



# ELECTION RESOURCE CENTRE

Resourcing for Electoral Excellence

## **PRE-ELECTION STATEMENT**

The Election Resource Centre (ERC) is conducting a comprehensive election observation of the 26 March 2022 by-elections. The current phase includes long-term observers of the political and electoral environment ahead of the by-elections. The March 26 elections will be an important step for the country's democracy, seeking to consolidate democratic gains achieved since the disputed 2018 Harmonised Elections. This pre-election statement summarises observations to date from the ERC and offers several recommendations on steps to increase public confidence in the election.

ERC's assessment and statement of the electoral process is based on key findings, Zimbabwe's legal framework and on international standards for democratic elections, as well as recommendations by local, regional and international Election Observer Missions, aimed at enhancing the credibility of the electoral process, building public trust in the electoral process and ensuring the legitimacy of its outcome.

## **ELECTORAL CONTEXT**

Following the suspension of by-elections in 2020 by the Zimbabwe Electoral Commission<sup>1</sup>, on 26 March 2020 and the subsequent suspension through SI225A of 2020 by the Minister of Health due to COVID-19, Zimbabwe will hold by-elections on 26 March 2022 to fill vacancies arising in the National Assembly and Local Authority. In total the by-elections will seek to fill 150 vacancies with 28 in the National Assembly and 122 in the Local Authority arising due to death of candidates and recalls of candidates by political parties.

A total of 8 (29%) National Assembly vacancies and 41 (34%) Local Authority vacancies resulted following the death of sitting candidate while 19 (68%) National Assembly vacancies and 78 (64%) Local Authority vacancies resulted from the recalling of sitting elected officials by political parties with 97 of the recalls being initiated by MDC-T/Alliance and one (1) being recalled by ZANU PF. The elections are expected to be closely contested among the major political parties, with ZANU PF, MDC Alliance and the newly formed Citizen Coalition for Change (CCC) seen as frontrunners in the election.

## **SUMMARY OF KEY FINDINGS**

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<sup>1</sup> Zimbabwe Electoral Commission <https://twitter.com/ZECzim/status/1243124683131817985>

## **POLITICAL ENVIRONMENT**

The ERC noted that the general political environment has been characterised by a breakdown in the trust relationship amongst key electoral stakeholders. Electoral violence and the threat of violence remain sources of anxiety for many Zimbabweans, given the country's history of election related conflict. There has been a rapid increase in cases of politically motivated violence and intimidation against opposition party supporters mainly targeting Citizens Coalition Change (CCC) supporters throughout the campaign period. Highlighting the increase in violence was the beating of approximately 13 CCC supporters in police custody noted on 18 February<sup>2</sup>, the politically motivated murder of Mbongeni Ncube, a CCC supporter, following targeted attacks by reportedly ZANU PF supporters at a CCC rally in Kwekwe on 27 February 2022<sup>3</sup> and the brazen daylight arrests and beating in police custody of Godfrey "Madzibaba Veshanduko" Karembera on March 17<sup>4</sup>. Cases of politically motivated violence directly targeting by-election candidates were also recorded in Harare East targeting CCC Vice President Tendai Biti<sup>5</sup>; Umzingwane, Ward 20 (Matabeleland North) targeting CCC candidate Thokozile Dube<sup>6</sup>; Highfield, Ward 26 (Harare) targeting CCC candidate Maxwell Dutuma<sup>7</sup>. This targeting of CCC party supporters violated fundamental rights to freedom of assembly and association, which is enshrined in Section 58 of the Constitution integral to open participation in elections.

## **VOTER REGISTRATION**

Voter registration is an important means to ensure the rights of universal and equal suffrage and should be made available to all without obstacles. A national crisis gripped Zimbabwe as the Registrar-General failed to avail National Identity Documents to citizens necessary for one to be able to participate in voter registration and elections. The failure by the Registrar-General and Ministry of Home Affairs has negatively affected citizen participation in electoral processes such as voter registration, with the Electoral Commission being forced to suspend a Voter Registration Blitz scheduled for December 2021. Identity documents are a protected right under section 35 of the Constitution, essential for one to claim their rights, privileges and benefits as a Zimbabwean citizen and for one to be able to register to vote. The approach taken by the Registrar-General disenfranchises citizens and has a negative impact on the ability of the populace to participate in electoral processes.

With the voters' rolls for the National Assembly closing on 8th of January and Local Authority when the vacancy occurred, many citizens, especially youths, were unable to participate in the registration process and have been left disenfranchised from the by-election, which may subsequently affect participation levels for the by-election.

## **VOTERS ROLL**

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<sup>2</sup> CCC Spokesperson Fadzayi Mahere <https://twitter.com/advocatmahere/status/1494708896275091470>

<sup>3</sup> <https://www.zimlive.com/2022/02/28/murder-at-rally-the-official-police-account-of-how-kwekwe-attack-happened/>

<sup>4</sup> Citizens Coalition for Change <https://twitter.com/CCCZimbabwe/status/1504444395847929860>

<sup>5</sup> <https://www.newsday.co.zw/2022/03/bit-residence-attacked-security-guard-heavily-assaulted/>

<sup>6</sup> Citizens Coalition for Change <https://twitter.com/CCCZimbabwe/status/1504185847452557312>

<sup>7</sup> Citizens Coalition for Change <https://twitter.com/CCCZimbabwe/status/1501214815217491977> & <https://zero.pindula.co.zw/ccc-council-candidate-forcibly-taken-by-zanu-pf-youths/>

The ERC is concerned by the fact that the voters roll was not availed to all stakeholders ahead of the by-elections. Additionally, concerns on the inconsistencies surrounding the distribution of the voters' roll have been raised by stakeholders. The ERC on two (2) different occasions made formal requests to the Electoral Commission for the voters' roll; however, ERC's requests have been ignored in violation of section 21 (3) of the Electoral Act.

The conduct and inaction of the ZEC regarding the inconsistencies highlighted on the voters' roll remains worrisome. The Electoral Commission has failed to adequately alleviate citizens' concerns around the voters' roll with Commissioner Joyce Kazembe, calling the voters' roll given to political parties ahead of the by-election as a draft in violation of section 21 (4) of the Electoral Act. Making sure the voters' roll is credible and up to date is key to ensuring the integrity of our elections. While, ZEC acknowledges that no formal complaints have been raised by political parties<sup>8</sup>, it is necessary to avail evidence and information necessary to restore public confidence in the voters' roll and publish a revised voters' roll that addresses stakeholders concerns which have been raised on various forums.

### **ROLE OF TRADITIONAL LEADERS & CIVIL SERVANTS**

In rural Zimbabwe, like in many other African countries where the state's reach is limited and traditional leaders still wield significant influence on their subjects because of reverence to custom and their control over citizens' access to important resources like farmland, access to justice and civic engagement and political participation, traditional leaders still play an important role in helping to influence voting patterns and processes. According to section 281 of the Constitution traditional leaders should not engage in partisan politics. However, ERC-ZESN observer reports compiled during the March 26 by-election campaigning revealed instances where traditional leaders (chiefs and village heads) or religious leaders used their influence on campaigns for political parties and candidates especially in the areas that will be conducted by-elections on 26 March 2022<sup>9</sup>. Additionally, the ERC has received numerous complaints emanating from the Mutasa District of headmasters and teachers participating in political training conducted by the ZANU PF Herbert Chitepo School of Ideology.

### **ELECTION CAMPAIGNING**

The ERC notes that opposition political parties were not able to openly conduct their campaign activities without disruption. There was systematic abuse of the rule of law by the Zimbabwe Republic Police (ZRP) to deny the opposition, particularly CCC and its candidates, an opportunity to campaign in line with section 67 of the Constitution. The ERC observed that the abuse of the rule of law and a disregard for judicial precedent by the ZRP has created an uneven playing field targeting opposition parties and candidates during the campaign period. The CCC has had to file a total of five (5) court interdicts to overturn arbitrary restrictions by the ZRP to political rallies while an isolated case affecting the LEAD candidate was noted in Epworth. The ERC notes that only rallies in Bulawayo and Mutare, opposition strongholds, occurred without any police interference or restrictions. The ERC has noted the reluctance of

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<sup>8</sup> Zimbabwe Electoral Commission <https://twitter.com/ZECzim/status/1506337818137739266>

<sup>9</sup> Election Resource Centre and Zimbabwe Election Support Network (February 2022). Joint Monthly Update Political and Electoral Environment.

the Zimbabwe Electoral and Human Rights Commissions in addressing the arbitrary restrictions imposed by the ZRP.

Zimbabwe has an electoral framework that guides election campaigning, ensures openness and equality and protects political parties from abuse and violence. Vague areas around the role of ZRP in an electoral environment and the role of the Electoral Commission in ensuring an environment conducive for political participation has been questioned. The role of ZRP has been subjected to judicial interpretation numerous times, with the Magistrates Court dismissing the ZRP's denial for opposition political parties to hold rallies on every occasion. The ZRP has continued on its trajectory of arbitrary resistance highlighted by Masvingo where the ZRP claimed that all grounds in Masvingo had been booked and ZRP was unable to provide necessary deployment of police officers at a CCC scheduled rally on 17 March 2022. The Zimbabwean electoral framework adequately provides for and guarantees the right to associate and participate in political gathering, based on the principle of equality of all citizens regardless of political affiliation. Steps must be taken to ensure the realisation of these rights, especially in the context of an election, where the denial of these rights impacts on the quality of that election.

### **VOTE BUYING & ABUSE OF STATE RESOURCES**

The ERC also notes, with concern, at the use of state resources during campaigning. The ERC witnessed a conflation of Governmental and Party activities aimed at luring votes. This included propagation of party ideals at official Government functions highlighted by the launch of the Presidential Borehole Scheme in Chitungwiza<sup>10</sup> and the Zimbabwe National Human Settlements Policy where citizens in by-election areas mainly were promised title-deeds and access to housing<sup>11</sup>. The use of state resources also included the use of government vehicles and buses under the franchise of ZUPCO to transport party supporters to campaign rallies held in different parts of the country. In Marondera Central for instance in excess of 25 ZUPCO buses were used to ferry supporters while in Kwekwe up to more than 30 buses were used according to reports.<sup>12</sup> While the conflation is difficult to regulate, it has the tendency to create an uneven playing field and introduces unfairness into the electoral process. During the month of February alone, observers noted 112 cases where food and other handouts, including alcohol, were given out as inducement to support political parties or candidates.<sup>13</sup>

### **STATE MEDIA**

Restrictions in media freedoms and unequal access to media platforms by competing political parties has historically affected the freeness and fairness of Zimbabwe's elections with section 61 (4) (b) of the Constitution requiring all state-owned media of communication to be impartial. The ERC takes note of positive steps initiated by the Electoral Commission to avail a

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<sup>10</sup> <https://www.zbcnews.co.zw/presidential-borehole-scheme-launched-in-chitungwiza/>

<sup>11</sup> <https://www.newsday.co.zw/2022/02/by-elections-ed-goes-for-broke/>

<sup>12</sup> See Election Resource Centre and Zimbabwe Election Support Network (February 2022). *Joint Monthly Update\_ Political and Electoral Environment*; The Standard (27 February 2022).

<https://thestandard.newsday.co.zw/2022/02/27/chiwenga-threatens-to-crush-ccc/>

<sup>13</sup> ERC and ZESN Statement on Phase 1 of Voter Registration (1-28 February 2022); Kelin Choto (5 March 2022). Populism Costing CCC. <https://www.hararepost.co.zw/en/theopinion/6052-populism-costing-ccc>

broadcasting schedule for by-elections areas and candidates ahead of the election<sup>14</sup>. In the period leading to the March 26 By-elections, there was partial opening of some state-owned media channels state to contesting parties, with the national state broadcaster Zimbabwe Broadcasting Corporation (ZBC) reserving some limited time for broadcasting campaign interviews with all candidates campaigning for positions in the by-elections during their primetime news broadcast between 8 and 9 pm. However, in contravention of Section 160 J (1) (a) of the Electoral Act which stipulates that “all political parties and candidates are treated equitably in their news media, in regard to the extent, timing and prominence of the coverage accorded to them”, state-owned media, including both print and electronic media, continued to show bias towards the ruling ZANU-PF party in their reporting on electoral issues.

### **OBSERVER ACCREDITATION**

ERC found that the initial ZEC process for accrediting domestic observers threatened to undermine the deployment of a significant number of independent observers pre-election and on election day. The centralisation of the accreditation process to Bulawayo and Harare only had disenfranchised citizens and electoral stakeholders in other regions. The ERC engaged with the Electoral Commission on a more decentralised and streamlined accreditation process, and took note of the Commissions subsequent decentralisation of the accreditation processes closer towards the by-elections, however the decentralisation was not sufficiently advertised.

### **CONFIDENCE IN ELECTORAL PROCESSES**

While the Electoral Commission has taken positive steps in increasing public communication and ensuring inclusivity in electoral processes through frequent engagements with electoral stakeholders and weekly radio shows to appraise the public on electoral activities, the ERC is concerned at the conduct and inaction of the ZEC regarding politically motivated violence, Electoral Act violations and inconsistencies highlighted on the voters’ roll. Politically motivated violence, police intimidation and a voters’ roll that fails to satisfy constitutional principles for free, fair and credible elections are grounds for disputed election which causes political instability and will negatively contribute to the precarious human rights situation in Zimbabwe. Credible elections can only be achieved through the respect for political and human rights.

### **NOTABLE IMPROVEMENTS**

**Improvements to election administration** – The ERC notes that ZEC has initiated several measures to improve the efficiency and effectiveness of voting since the 2018 Harmonised Election which includes committing to display the voters’ roll outside polling stations 48 hours before the election to award the public the opportunity to inspect the roll.

**Decentralisation of accreditation**- The ERC also notes the decentralisation of the accreditation process as we drew closer to the March 26 by-elections. This was a welcomed improvement from the Commission.

### **RECOMMENDATIONS**

The ERC offers the following recommendations;

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<sup>14</sup> <https://zec.org.zw/final/files/2022%20ZBC%20By-Elections%20Coverage%20Schedule.pdf>

## **RECOMMENDATIONS FOR THE GOVERNMENT OF ZIMBABWE**

- Provide sufficient funds so that the Zimbabwe Electoral Commission and other relevant Governmental stakeholders can fulfil their responsibilities as prescribed by law.
- Ensure the timely implementation of electoral reforms necessary to restore public confidence in electoral processes.
- Ensure that security services maintain the highest level of professionalism and impartiality in facilitating the electoral process, refrain from actions that could be seen as motivated by partisan interests.

## **RECOMMENDATIONS FOR THE ZIMBABWE ELECTORAL COMMISSION**

- The ZEC must proactively continue to improve election management and address concerns around the voters' roll and election management.
- Take concrete steps to combat politically motivated violence and vote buying through the enforcement of laws found in the Constitution and Electoral Act.
- To ensure a level playing field for all contestants, the Electoral Commission and other relevant authorities should take concrete steps to combat politically motivated violence and vote buying through investigating all allegations of political violence, the misuse of administrative resources and involvement in partisan involvement of traditional leaders in politics and hold perpetrators accountable.

## **RECOMMENDATIONS FOR POLITICAL PARTIES**

- Adhere to and enforce existing codes of conduct that commit parties to democratic electoral standards and peaceful resolution of disputes.
- Political parties must ensure political tolerance among their supporters and leave no room for violence or intimidation and must hold party perpetrators to account.

## **RECOMMENDATIONS FOR STATE-OWNED AND PRIVATE MEDIA**

- State and private media must provide balanced coverage of political parties and activities.

## **RECOMMENDATIONS FOR CIVIL SOCIETY ORGANISATIONS**

- To ensure electoral integrity, there must be collaborative efforts between political parties, ZEC, civil society and other electoral stakeholders in rolling out voter education and mobilisation.
- Civil society also need to conduct robust voter awareness campaigns which are not only targeted at mobilising new voters for registration but also conscientizing registered voters on the need to check their registration status at ZEC provincial and district offices or through online platforms such as the ZEC BVR inspection website [<https://bvrinspection.zec.org.zw>] or Netone platform- the \*265# facility.