



# Ballot Update

## Bulletin

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FREE

## NEW AMENDMENTS TO THE ELECTORAL ACT FALLS SHORT OF EXPECTATIONS

The General Laws Amendment Act (GLAA) was gazetted and became part of the laws of Zimbabwe on 1 July 2016. The GLAA took an omnibus approach to amend and attempt to align 126 Laws including the Electoral Act with the Constitution.

Prior to GLAA's enactment and passage in parliament, the Zimbabwe Election Support Network (ZESN) had made submissions specific to the portions relating to the amendment of the Electoral Act.

An analysis of the GLAA carried out by ZESN reveals that the Act in its current state fails to fully capture a number of fundamental rights that are guaranteed by the Constitution as it relates to the Electoral Act and offers piecemeal reforms that fall short of aligning the most substantive provisions.

In a statement ZESN said that GLAA does not sufficiently address fundamental issues related to the Electoral Act such as the right to vote, the special vote, delimitation and media access among other issues mainly as a result of the omnibus approach taken by the legislature to amend more than one hundred laws via the GLAA.

"The major concern and misgiving regarding the General Laws Amendment Act is the fact that it does not seem to vest the Commission with a clear and exclusive mandate to manage elections in the letter and spirit of the constitution.

Besides, the minor changes to the Electoral Act such as re-referencing and changing titles of offices, the general assessment is that the Act does not adequately align the most crucial and substantive provisions in order for it to fully comply with Constitutional guarantees and maintains the undesirable trend of



**ZESN National Director,  
Rindai Chipfunde Vava**

taking a piecemeal approach to amending the electoral Act," said ZESN National Director, Rindai Chipfunde Vava. The amendments purport to transfer the responsibility of registering voters, compiling the voters' roll

and ensuring the proper custody and maintenance of the voters' roll from the Registrar of Voters to the Zimbabwe Electoral Commission.

However the amendments do not conform with the Constitution to the extent the Act requires the Commission to share responsibilities with the office of the Registrar General of Votes, an office that is effectively abolished by the Constitution and the Act.

One of the major concerns raised by ZESN is the role of the Minister of Justice, Legal and Parliamentary Affairs which brings in the Executive interference into the election management processes.

This is contrary to the letter and spirit of the Constitution that establishes an electoral management body with exclusive mandate to manage elections, independent of any other legal person or arm of government.

To remove the element of Executive interference and safeguard the independence of ZEC, Parliament of Zimbabwe should have that oversight role instead of the Minister.

Despite conducting consultations and receiving input and submissions from civic society organizations and the general public, ZESN indicated that there was very little effort by Parliament to factor those concerns into the Act.

Section 67 of the Constitution states every Zimbabwean citizen has the right to vote and does not discriminate between citizens in Zimbabwe and those abroad.

The GLAA does not address the question of the right to vote for those in the diaspora and people in hospitals or in prisons thereby maintaining their disenfranchisement in exercising their political right to vote.



**ZESN is an independent and impartial organisation and does not support or endorse any political party.**

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## KUGADZIRISWA PATSVA KWAKAITWA MUTEMO WESARUDZO HAKUNA KUSVIKA PAITARISIRWA

Gwaro rinotaridza mitemo yakagadziriswa patsva rakashambadziwa rikagamuchirwa semimwe yemitemo yemuZimbabwe musi wal Chikunguru 2016. Mitemo inosvika 126 yakagadziriswa panguva imwe chete kusanganisira Mutemo wesarudzo.

Chinangwa chekugadziriswa kwaive kuedza kuti pave nekudyidzana nekupindirana nezviri muBumbiro reMutemo weZimbabwe. Mitemo iyi isati yakagadziriswa muDare reParamende, ZESN yainge yanyora gwaro raidonongodza zvaifanira kugadziriswa paMitemo yesarudzo.

Ongororo yakaitwa neZESN pamitomo mitsva yakagadziriswa yakaburitsa kuti Mutemo wesarudzo parizvino hausi kucherechedza kodzero dzevanhu sezvakanyorwa muBumbiro remutemo. Naizvozvo shanduko dzakaunzwa paMutemo wesarudzo dzakaita musiyapaduku pakuedza kuti Mutemo wesarudzo uyenderane nezvisungo zvirimuBumbiro reMutemo.

ZESN yakataura zvakare kuti kugadziriswa patsva kwemitomo hakuna kugadziriswa zvizere nyaya dzakakosha dzine chekuita neMutemo wesarudzo dzakaita sekodzero dzekuvhota, kuvhota kwakatsanangurika, kutarwa kwemiganhu nekuwanikwa kwemikana yekuzvishambadziwa pamarhedhiyo nematerevhizhoni.

Izvi zvakanzerwa nekuti vanoona nezvekugadziriswa kwemitomo havana kuita basa nemazvo sezvo vaigadziriswa mitemo mizhinji inodarika zana panguva imwe chete.

"Rimwe dambudziko guru ririkunetsa nderekuti, mitemo yakagadziriswa patsva haina kupa Komishoni masimba azere ekuona nezvekufambiswa kwesarudzo kuti zvienderane nezviri muBumbiro reMutemo.

Kunyangwe zvazvo paine zvisihoma zvakagadziriswa zvaka ita sekushandurwa kwemazita emapazi anoona nezvesarudzo, zvizhinji hazvina kugadziriswa kuti zvienderane zvizere nekuchengetedzwa kwekodzero dzevanhu semanyorerwo azvakaitwa muBumbiro reMutemo.

Izvi zvinotaridza kuti pave netsika isina kunaka yekuita musiya-paduku pakugadziriswa kwemitomo yesarudzo." Aya mashoko akataurwa naAmai Rindai Chipfunde Vava vanove Mukuru weZESN.



Kugadziriswa patsva kwemitomo hakuna kugadziriswa zvizere nyaya dzakakosha dzine chekuita neMutemo wesarudzo

Kugadziriswa kwemitomo patsva kunotaridza sekunge kwakatora basa rekunyoresa vanoda kuvhota, kugadzira gwaro revakanyoresa kuvhota nekuchengetedzwa kweGwaro remazita evakanyoresa kuvhota kubva kuHofisi yaRegistrar kuenda kuKomishoni inoona nezvesarudzo muZimbabwe (ZEC).

Asi kugadziriswa kwazvakaita hakupindirane neBumbiro remutemo nekuti mabasa aya ave kuitwa neZEC naRegistrar kunyangwe zvazvo hofisi yaRegistrar anoona nezvekuvhota yakabviswa muBumbiro remutemo. Rimwe dambudziko rakataurwa neZESN rakanangana nebasa rinoitwa neGurukota rinoona nezvekutongwa kwedzimhosva, mitemo neDare reParamende.

Kupindira kweGurukota iri mukufambiswa kwesarudzo kunokonzera kuti makurukota ehurumende neMutungamiriri wenyika vapindire mukufambiswa kwakanaka kwesarudzo. Izvi zvinopikisana neBumbiro reMutemo wenyika rinoburitsa pachena kuti vanoona nezvekufambiswa kwesarudzo vanofanira kuita basa ravo pasina kupindira kwevashandi kana kwemapazi ehurumende.

Kuti pasave nekupindira kwehurumende nekuchengetedzwa kwekuzvimirira kweZEC, Dare reparamende rinofanira kupihwa basa rekuona kufambiswa kwesarudzo pane kuti basa iri riitwe neGurukota rimwe chete.

Kunyangwe zvazvo vanhu nemasangano anoona nezvekodzero dzeruzhinji vakataura maonenro avo pakugadziriswa kwemitomo, ZESN yakacherechedza kuti hapana matanho anoonekwa akatorwa neDare reParamende pakuisa pfungwa idzi muMutemo wesarudzo.

Chikamu 67 cheBumbiro remutemo chinoti zvizvarwa zvese zvemuZimbabwe zvine kodzero yekuvhota zvisinei nekuti uri muZimbabwe kana kunze kwenyika. Mutemo mitsva wakagadziriswa hausi kugadziriswa dambudziko rekuti zvizvarwa zvemuno zvikwanise kushandisa kodzero yekuvhota. Naizvozvo kodzero dzavo dzekuvhota dzinokanganiswa.

### Contact us

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## Azifezekanga Izifiso Zikazulu Enguqukwani Yomthetho Olawula Inqubo Yokhetho

Ugwalo lomthetho olumumethe inguquko yemithetho etshiyetshiyeneyo (General Laws Amendment Act) lwahlelwa ngokomkhubo kahulumende, lwaphinda njalo lwabasemthethweni mhlaka 1 kuNtulikazi, 2016. Ugwalo lomthetho lolu lumumethe inguquko eyenziwe emithethweni engu-126 ngasikhathi sinye. Omunye wale imithetho eguquliweyo yilowo olawula izindlela zokughutshwa kokhetho kuleli. Imithetho le iguqulwa nje kuhloswe ukuthi ibambe lunye lesisekelo sombuso. Kungakaguqulwa imithetho le, inhlanganiso yeZimbabwe Election Support Network (ZESN) yayisike yabeka obala umbono wayo ngomthetho olawula ukuphathwa kokhetho kuleli.

Ukuhlaziywa kogwalo lomthetho lolu (GLAA) okwenziwe yi-ZESN emveni kokuhlelwa kwenguquko le, kuveze ukuthi lanxa yenziwe, isisekelo sombuso asilandelwanga ngokugezelelo.

Amalungelo kazulu aqukethwe yisisekelo sombuso mayelana ngezokhetho awahlonitshwanga wonke kulolo tshintsho olwenziwe emthethweni olawula ukuphathwa kokhetho.

Inhlanganiso ye-ZESN ikhiphe amazwi wokusola ukungahlonitshwa kwamalungelo oluntu afana lalandelayo; elokuvota kungakafiki ilanga lokhetho kumbe ukuvotela endaweni ezithile ngenxa yembambeko ethize (special voting), ukufinyeleleka kwezokusakaza lokunye, ngenxa yokugugulwa kwemithetho eminengi kakhulu ngasikhathi sinye.

“Okusikhathaza kakhulu ngenguquko yomthetho olawula inqubo yokhetho yikuthi iKhomishini eyiyo ebona ngezokhetho ayiphiwanga amandla agcweleyo ngendlela isisekelo sombuso esikuphawula ngayo. Ngaphandle kwenguquko ezincane ezigoqela, ukugugulwa kwezikhundla lokutshintshwa izindawo zokusebenzela,

inengi libona ukuthi umthetho awulandelayo lokho okumqoka okuphawulwa yisisekelo sombuso njalo kuqhelisa umkhubo ongemuhle wokugugula imithetho ngesiqubu sonwabu,” utsho njalo umkhokheli we-ZESN, uRindai Chipfunde-Vava.

Inguquko eyenziwe emthethweni wezokhetho ngenhloso yokususa amandla wokubhalisa abavotayo lokugcinwa koluhlu lwamabizo abo koMsitheli (registry) iwadlulisele kuKhomishini yezokhetho. Ayisoze ifezeke ngoba umthetho lo uthi lawo mandla kumele ahletshunelwane phakathi kweKhomishini labakoMsitheli. I-ZESN isole kakhulu indima ephiwe umphathintambo kahulumande obona ngezemithetho lokusebenza kwephalamende, khona okudala ukungenela kolunye ugatsha lukahulumende kwezokhetho ngokungekho emthethweni.

Isisekelo sombuso sipha wonke amandla okuqhuba ukhetho

kuKhomishini yezokhetho kungela kungenela komunye umuntu noma ugatshalukahulumende.

Iphalamende yeZimbabwe kumele ibe yiyo ehlola ukusebenza kweKhomishini le, hatshi umphathintambo. Inhlanganiso ye-ZESN, iphinde yatsho ukuthi lanxa iphalamende yakhankasa idinga imbono yezinhlanganiso ezizimele zodwa lemibono kazulu, ayizange izame ngitsho lakancane ukuyisebenzisa ekuguguleni umthetho wezokhetho.

Isahluko 67 sesisekelo sombuso sikubeka mgceke ukuthi sonke isizalwane seZimbabwe silelungelo lokuvota. Okunye okusobala yikuthi isisekelo asibabandlululi labo abangaphandle kwelizwe. Inguquko eyenziweyo le, ayiwakhathalelanga amalungelo alabo abangekho kuleli lanxa beyizizalwane, abasemajele, labasezibhedlela. Lokhu kwenza bengabi lethuba lokufeza ilungelo labo lokukhetha inkokheli abazifunayo.





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## Women's contestation for political offices in decline

The new Constitution brought hope and opportunity in terms of creating more space for women to be involved in the governance of Zimbabwe. The introduction of the quota system with the 60 reserved seats for women was meant to be a stepping stone in increasing women's representation. Interestingly, the number of women actually contesting for office is on the decline with no women candidates in all by-elections held in 2016.

In 2015, 24 by-elections were held and there were only 16 female candidates out of a total of approximately 150 candidates. Of these 16, only 4 women emerged as victors. The low participation of women in politics can be attributed to the fear of violence and victimisation particularly during elections as noted in a research done by ZESN in 2015 on challenges in attaining gender balance in elections.

Women and their political parties should be educated about the opportunities presented by the proportional seats e.g. securing seats for the most capable women members of their parties.

At the same time, the strongest women should be supported to run for the open seats First Past The Post (FPTP) to improve the chances of women's election in both open and reserved seats.

In order to increase women's participation in elections it is important for political parties to ensure gender balance when fielding their candidates so that the 50-50 representation can be achieved. In addition, women's participation can be promoted by a conducive environment for political contestation, one which is peaceful and free from intimidation and harassment.



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## Adherence to principles of election management critical for credible elections

The Zimbabwe Electoral Commission (ZEC) has new Commissioners appointed to fill in vacancies that arose following to the expiration of terms of office for six Commissioners in March 2016. The appointments which were made following public interviews held by parliament come at a time when the Commission is preparing for the 2018 harmonised elections.

ZESN has called upon the ZEC to adhere to the principles of election management which are independence, impartiality, integrity, transparency, efficiency, professionalism and service-mindedness. According to ZESN electoral management in line with internationally recognised principles will be the stepping stone to free and fair elections and will enhance public confidence in election management in Zimbabwe.

"The conduct of the Commissioners should enhance the integrity of ZEC in the administration of electoral processes whose outcomes are acceptable to contesting political parties, interest groups and the electorate," said ZESN Chairperson Henry Masaya.

In previous elections questions have arisen over the credibility of the electoral processes especially on processes such as voter registration.

Given that ZEC is now in charge of voter registration and has been piloting the polling station based voter registration model, ZESN has noted that adherence to the principles of election management will greatly enhance trust and confidence in the Commission.

Before the 2018 elections a number of crucial processes must be completed such as reviewing of voter education methodologies, the creation of a conducive electoral environment, the adoption and implementation of a sound voter registration model. It is important for the Election Management Body (EMB) to be Independent from governmental, political and other partisan influences on their decisions and carry out its work in an impartial manner through behavior, attitudes and engagement with all stakeholders. Impartiality is critical in the establishment of integrity and credibility of electoral processes.

Transparency is vital to combat perceptions of electoral fraud, favouritism and other negative perceptions thereby enhancing the

credibility of the Commission. ZESN urged ZEC to be transparent in operational and financial management by adopting the open data policy. The principle of Efficiency entails that electoral programmes are sustainable and cost effective. In the design and implementation of election programmes and activities election officials must be Professional, well trained and apply themselves with accuracy, diligence and non-partisanship.

Lastly, Service-mindedness is a responsibility to stakeholders and a major reason for the existence of the Commission. Therefore adherence to service-mindedness in processes such as voter education, voter registration, results management is essential for success of the electoral processes.

## NEW ZEC COMMISSIONERS



Mrs Joyce Kazembe



Mr Daniel Chigaru



Dr Ngoni Kundidzora



Mrs Netsai Mushonga



Mrs Sibongile Ndlovu



Faith Sebata