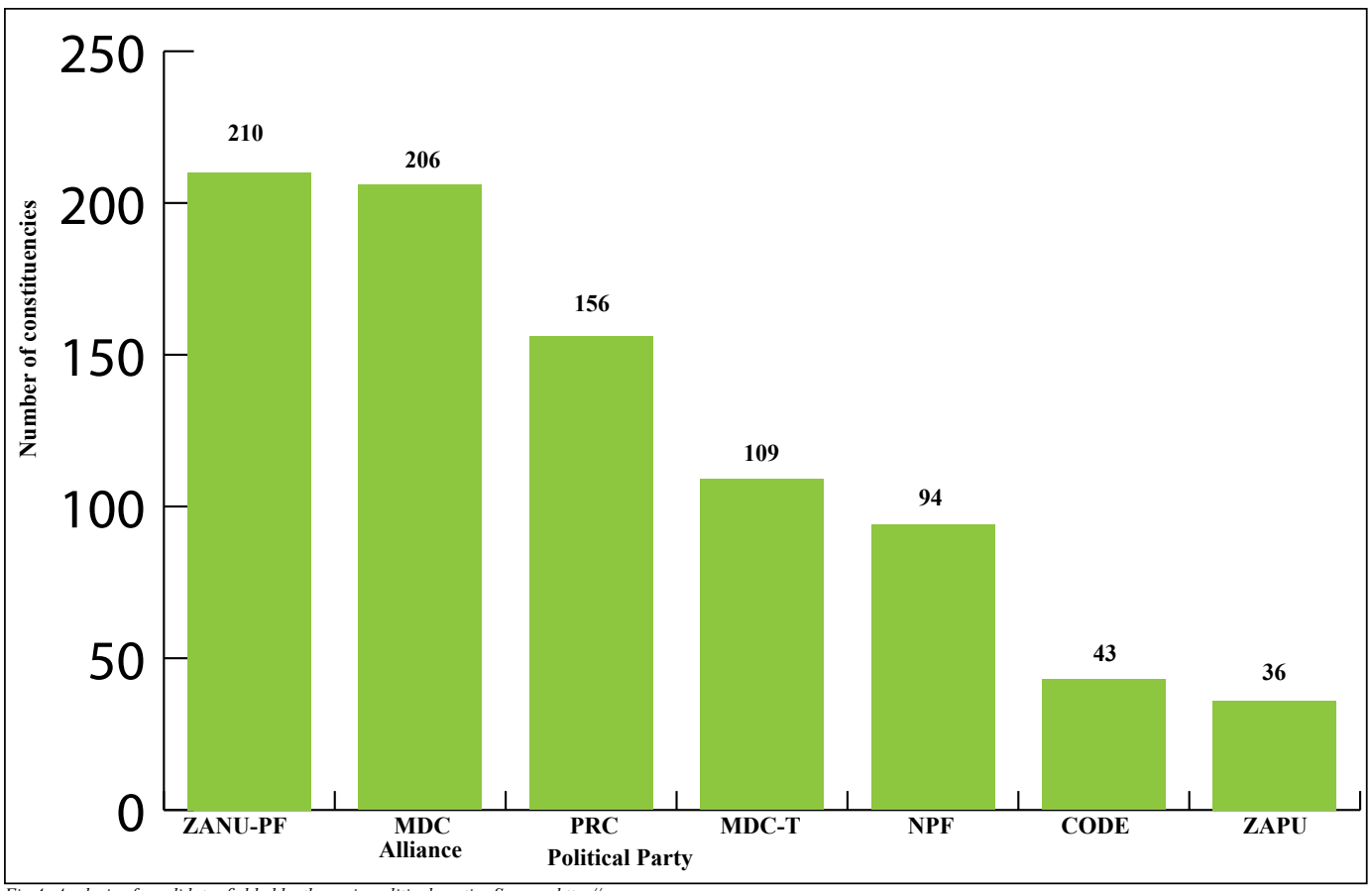

Fig 4: Analysis of candidates fielded by the main political parties Source: http://www.zec.gov.zw

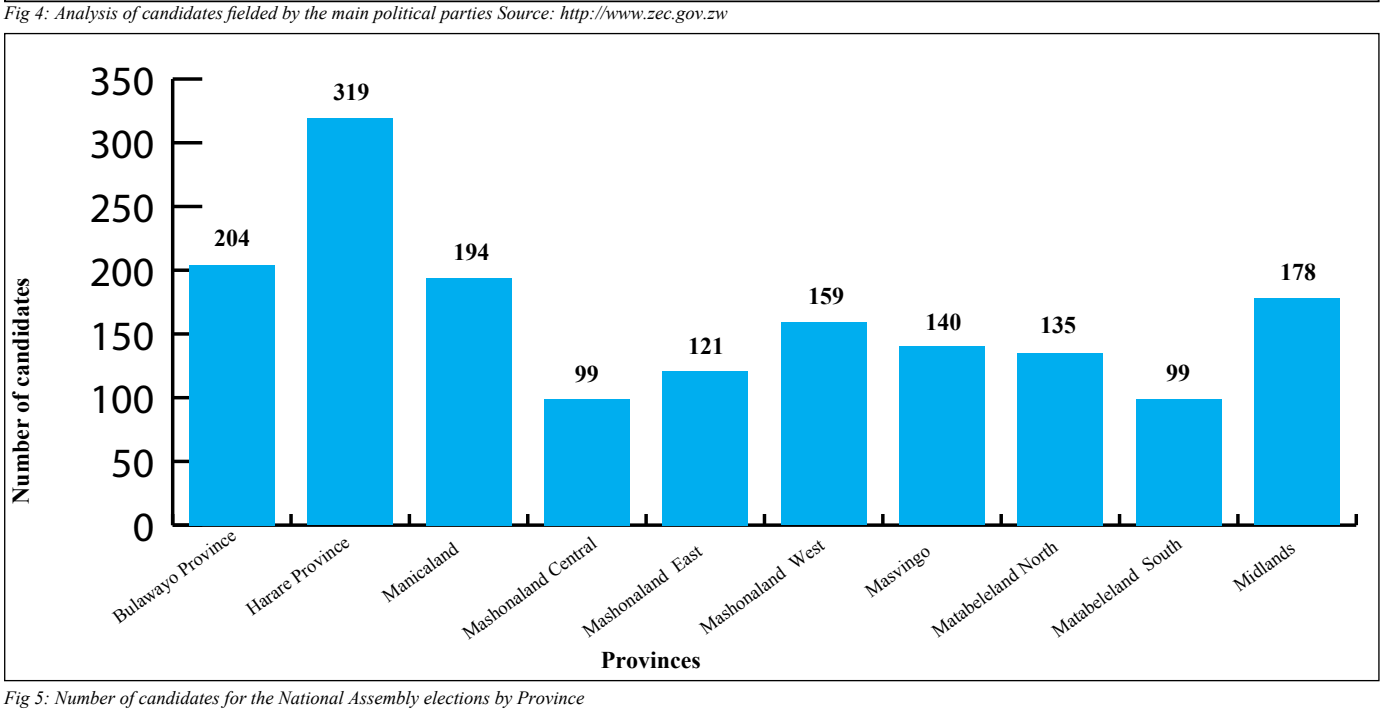

Fig 5: Number of candidates for the National Assembly elections by Province

As illustrated in the table below, the two major parties have fielded less than 10% female candidates as their contestants. Recording a relatively high figure is the Thokozani Khupe led MDC-T with 20% of its candidates being female.

From the illustration, it is clear that the number of women in political parties remains significantly low as compared to their male counterparts. This shows that the barriers that existed in preventing women from participating in politics still exist and, if not dealt with, the trend may continue or even worsen.

Unopposed Local Authority Wards

Of the 1958 local authority wards in Zimbabwe, 90 are unopposed3 for the 2018 harmonised elections of which 84 have only ZANU PF candidates while the MDC has fielded 6 candidates for the remainder of the unopposed wards. Below are the lists of unopposed wards according to province:

Recommendations:

Based on the observations in this report, ZESN makes the following recommendations:

1. The law needs to provide a specific timeframe for when the final voters' roll should be availed to the political contestants, before the sitting of the Nomination Court.

2. Stricter control over how political party primaries are conducted could be considered for future elections, including an insistence on choice by secret ballot.

3. Political parties must endeavour to strengthen intra-party democracy processes to avoid conflicts.

4. Nomination Court procedures should include a provision for clear announcement of the reasons for rejection of each candidate to ensure transparency to observers and party agents so as to enhance the credibility of the process.

5. Political parties and independent candidates should be encouraged to submit their nomination papers before the day that the Court sits so that they have time to rectify any challenges such as missing or incorrect documentation.

6. Political parties must put in place mechanisms to ensure equal representation between male and female candidates.

7. There is need for ZEC and CSOs to conduct comprehensive voter education for nomination to ensure that prospective candidates are aware of requirements of the Nomination Court.

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Continued from elections special edition 1

Analysis of the Electoral Amendment Act of 28 May 2018 and outstanding reforms ahead of the 30 July 2018 elections

The 2013 Constitution provides for the overall framework for the conduct of elections in Zimbabwe, which must be managed by an independent Zimbabwe Election Commission that is subject to the Constitution and the other laws.

The Constitution also provides for political rights – the right to vote and the right to be voted into office. Since adoption of the Constitution in 2013, Zimbabwe Election Support Network (ZESN) and Zimbabwe Lawyers for Human Rights (ZLHR, have been calling for alignment of the Electoral Act to the Constitution.

In some instances, ZESN and ZLHR have also been calling on the implementation of provisions of the Constitution because constitutional provisions can just be implemented without waiting for alignment as the Constitution is the highest (supreme) law of Zimbabwe. Responses by government to calls for alignment have been piecemeal through a number of Acts that include;

1. Electoral Amendment Act, 2014

2. General Laws Amendment Act, 2016

3. Electoral Amendment Act, 2018

4. Judicial Laws, Ease of Settling Commercial and other Disputes

On 28 May 2018, another Electoral Amendment Act was passed and the 2018 Election date was announced thereafter. As a result of the announcement of the Election day as 30 July 2018, any amendments to the Electoral Act that happen after the proclamation do not apply to the 2018 elections, but other future elections. The Electoral Amendment Act as passed on 28 May amends some sections and repeals some sections in the Electoral Act. However, the Electoral Act as amended does not fully address the concerns raised by ZLHR and ZESN in previous analyses of the Electoral Act.

The Electoral Act now removes the requirement for an electoral officer to witness how a visually impaired person votes, establishes the Electoral Court as a specialised division of the High Court and sets out a new and detailed Electoral Code of Conduct for political parties, candidates and other interested stakeholders.

Importantly, the Electoral Act now criminalises threatening statements by intimidators that they can discover how a voter cast his or her ballot and this is important in light of the noting of serial numbers by perpetrators as a means to intimidate the electorate.

It revokes section 40F of the Electoral Act which requires all foreign contributions for the purpose of voter education to be channelled through ZEC and abolishes the use of voter registration certificates (registration slips) where a person's name does not appear on a voters' roll.

There are a number of outstanding issues impacting the independence of ZEC, the right to vote, procurement and printing of ballot papers remains shrouded in secrecy and there are no provisions directing the separation of election residue to enable petitioners to obtain a recount for a specified election. Another notable omission is the absence of a framework to guide the operations and accreditation of long term observers.

The table below also highlights outstanding areas of reform (in blue) following the 28 May 2018 amendments.

Issue Provision in Constitution	Provision in Act	Summary of Provisions	Comment
Code of Conduct *Section 155(1)(d) Elections must be free from violence and other electoral malpractices*	Fourth Schedule	Replaces the Fourth Schedule to the principal Act. It gives effect to interparty consultations that resulted in a new electoral code of conduct for political parties, candidates and other interested stakeholders. Conduct during polling period, announcement of election results, respect for women, compliance with the Code by political parties, participation in multi-party liaison committees, and enforcement of the Electoral Act and other relevant legislation.	• The Code of Conduct is more comprehensive and if implemented will create a culture of mutual respect and tolerance amongst political parties. It provides for how women who are participating in elections must be treated. It contains a sanctions mechanism through the resolution of disputes within multiparty liaison committees, the sanctions in the Electoral Act including fines, imprisonment, fines as well as disqualification from voting or filling a public office. • The Code of Conduct also outlines the duty of political parties, the Zimbabwe Electoral Commission and other stakeholders to collaborate with law enforcement and judicial authorities, including the Zimbabwe Republic Police, the National Prosecuting Authority and the Courts, in preventing and sanctioning offenses in the electoral process and these are great strides in ensuring respect for the rule of law during elections.
Independence of ZEC *Section 235, independence of commissions*	6th Schedule	Terms and conditions of Commissioners are set by the President	• No checks on powers of the President of fixing terms and conditions unilaterally. An Independent Commission must be set up that determines conditions of service and provides guidance on remuneration to President which guidance must be taken so that ZEC is independent (section 235 of Constitution) • Although report on findings of a tribunal set up to remove a Commissioner must be placed before Parliament, Parliament does not have any input in the final decision.
	Section 7	Procedure of Commission	• ZEC's discretion to adopt and adapt procedures promotes efficiency and independence, this must be qualified for such discretion to guarantee transparency as stipulated in section of 239(a) of the Constitution
	Minor Amendments	Other minor and consequential amendments to the Electoral Act, including the removal of the last remaining references to the abolished posts "constituency registrars" and 'voter registration officers' It will also remove the role of ZHRC from membership of the provincial liaison committees that had been set up under the Act to monitor and take action on politically-motivated violence or intimidation. This role will be assumed by the police liaison officer alone.	• It is important to ensure that all references to the abolished post of Registrar General of Voters are also deleted from the Act as there is no further role for this office in terms of the 2013 Constitution.

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ZESN statement on the 2018 election roadmap released by ZEC

The Zimbabwe Election Support Network (ZESN) notes the 2018 Harmonized elections roadmap released this week by the Zimbabwe Electoral Commission (ZEC) which details the various processes the Commission will undertake. The Network has noted that the roadmap is silent about the process of designing and printing of the ballot papers.

Section 52A (a) of the Electoral Act states that ZEC should without delay provide information to all political parties, candidates and observers on where and by whom the ballot papers for the election are being printed. ZESN appreciates information on the dates for the publication of the number of ballot papers printed which complies with Section 52A(b) and urges the ZEC to also avail information on who will print the ballot papers and the location of the printers.

In addition, it is vital for ZEC to ensure that the voters' roll is availed to all stakeholders in reasonable time to allow, for instance, electoral contestants to verify if the people who support their nomination are in the voters' roll, as required by law.

ZESN reiterates its calls for the Electoral Commission to fully adhere to the Electoral Act, the African Charter on Democracy, Elections and Governance, the SADC Principles and Guidelines Governing Democratic Elections and international principles of election management which are independence, impartiality, integrity, transparency, efficiency, professionalism and service-mindedness.

ZESN remains committed to the promotion of democratic elections in Zimbabwe.

PROMOTING DEMOCRATIC ELECTIONS IN ZIMBABWE

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CSOs launch election situation room for 2018 polls

HARARE-Zimbabwe's civil society organisations have launched the Zimbabwe Election Situation Room (ESR), a platform that enables key electoral stakeholders to capture, record and disseminate election information as the events occur, ahead of the harmonised elections set for end of this month.

Members of the steering committee of the Election Situation Room during its launch

Speaking at the launch of the ESR, which was attended by representatives of civil society organisations (CSO)s from across the country, media, political party representatives, institutional and individual electoral stakeholders, Zimbabwe Election Support Network board Chairperson Andrew Makoni expressed optimism that the ESR will be able to fulfill its overall objective of ensuring that there is a rapid response mechanism to address election-related violations that may arise in the electoral process.

Makoni, said the main goal of the ESR is to "provide a platform for effective citizen monitoring and domestic observation of electoral processes, where key stakeholders and the general public can feed information and receive timely updates on key electoral processes".

"The ESR is a model of election engagement between CSOs and key institutions supporting democracy to ensure that free, fair and credible elections are held. The main objective of this initiative is to enhance collaboration in the monitoring of the political environment and response mechanisms to and advocacy around any challenges that may be experienced during the pre-election, election day and post-election period" , he added.

The ESR has a membership of over 40 CSOs representing a variety of key stakeholders across Zimbabwe. The CSOs partnered with the common interest of providing a platform for effective citizen monitoring and domestic observation of electoral processes, where key stakeholders and the general public can feed information and receive timely updates on key electoral processes. Their specific objectives include to strengthen partnerships amongst CSOs, the election management body, the state and other institutions supporting democracy and to coordinate systematic information gathering, sharing and documentation amongst civil society stakeholders for evidence based reporting. They also seek to ensure that there is rapid response and near real time redress of any issues that may arise and to increase evidence-based advocacy and engagement from issues identified through the ESR.

Makoni noted that one of the biggest advantages of the election situation room is the ability to use many perspectives in solving electoral issues quickly.

"This will be achieved through systematic and well-coordinated engagements with key electoral stakeholders such as the Zimbabwe Electoral Commission (ZEC), the Zimbabwe Human Rights Commission (ZHRC), The Zimbabwe Republic Police, National Peace and Reconciliation Commission (NPRC) among others," Makoni said. The overall objective of the ESR is to ensure that there is rapid response to mal-practices, SOS reports and election-related human rights violations that may arise.

This model of ESR was first introduced in Zimbabwe in 2013 and was replicated during the by-elections held post 2013. At that time, a 24-hour situation room responsible for receiving reports of human rights violations, electoral irregularities and engaging relevant stakeholders was established.

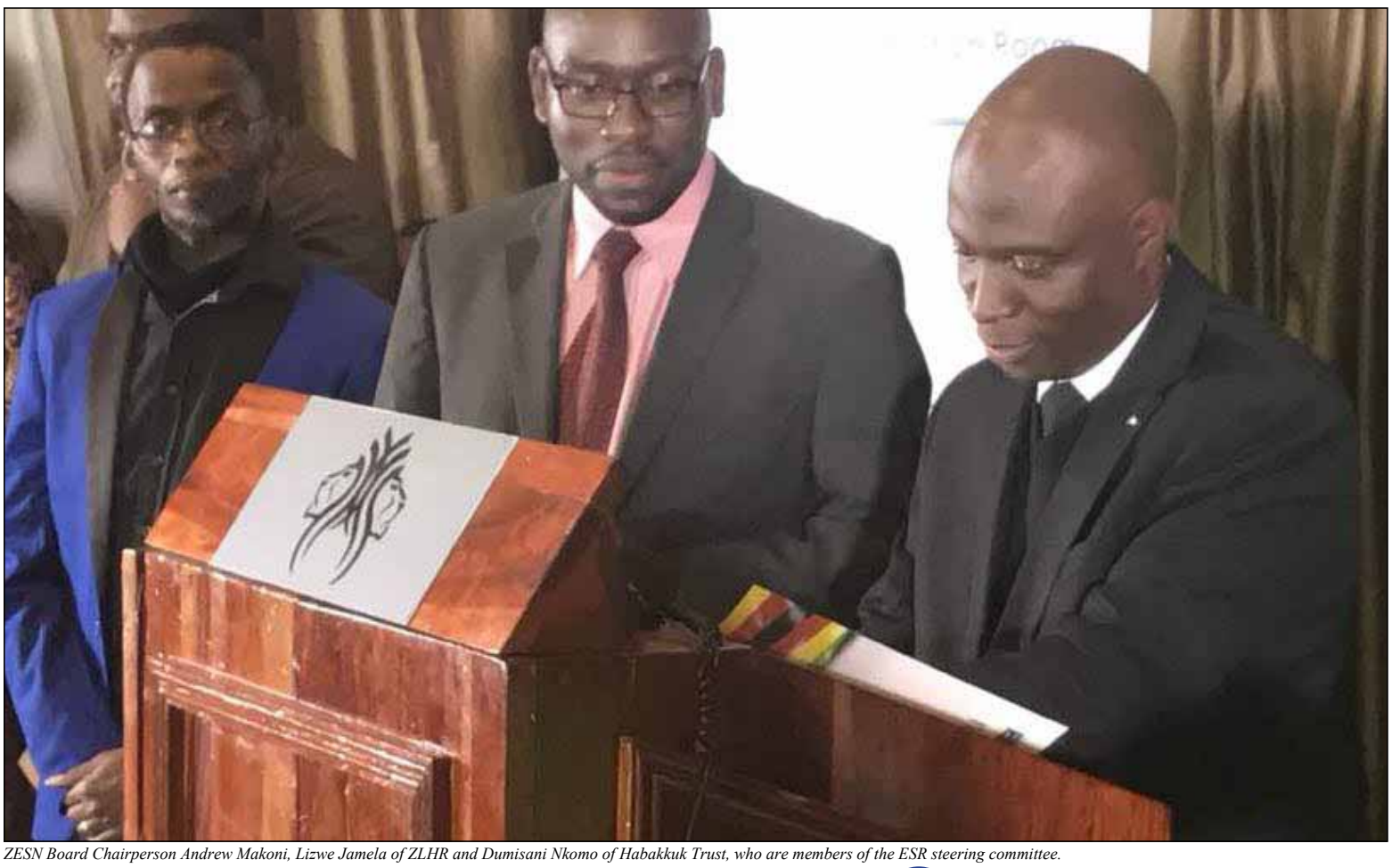
The situation room was also used as an information dissemination centre giving regular updates to various stakeholders using social media and radio.

The by-elections became important in gauging the electoral preparedness of ZEC ahead of the 2018 general elections with a focus on three frameworks - administration, political environment, and electoral laws. Institutions such as ZEC, ZHRC, and other institutions supporting democracy had previously not been involved in any structured collaboration with CSOs. Their exclusion resulted in key influential institutions assuming the position of peripheral stakeholders preventing them from providing quick solutions to election challenges.

Through the ESR, CSOs will capture key electoral cycle processes including political party campaigns, voter education, voting, election results transmission, and post-election challenges for potential near real time redress. The ESR will also coordinate and amplify advocacy messaging and campaigning to ensure regional and international awareness about Zimbabwe's electoral playing field.

A steering committee of 13 member organisations has been put in place to be responsible for decision making, dispute resolution and engaging in political advocacy with the relevant state authorities - the election management body, political leaders, and other solution holders. They will engage specialist skills such as data analysts, ICT experts, gender experts, people with disabilities (PWDs) and political economy analysts, as the need arises.

With about a month before the election, the work of the ESR is already underway in earnest. A media campaign is already active to ensure the general public is aware of the capacity they have, through the ESR, to contribute to a free, fair and credible election process via the various platforms that have been put in place. The ESR's mandate runs until December 2018.


ZESN Board Chairperson Andrew Makoni, Lizwe Jamela of ZLHR and Dumisani Nkomo of Habakkuk Trust, who are members of the ESR steering committee.