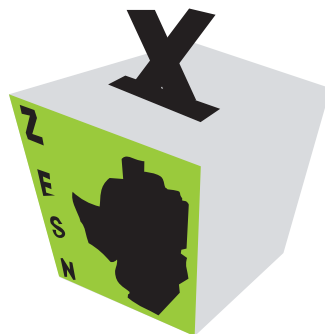




REPORT ON THE 2018 HARMONIZED ELECTIONS OBSERVER MISSIONS RECOMMENDATIONS TRACKING PROJECT



Zimbabwe Election Support Network

PROMOTING DEMOCRATIC ELECTIONS IN ZIMBABWE

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Following the 2018 Harmonised elections, ZESN compiled a Compendium of election observers' recommendations. The Compendium reviews the legislative and electoral framework against the Zimbabwean Constitution, regional and international principles and standards governing the conduct of democratic elections.

The compendium brings to the fore 223 recommendations that were proffered by the various local, regional, and international Election Observer Missions (EOMs) that observed the July 30 2018 harmonized elections. Of the 223 recommendations, 115 have been streamlined to cover several themes including; electoral and legislative framework, election administration, media coverage, the conduct of civic and voter education, holding of inclusive elections, polling, election observation, results management and electoral justice.

ZESN continues to advocate for sustained discussions on the recommendations and is continually engaging Parliament, the Zimbabwe Electoral Commission (ZEC), other Chapter 12 Commissions, political parties, members of the public and other electoral stakeholders so as to encourage improved uptake of recommendations which stakeholders collectively deem applicable to the Zimbabwean environment. These engagements were largely done in face to face meetings. However since the advent of the COVID-19 pandemic, the meetings have been held using mostly virtual platforms such as ZOOM, Microsoft Teams and Skype.




Further to the Compendium, ZESN petitioned the Parliament of Zimbabwe on 3 December 2018 to support the comprehensive review of the Electoral Act. Subsequently, ZESN shared with Parliament a draft Comprehensive Electoral Amendment Bill for Parliament's consideration. The draft Amendment Bill was developed with extensive consultation and input from various stakeholders and also incorporated some of the progressive provisions from the SADC Model Law on elections.

The analysis made in this report is informed by literature review, Inter-Ministerial Taskforce on the Alignment of Legislation to the Constitution's (IMT) bill tracker, meetings with the ZESN Provincial and National Taskforces, Cluster meetings, contributions and presentations on ZESN virtual public meetings, feedback from radio programmes and workshops with various civil society organisations whose programming covers some of the themes discussed in the Petition to Parliament. Internal Electoral Political Economy Analysis by ZESN's strategic apex (Board), secretariat and members through taskforces, also contributed to the analysis.

This report utilised colour codes to illustrate whether there has been improvement on any of the challenges highlighted under the 15 themes included in the ZESN 2018 Petition to Parliament. The themes are listed below:

Electoral Petition Themes	
i. The Legal Framework	ix. Political Parties
ii. The Political Environment	x. Women
iii. Voter Registration and the Voters' Roll	xi. Youth
iv. The Provision of Voter Education	xii. Persons with Disability
v. The Right to Vote and Inclusivity	xiii. Election Day and Results Management
vi. Election Observation	xiv. Election Dispute Resolution
vii. Delimitation of Constituencies	xv. Media and Elections
viii. Election Administration	

The following three colour codes are used to indicate the progress made under each of the 15 themes.

	red	No movement on the issue
	orange	Some movement on the issue was observed
	Green	Reforms under the theme were implemented

The IMT was set up in 2015 to co-ordinate the process of alignment of all legislation with Zimbabwe's Constitution. Thematic Cluster meetings are held with organisation outside the ZESN membership whose programming falls along various themes such as advocacy for electoral reform. 1

THE PETITION TO PARLIAMENT NOTES THAT:

- The independence of the Zimbabwe Electoral Commission (ZEC) is provided for under Section 235 of the Constitution. Provisions of the Electoral Law that offend this principle must be reviewed. These include sections 192(6) and (12) of the Electoral Act, which permit Executive interference with the ZEC.
- Pursuant to its signature of the African Charter on Democracy, Elections and Governance (ACDEG) in February 2018, Zimbabwe should proceed to give life to the Charter through its domestication and implementation.

ASSESSMENT:



- The Electoral Act does not empower ZEC to make and approve electoral regulations. ZEC still needs get approval from the Minister of Justice, Legal and Parliamentary Affairs for the Commission to introduce regulations for use by the institution's staff.
- In October 2020, the overturning by the Government of a decision by ZEC to lift the suspension of by-elections demonstrated that the institution could not make decisions independent of approval by the Government and the Ministry of Justice Legal and Parliamentary Affairs (ZEC's parent Ministry).
- Zimbabwe is one of the 25 African states that are yet to ratify the ACDEG. Signing is not enough when consent to be bound is to be expressed by ratification. Ratification of ACDEG will demonstrate that Zimbabwe is committed and serious about the promotion of democratic principles and institutions, popular participation, human rights, the rule of law, good governance, condemnation and unconstitutional changes of governments, sustainable development, peace and security as enshrined in the AU Constitutive Act and ACDEG.
- According to the Inter-Ministerial Taskforce on the Alignment of Legislation to the Constitution (IMT) the alignment of Electoral Act [Chapter 2:13] to the Constitution is complete. ZESN is of contrary view and has made submissions to both government and Parliament bringing to their attentions areas where the current Electoral Act is not in sync with the Constitution.

Score	Comment
	There has not been any movement on improving the Independence of the ZEC since 2018. The provisions permitting executive interference in ZEC are still in force. ACDEG has not been domesticated yet.

THE ZESN PETITION NOTES THAT:

- There is need for an enabling political environment, which supports the holding of free, fair and credible elections.
- Statutes as the Public Order and Security Act (POSA) and the Access to Information and Protection of Privacy Act (AIPPA) reinforces the existing political environment.
- There is need for an enforceable Electoral Code of Conduct for traditional leaders so as to ensure that Traditional leaders discharge their duties in a non-partisan manner.

ASSESSMENT:



The political environment remains in a state of flux, and unconducive to the holding of credible elections. The conflation of the state and ruling party continues to deepen as recently illustrated by the range of elaborate strategies that the party in government has employed to weaken the main opposition political party. The strategy includes co-optation, repression and legitimisation. For instance, on 17 May 2019, the government launched the Political Actors Dialogue (POLAD), which comprised some of the parties that contested the 2018 presidential elections. While the main opposition political party the MDC Alliance did not join, the majority of political parties in the opposition were co-opted under this arrangement. In a move that further weakened the main opposition political party, the Government, through the judiciary gave legitimacy to a faction of the MDC. The MDC-T was given a favourable judgement in its dispute with MDC-Alliance leader, Nelson Chamisa where it argued that Chamisa's appointment as vice president and his subsequent rise as president of the MDC-T party was illegal and unconstitutional. Armed with this judgement the faction of the MDC has proceeded to recall MPs that were elected under the MDC-Alliance party. Consequently the oversight and legislative power of Parliament has been weakened, as the ruling party's dominance in Parliament is unchecked, increasing the likelihood of bills being passed without adequate scrutiny. Some of changes to legislation that regulate the enjoyment of civil and political rights have been changed. The Public Order and Security Act which was replaced by the Maintenance of Peace and Order (MOPA) Bill is a case in point. Although the Bill became an Act on 14 November 2019, some stakeholders view it as a missed opportunity as some of the provisions in the new law were considered more repressive than those in the POSA which it sought to replace.

Some in the opposition have even likened the MOPA to the South African Apartheid era law, the Regulation of Public Gathering Act (No. 205 of 1993). Media Institute of Southern Africa-Zimbabwe is of the view that MOPA retains and in some instances adds to the restrictive provisions that were in POSA. In addition the MOPA was passed without addressing the various adverse comments that were raised by the Parliamentary Legal Committee (PLC) on the Bill, which in the view of the PLC were in conflict with the Constitution.

The Independent complaints mechanism that the members of the public can report human rights abuses by members of the security services has not yet been instituted, seven years after the Constitution was enacted and five years after the lodging of a constitutional application calling on the Government to gazette a Bill to set up the Complaints Mechanism envisaged by section 210 of the Constitution. However, recent developments suggest there could be movement on this issues as Cabinet approved the Zimbabwe Independent Complaints Commission Bill, in November 2020. It remains to be seen if the provisions in this Bill sufficiently capture the essence of provisions of section 210 of the Constitution.

On the other hand the government created the National Peace and Reconciliation Commission (NPRC) whose mandate is, among other things, “to develop mechanisms for early detection of areas of potential conflicts and disputes, and to take appropriate preventive measures” the NPCRC is yet do develop the early warning system, with efforts to hire a lead consultant to assists with this process commencing as recently as August 2020. NPRC was also required to developed procedures and institutions at national level to facilitate dialogue among political parties, communities, organisations and other groups, in order to prevent conflicts and disputes arising in the future. Perhaps institutions like POLAD ought to have been created and facilitated by the NPRC. In addition the Commission has not mediated in disputes between various rural communities and commercial entities for instance.

Score	Comment
	<p>Cabinet approved the Zimbabwe Independent Complaints Commission Bill, in November 2020. It remains to be seen if the provisions in this Bill sufficiently capture the essence of provisions of section 210 of the Constitution.</p> <p>The National Peace and Reconciliation Commission and supporting legislation are in place but much needs to be done in order to enhance the capacity of the Commission to fulfil its mandate.</p> <p>Laws regulating the enjoyment of civil and political rights such as the MOPA have provisions which may be used by the incumbent to curtail enjoyment of political rights by political opponents.</p>

<http://kubatana.net/2019/07/29/parliamentary-legal-committee-adverse-report-on-mopa-bill-watch-39-2019/>
<https://www.chronicle.co.zw/cabinet-approves-zimbabwe-independent-complaints-bill/>
<http://www.nprc.org.zw/mandate/>
<https://twitter.com/NPRCZim/status/1293911067312050177>
<http://kubatana.net/2020/08/17/rise-in-forced-eviction-cases-in-masvingo-province/>

THE ZESN PETITION NOTES THAT:

- The Electoral Law must compel ZEC to inform registrants who are removed from the voters' roll.
- Those put on the exclusion list must be notified, and there must be a less cumbersome process for redress.
- Access to the final voters' roll must be guaranteed for all contestants as provided by law, and within a specific time-frame.
- Ease of registration in urban areas in view of the lowest registration statistics in Harare and Bulawayo in particular, and in urban areas in general.
- There should be more permanent registration centres established and these should be open throughout the electoral cycle.
- Copies of the roll must be availed to party agents at polling stations.
- There is need for procurement of integrated systems that allow one gadget to be used for multiple purposes, such as enrolling voters, voter verification on Election Day and transmission of results.
- The law must provide for the publication of the results of the de-duplication process to enhance transparency. ZEC must focus on continuous voter registration and cleaning of the voters' roll.

ASSESSMENT:



There has not been any movement on the gaps listed above, save for marginal improvements with regards to transparency on the voters roll as the ZEC during 2019 and 2020 by-elections has been displaying the voters roll outside polling stations. However ZEC has been seized with the task of cleaning up the voters roll but the results of such processes has not been made public.

ZESN produced a draft Electoral Amendment Bill which has since been submitted to parliament for consideration. A number of the gaps listed above are included in the Bill, such as provisions requiring the ZEC to inform registrants that are put on the exclusion list, facilitating redress for parties who grievances are related to the voter registration process.

Score	Comment
	There has not been any noticeable improvements on the quality of voter registration processes since the 2018 Harmonised Elections. The indefinite suspension of by-elections curtailed efforts for continuous tracking of improvements in election administration.

THE ZESN PETITION NOTES THAT:

- Voter Education (VE) should be linked to the secrecy of the ballot and other misinformation by electoral stakeholders.
- VE should reach institutions of higher learning and secondary schools, and target those have reached/about to reach the legal age of majority.
- VE must emphasise the importance of other elections, apart from presidential elections.
- The VE methodology and curriculum must facilitate easy access by people with disabilities including those visually impaired.
- Electoral Law must provide for continuous voter education by a broad range of actors that include the ZEC and Civic Society Organisations (CSOs).

ASSESSMENT:



There has not been any noticeable improvements on the quality of voter education processes since the 2018 Harmonised Elections. However the Commission has engaged electoral stakeholders in the development of more inclusive voter education curriculum and methodologies.

Score	Comment
	<p>The VE curriculum continues to fall short of responding to misinformation and disinformation that is sponsored by different stakeholders at various points during the electoral cycle. VE should focus on the right to vote and the secrecy of the vote.</p> <p>Efforts to make VE accessible to persons with disabilities and other disadvantaged groups is ongoing. To this end the ZEC has increased its engagement with various electoral stakeholders during the creation of VE materials. The ZEC, in collaboration with other stakeholders should ensure that VE programmes are conducted throughout the electoral cycle and should also target persons who may reach the legal age of majority by the time the next cycle of elections are held.</p>

THE RIGHT TO VOTE AND INCLUSIVITY

THE ZESN PETITION NOTES THAT:

The Constitution grants every Zimbabwean the right to vote. This the Electoral Law does not give life to, as it excludes millions in the Diaspora, remand prison and hospital. In keeping with the thrust of the new dispensation to include citizens in the Diaspora in national development, the selective inclusion of Zimbabweans in the Diaspora and those in places of confinement and hospitals must be reviewed. This also includes citizens' hospital staff, nurses and doctors who will be on duty on Election Day. The expansion of special voting must be considered to cater for these groups.

ASSESSMENT:



Special Voting rights have not yet been expanded. The ZESN draft Electoral Amendment Bill under review in Parliament, has provisions for special voting and recommend that the special vote be done in a more transparent manner and be accessible to a wider range of voters who may not be able to present themselves physically at their assignment polling stations on Election Day.

Score	Comment
	Special voting rights have not yet been expanded. It appears that political will to expand the category of persons eligible for special voting is absent.

ELECTION OBSERVATION

THE ZESN PETITION NOTES THAT:

The structure of the Observer Accreditation Committee must be reviewed in keeping with the principle of the independence of the Commission.

ASSESSMENT:



The observer accreditation process must be managed by the ZEC, any consultations with the security services should be done on the side-lines. However this needs to be provided for at law.

Score	Comment
	The observer accreditation committee still comprises members from the ZEC, the Central Intelligence Organisation, Ministry of Foreign Affairs, Ministry of Justice Legal and Parliamentary Affairs and Department of Immigration.

THE ZESN PETITION NOTES THAT:

Zimbabwe has conducted three sets of elections on the basis of one set of delimitation. 2008, 2013 and 2018 elections. Boundary delimitation for the 2023 elections should be timeously conducted. There is need to rationalise constituencies that are too big and those that are too small. Clear regulations for delimitation must be put in place.

ASSESSMENT:



There been significant improvement in the area of legislation that has an impact on the boundary delimitation process. The government accented to the Census and Statistics Amendment Bill of 2020. The Bill amended the Census and Statistics Act (Chapter 10:29) to allow for the national censuses to be conducted in a manner that will enable the Zimbabwe Electoral Commission to take into account census data when delimiting electoral boundaries every 10 years as required by section 161 (1) of the Constitution. The Bill has also moved forward the Census that was due in 2022 to be completed by 1 July 2021.

Score	Comment
	While enabling legislation has been promulgated, it remains to be seen if the Commission will conduct boundary delimitation in a manner that is fully transparent and which addresses complaints raised by electoral stakeholders in the past. It also remains to be seen, if the Commission provides adequate dispute resolution mechanisms for those who may raise objections with the maps that will be produced following the boundary delimitation exercise.

The three sets of elections are the 2008, 2013 and 2018 harmonised elections

THE ZESN PETITION NOTES THAT:

- There is need to mitigate conflict and suspicions around the ballot paper by ensuring transparency in ballot paper designing and printing through engagement of electoral stakeholders. It is also critical that the implementation of postal voting abides by the principles of free choice and secrecy of the vote contained in the Constitution and the Electoral Law. Special voting, amenable to transparent electoral principles and observation must be reinstated to guarantee the right to vote to those unable to vote on Election Day.
- The observation of electoral processes must be made easier by removing accreditation fees and the requirement for applicants to physical present themselves in person at accreditation centres in line with international best practice.
- Polling stations added in the run-up to elections must be widely publicised to ensure they are known by relevant stakeholders, and to reduce suspicions.
- Election administration must conform to open data principles. ZEC must adopt an effective communications strategy to ensure that it gets and sustains confidence of its stakeholders.
- ZEC must publish audit reports on expenditure on elections administration.

ASSESSMENT:



Assessment for the 2023 election cycle is ongoing. Currently there is no movement on the election administration issues listed above. During the COVID -19 pandemic the ZEC had responded commendably by developing a COVID-19 Policy to guide the work of ZEC during the COVID-19 pandemic. Unfortunately the Policy was not put to the test as the Government, through the Ministry of Health and Child Welfare suspended by-elections indefinitely through the use of Statutory Instrument 225A of 2020.

Score	Comment
	Overall the ZEC must adopt open data principles in the administration of elections. Transparency in elections management facilitates accountability and improved credibility of electoral processes and results.

THE ZESN PETITION NOTES THAT:

- Parties should be compelled by law to comprehensively deploy polling agents to observe key electoral processes. There is also need to regulate political parties. The legal framework must provide for the disclosure and audits of parties' sources of funding and the use of campaign funding.
- Multi-party Liaison Committees must made permanent features of the electoral cycle.

ASSESSMENT:



In addition to provisions at law that encourage comprehensive deployment of party agents as well as making Multi Party Liaison Committees (MPLCs) a permanent feature around the electoral cycle, ZESN is currently engaged in multiple conversations to solicit input on the feasibility of political party regulation in Zimbabwe. MPLCs are not yet a permanent feature on the country's electoral landscape, the structures continue to be set up on an adhoc basis.

Score	Comment
	MPLCs, an important component of the alternate dispute resolution mechanism is not a permanent feature. Making it a permanent feature would ensure that the ZEC remains accessible to electoral contestants, in addition it would allow for speedy resolution of some of the conflicts and tensions that arise during the different phases of the electoral cycle.

THE ZESN PETITION NOTES THAT:

Appropriate provisions must be made that make it mandatory for political parties to observe quotas for women. There must be gender parity, backed by law, in all decision-making positions and institutions.

ASSESSMENT:

The ZESN draft political party's regulation bill has provisions that require political parties to ensure that they are inclusive in terms of making substantive appointment in their respective parties that women, youth and other disadvantaged groups are included in party structures.

On the other hand, Constitutional Amendment Bill number two proposes the extension of quotas for women by an additional 10 years. Women's groups' view is proposed extension as inadequate position, and inconsistent with Constitutional provisions.

Recommendations from women's organisations include:

- Section 17 of Constitution which speaks to the need for gender balance should be respected, thus political parties should be obligated to reserve at least 50% seats for women in the Presidium and Parliament.
- In addition 50% of the direct election seats should be reserved for women including young women and women with disabilities. Government must ensure that within the 50% direct election seats, 25% of the seats are reserved for young women between the ages of fifteen and thirty-five including young women living with disabilities.
- At local government level all direct election seats to be designated according to zebra system by gender with ward designated for women appearing 1st on the delimitation list and ward designated for men appearing second.
- On Nomination of Candidates, ZEC must reject papers that do not reflect 50.50. This provision must be couched in peremptory terms.
- Political Party Finances Act must be amended to ensure that only political parties that meet the constitutional standard of 50. 50 receive resources under the Act.
- Institutional, operational and budgetary punitive measures against parties that fail to comply with the stated provisions must be clearly stated in relevant laws such as the Electoral Act, and the Political Party Finances Act.
- The Zimbabwe Gender Commission is exploring the possibility of sponsoring the Gender Equality Act where all the gender equality provisions can be brought and expressed in a manner that can make the rights enshrined in the Commission justiciable.

Score	Comment
	Proposal in the Constitutional Amendment Bill are regarded as progressive but inadequate. The ideal is having 50: 50 gender representation in parliament, in national and municipal government structures as well as in political party structures.

<https://www.wcoz.org/2018/08/29/placing-womens-rights-on-the-presidents-agenda/>

THE ZESN PETITION NOTES THAT:

The legal framework must provide for youth participation as voters, candidates and as decision-makers.

ASSESSMENT:

The Constitutional Amendment number 2 proposes adding 10 reserved seats for the youth in the lower house of Parliament. Youth Organisations such as the National Association of Youth Organisations (NAYO) and Youth Empowerment and Transformation Trust (YETT) argue that the youth were not consulted when the government came up with the provisions for youth participation in Constitutional Amendment Number 2. Youth organisations believe the proposed youth seats should come from the existing 210 seats and that;

- Youth quotas should be provided for in Provincial Councils.
- Youth should be included in 20-50% of government structures.
- There is need for a National Youth Policy which informs a Youth Act, which is yet to be established.
- There is need to lower age thresholds to allow for youth to be eligible to run for national assembly as well as presidential races.

Score	Comment
	Proposal in the Constitutional amendment bill are regarded as inadequate. The ideal is to have youth quota in government which are reflective of the country's demographics. Concerted efforts will also need to be made by political parties to ensure that youth are adequately represented at various levels of the respective political parties' structures.

THE ZESN PETITION NOTES THAT:

ZEC must ensure mechanisms are put in place to facilitate voting by people with disabilities that guarantee the secrecy of the vote. Polling stations must be accessible to persons with disability.

ASSESSMENT:



Persons living with Disabilities (PWDs) are not adequately represented in Parliament. There is provision for two people with disabilities in Senate. The PWDs community recommend that a quarter for PWDs be made mandatory to support an increase in number of PWDs legislators. The seat allocated to PWDs should be spread across all the provinces. There is need to domesticate the Convention on the Rights of Persons with Disabilities (CRPD) which Zimbabwe ratified in 2013, so as to guide efforts by government and other stakeholders' interventions meant improve PWDs participation in political and public life.

Score	Comment
	PWDs are lobbying for representation in all provinces and it appears this request will be partially met if Constitutional Amendment number two sails through parliament. Further there is need for administrative reforms such as the use of braille or tactile ballot papers is considered to ensure secrecy of their vote.

https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=195&Lang=EN
<https://www.zesn.org.zw/wp-content/uploads/2019/10/ZESN-Position-Paper-on-the-Participation-of-People-with-Disabilities-in-Elections.pdf>

THE ZESN PETITION NOTES THAT:

- The legal framework must be reviewed to ensure a more transparent results transmission system where presidential results from each polling station are transmitted directly to the national results collation centre. Any changes to the results should be made in the presence of observers and political party agents. ZEC should consider the total valid votes cast rather than the total votes cast in the counting of election votes and avoid errors that may necessitate the revision of announced results.
- Further, ZEC must invest in a real time results transmission system. ZEC must pursue an open data policy that includes the prompt display of election result forms at polling stations for each polling station, disaggregated by demographic variables and post those forms on its website.

ASSESSMENT:



In the 2018 electoral cycle, the results management system was not altered significantly. Issues from previous electoral cycles remain, including those related transparency, accuracy and verifiability of results.

Score	Comment
	Analysis of any possible changes in result transmission system will be made when the 2020 by-elections suspension is lifted and also during the 2023 Harmonised elections as it is anticipated that any significant changes to the results transmission system will be made and effected at that point.

THE ZESN PETITION NOTES THAT:

The legal framework must put in place other dispute resolution mechanisms to ensure the peaceful resolution of election related disputes throughout the electoral cycle, including dealing with cases of post-election retribution. Independent commissions should be strengthened, especially the National Peace and Reconciliation Commission (NPRC) and the Zimbabwe Human Rights Commission (ZHRC) to effectively execute their respective roles in electoral matters. Electoral petitions must be time-framed in the Electoral Law. The judiciary must be compelled to avail full judgments within a specified period.

ASSESSMENT:



A review high profile cases brought before the judicial courts after the harmonised elections for the 2008, 2013 and 2018 electoral cycles can help us make an assessment of the role that the judiciary has been playing towards the achievement, maintenance and promotion of electoral democracy in Zimbabwe. The judiciary has a role to play in electoral reforms, through adjudication, dispute resolution and recommending legislative and institutional reforms. For Zimbabwe, the judiciary continue to miss, or deliberately evade this important role, thereby proving incapacitated to contribute to meaningful electoral reforms in Zimbabwe.

A general assessment is that the judiciary has not pushed for electoral reforms; they have not caused any meaningful or progressive movement in the quest for comprehensive electoral reforms.

In high profile cases, the judiciary has either shied away from comprehensive adjudication by hiding behind technical, procedural prerequisites instead of seizing the moment to develop jurisprudence for use by Parliament and citizens

Score	Comment
	The judiciary continues to miss opportunities to contribute toward the strengthening of the country's electoral laws by not providing guidance on gaps in the electoral laws. Dismissing sensitive politically charged cases on technicalities has the unintended effect of leaving political tensions simmering thus unresolved.

The full list of court cases reviewed can be found in the ZESN research paper entitled “Assessment of the Justice Delivery System and its Contribution to Electoral Reforms in Zimbabwe”.

THE ZESN PETITION NOTES THAT:

- Enforceable legal provisions on the regulation of the media reportage of elections must be enacted, and implemented, particularly for the state media.
- The Zimbabwe Broadcasting Authority (ZBA) must be transformed into a truly independent institution that effectively and impartially regulates public, private and community broadcasters.
- ZEC media monitoring must be timely and effective. It must put in place effective mechanisms to ensure compliance. The ZEC media monitoring report must be shared widely.
- There must be mechanisms against hate speech and fake news on social media throughout the electoral cycle. The legal framework must also embrace media diversity and inclusion.

ASSESSMENT:



A number of media laws were gazetted after the 2018 elections. These include:

- The Access to Information and Protection of Privacy Act [Chapter 10:27]: was repealed and replaced by three sets of legislation :
- (a) Zimbabwe Media Commission Bill,
- (b) Freedom of Information Bill, and
- (c) Protection of Personal Information Bill.

There are various media laws that are under consideration. While the government has since gazetted the Freedom of Information Bill and the Zimbabwe Media Commission Bill, it is regrettable that the two Bills were generally viewed as a far cry from meeting the country's constitutional yardsticks as envisaged under Sections 61 and 62 of the Constitution which guarantees freedom of expression, media freedom and access to information. MISA Zimbabwe is of the view that the Broadcasting Service Act (BSA) "requires extensive amendment" and in addition the government needs "to institute and implement a practical ZBC turnaround strategy that will see the public broadcaster (Zimbabwe Broadcasting Corporation) produce and broadcast modern, quality and relevant public interest programming".

The current licensing regime is viewed as prohibitive and service as a barrier to local commercial and private players with interest to take part in Zimbabwe's media and broadcasting sector. The licensing fees need to be reviewed in line with section 61 (3) of the Constitution which stipulates that Broadcasting and other electronic media of communication have freedom of establishment subject only to State licensing procedures that; (a) are necessary to regulate the airwaves and other forms of signal distribution; and (b) are independent of control by government or by political or commercial interests.

Statutory Instrument 33 of 2008 requires journalist already registered with the Zimbabwe Media Commission to re-register with the ZEC during an election. This makes it expensive for free-lance journalists and media houses to get their journalists accredited to cover elections.

Score	Comment
	There is significant contestation on how progressive the new laws are. In addition media organisations such as MISA-Zimbabwe have raised a number of concerns with provisions currently contained in some of the bills that are before parliament. Concerns have also been raised by media practitioners. There is widespread view that work still needs to be done for our media laws to comply with the Constitution and other regional and international instruments such as the African Charter on Broadcasting.

Misa Zimbabwe State of the media 2019 report < <https://zimbabwe.misa.org/wp-content/uploads/sites/13/2020/01/State-of-the-media-report-2019-MISA-Zimbabwe.pdf>>
<https://zimbabwe.misa.org/2020/02/12/zimbabwes-broadcasting-services-act-requires-extensive-amendment/>
http://archive.kubatana.net/html/archive/legisl/080616zec1.asp?sector=ELEC&year=2008&range_start=211



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