

ELECTORAL REFORMS **TRACKING REPORT**

AUGUST 2021 - JANUARY 2022



**Zimbabwe Election
Support Network**

Promoting Democratic
Elections In Zimbabwe





1.1 INTRODUCTION

The Electoral Reforms Tracking Report covers the period from 1 August to 31 January 2022. The report consists of a record of socio-political developments relevant to electoral matters and the electoral environment. The report registers both positive and negative changes in so far as they are relevant to the electoral playing field and related matters.

It is noted that like most of the world, Zimbabwe has been under COVID-19 regulatory frameworks since the declaration of the health challenge as a pandemic by the World Health Organisation (WHO). The regulatory framework put in place to deal with the pandemic has had an impact on several election-related issues, including basic rights such as the right and freedom of assembly and association, petition, etc.

This report builds on the last report by the Zimbabwe Election Support Network (ZESN) which covered the period from January 2021 to July 2021. As previously noted, following the 2018 harmonised elections, ZESN compiled a Compendium of Recommendations from the various Election Observer Missions (EOMs) that had been accredited to observe the Zimbabwean polls. The recommendations related to all phases of the electoral cycle in Zimbabwe, viz the pre-election, the election and the post-election phases.

As highlighted in the last tracking tool, ZESN lodged a parliamentary petition in 2018 as a result of which, pursuant to parliamentary and other stakeholder engagement it developed a draft Comprehensive Electoral Amendment Bill. The said Bill captures the essence of the 2018 polls multi-EOM's recommendations. This Electoral Reforms Tracking Report will, inter alia, report on developments that relate to these recommendations.

Zimbabwe has continued to reel under the adverse effects of the COVID-19 pandemic. Thus this Electoral Reforms Tracking Report on electoral field developments within the context of the pandemic. COVID-19 has affected and impacted all countries of the world. Zimbabwe has suspended some of the electoral activities such as by-elections due to the pandemic.

This report takes a thematic approach to developments in the electoral field in so doing attention is also given to the broad electoral issues in keeping with the ZESN mandate.






1.2 METHODOLOGY

The ZESN Electoral Reforms Tracking Report is based mainly on desktop research. It details information and analyses of data collated from studies of reports, publications, and news items relevant to the thematic areas covered by the report. It also examines official pronouncements by state institutions.

Colour codes are used in the report to illustrate changes that have taken place with respect to the indices used. Thus improvements or regression in the electoral space vis-à-vis the thematic areas will be shown as depicted in the table below.

Three colour codes are used in the report:

	Red	No electoral reform movement on the issue
	Orange	Some movement under the theme was observed
	Green	Reforms under the theme were implemented



2.1 LEGAL DEVELOPMENTS THAT HAVE A BEARING ON THE ELECTORAL AND POLITICAL ENVIRONMENT FOR ELECTIONS

Zimbabwe has had a highly contested electoral process, with the results equally contested since the turn of the millennium. The improvement of the legal framework holds part of the solution to the democratic development of the electoral processes. For this reason, this report monitored legislative processes during the period under review.

Sadly, ZESN notes that during the period under review there was little if any activity in Parliament on electoral law reform. In other words, electoral law reform was conspicuous by its absence on the agenda of Parliament. The few Bills that relate to that province were making little progress in the institution. The result is that much parliamentary law-making time has been lost that could have been utilised to ensure that Zimbabwean electoral processes get increasingly more transparent, democratic, credible, and less susceptible to conflict and contestation.

This report takes a thematic approach to determine whether changes to the legal infrastructure during the period under review were such as to impact positively on the conduct of future elections in Zimbabwe.

Legal Reform Issue	Update on the Issue
The Independence of the Zimbabwe Electoral Commission (ZEC) :	ZESN noted that no statutory changes took place during the period under review that relates to the independence of the Commission.
Review of Legal Provisions on Voter Registration:	ZESN notes that no statutory changes took place during the period under review on voter registration.
The Voters Roll:	On 22 November 2021, there was a publication of a list of 22 656 deceased voters whose names were still on the voters roll ¹ , and which was intended to be removed from the roll by the Zimbabwe Electoral Commission (ZEC). It is the responsibility of ZEC to maintain the voters' roll. Given the nature of the death registration framework in Zimbabwe, this may be an area that requires more work for purposes of the clean-up of the roll.

See General Notice No. 3379



2.1 LEGAL DEVELOPMENTS THAT HAVE A BEARING ON THE ELECTORAL AND POLITICAL ENVIRONMENT FOR ELECTIONS

Voter Education:	No substantive electoral law changes or reforms relating to voter education. Following the proclamation of by-elections slated for March 2022, ZEC accredited over seventy civil society organisations to conduct voter education.
Election Observation:	No substantive electoral law changes or reform relating to election observation took place during the period under review. Following the proclamation of by-elections slated for March 2022, election observation accreditation periods were also provided. However, ZEC warned of revocation of such accreditation if there was misconduct.
Enhancing Participation of Women, the Youth and Persons with Disability in the Electoral process as Voters and Candidates:	<p>In the last report, it was indicated that Constitutional Amendment Number 2 would in part attend to the representation of women and youth. Implementation of the Amendment is yet to be officially pronounced. Thus there has been no movement towards this.</p> <p>The government adopted a policy on disability.¹ ZESN acknowledges the adoption of the policy, which if implemented to the letter may result in incremental advances in the welfare of persons with disability. However, ZESN notes that a policy does not have the force of law. It, therefore, urges the authorities to go all the way, and ensure that the principles encapsulated in the policy are legislated upon, in keeping with international legal instruments to which Zimbabwe is a party to. Going beyond signature by ratifying and domesticating international legal instruments is a more pronounced approach to international best practice. Policy documents should reflect the legal position.</p> <p>The full impact of the constitutional changes adopted earlier in the year will be felt in their implementation. These relate to the representation of women in provincial councils, as well as the representation of young persons in Parliament.</p>
Tightening the provisions on results management to enhance transparency and reduce suspicion and results from contestation:	While the ZESN Compendium of observations from the previous election made recommendations to improve election results management processes, no legal developments occurred during the period under review.



2.1 LEGAL DEVELOPMENTS THAT HAVE A BEARING ON THE ELECTORAL AND POLITICAL ENVIRONMENT FOR ELECTIONS

Voter Education:	No substantive electoral law changes or reforms relating to voter education. Following the proclamation of by-elections slated for March 2022, ZEC accredited over seventy civil society organisations to conduct voter education.
Election Observation:	No substantive electoral law changes or reform relating to election observation took place during the period under review. Following the proclamation of by-elections slated for March 2022, election observation accreditation periods were also provided. However, ZEC warned of revocation of such accreditation if there was misconduct.
Enhancing Participation of Women, the Youth and Persons with Disability in the Electoral process as Voters and Candidates:	<p>In the last report, it was indicated that Constitutional Amendment Number 2 would in part attend to the representation of women and youth. Implementation of the Amendment is yet to be officially pronounced. Thus there has been no movement towards this.</p> <p>The government adopted a policy on disability.¹ ZESN acknowledges the adoption of the policy, which if implemented to the letter may result in incremental advances in the welfare of persons with disability. However, ZESN notes that a policy does not have the force of law. It, therefore, urges the authorities to go all the way, and ensure that the principles encapsulated in the policy are legislated upon, in keeping with international legal instruments to which Zimbabwe is a party to. Going beyond signature by ratifying and domesticating international legal instruments is a more pronounced approach to international best practice. Policy documents should reflect the legal position.</p> <p>The full impact of the constitutional changes adopted earlier in the year will be felt in their implementation. These relate to the representation of women in provincial councils, as well as the representation of young persons in Parliament.</p>
Tightening the provisions on results management to enhance transparency and reduce suspicion and results from contestation:	While the ZESN Compendium of observations from the previous election made recommendations to improve election results management processes, no legal developments occurred during the period under review.

<https://en.unesco.org/news/zimbabwe-launches-national-disability-policy>

See Zimbabwe 2022 By-Elections Road Map on the ZEC Website, <https://www.zec.org.zw/pages/roadmap> (Accessed 10 February 2022)



2.1 LEGAL DEVELOPMENTS THAT HAVE A BEARING ON THE ELECTORAL AND POLITICAL ENVIRONMENT FOR ELECTIONS

Streamlining the Election Dispute mechanism:	ZESN notes that no changes took place during the period under review on the election dispute resolution mechanisms. ZEC has established Multi-Party Liaison Committees at the provincial level in January 2022 as part of the process leading to the by-elections to be held on 26 March 2022 ¹ .
Reviewing the Provisions Regulating the Media Reportage of Electoral Processes:	In the State of the Nation Address (SONA) delivered on 7 October 2021 the President indicated that a Broadcasting Services Amendment Bill to further liberalise the broadcasting sector would be brought to Parliament in the 4 th Session. The proposed Bill is not yet in the public domain at the time of reporting. It is thus difficult to determine if it will positively impact the media environment as it relates to the electoral process.
Domestication of Regional and International Instruments to which Zimbabwe is a Party:	As previously reported, in 2018, Zimbabwe signed the African Charter on Democracy, Elections, and Governance (ACDEG). Some three years later, Zimbabwe was attending the Signing of the Instruments of Ratification of ACDEG. The President signed the instruments of ratification on the Charter in November 2021 ² . ZESN notes that the signature will only become of legal value upon the depositing of the instruments of ratification with the African Union. Further, in line with the Constitution ³ , the Charter will become legally binding on Zimbabwe upon its domestication by a statute passed by the Legislature in Zimbabwe. The country needs to show its political will to attain the democratic values outlined in the Charter by ensuring its full implementation.
Reviewing provisions on political party registration, regulation and financing:	No changes to the legal framework on political party registration, regulation and financing took place during the period under review.
Reviewing provisions on the Delimitation of Electoral Boundaries:	ZESN wishes to report that no legal changes took place during the period under review. However, the process of delimitation arising from amendments to the Census and Statistics Act in 2020 is still evolving. It should be noted that the amendment was meant to ensure that the national census took place earlier than its scheduled date of 2022. This however has not happened. And the question remains whether the 2022 census report will be used for the 2023 elections considering the legal limitations if it is not produced in good time.
Tightening Provisions	No statutory changes took place during the period under review. The

See <https://www.veritaszim.net/node/5341> (Accessed 27 December 2021)

See section 327 of the Constitution



2.1 LEGAL DEVELOPMENTS THAT HAVE A BEARING ON THE ELECTORAL AND POLITICAL ENVIRONMENT FOR ELECTIONS

Tightening Provisions on the Role of Traditional Leaders in Elections:

No statutory changes took place during the period under review. The Ethics Committee for the traditional leaders anticipated by law is yet to be operationalised.

During the period under review, a video in which Chief Murinye from Masvingo Province ranted about the levels of corruption and social inequality under the Second Republic that went viral on social media became a source of concern because of the reactions from senior officeholders in government. Vice President Chiwenga reportedly made threats about the conduct of Chief Murinye¹. ZESN expresses its concerns with the role that members of the Executive seek to ascribe to traditional leaders, which seems to be at odds with the roles and functions assigned to them by the Constitution and supporting legislation.

The Right to Vote and Inclusivity:

As previously reported, the Constitution of Zimbabwe under section 3(2) provides for a right to vote for all citizens, a right that the legal framework has not been able to fully embrace. No changes to that framework have taken place during the period under review. Citizens in the Diaspora, prisoners, hospitalised people and those on duty on Election Day are still disenfranchised by the current legislation.

The Police Amendment Bill, which was reported on in the previous reporting period, is yet to be passed by Parliament. It is one of the bills that had lapsed at the end of the 3rd Session but was revived for the 4th Session. If the original Bill is enhanced to embrace the human rights perspectives and the public protection and complaints approach in the Constitution it is believed that it would improve the electoral environment in Zimbabwe.

Attempts to evict communal land dwellers from their homes in Mutoko and Chiredzi in favour of commercial capital under the Communal Lands Act (Chapter 20:04) have brought to the fore debate on the right to land of communal farmers who constitute the majority of the population. Predictability and stability of tenure for citizens is linked to their right to vote. This is so because the right to vote is subject to registration as a voter, which in turn is polling station-based. The legality of provisions in the Communal Lands Act that form the basis of the decisions by the Executive has been questioned in light of provisions of the 2013 Constitution¹. It is recommended that the current Communal Lands Act be reviewed to ensure alignment with the values of the Constitution.

See <https://www.veritaszim.net/node/5341> (Accessed 27 December 2021)

See section 327 of the Constitution

See <https://www.newzimbabwe.com/critics-rip-into-chiwenga-following-threats-on-chief-murinye/> (Accessed 27 December 2021)

See for instance Veritas, Constitution Watch 3/2021 dated 27 August 2021



2.2 POLITICAL ENVIRONMENT

As previously reported the COVID-19 regulatory framework, which has prevailed since 2020 has had a fundamental effect on civil and political rights. While it has been announced that the long-postponed by-elections to fill vacancies in the National Assembly and local authorities will be held in early 2022, there are concerns about the political environment in the context of COVID-19 regulations.

Some of the critical institutions vis-à-vis the recognition, protection, promotion, and enjoyment of civil and political rights are the security agencies of the State. As reported during the last period, the Zimbabwe Public Complaints Commission Bill, 2020, gazetted in November 2020, is yet to become law. The Bill is aimed at providing an independent public complaints mechanism against members of the security agencies. Reports of differential treatment of political stakeholders concerning the conduct of political activities continued to surface during the period under review. For a country seeking to embrace the values of ACDEG, the Zimbabwe Complaints Commission Bill remains a constitutional imperative.

There were reports of a rise in the number of human rights-related violations during the period under review. This as the country edged towards the first by-elections in early 2022. By-elections had been suspended due to the COVID-19 pandemic since 2020. The country also goes to its harmonised elections in 2023. The Zimbabwe Peace Project (ZPP) report in November 2021 recorded several violations that involved state agencies and political parties.

The Private Voluntary Organisations (PVO) Amendment Bill, 2021 seeks to amend the Private Voluntary Organisations Act, which was gazetted on 5 November 2021. It has been criticised as retrogressive as it will potentially severely limit the operational space for civil society organisations (CSOs). Analysts believe that some of the provisions of the Bill are potentially in conflict with the Constitution, and therefore unconstitutional. The Bill specifically states that one of its objectives is to stop CSOs from participating in politics and political lobbying. If enacted the Bill may see some CSOs close shop, thereby removing one key democratic sector. CSOs have played a key advocacy role on political reforms. They have also recorded human rights violations.



2.3 THE CONSTITUTIONAL ALIGNMENT PROCESS

Zimbabwe adopted a new Constitution in May 2013 and was supposed to realign all laws to this document. The process has dragged on for years since. Some pieces of legislation that have a bearing on the electoral process and its credibility remain unaligned with the founding document.

ZESN has been invited to attend the Inter-Ministerial Taskforce (IMT) meetings on the alignment of Legislation to the Constitution since November 2019. To date, ZESN has attended 6 IMT physical meetings and one virtual consultation. During the period under review, ZESN attended 3 IMT physical meetings including participation at a *write shop* conducted on the Realignment of the Electoral Law with the Constitution. The workshop was conducted in December 2021, the meeting reviewed draft electoral laws that were developed by the VERITAS and ZESN to incorporate progressive elements of both Bills. The next steps after that workshop include the preparation of principles for the amended Electoral Act by Cabinet as well the review of the same by Parliament. The objective of the workshop was to put together the legislative concepts that will be used in the proposed amendments to the Electoral Law.

The Police Amendment Bill, which was reported on previously, had lapsed at the end of the last session of Parliament. The President advised that it would be on the agenda of the 4th Session of Parliament. While one of the Bill's objectives is constitutional alignment, it regrettably does not address the human rights dimensions of the 2013 Constitution in a way that enhances the Police's role in enhancing the political and human security environment.

Scoring:

Score	Comment
	The Public Complaints Commission Bill and the Police Amendment Bill raise hopes but do not reflect movement until passed. Having lapsed the Bills were revived for the current 4 th Session of Parliament
	There was no movement in the legal framework. Most areas of the legal framework remained as was the case during the last election cycle

Section 210 of the Constitution enjoins the State to create such an institution

The November Monthly Monitoring Report by the ZPP recorded that 86% of the violations were attributable to the ZRP, ZNA, and Zanu PF



2.4 WOMEN'S PARTICIPATION IN POLITICAL AND ELECTION PROCESSES

The 2013 Constitution provides for gender equality in all areas of endeavour, including leadership. This is also in keeping with international legal instruments and best practices.

As was reported in the last tracking tool the Constitution of Zimbabwe Amendment Number 2. Bill was passed into law and became Constitution Amendment Act No. 2 of 2021 earlier. This had the effect of extending the women's quota in the National Assembly for another 10 years up until 2033.

Because Zimbabwe uses a hybrid model of elections in terms of which some representatives are elected via first-past-the-post (FPTP) while others are elected via proportional representation, political parties themselves must embrace the constitutional values of gender parity. This would enhance gender representation through current flawed constitutional processes.

Regrettably, no other legal reforms have taken place beyond the constitutional amendments reported during the last period to address gender disparity in elective office.

Score and Comment

It remains to be seen what impact on representation in terms of youth, gender, and disability recent constitutional amendments will have post-2023 harmonised elections. Given experiences of the post-2013 constitutional dispensation, there is little hope in the absence of radical statutory changes that direct political parties to embrace the values of the Constitution in this regard.

Score	Comment
	There was no statutory movement during the period under review, with previously reported constitutional changes from Constitutional Amendment 2 contributing to the characterisation of the developments

Sections 17 and 80 of the Constitution



2.5. YOUTH PARTICIPATION IN ELECTORAL PROCESSES

Youth participation in electoral processes is critical as it reflects inclusion, and also ensures that they participate at all phases of the electoral cycle, as voters, candidates, and decision-makers in that process.

As reported above, concerning legislative developments, there has been no movement in the legislative framework that could impact youths' participation in electoral processes. Accordingly, the scoring reflects the dearth of legal development in that regard.

The impact of Constitutional Amendment Number 2 on the representation of youths in Parliament will only be felt and observed once the provision is implemented. At the time of writing this was yet to happen. As previously reported that amendment provides for a youth quota in the National Assembly.

Assessment:

Score	Comment
	There was no statutory movement during the period under review, with previously reported constitutional changes that positively impact youth representation yet to be implemented. However, Constitutional Amendment No. 2 reflects some movement



2.6. THE MEDIA AND ELECTIONS

As was reported in the last period, it appeared that Zimbabwe's media law and policy reform agenda were in gridlock. Beyond the legislative changes alluded to in the last report, no major changes have taken place. Suffice to note that in his State of the Nation Address (SONA) the President advised the nation that the Government would bring a Broadcasting Services Amendment Bill to Parliament.

Reported Media Violations:

Violations of the media institutions and personnel have been a factor in the Zimbabwean terrain. These also have a bearing on electoral issues, as the media also covers the electoral environment.

The Media Institute for Southern Africa (MISA) Zimbabwe Chapter, a member of ZESN reported several violations, some involving journalists from the independent press:

- ☒ On 17 August 2021, a journalist was arrested by police for "disorderly conduct" for video filming a chaotic scene involving members of the police force, municipal police, and vendors in Gweru.
- ☒ On 4 September 2021, a journalist was arrested and detained in Chitungwiza for violating curfew regulations. He was coming from work. Media practitioners are exempted from the COVID-19 regulations as they fall within the category of "essential services".
- ☒ On 6 September 2021, a journalist was assaulted in Mbare, Harare, over a corruption story on the power utility, Zimbabwe Electricity Supply Authority (ZESA).
- ☒ Two journalists that had covered Movement for Democratic Change (MDC) Alliance anniversary celebrations in Bulawayo were directed by military police to delete their video footage.
- ☒ On 30 September 2021, nine journalists covering an MDC Alliance demonstration at the Zimbabwe Electoral Commission (ZEC) offices were arrested and detained by the police in Harare.
- ☒ On 21 October 2021, a journalist from an independent daily newspaper was denied accreditation to cover a Zimbabwe African National Union-Patriotic Front (Zanu PF) annual conference.

Beyond these, there was another highly covered assault on a senior journalist that was allegedly assaulted by a member of the police service on 26 November 2021 in Waterfalls, Harare.

These stories indicate a media environment that is anything but conducive for the conduct of work by the media, particularly the independent media. There is a lot of work that needs to be done to enhance the media terrain ahead of the 2023 polls.



2.6. THE MEDIA AND ELECTIONS

There were no changes to the ZEC media monitoring legal framework during the period under review. ZEC has regulatory powers over the media once there is an election proclamation. ZESN however acknowledges that in line with the existing legal framework, and ahead of by-elections scheduled for March 26, 2022, ZEC was on social media advising stakeholders that its Media Monitoring Committee had been reactivated to cover electoral reportage. It should be noted that the Regulations in terms of which the Media Monitoring Committee is created are only activated once there is a proclamation of an election or by-election. As the 2023 elections beckon it may be necessary to review this position.

Scoring

Score	Comment
	While the proposal of an Amendment to the Broadcasting Services Act are welcome if it will enhance the media terrain, their significance will be determined when it is gazetted

See <https://zimbabwe.misa.org/media-violations-victories/> (Accessed 17 December 2021)
https://zimbabwe.misa.org/media_violations/gweru-journalists-arrested-and-detained/ (Accessed 17 December 2021)
https://zimbabwe.misa.org/media_violations/journalist-arrested-and-detained-for-violating-curfew-regulations/ (Accessed 17 December 2021)
https://zimbabwe.misa.org/media_violations/journalist-files-report-with-police-following-assault/ (Accessed 17 December 2021)
https://zimbabwe.misa.org/media_violations/journalists-detained-and-forced-to-delete-footage/ (Accessed 17 December 2021)
https://zimbabwe.misa.org/media_violations/nine-journalists-arrested-and-detained/ (Accessed 17 December 2021)
https://zimbabwe.misa.org/media_violations/newsday-journalist-denied-accreditation-for-zanu-pf-conference/ (Accessed 17 December 2021)
<https://news.pindula.co.zw/2021/12/03/police-officer-arrested-for-assaulting-journalist-blessed-mhlanga/> (Accessed 17 December 2021)



3. CONCLUSION:

It has been noted that while public Bills that hold promise are gazetted and brought to Parliament, the pace at which they are steered through the august House is not encouraging. Considering such reports as the Motlanthe Commission Report it would have been encouraging had the Public Complaints Commission Bill been passed, to ensure that members of the public have recourse. It should be noted that what happens at each phase of the electoral cycle can impact the outcome of the election. There is a need to treat election-related reforms as urgent as the country continues in its quest to meet the expectations of such key commitments as those in the ACDEG. Legislative stagnation as highlighted in this report has no beneficial impact on Zimbabwe's democratic development.

3.1. Key Recommendations:

The following recommendations are made:

- ☒ The constitutional realignment process needs to reach finality in time to impact the electoral process as the country approaches 2023;
- ☒ Recommendations for electoral reform in the ZESN Compendium as highlighted here need to be addressed, as issues raised in the Motlanthe Commission Report. The reform agenda must be prioritised;
- ☒ There must be legislation to compel political parties to implement gender parity requirements of the Constitution;
- ☒ Media law and policy reform aimed at enhancing media plurality and diversity should be adopted;
- ☒ The work of the Media Monitoring Committee should be more visible and they should draw a timetable of media coverage during the electoral period. The government of Zimbabwe must expedite media law and policy reforms in the coverage of elections that are guided by regional and international best practices. The Government of Zimbabwe must guarantee the safety and security of Journalists and media workers at all times. Relevant institutions must enhance the protection of media personnel. Relevant institutions must enhance the protection of media personnel.
- ☒ Political tolerance should be cultivated across the country. Political leaders must take the lead in this endeavour; and
- ☒ Zimbabwe needs to domesticate the ACDEG.

The Zimbabwe Electoral Commission (Media Coverage of Elections) Regulations, S.I. 33 of 2008 is the latest review by ZEC of the media regulatory framework

See <https://twitter.com/ZECzim/status/1488808421629509632/photo/1> (Accessed 10 February 2022)

See <https://twitter.com/ZECzim/status/1488808421629509632/photo/1> (Accessed 10 February 2022)



**Zimbabwe Election
Support Network**

Promoting Democratic
Elections In Zimbabwe

Zimbabwe Election Support Network

Tel: +263 242 250735, 798193, 791803

Email: info@zesn.net, zesn2011@zesn.net

Facebook: Zimbabwe Election Support Network(ZESN)

Twitter: @ZESN1

Website: www.zesn.org.zw