



pact discussion paper

Rethinking Citizen Engagement 'Spaces' in Zimbabwe's New Dispensation: Challenges and Prospects for Civil Society Ahead of the 2018 Elections



INTRODUCTION

In the past few years, Zimbabwe has been going through a series of political, economic, and social changes that have transformed its systems of governance. Among the most significant was the November 2017 military-assisted transition that led to the ouster of the country's founding president of 37 years, and the coming in of a new government.

This government has partially stabilized the political situation and opened spaces where citizen voices can influence democratic governance in several ways. Spaces are opportunities, moments, and channels where citizens can act to potentially affect policies, discourses, decisions, and relationships that affect their lives and interests.¹ Analyzing spaces enables greater understanding of how the dynamics of power, agency, and knowledge shape civic engagement for accountable governance programs. Moreover, activists, researchers, policy-makers, and donors interested in promoting democratic governance in the country need to understand the changing configurations of power and how these affect citizen engagements at various levels. To these ends, this discussion paper analyzes:

- How the shift in power in Zimbabwe has indeed created and opened spaces where citizens' voices can influence democratic governance?
- Whether increasing engagement in these spaces will risk restoring the legitimacy of the status quo or contribute to changing the history of exclusion and repression while challenging power relations
- How civil society organizations (CSOs) seeking to influence accountable and democratic governance can decide where best to put their efforts and appropriate interventions
- The likelihood of progressive governance reform (economic and political) and the potential of increased citizen participation in governance in view of Zimbabwe's 2018 elections

¹ John Gaventa, Finding the spaces for change: A power analysis (37 IDS Bulletin), 2006. pg. 26

RECENT CHANGES IN THE POLITICAL, SOCIAL, AND ECONOMIC LANDSCAPES

Civic Engagement

Since November 2017, the new administration has been working to shepherd the country out of international isolation and recover the severely underperforming economy.² This has seen it endeavouring for a more inclusive and consultative approach and as such various dialogue meetings have been convened by government with different stakeholders, such as business, youth, academics including those in the diaspora. For example, government officials have convened dialogues with different stakeholders, such as business, youth, academicians, and Zimbabweans in the diaspora.³

For the first time, a Zimbabwean President was invited to the World Economic Forum in Davos, Switzerland, in preparation President Mnangagwa held a town hall meeting with citizens, including youth, to collect input from the country's stakeholders to inform his participation.⁴ During the meeting, the president affirmed how his administration is open for dialogue with youth on their needs and encouraged them to provide his government with recommendations on how to improve their welfare. Also, to corroborate the government's efforts to engage and collaborate with citizens for democratic governance, the president led a delegation of 10 cabinet ministers and 80 private business executives to China.⁵

The trip with business executives was meant to unlock opportunities and bolster efforts to turn around the economy by both government and private sector. This is indeed a rare opportunity which was presented by government to engage and collaborate with citizens on needed reforms to transform the country's economic situation.

As a result, this citizen engagement drive has also cascaded to local government structures who have in turn also become more open to community dialogue. While some citizens have linked the above engagement drive to the upcoming 2018 harmonized elections where politicians are mainly seeking to be re-elected into office. Other critics of the Mnangagwa administration have criticized the proclaimed engagement approach highlighting continued exclusionary governance practices. For instance, post-November 2017, key allies of the Mnangagwa faction within ZANU PF were rewarded with cabinet posts whilst excluding those outside the party, including technocrats, who could have brought in different ideologies to the table.⁶ Despite these setbacks, citizens and civil society must capitalize on these available windows of opportunity to converse meaningfully with public officials and aspiring candidates and hold them to account on needed and promised reforms for the country's socio-economic development.

The new administration's ongoing consultation processes has also opened an opportunity for organizations working to promote good governance to mobilize various citizen interests' groups to engage government on their priority issues and policy reform agenda. More strategically, civil society can use the emerging engagement space to build bridges and networks with government leaders that can be used for future lobbying and advocacy. Further, mobilizing citizens and citizen groups to participate in civic engagement processes, particularly those involving both elected and appointed government leaders, will help build a culture of accountability and participation among both citizens and solution-holders.

² Alex Magaisa, Critical analysis of Mnangagwa's first SONA, *Big Saturday Read*, 20 December 2017, <https://www.bigsr.co.uk/single-post/2017/12/21/BSR-Critical-analysis-of-Mnangagwa%E2%80%99s-first-SONA>.

³ ED reaches out to diaspora. *The Herald*, 22 December 2017; ED meets college bosses, *The Chronicle*, 8 January 2018; Mnangagwa to meet varsity students, *Newsday*, 11 January 2018.

⁴ President E.D Mnangagwa town hall meeting in full: <https://www.youtube.com/watch?v=3pyhttE1bPw>.

⁵ 80 Business Executives accompany President to China, *The Chronicle*, 2 April 2018.

⁶ Zimbabwe's Emmerson Mnangagwa comes under fire over cabinet appointments; Opposition terms it 'recycling dead wood', *Firstpost*, 2 December 2017, <https://www.firstpost.com/world/u-s-air-strike-in-libya-kills-member-of-al-qaeda-affiliate-military-4513071.html>.

Legislative Reforms

The ongoing reform initiatives have helped to create space for citizens and scope for CSOs to continue pushing for more policy reforms in select critical areas in a way that is strategically designed to entrench constitutionalism, transparency and accountability in governance. Since coming into power, the new administration has emphasized political and economic governance reforms. President Mnangagwa has been vocal about his commitment to eradicating corruption by entrenching the “values of honesty, transparency, accountability, and hard work in governance.”⁷ He has also used every opportunity to emphasize his government’s commitment to “entrenching a democratic society driven by respect for the Constitution, rule of law, mutual tolerance, peace and unity” and to “ensure that the 2018 harmonized general elections are credible, free and fair.”⁸

The new government has already taken some practical steps to introduce notable reforms, for example the amendment to the Indigenization Act in a bid to open up the economy to improved foreign direct investment and the enactment of a new Finance Act meant to improve transparency and accountability in public finance management.⁹

The new Minister of Justice, Legal and Parliamentary Affairs Hon Ziyambi- Ziyambi under his 100-day plan highlighted the new government’s plan to align laws to the Constitution.¹⁰ Citizens and civil society must therefore, capitalize on the new administration’s political will in advancing constitutional and democratic reforms on election and human rights.¹¹ Given that there still remains important laws integral to the exercise of fundamental rights and freedoms that have not been aligned to the Constitution, examples include the repressive Public Order and Security Act (POSA) and the Access to Information Protection and Privacy Act (AIPPA), which place restrictions on citizens’ basic rights.¹² There is scope for CSOs to collectively organize and engage government on law reform efforts to repeal or amend these laws in order for them to give effect to the rights of freedom of assembly and petition, freedom to demonstrate and petition and freedom expression. The on-going law reform initiatives thus create space for citizens to continue pushing for more policy or law reforms in select critical areas strategically centred to entrench constitutionalism, transparency and accountable governance in Zimbabwe.

Importantly, the new administration is likely to enact law reforms in areas it views as politically non-controversial “,” such as those advancing women’s and children’s rights. For example, during a meeting organized by Women’s Coalition of Zimbabwe and other women’s groups, President Mnangagwa stated his intentions of having the Marriage Bill (criminalizing child marriages) finalized in the first session of the next parliament. Therefore, women’s rights organizations and coalitions should utilize this political will by mobilizing and pressuring the government to fulfil its commitment to aligning such relevant laws to the Constitutional provisions advancing rights of women, youths, marriage rights, equality and non-discrimination.

Relaxation of Restrictions on Freedom

Analyses of the new administration have also highlighted that it is under immense pressure to relax the application of the inherited state repressive instruments to try to win legitimacy and trust both locally and internationally.¹³ For example, Pact studies have confirmed this with regards to restrictive pieces of legislation, such as POSA and AIPPA, which have been used to restrict civil society from organizing public engagement activities.¹⁴ The new administration has been commended for at least curbing widespread impunity by state actors, and human rights violations by the police and state security agents have diminished post-Mugabe.

⁷ Live Blog: State of the Nation Address, *The Herald*, 20 December 2017, <http://www.herald.co.zw/live-blog-state-of-the-nation-address-2/>.

⁸ Alex Magaisa, Critical analysis of Mnangagwa’s first SONA, BSR, 21 December 2017, <https://www.bigsr.co.uk/single-post/2017/12/21/BSR-Critical-analysis-of-Mnangagwa%E2%80%99s-first-SONA>.

⁹ Finance Act, 2018. (No.1 of 2018); Veritas, Bill Watch 5-2018: Indigenization Amendments Now Law; Full Zimbabwe 2018 national budget statement, *Newsday*, 7, December 2017, <https://www.newsday.co.zw/2017/12/live-updates-zimbabwe-2018-national-budget-presentation/>.
¹⁰ <https://news.pindula.co.zw/2018/01/12>.

¹¹ Government prioritises electoral, human rights laws alignment, *The Herald*, 21 July 2017, <https://www.herald.co.zw/govt-prioritises-electoral-human-rights-laws-alignment/29>.

¹² Parliament digs in on POSA, *Newsday*, 4 April 2018.

¹³ D. Coltart, Whither Zimbabwe, *Daily News*, 4 January 2018.

¹⁴ Pact’s Applied Political Economy Analysis (APEA) study conducted in



The new government has also made gradual openings for citizens, civil society groups, and political parties to organize publicly than in the past. Previously, it was difficult for CSOs to get clearance to hold public gatherings from relevant government departments, including the Police and Central Intelligence Organization, a requirement under POSA. Actually, Mugabe's regime manipulated POSA by placing such cumbersome procedures that inhibited citizens the right to participate in peaceful political activities or collectively gather on peaceful activities aimed at influencing or challenging the policies of his government. Under the new government, citizen groups and civil society have easily acquired clearances to organize and discuss pertinent political and socio-economic issues affecting democratic and accountable governance. This has been attributed to a change in or proper application of legal instruments such as POSA¹⁵ Radical pressure groups, such as Mthwakazi Liberation Front and Ibhetshu likaZulu, are now finding it easy to organize public meetings. The police are clearing their meetings, including organizing tours to Gukurahundi¹⁶ grave sites, which was restricted during the Mugabe-led government.

This presents a good opportunity for CSOs to mobilize citizens to engage on healing and reconciliation issues. The gradual opening of space in most parts of the country also has created an opportunity for civil society to move into those areas where they have previously struggled to get in and introduce their programs and to set up community-based structures. Examples of such areas include mining, farming areas, and parts of geographical districts in Mashonaland Central (Mazowe, Rushinga, Muzarabani, Mbire, Guruve) and Masvingo (Bikita). At the same time, the newfound freedom is an opportunity for civil society to openly discuss sensitive issues it struggled to talk about in the past such as openly criticizing government's poor administration of public funds by public officials affecting the poor service delivery in the country's critical sectors such as health, educations, water, sanitation and transport. Civil society needs to take advantage of the relaxation in repressive conditions in most parts of the country to scale up civil rights education and governance work to reach out to as many community members as possible.

As a result of these relaxations, numerous citizen groups have managed to freely express their views on various governance issues. A wave of citizens' protests related to poor service delivery, working conditions, remuneration, and the worsening economic situation have occurred since November 2017. In February 2018, thousands of women in Hwange freely demonstrated for weeks demanding three-year salary arrears from Hwange Colliery Mine.¹⁷ Similarly, junior doctors held a month-long strike against the government demanding improved remuneration and working conditions. The strike paralysed the public health delivery system and ended after the government complied with doctors' demands.¹⁸ In another case, the government displayed its ability to listen to citizen voices when a decision to ban minibuses from getting into the city centre by the Harare City Council¹⁹ was reversed following a public protest.²⁰

This renewed citizen activism through exercise of fundamental freedoms presents a great opportunity to reconfigure Zimbabwe's political landscape so that citizens' newfound assertiveness and readiness can be used to shape democratic and accountable governance in the country. However, these efforts must be complemented by civic groups' effective monitoring of legislative/policy implementation and reform efforts to identify unconstitutional violations of rights and to ensure democratic governance.

¹⁵ Public Order and Security Act [Chapter 11:17].

¹⁶ The Gukurahundi was a series of massacres of an estimated 20000 Ndebele civilians carried out by the Zimbabwe National Army from early 1983 to late 1987.

¹⁷ Hwange wives grievances to be taken to Parly, *The Sunday News*, 4 March 2018.

¹⁸ Doctors strike has become national crisis, *Daily News*, 30 March 2018; Doctors, Government reach agreement to end strike, *The Standard*, 1 April 2018.

¹⁹ Harare bans kombis from CBD, *The Herald*, 20 February 2018.

²⁰ Government reverses CBD kombi ban, *The Herald*, 23 February 2018.

RISKS OF CITIZEN ENGAGEMENT FOR DEMOCRATIC GOVERNANCE IN ZIMBABWE

While there have been some remarkable openings in the exercise of fundamental freedoms, some forms of repression are still prevalent, such as the arbitrary dismissal of 16,000 nurses who had been on strike to demand better working conditions from the government.²¹ This violated Sections 65(3) and 4 of the Constitution, which recognizes that “every employee has the right to participate in collective job action including the right to strike, sit in, and withdraw their labor.” The government’s firing of striking nurses and threatening of teachers who gave notice to strike raises questions about the new administration’s commitment to the rule of law, due process, and constitutional rights and freedoms. Such actions by government warrant collective advocacy efforts involving individual citizens, civil society, and members of the public service.

Some evidence of such collective advocacy efforts by civil society and the public service already exists, such as the solidarity social media campaigns surrounding the nurses strike using the Twitter hash tag #BringBackOurNurses and litigation support services by public interest law organizations calling on the government to uphold the rule of law related to labor rights and improvements in the country’s public health. These collective advocacy efforts resulted in the government allowing dismissed nurses who were interested in rejoining the public health sector reapply. These results show that positive outcomes are possible; therefore, more collective action needs to be fostered between civil society and the public service to influence democratic and accountable governance in the country.

There are also some serious challenges for broader democratization arising out of the linkages between ruling ZANU PF party, the government, and the military structure, which has profound implications for the pace and quality of governance, democracy, and human rights in Zimbabwe. This situation could adversely affect the process and outcome of the 2018 elections, especially given allegations of pre-deployment of “boys on leave” (soldiers that have been accorded special leave to campaign for ZANU PF) and traditional chiefs’ public declarations of support for the ruling party. Therefore, civil society must continue lobbying for a level playing field for free, fair, and credible elections.

ELECTION-RELATED ISSUES AND REFORMS

Elections are a key democratic process that enables citizens to freely exercise their democratic rights to shaping the governance of the country. Constitutionally, Zimbabwe must hold the 2018 elections on or before 31 August. In the past, the country has seen elections marred by political violence and contestations on credibility and fairness. In line with the Constitution, the new government has committed itself to holding free, fair, and credible elections.²² This has created several openings for citizens to engage on electoral issues.

The Right to Vote Extended to Aliens

As the country carried out the nationwide Biometric Voter Registration (BVR) process, the Registrar-General (RG) Tobaiwa Mudede’s issued out a public statement that persons with national identity cards inscribed aliens would not be eligible to register as voters. This is despite the 2017 constitutional provisions legalizing dual citizenship. In the November 2017, the High Court made a landmark ruling a, in which the court ruled in favour of people born in Zimbabwe above 18 years with dual citizenship possessing identification documents endorsed alien showing that such person was born in Zimbabwe and at least one of the parents having been born in Zimbabwe or from the SADC region to be allowed to register in the ongoing biometric voter registration (BVR) in order for them to participate in the country’s elections without any impediment.²³

²¹ Tendai Kamhungira, Nurses embark on countrywide strike, Daily News, 16 April 2018, <https://www.dailynews.co.zw/articles/2018/04/16/nurses-embark-on-countrywide-strike>.

²² Andrew Kunambura, ED promises free, fair elections, Daily News, 16 December 2017, <https://www.dailynews.co.zw/articles/2017/12/16/ed-promises-free-fair-elections>.

²³ Movement for Democratic Change (T), Movement for Democratic Change (N) and Sarah Kachingwe vs Zimbabwe Electoral Commission, Registrar-General, Ministry of Home Affairs and Zimbabwe National Patriotic Front HC 10623/17

This court ruling has created an opportunity for previously disenfranchised citizens classified as aliens to get an opportunity to exercise their democratic right to vote and participate in the 2018 harmonized elections. CSOs should seize this opportunity and encourage this group of citizens to register to vote. CSOs also should inspect the voters roll and vote in the forthcoming elections.

International Observers

Another key progressive development is that the new government has set aside its long-standing ban on Western observers' involvement in the country's polls, inviting the European Union (EU) and United States of America (USA) to observe and monitor the forthcoming elections. The EU and USA are part of the 61 countries and international bodies that have been officially invited by the government to send observers to participate in the election earmarked for July. The EU countries and USA are specific countries that had been banned from monitoring Zimbabwe's elections since 2002, when relations with the Mugabe-led regime soured over human rights abuse allegations.).

The decision to invite international observers is a welcome initiative by the government to ensuring free and fair elections, however civil society needs to keep on pressing for key reforms needed to make the elections credible, free and fair. Such needed reform measures include non-interference in Zimbabwe's civilian and electoral affairs by security forces and freedom of state media.

Electoral Law Reform

Both the opposition and civil society have demanded various electoral reforms intended to align current electoral laws to the 2013 Constitution. The government developed the Electoral Amendment Bill to enact the provisions of Chapter 7 of the Constitution, which deal with elections, and even arranged special sittings of Parliament to pass the bill before the 2018 harmonized elections. Commendably, civil society were able to provide input into the bill through representatives of the Parliamentary Portfolio Committee on Justice, Legal, and Parliamentary Affairs. Civil society should further monitor the amendment provisions bill's implementation.

Also, while the new government's passing of the Electoral Amendment Bill is a positive step toward a free, fair, and credible poll, civil society also must call on the government to comply with the South African Development Community (SADC) principles and guidelines for governing democratic elections and lobby the government on its commitments to align to the Constitution those laws that are integral for free, fair, and credible elections, particularly ensuring realization of fundamental freedoms and human rights, such as POSA and AIPPA.

Independence of Zimbabwe Electoral Commission (ZEC)

The holding of free and fair elections is largely premised on the ZEC, whose primary function is to prepare, conduct, and supervise elections in the country.²⁴ The ZEC has embarked on a number of key processes to ensure free and fair elections, such as the Biometric Voter Registration Process and ensuring access to the voter's roll (hard and electronic print) once in place, for a nominal fee. As a result, many citizens will have an opportunity to participate in the upcoming elections.

A key attribute of ZEC enshrined in the Constitution is its independence to ensure free and fair elections. However, civil society has criticised the Commission as following the will of the state, thus not independent to fulfil this duty. This assertion is based on the employment of former security forces personnel—currently 15 percent of the ZEC Secretariat is former members of the security forces—which greatly compromises the credibility of the elections. Given that state institutions used to rig elections, it is important for civil society to call for the new administration to prove its commitment to free and fair elections by guaranteeing ZEC's independence and the government's non-interference.

State Media Reforms

Section 61(4) of the Constitution requires that all state media be impartial and broadcast a diversity of opinions. Unfortunately, reformation of state media in the country has not happened. The state media is parochial and does not provide fair coverage of all political parties. It is aligned to the ruling party, which unfortunately creates an unlevelled playing field for political actors. The political stranglehold on the only state public broadcaster plays out in its coverage of political events,

²⁴ Section 239, Constitution of Zimbabwe

particularly elections. Coverage of recent by-elections and political rallies are a testament to this. All the news stories and programs covering the events were about ZANU PF, its leadership and candidates.²⁵ The party's opponents were only reported on in a disparaging manner. In light of this, civil society should continue advocating for the implementation of rights and freedoms entrenched in the Constitution on state media impartiality and affording fair coverage to all political parties.

Combatting Violence

According to the results of Pact's Applied Political Economy Analysis (APEA), violence is likely to affect the participation of citizens in key democratic processes, including elections. The political environment in rural areas particularly has been restrictive, with cases of registered voters complaining about intimidation by ZANU PF activists and traditional leaders, who record serial numbers on the registration slips of registered voters. Also, the ZANU PF government reportedly deployed more than 2,000 soldiers, including army officers who led the 2008 poll campaign/blitz of violence, into all communities around Zimbabwe end of 2017. This has restricted democratic space in some rural communities, making it difficult for citizens to freely participate in the activities of opposition parties and civil society.

Given the widespread condemnation of such intimidation practices, the current government has endeavored to address the problem, including by establishing special courts to deal with cases of political violence. The courts will be an important mechanism to speedily deal with politically motivated crimes. To complement the special courts, a special committee made up of the Zimbabwe Human Rights Commission (ZHRC), National Peace and Reconciliation Commission (NPRC), ZEC and the police has been set up to facilitate the swift handling of political violence cases ahead of the elections.

These mechanisms to combat political violence are key to victims of political violence freely reporting to seek redress and justice which were never in existence in the previous administration. Therefore, these dispute resolution mechanisms put in place will play a great role in ensuring that all political violence perpetrators during the elections will be held accountable thus enabling citizens to freely participate in the electoral process without fear and intimidation.

Civil society is encouraged to educate citizens on these available justice redress mechanisms so that victims of political violence can report. In addition, there is need for civics to conduct evidence-based monitoring and documentation of all political violence cases particularly those connected to candidates and political parties in terms of the Electoral Code of Conduct for political parties and candidates. Such documented cases will need to be reported to the specified judicial and quasi-judicial bodies mandated to deal with such cases for justice and redress.



²⁵ ZESN Policy Brief: Reclaiming Public Media ahead of 2018 Elections

RECOMMENDATIONS

The following recommendations will help to enhance the role of citizens and citizen groups, including civil society and community-based organizations, to effectively participate in accountable and democratic governance processes at multiple levels.

- ***Mobilizing citizens and citizen groups to participate in civic engagement processes:*** Mobilizing citizens and citizen groups to participate in civic engagement processes, particularly those involving both elected and appointed government leaders helps to build a culture of accountability and participation among both citizens and solution-holders. This is integral towards building a culture of accountability and participation among both citizens and solution holders.
- ***CSOs to press the new government to level the electoral playing field:*** Civil society should push the government to implement key electoral reforms that include; ensuring the independence of the ZEC, 40 percent of whose secretariat are either serving or retired members of the military, promoting free and equal access to public media by all contesting political parties; reforming the electoral act, POSA and the AIPPA which forbid fundamental freedoms of speech and assembly.
- ***Electoral engagement platforms:*** CSOs should intensify efforts to creating platforms for citizens to engage with electoral candidates on their leadership suitability to ensure informed voting choices. This will allow citizens to document political commitments that they can monitor in the post-election period.
- ***CSOs should strengthen community informal and formal protection systems to effectively address emerging cases of violence in the communities ahead, during, and in the immediate post-election period.***
- ***CSOs should monitor legislative/policy implementation and reform efforts by the government*** for purposes of identifying violations of constitutional rights as well as democratic governance.
- ***Creating engagement spaces to build bridges and networks with government:*** Civil society needs to use emerging engagement spaces to build bridges and networks with government leaders that can be useful for lobbying and advocacy in future. This includes targeting traditional government committees at village and ward levels, which are crucial in engaging rural constituencies.
- ***Lobbying government for law alignment:*** The alignment of some of the laws to the Constitution, such as POSA and AIPPA, is integral to realizing fundamental freedoms and human rights. Civil society must hold government accountable on its commitments to advancing democratic reform efforts pertinent to accountable governance.

