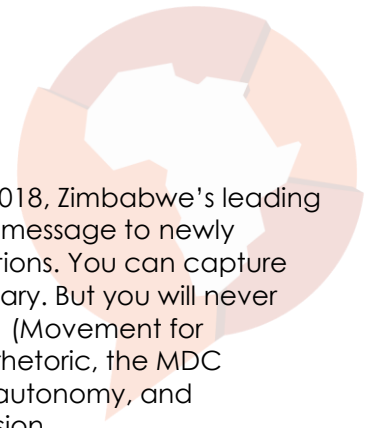




Bounded autonomy

What limits Zimbabweans' trust in their courts and electoral commission?

By Matthias Krönke



Introduction¹

After the Constitutional Court upheld the election results of 30 July 2018, Zimbabwe's leading opposition party ended its online public response with the following message to newly confirmed President Emmerson Mnangagwa: "You can rig the elections. You can capture ZEC [Zimbabwe Electoral Commission]. You can capture [the] judiciary. But you will never capture the people. Their will shall prevail. The people shall govern!" (Movement for Democratic Change, 2018). While some might dismiss it as partisan rhetoric, the MDC statement points to critical issues for Zimbabwe's democracy – the autonomy, and perceived autonomy, of the country's courts and electoral commission.

This policy paper analyzes public trust in these two institutions. Though intended to act as independent custodians of the Constitution and the electoral process, both the judiciary and the electoral commission are frequently accused of being beholden to political leaders. This year's election is not the first to be accompanied by allegations of vote rigging, intimidation, and politically tainted court decisions. Allegations of bias are frequently leveled against judges from the High Court and Supreme Court, even between election cycles. Yet previous analysis of Afrobarometer data has shown that Zimbabwe's courts are among the most trusted on the continent (Logan, 2017). And trust in the ZEC has doubled since 2010. How do these seemingly contradictory views fit together?

Our analysis of public opinion data suggests that citizens trust these two institutions within bounds. For court cases involving only ordinary citizens and technical electoral issues such as the rollout of the biometric voter registration (BVR), the judiciary and the ZEC enjoy substantial public confidence. But faced with politically sensitive issues, they no longer find broad popular support.

Afrobarometer survey data show clear differences in trust levels among citizens over time and along party lines. Public confidence in the judiciary is heavily dependent on whether it is perceived to hold the president and the powerful elite that surrounds him to account. Similarly, trust in the electoral commission depends less on its ability to handle managerial tasks in preparation for Election Day and more on its ability to ensure an accurate count of ballots and the resolution of post-election conflicts.

Public attitude surveys

Afrobarometer, a pan-African, non-partisan research network, has conducted public attitude surveys on democracy, governance, economic conditions, and related issues in Zimbabwe and other African countries since 1999. Afrobarometer employs face-to-face interviews in the language of the respondent's choice with nationally representative samples.

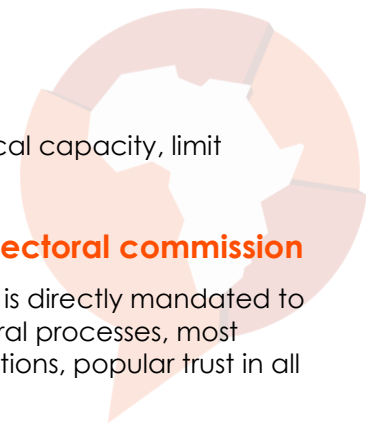
In 2018, the Institute for Justice and Reconciliation, Afrobarometer's core partner for Southern Africa, commissioned two pre-election surveys in Zimbabwe. The Mass Public Opinion Institute (MPOI), Afrobarometer's national partner in Zimbabwe, conducted survey fieldwork (28 April-13 May 2018 and 25 June-6 July 2018). Afrobarometer provided technical support. Each survey interviewed 2,400 adult citizens, yielding country-level results with a margin of error of +/-2 percentage points at a 95% confidence level.

Key findings

- Despite recent improvements, popular trust in Zimbabwe's electoral commission has remained below trust in the courts, the army, and the police since 1999.
- Trust in the judiciary and the ZEC is significantly higher among ZANU-PF supporters than among MDC supporters.

¹ I would like to thank Michael Bratton, Douglas Coltart, Sarah J. Lockwood, Tererai R. Mafukidze, Eldred V. Masunungure, and Justice Mavedzenge for their helpful comments and advice.

- Lack of political independence, rather than issues of technical capacity, limit broader public trust in the courts and the ZEC.



Trends in public confidence in Zimbabwe's courts and electoral commission

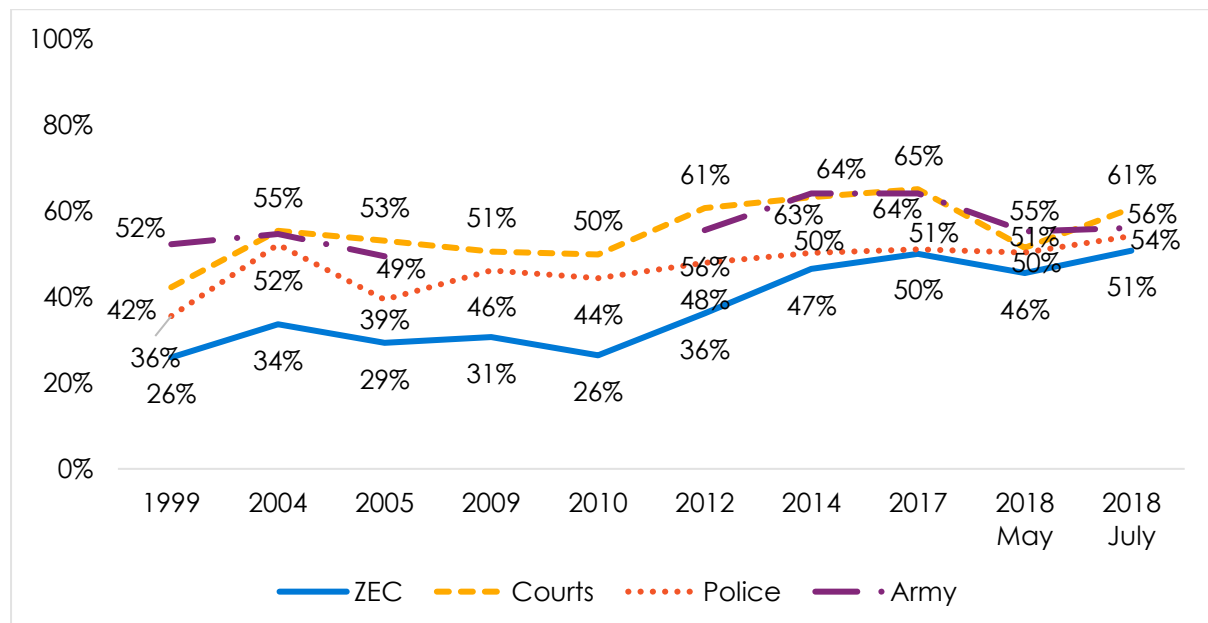
While the Zimbabwe Electoral Commission is the only institution that is directly mandated to run an election in Zimbabwe, other institutions can influence electoral processes, most notably the courts, the police, and the military. With respect to elections, popular trust in all four of these institutions may be pertinent.

Before the country's presidential election on 30 July 2018, several high-profile election-related court cases arguably affected the process. For example, in *Mavedzenge v. Minister of Justice*, which challenged the ZEC's lack of *de jure* independence from the Minister of Justice, the court delayed its ruling on an urgent chamber application submitted in 2017 until just weeks prior to the election – a move that many observers interpreted as a severe lack of independence on the side of the court. Similarly, controversial judgments barred Zimbabweans outside the country from voting, delayed the release of the voters' role, and ignored complaints that organizers of rallies for the ruling Zimbabwe African National Union (ZANU-PF) were forcing schoolchildren to attend and using school property. Often judgments were delayed, or initially courageous judgments were later overturned, typically benefiting the ruling party and calling into question the independence of the judiciary (EWN, 2018; Zimbabwe Mail, 2018; Thornycroft, 2018).

The police and military also play important roles during Zimbabwe's election periods. In the weeks following the 2018 election, security forces are accused of killing six demonstrators, attacking others, and disrupting a public announcement by the MDC.²

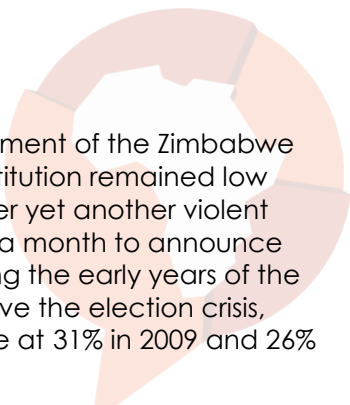
In 1999, Afrobarometer asked Zimbabweans for the first time about their trust in the electoral commission (then called the Electoral Supervisory Commission and Registrar General), the courts, the police, and the military. At the time, only a minority of 26% trusted the electoral commission "somewhat" or "a lot" (Figure 1).

Figure 1: Trust in independent institutions | Zimbabwe | 1999-2018



Respondents were asked: How much do you trust each of the following, or haven't you heard enough about them to say? (% who say they trust them "somewhat" or "a lot")

² Although the MDC split into MDC-T and MDC-M for some time during the period under review, for simplicity's sake they will be referred to as MDC in this analysis.



Following the country's controversial 2002 election³ and the establishment of the Zimbabwe Electoral Commission (ZEC) in 2004, public confidence in the new institution remained low (34% in 2004 and 29% in 2005). Unsurprisingly, this trend continued after yet another violent and divisive election in 2008, during which it took the ZEC more than a month to announce the first-round results of the presidential contest (Gagare, 2012). During the early years of the Government of National Unity (GNU) established in 2009 to help resolve the election crisis, public confidence in the electoral commission continued to stagnate at 31% in 2009 and 26% in 2010.

Since then, trust in the ZEC has improved considerably. One year after the 2013 election, almost half (47%) of Zimbabweans trusted the commission. Part of this change can be explained by the fact that although the 2013 election was marred by problems related to voter registration, ballot paper, polling stations, and other issues (BBC, 2013), it was considerably more peaceful than the 2008 election. The relatively peaceful run-up to the 2018 election and the introduction of the BVR system to improve the integrity of the voters' roll seem to have contributed to the stabilization of public confidence in the ZEC (Bratton & Masunungure, 2018).⁴

But among the four institutions cited here as playing significant roles in the country's elections, the ZEC has remained the least trusted. Since 2014, at least half of citizens have trusted the police – a level of confidence that the courts and the army have enjoyed since about 2004. This might seem surprising, given their actions during past election periods.⁵ Beatings, intimidation, and sporadic killings were part of every election since the opposition emerged as a coherent force in 1999, but things took a turn for the worse in 2008, when neither the police nor the military was able or willing to prevent the deaths of more than 100 people and violent attacks on thousands of others in the run-up to the second round of the presidential election (McGreal, 2008). In the courts, opposition party challenges related to the voters' roll, election results, and electoral violence in 2002, 2008, and 2013 fell on deaf ears.⁶ Nonetheless, Zimbabwe's courts are among the most trusted on the continent (Logan, 2017).

Among the many questions raised by this background, we focus on three: How independent of the political leadership are the custodians of Zimbabwe's elections perceived to be? Why has trust in the ZEC doubled between 2010 and 2018 yet remains comparatively low? And why do the courts continue to enjoy high levels of popular trust despite frequent allegations of bias? The next section provides an answer to the first question and informs the argument advanced to answer the other two.

³ While the Commonwealth group condemned the conduct of the 2002 election, observers from several African countries provided a more positive assessment (BBC, 2003). However, the initially embargoed Khampepe Report commissioned by Thabo Mbeki (president of South Africa at the time) summarized the elections as follows: "However, having regard to all the circumstances, and in particular the cumulative substantial departures from international standards of free and fair elections found in Zimbabwe during the pre-election period, these elections, in our view, cannot be considered to be free and fair" (Allison, 2014).

⁴ Stephen Ndoma (2017) has shown that the ZEC is not an outlier among electoral commissions in Southern Africa; few are trusted by more than two-thirds of the population.

⁵ For example, during the 2008 election, the police was accused of informing ZANU-PF of opposition rallies; using this information, ZANU-PF would dispatch loyal groups to break up these meetings (McGreal, 2008). Senior ZANU-PF officials, emboldened by the military's support, announced on multiple occasions that the party would not accept defeat in an election (Gagare, 2012).

⁶ For example, in 2008, the High Court of Zimbabwe dismissed an opposition demand for the immediate release of results of the first round of presidential elections (Dugger, 2008). For more on issues related to the voters' roll, see BBC (2013).

Citizens' perceptions of the ZEC and the courts

The country's electoral commission is not only tasked with managing elections in non-partisan fashion; its legitimacy depends at least equally on being *perceived* to do so. In other words, irrespective of citizens' political colours, they should have similar confidence in each institution. However, this is not the case. Figure 2 displays the levels of trust in the ZEC expressed by ZANU-PF supporters, MDC supporters, and those who do not identify themselves as partisans.⁷

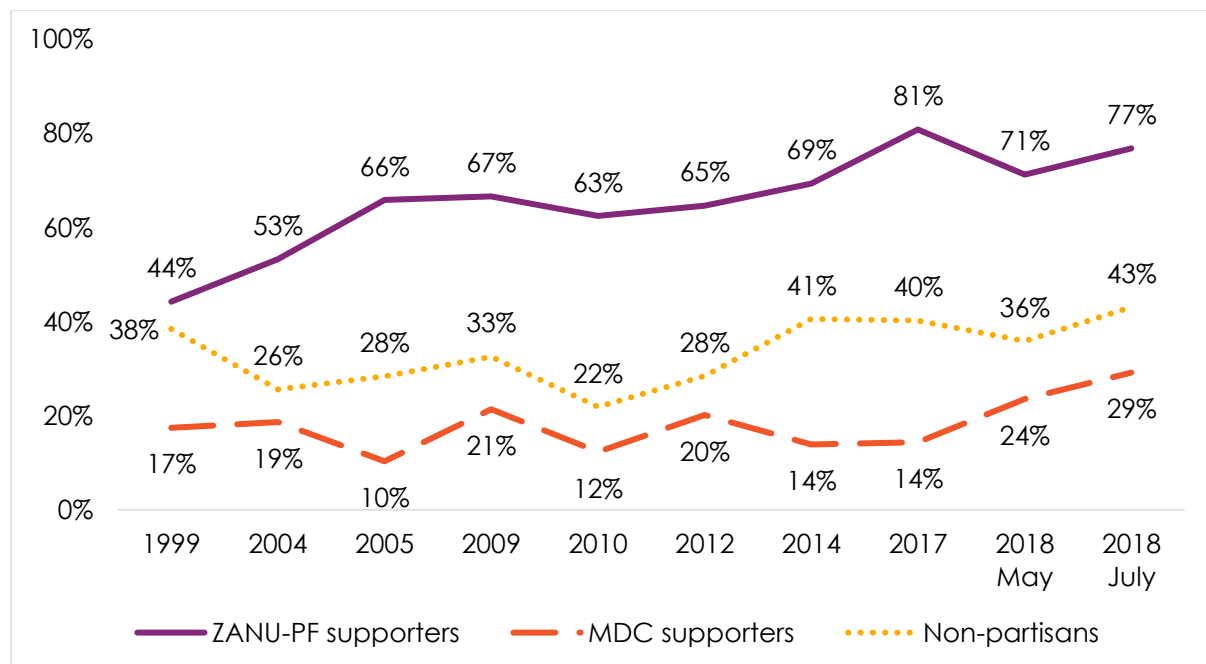
ZANU-PF supporters have put an increasing amount of trust in the electoral commission since the late 1990s. Among this group, trust increased after both the 2002 and 2013 elections. In contrast, it stagnated for roughly five years following the 2008 election (67% in 2009, 63% in 2010, and 65% in 2012).

Unsurprisingly, MDC supporters have a rather different view of the ZEC. In 1999 and 2004, fewer than one in five MDC supporters trusted the commission (17% and 19%, respectively). One year later, this number dropped even further, to one in 10.

And while overall trust in the ZEC increased steadily between 2012 and 2018, the trend was quite different for opposition supporters. A decline in trust levels among MDC supporters to 14% in 2014 and 2017 is likely to be a result of the badly managed 2013 election. However, the ZEC seems to regain some opposition trust while preparing for national elections; the increase to 24% in May 2018 and to 29% in July 2018 is similar to the pre-election increase in 2012, though more substantial in magnitude.

The trendline for non-partisans mirrors that of opposition supporters until 2012, and that of ZANU-PF supporters from 2014 onward.

Figure 2: Trust in the Zimbabwe Electoral Commission | by political party identification | Zimbabwe | 1999-2018

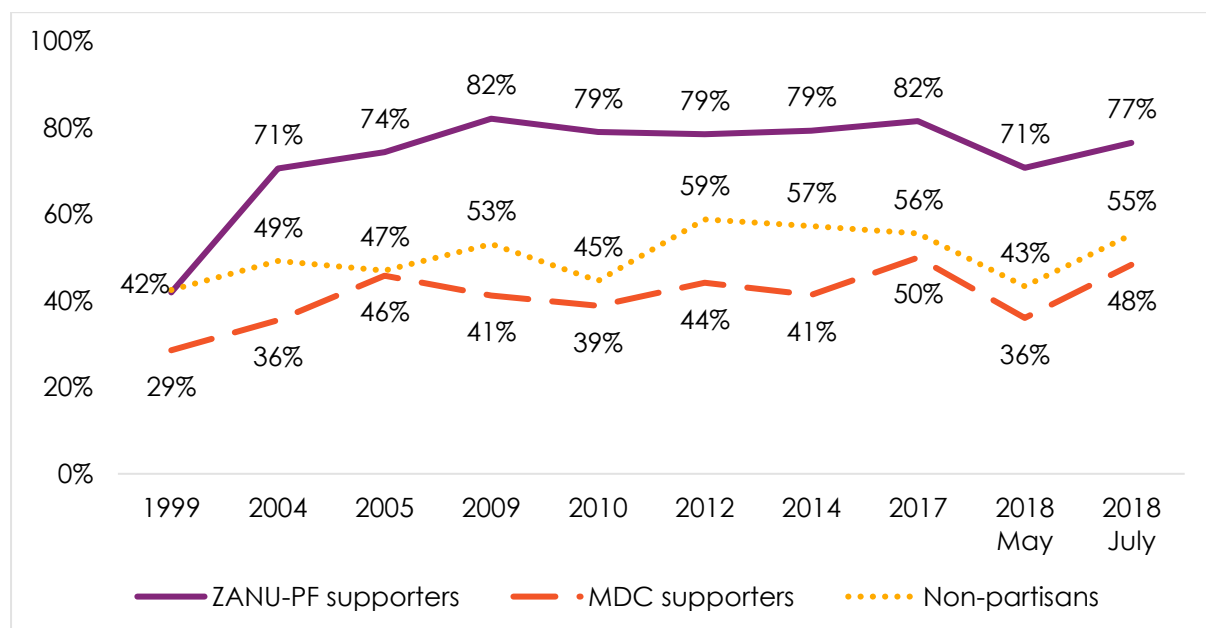


Respondents were asked: How much do you trust each of the following, or haven't you heard enough about them to say: Zimbabwe Electoral Commission? (% who say "somewhat" or "a lot")

⁷ Party identification is measured here by responses to the questions (a) "Do you feel close to any particular political party?" and, if yes, (b) "Which party is that?" Non-partisans are those respondents who say they do not feel close to a party. For additional comparisons of trust in the ZEC, the courts, the police, and the army by partisanship, see Figure A.1 and Figure A.2 in the Appendix.

The aphorism that justice must not only be done but also be seen to be done is often invoked as a standard that the conduct of court proceedings must meet. In Zimbabwe, levels of trust in the courts that differ substantially by partisan identification suggest that not everyone is seeing the same justice being done. Among ZANU-PF supporters, trust in the courts almost doubled between 1999 (43%) and 2009 (82%), then remained at this astoundingly high level (approximately 80%) except for a dip in the run-up to the July 2018 elections (Figure 3). Since 2004, both non-partisans and opposition party supporters have trusted the courts far less than those who support the ruling party. Nevertheless, it is noteworthy that for most of this period, at least half of non-partisans have trusted the courts. Moreover, it is encouraging to see that in 2017 (50%) and July 2018 (48%), MDC supporters have displayed similar confidence in this institution.

Figure 3: Trust in courts | by political party identification | Zimbabwe | 1999-2018



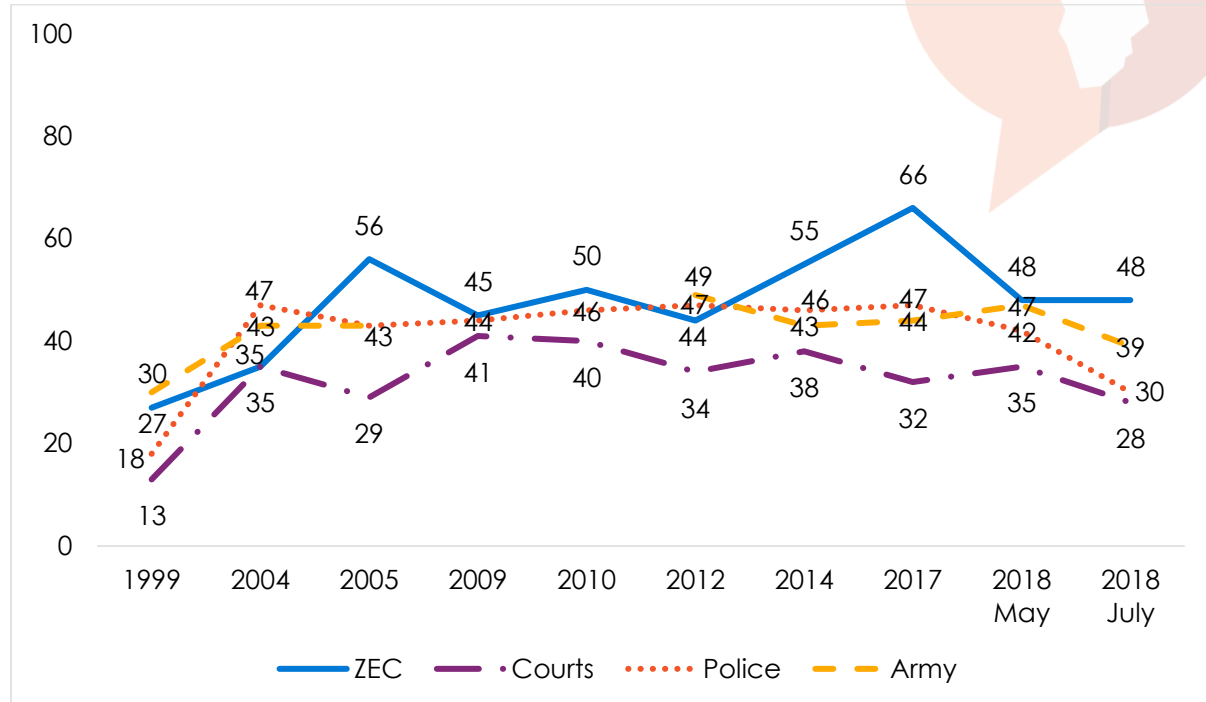
Respondents were asked: How much do you trust each of the following, or haven't you heard enough about them to say: Courts of law? (% who say "somewhat" or "a lot")

As a measure of perceived partisanship of an institution, Figure 4 represents the percentage-point difference in trust levels between ZANU-PF and MDC supporters for the ZEC, courts, police, and army. Ideally both ruling-party and opposition-party supporters would trust these institutions equally. Yet we see substantial differences between institutions as well as over time. It does not bode well for the ZEC's reputation as an independent arbiter of elections that in 2005, 2010, 2014, 2017, and 2018 the difference in trust levels between the two parties' supporters ranged between 48 and 66 percentage points. While differences in levels of trust in the courts have gradually decreased since 2009, we still saw a 28-point gap between ZANU-PF and MDC supporters in July 2018. In comparison, the trust gap between the two groups is nearly identical, substantial, and remarkably stable for the police and army between 2004 and 2018.

In sum, this preliminary analysis suggests that low levels of trust in the ZEC in absolute terms are related to MDC supporters' distrust of the institution, while increasing levels of trust in the ZEC since 2010 are associated with a relatively more homogenous upward trend among partisans and non/partisans.⁸ In contrast, Zimbabwe's courts have enjoyed higher and more consistent levels of trust among all groups.

⁸ The trend among non-partisans is similar to that of ZANU-PF supporters, albeit at a lower level (figure not shown).

Figure 4: Difference in partisan support of independent institutions (percentage points) | ZANU-PF vs. MDC supporters | Zimbabwe | 1999-2018



Respondents were asked: How much do you trust each of the following, or haven't you heard enough about them to say: Courts of law? (Figure shows percentage-point difference between proportions of ZANU-PF and MDC supporters who say "somewhat" or "a lot")

The following sections shed additional light on these longitudinal trends before focusing on the 2017/2018 election period. Specifically, the aim is to understand why trust in the ZEC is heavily polarized along partisan lines while the courts enjoy broader trust.

Evaluating the performance of Zimbabwe's courts

To examine the high trust levels in the courts, this part of the analysis focuses on the courts' bounded autonomy in relation to politically important cases and compares this with competing explanations. This argument of bounded judicial autonomy is then extended in the subsequent section to investigate the ZEC's inability to convert recently increased technical capacity into political independence.

Access to courts

We already saw that ZANU-PF supporters trust the courts more than other Zimbabweans. However, other factors such as citizens' proximity to courts (geographic location), their level of education, and whether they think the president ignores the laws of the country could all shape their trust in the courts.

In 2014, Afrobarometer asked why citizens don't take a case to the government courts, even if they think they have a legitimate complaint and deserve justice. Three answer options related to accessibility and court officials' conduct show the biggest differences between urban and rural respondents. While urbanites did not indicate that the distance to courts is too great, 6% of rural residents cited distance as a factor preventing people from accessing the courts. Moreover, only 1% of town dwellers said they prefer to go to a traditional leader or local council, whereas 8% of rural dwellers preferred this option (Table 1). In short, access to the court system is often more difficult or less desirable in rural areas. The No. 1 reason why urbanites do not take a case to court, by contrast, is that they expect judges, prosecutors, or court officials will demand money (16%).

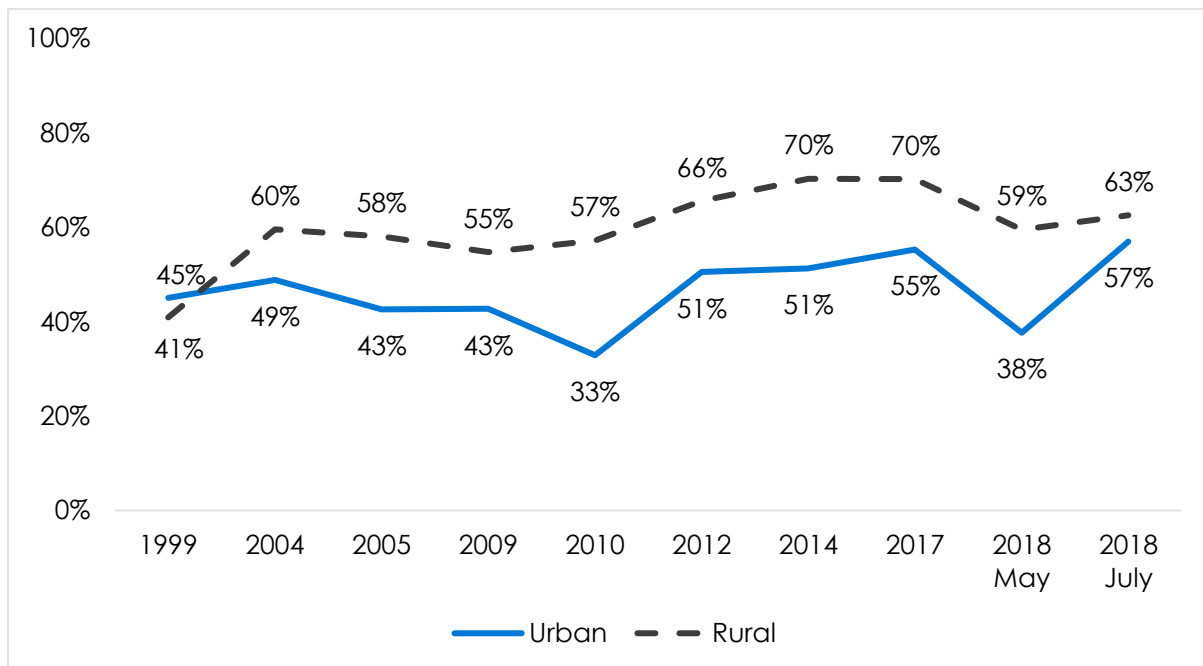
Table 1: Reason for not taking case to court | urban vs. rural | Zimbabwe | 2014

	Urban	Rural
Distance to the courts is too great	0%	6%
Prefer to go to traditional leaders/local council	1%	8%
Judges, prosecutors, or court officials will demand money	16%	4%

Note: Question texts for all tables are shown in the Appendix.

If citizen trust in the courts is at least in part based on accessibility of the judicial system, the urban-rural split observed above would suggest that trust in courts would be lower among the rural population. However, the data do not corroborate this assumption for most of the survey period (Figure 5). From 2004 until May 2018, Zimbabweans living in rural areas were on average between 10 and 20 percentage points more likely than urbanites to trust the courts “somewhat” or “a lot.” An alternative explanation would be that rural dwellers are more likely to support ZANU-PF and thus this graph captures similar trends to those of the partisan analysis. Decreases in trust levels among urban residents in 2010 and May 2018 are somewhat surprising. However, they resemble trends we will observe in our evaluation of the ZEC (Figure 11). Thus, this points to a more general loss of trust in these institutions.

Figure 5: Trust in courts by location | Zimbabwe | 1999-2018

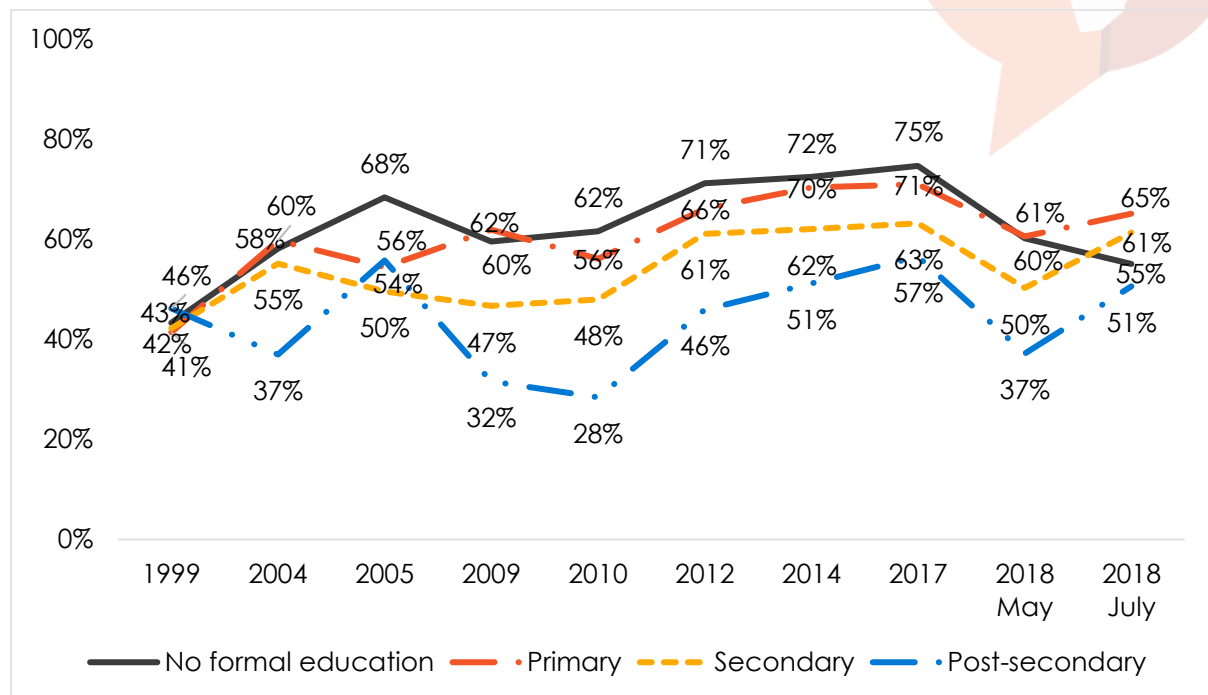


Respondents were asked: How much do you trust each of the following, or haven't you heard enough about them to say: Courts of law? (% who say “somewhat” or “a lot”)

One of the key questions in this analysis is why courts continue to enjoy high levels of popular trust despite frequent allegations of bias. Accusations of this kind against the judiciary, especially the country's Supreme Court, have occurred frequently over the past two decades. Some have come from the executive, and others from other sections of Zimbabwe's elite (BBC, 2001; Bulawayo24 News, 2013; Ndlovu, 2013). As could be expected, these often highly educated groups place the least trust in the country's courts (Figure 6). Nevertheless, their trust level converges with that of less educated citizens periodically (especially in 1999, 2005, and July 2018). The sudden dip in trust, among all education levels,

in the May 2018 survey could be related to some of the recent high-profile court cases, such as the decision to deny the diaspora the right to vote in the July 2018 election (EWN, 2018).

Figure 6: Trust in courts by education | Zimbabwe | 1999-2018



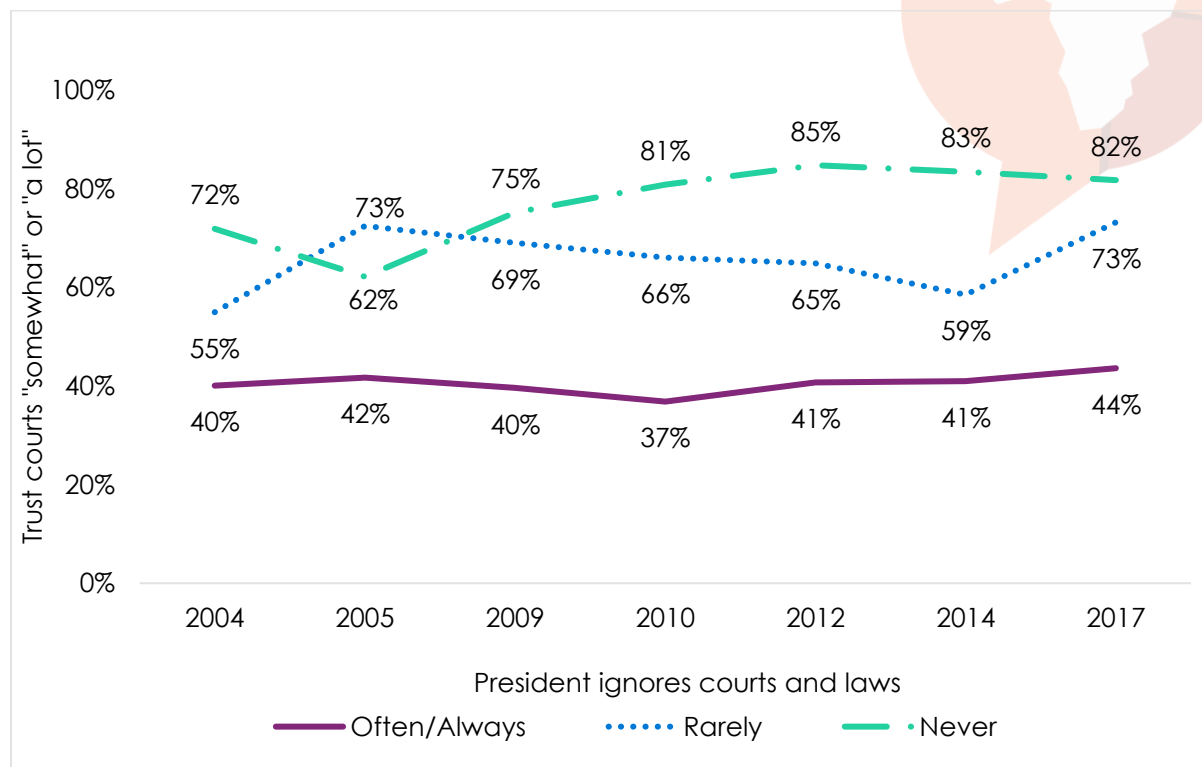
Respondents were asked: How much do you trust each of the following, or haven't you heard enough about them to say: Courts of law? (% who say "somewhat" or "a lot")

In a functioning democracy, the separation of powers is supposed to create horizontal accountability between the executive, legislative, and judicial branches of government. Yet, as VonDoepp (2009) has shown in the case of Zambia (and as argued here is the case in Zimbabwe), when electoral uncertainty is high and political survival for the president and his inner circle uncertain, the next election represents a game of life and death for this group. Put differently, if the president can ignore the country's laws with impunity to ensure his political survival, he may well do so, even if this harms the balance of power between the three branches and erodes public confidence in the judiciary.⁹

Figure 7 shows citizen trust in the courts disaggregated by how often they think the president ignores the country's courts and laws. Among those who say that the president (Robert Mugabe until the 2014 survey and Emerson Mnangagwa in 2017) ignored the laws "often" or "always," trust in the courts has stayed virtually the same – roughly 40%. In contrast, since 2010, those who think that the president "never" crossed legal boundaries trust the courts twice as much (approximately 80%). This suggests that citizens may evaluate the independence of the courts on the basis of executive-judicial interactions. What is more, these differences are comparable to the pattern we observed between ruling-party and opposition-party supporters and are among the most pronounced in the data under review. A more comprehensive statistical analysis in the section on "Effects of partisanship and bounded political autonomy" disentangles the relative importance of executive-judicial relations and partisanship further.

⁹ For a comment on how the president's appointment of a sitting judge as commissioner of the electoral commission can have negative implications for the judiciary's public image see Mafukidze (2018).

Figure 7: Trust in courts by president ignoring laws | Zimbabwe | 1999-2018



Respondents were asked:

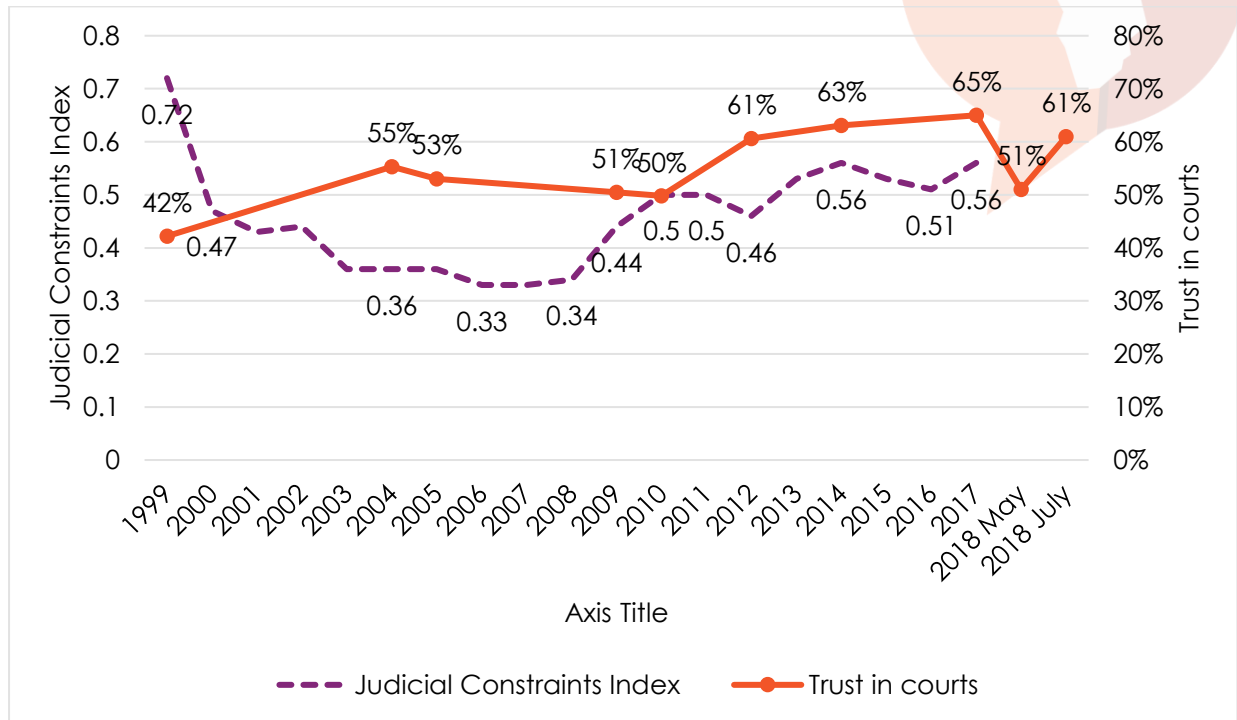
- In your opinion, how often, in this country: Does the President ignore the courts and laws of this country?
- How much do you trust each of the following, or haven't you heard enough about them to say: Courts of law? (% who say "somewhat" or "a lot")

Expert evaluations of and public confidence in courts

Comparisons of expert and public opinion data allow us to further explore the theme of judicial autonomy. The Varieties of Democracy project (V-Dem) developed a Judicial Constraints Index that measures to what extent the executive respects the Constitution and complies with court rulings, and to what extent the judiciary can act in an independent fashion (Coppedge et al., 2017). Scores range from 0 (judiciary not independent) to 1 (judiciary independent). Comparing Judicial Constraints Index scores to citizens' confidence in the courts reveals that at least from 2004 until 2012, public opinion seems to trail international expert opinion by about two to three years (Figure 8). For example, while experts saw an immediate improvement in 2009 with the beginning of the Government of National Unity, the public seems to acknowledge these improvements from at least 2012 onwards.

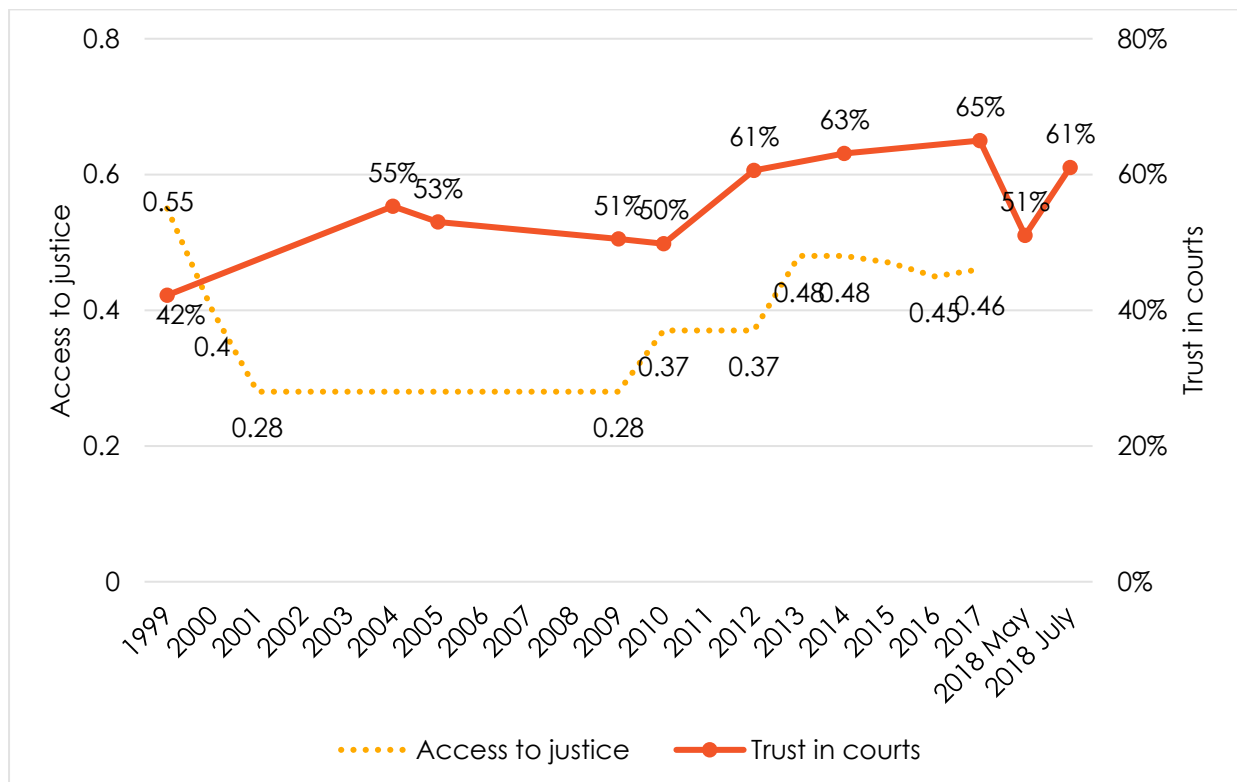
In addition to measuring horizontal accountability at the elite level, V-Dem experts provide assessments on whether citizens enjoy secure and effective access to justice (Figure 9) (Coppedge et al., 2017). Comparable to the Judicial Constraints Index, some of the improvements recorded by this group of international experts are also reflected in public opinion data, especially between 2004 and 2017. These increases correspond particularly well with three groups from our previous analysis: rural respondents, citizens whose highest level of education is secondary school, and those who think that the president never ignores laws.

Figure 8: Judicial Constraints Index and public confidence in courts | Zimbabwe
| 1999-2018



Respondents were asked: How much do you trust each of the following, or haven't you heard enough about them to say: Courts of law? (% who say "somewhat" or "a lot")

Figure 9: Access to justice (V-Dem) and public confidence in courts | Zimbabwe
| 1999-2018

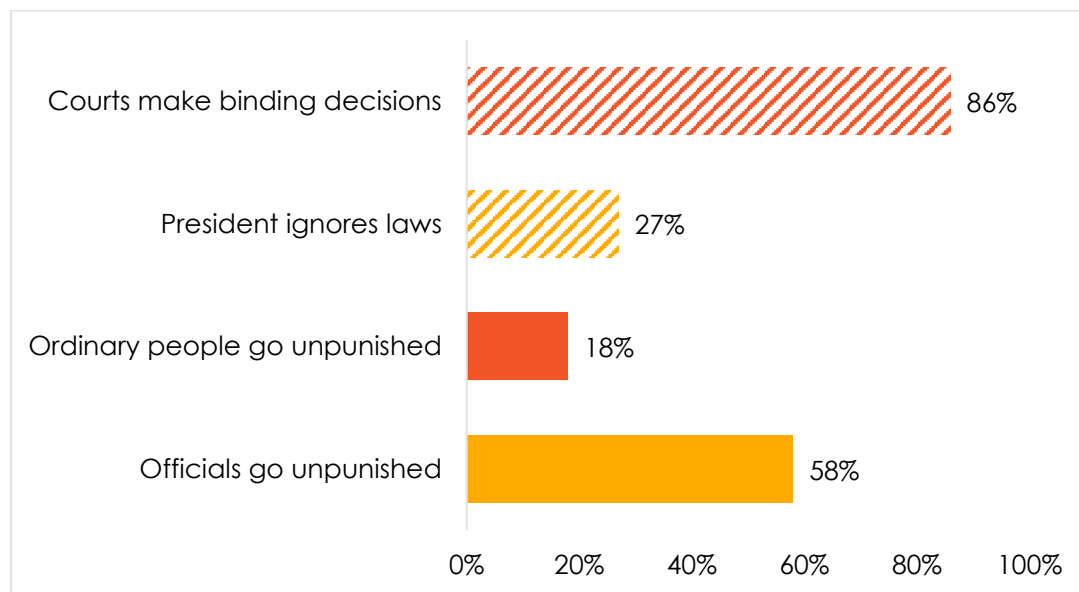


Respondents were asked: How much do you trust each of the following, or haven't you heard enough about them to say: Courts of law? (% who say "somewhat" or "a lot")

Rule of law

According to Afrobarometer's 2017 survey, 86% of all Zimbabweans interviewed agree that the courts have the right to make decisions that are binding on citizens (Figure 10). At the same time, one-quarter (27%) say that the president "often" or "always" ignores the laws of the country. While the former confirms citizens' commitment to the rule of law, the latter shows that a substantial minority does not think that the arm of the law reaches the president. A similar picture emerges when looking at who is expected to "often" or "always" walk away unpunished after having committed a crime. While only 18% of respondents think this is the case for ordinary citizens, the percentage for officials is three times higher (58%). Taken together, this suggests that citizens expect the rule of law to apply to the general population, but less so to more influential people.

Figure 10: Perceptions of the rule of law | Zimbabwe | 2017



Respondents were asked:

- For each of the following statements, please tell me whether you disagree or agree: The courts have the right to make decisions that people always have to abide by? (% "agree" or "strongly agree")
- In your opinion, how often, in this country, does the president ignore the courts and laws of this country? (% "often" or "always")
- In your opinion, how often, in this country, do ordinary people who break the law go unpunished? (% "often" or "always")
- In your opinion, how often, in this country, do officials who commit crimes go unpunished? (% "often" or "always")

We find additional evidence for this two-tier system when we correlate the rule-of-law data with public trust in the courts in a bivariate correlation. For this type of analysis, the higher the value of the coefficients in Table 2, the stronger the relationship between the rule-of-law variables on the one side and trust in the courts on the other. Overall, there is a weak correlation (.102) between the extent to which Zimbabweans say that citizens are punished for crimes they committed and how much citizens trust the courts. This is in line with the hypothesis that there is a near-universal understanding among Zimbabweans that the courts can hand down fair judgments in cases that do not involve important political figures. Recent robust court judgments outlawing child marriages (Mushohwe, 2017) and reaffirming the right of private prosecution in cases where the state refuses to prosecute (Court Watch, 2015) are examples of the courts' independence in this area.

By contrast, the values of the coefficients are higher in the cases of officials (.217) and the president (.189). This means that citizens' opinions diverge once the political stakes increase.



Put differently, popular assessment of the courts is much more driven by whether the judiciary is perceived as limiting the abuse of power by the president and subjecting officials to the rule of law. This shows that the judiciary's limited independence exists only within the bounds of non-sensitive cases.

Table 2: Rule of law by trust in courts | Zimbabwe | 2017

	Trust in courts Bivariate correlation coefficients
Courts have the right to make binding decisions that people always have to abide by	.088**
The president rarely/never ignores the courts and laws of the country	.189**
Ordinary people who break the law rarely/never go unpunished	.102**
Officials who commit crimes rarely/never go unpunished	.217**

** significant at $p > .01$

Effects of partisanship and bounded political autonomy

To better understand why and to what extent Zimbabweans trust their courts, we use the questions from our analysis above as well as some additional control variables to construct a regression model. This type of analysis allows us to understand which among the independent variables are related to the dependent variable (trust in courts), and to explore the strength of these relationships. We use the most recent standard round of the Afrobarometer survey from 2017 as it includes the greatest number of suitable questions to test our explanation of "bounded autonomy." Our variables fall into four groups:

Performance of security services: The politicization of the armed forces and police in Zimbabwe is well documented (e.g. Bratton, 2016). Despite a legal prohibition on the active participation of military personnel in politics, both the police and army have participated in voter intimidation in previous elections. Last year, the military even orchestrated a coup d'état that ousted long-time President Robert Mugabe and replaced him with the former Minister of Defence Emmerson Mnangagwa. This act was later whitewashed by a High Court ruling asserting that it was constitutional and not considered a coup. Moreover, for several years the operations of the National Prosecution Authority (NPA) have been run by personnel seconded from the army, air force, police, and prison services (Gagare & Kuwaza, 2016). Taking these past entanglements between the security sector and the judiciary into account, it is likely that citizens base their view of the courts, at least in part, on what they know about the military and police.

Courts performance: Based on the descriptive account above, trust in the judiciary can be assessed by asking how politically independent citizens think the courts are. Are judges seen as succumbing to existing power dynamics on sensitive cases or are they likely to apply the law equally to all members of society? We also include an assessment of how many judges and magistrates are perceived to be corrupt.

Partisanship: Earlier, we saw that trust in the judiciary is primarily driven by whether citizens think that certain members of the elite (president and officials) get away with flouting the law. Taking into consideration the extent to which ZANU-PF has permeated state structures and how often the party has won court challenges of election results and other politically sensitive cases in court, we expect that ZANU-PF supporters are more likely to trust the courts than opposition supporters or non-partisans.

Control variables: Several other factors could of course influence respondents' perception of the judiciary. For example, their age, gender, location (urban/rural), level of formal

education, and level of personal wealth could all shape whether and how citizens gather information about or engage with the courts and to what extent they place trust in the judiciary.

Table 3 describes the variables and summarizes their expected effect on popular trust in the courts.

Table 3: Overview of hypotheses for trust in courts | Zimbabwe | 2017

Variable name	Description	Predicted effect on trust in courts
Performance of security services		
Corrupt police	Perception that many police officials are corrupt	Decreases trust in courts
Military behaviour index	High level of perceived professionalism and ability to keep country safe from external and internal security threats	Increases trust in courts
Court performance		
President ignores laws	Perception that the president does not follow the laws of the land	Decreases trust in courts
Officials go unpunished	Perception that officials who commit crimes go unpunished	Decreases trust in courts
Ordinary citizens go unpunished	Perception that ordinary citizens who commit crimes go unpunished	No effect
Corrupt judges and magistrates	Perception that many judges and magistrates are corrupt	Decreases trust in courts
Partisanship		
Partisanship	Divided into three groups: ZANU-PF supporters, MDC supporters, and those who do not openly identify with a political party	ZANU-PF supporters are more likely to trust courts than MDC supporters and non-partisans
Control variables		
Age	Divided into three groups: 18-35, 36-55, and 56+	Older citizens are more likely to trust courts
Gender	Male/female	No effect
Location	Urban/rural	Urban residents are less likely to trust courts
Education	Divided into four categories: no formal education, primary school, secondary school, and post-secondary education	More educated citizens are less likely to trust courts
Personal wealth	List of items that (someone in the household) owns: radio, TV, motor vehicle or motorcycle, computer, bank account, and mobile phone	No effect

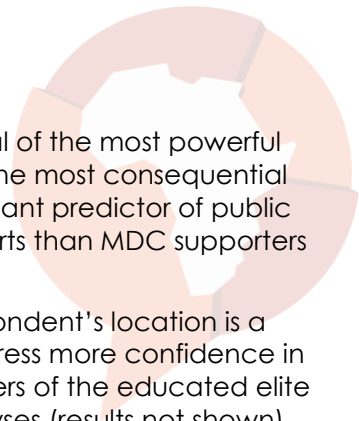
To assess the explanatory power of the different parts of our explanation, we compare the standardized coefficients (Beta) in Table 4. A brief glance confirms earlier results. The performance of the security services plays an important role in predicting trust in the courts, as does the judiciary's ability to, on the one hand, expand its independence by holding the president to account and, on the other hand, curb other forms of corruption. Let us look at each of these factors in more detail.

Performance of security services: The police and court system are both part of a chain of processes that are supposed to ensure access to justice for ordinary citizens. However, when comparing public confidence in the two institutions, we saw that fewer people trust the police than the courts. Additionally, respondents' perception about how corrupt the police is has a significant negative effect on their trust in courts. This shows that police conduct harms the public image of the courts. In contrast, Zimbabweans who say that the military lives up to its mandate of protecting the country from internal and external threats are more likely to trust the judiciary. This means, however, that those who think that the army is an unconstrained player in the political game, rather than a professional body under civilian control, are less likely to trust the courts. Given the military's role in Zimbabwe's history (including the coup in 2017 and its involvement in the NPA) and its closeness to ZANU-PF, this raises several issues about how to improve the court's public image as a truly independent institution.

Table 4: Factors contributing to trust in courts | Zimbabwe | 2017

	Unstd. coeff.		Std. coeff.	Sig.
	B	Std. error	Beta	
(Constant)	1.604	0.261		0.000
Corrupt police	-0.089	0.038	-0.087	0.019
Military behavior Index	0.175	0.026	0.219	0.000
President ignores laws	-0.084	0.025	-0.122	0.001
Officials go unpunished	-0.027	0.037	-0.026	0.463
Ordinary people go unpunished	0.005	0.035	0.005	0.885
Corrupt judges and magistrates	-0.238	0.044	-0.192	0.000
MDC supporters	-0.241	0.094	-0.091	0.011
Non-partisans	-0.256	0.067	-0.135	0.000
Location (ref. category: urban)	0.179	0.065	0.092	0.006
Age	0.054	0.040	0.042	0.169
Gender (ref. category: male)	-0.021	0.055	-0.011	0.699
Education	0.025	0.045	0.020	0.577
Personal wealth	-0.018	0.062	-0.010	0.776
Dependent variable: Trust in courts				

Court performance and partisanship: Zimbabweans evaluate the judiciary based on how the courts treat certain groups in society. To reiterate, the argument put forward here is that the courts are universally seen as independent for ordinary apolitical cases but are seen as handing down biased judgments in politically sensitive cases, which affects trust in the courts. Following this line of argument, we see that whether individuals think ordinary criminals can escape justice is not a significant predictor of trust in the courts. The predictor variable "president ignores laws" is significant, however. Combined with the fact that public perceptions about whether officials go unpunished is a non-significant predictor, this



suggests that it is politically sensitive cases that challenge the survival of the most powerful actors in government – the president and his inner circle – that are the most consequential cases for trust in the judiciary. Moreover, partisanship is also a significant predictor of public trust in the courts. ZANU-PF supporters are more likely to trust the courts than MDC supporters or non-partisans.

Control variables: Among the socioeconomic variables, only a respondent's location is a significant predictor of his or her trust in the courts; rural dwellers express more confidence in the judiciary than urbanites. In contrast, all else being equal, members of the educated elite and ordinary citizens think alike about the judiciary. Additional analyses (results not shown) also revealed that those who are more committed to democracy and reject various forms of non-democratic rule (such as one-man and military rule) are not significantly more likely to trust the courts.

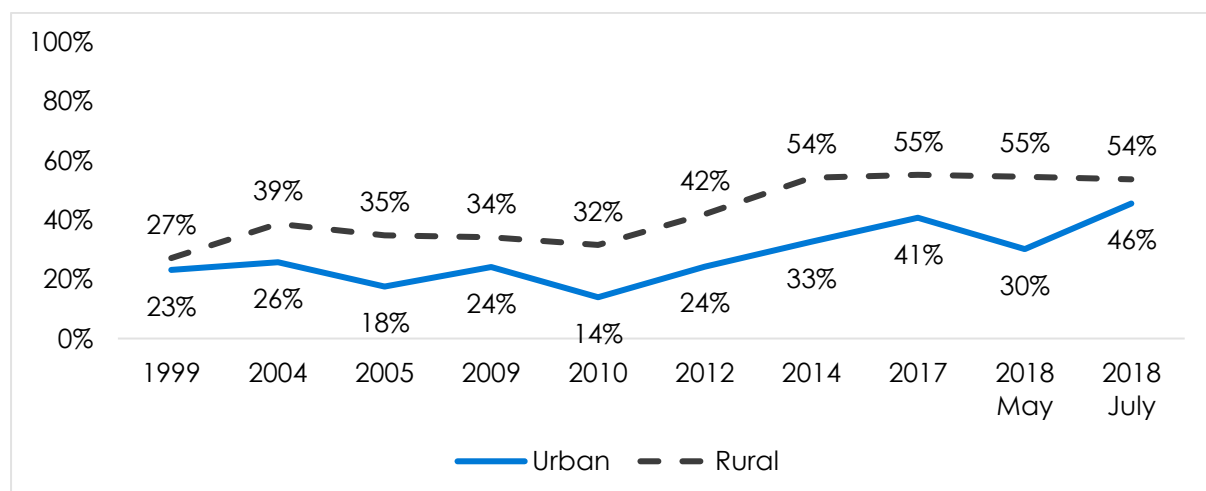
In sum, while the judiciary is largely seen as a competent and unbiased institution, to increase its legitimacy it must find ways to expand its autonomy by holding a group of elite actors to account that until now have been able to rig the game in their favour. Importantly, it must do this in a way that takes partisan dynamics into account.

Evaluating the performance of the ZEC

At the outset, we explored trends in perceptions of the ZEC over time compared to the courts, police, and military and saw that although it has remained the least trusted institution among these four, it nevertheless has gained trust in absolute terms. In this section we apply the concept of bounded autonomy to the country's election management body. The data show how the challenges the courts face when dealing with politically sensitive cases are amplified for the ZEC given the high stakes of elections. After elaborating on trust patterns along geographic and educational lines and on the importance of the commission's past performance, we examine the ZEC's inability to convert recently increased technical capacity into political independence.

As a former liberation movement, ZANU-PF has been able to capitalize on its dominance in rural areas and exercise significant control over the voter registration process through bulk processing of applications in rural areas while simultaneously frustrating this process in urban areas that are traditionally opposition strongholds (Bratton, Dulani, & Masunungure, 2016). Figure 11 shows that trust in the ZEC has consistently been higher among rural respondents compared to urbanites. The difference between the two groups is sizeable (between 15 and 20 percentage points for most of the survey period), though smaller than between ruling-party and opposition-party supporters.

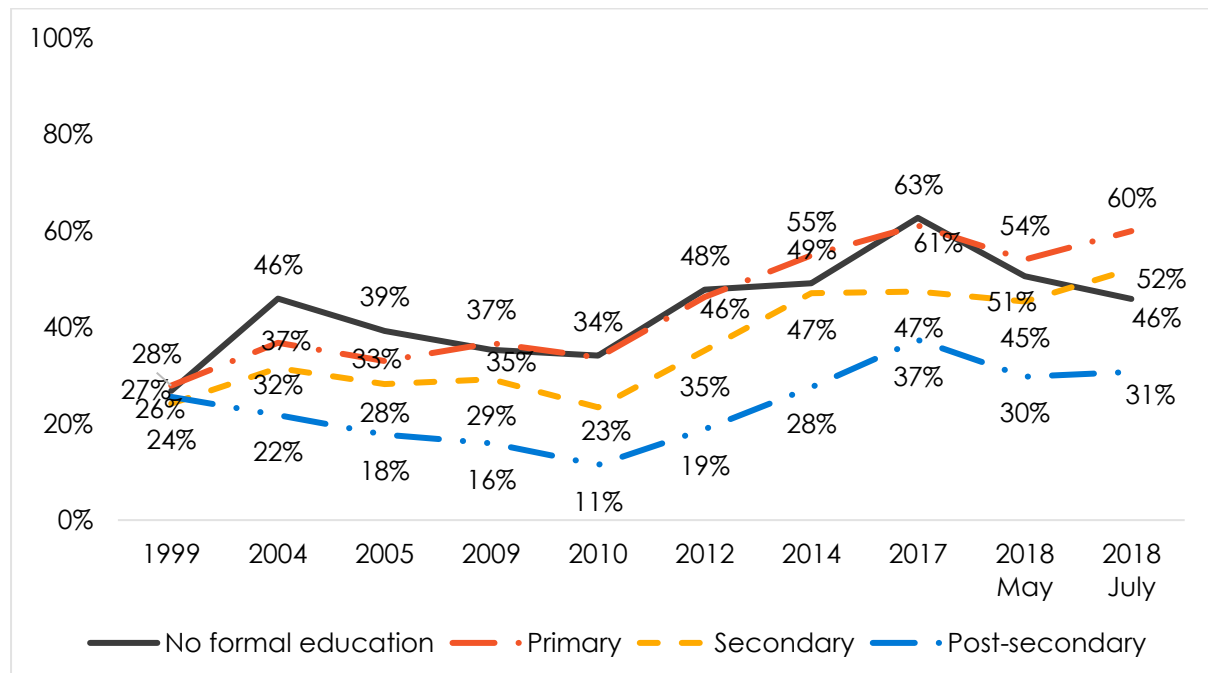
Figure 11: Trust in ZEC by location | Zimbabwe | 1999-2018



Respondents were asked: How much do you trust each of the following, or haven't you heard enough about them to say: Zimbabwe Electoral Commission? (% who say "somewhat" or "a lot")

Similar to accusations of bias against the courts, members of the elite have also criticized the electoral commission for being biased during the past two decades (Magaisa, 2018). We find that higher levels of education (which are normally related to lower levels of poverty) are associated with lower trust in the ZEC (see Figure 12). The difference was marginal at the end of the last century, but the gap has widened since. Among the four groups, respondents who received at least some post-secondary education place distinctively less trust in the electoral commission than Zimbabweans that received less formal education. In contrast, there is almost no difference between those who have no formal education and those with only primary schooling.¹⁰ Overall, formal education has a similar effect on trust in the judiciary and the electoral commission.

Figure 12: Trust in ZEC by level of formal education | Zimbabwe | 1999-2018



Respondents were asked: How much do you trust each of the following, or haven't you heard enough about them to say: Zimbabwe Electoral Commission? (% who say "somewhat" or "a lot")

Since the commission's key task is to manage free and fair elections, it seems plausible that citizens' trust in the ZEC would increase or decrease based on its performance in previous elections. Predictably, Zimbabweans who deemed the most recent national election (at the time of the survey) as "completely free and fair" or "free and fair with minor problems" consistently trust the ZEC more than those who believe that the most recent election suffered major problems or was not free and fair at all (Figure 13). More surprising is the difference between these two groups over time. During the first half of the Government of National Unity (2009-2013), the gap narrowed to 18 percentage points in 2009 and 16 points in 2010. This suggests that the elite settlement following the controversial 2008 election eroded faith in the institution among Zimbabweans who saw the previous election as (mostly) free and fair. By contrast, both groups gained confidence in the ZEC during the second half of the power-sharing agreement, as is reflected in the results of the 2012 survey.

The survey results for 2014 and 2017 represent a cautionary tale, however. In 2014, the gap between those who saw the 2013 poll as largely free and fair and those who saw it as heavily flawed increased to 45 percentage points. This gap remained consistent (47 points) in the

¹⁰ Similarly, we do not see a meaningful difference in evaluations of the country's electoral management body when separating the data according to gender (results not shown).

2017 survey, confirming the relevance of past performance for current trust levels. The gap has narrowed somewhat since then (36 points in 2018), and the average level of trust in the ZEC increased as preparation for the 2018 election got under way.

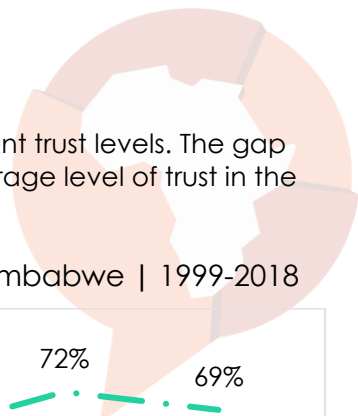
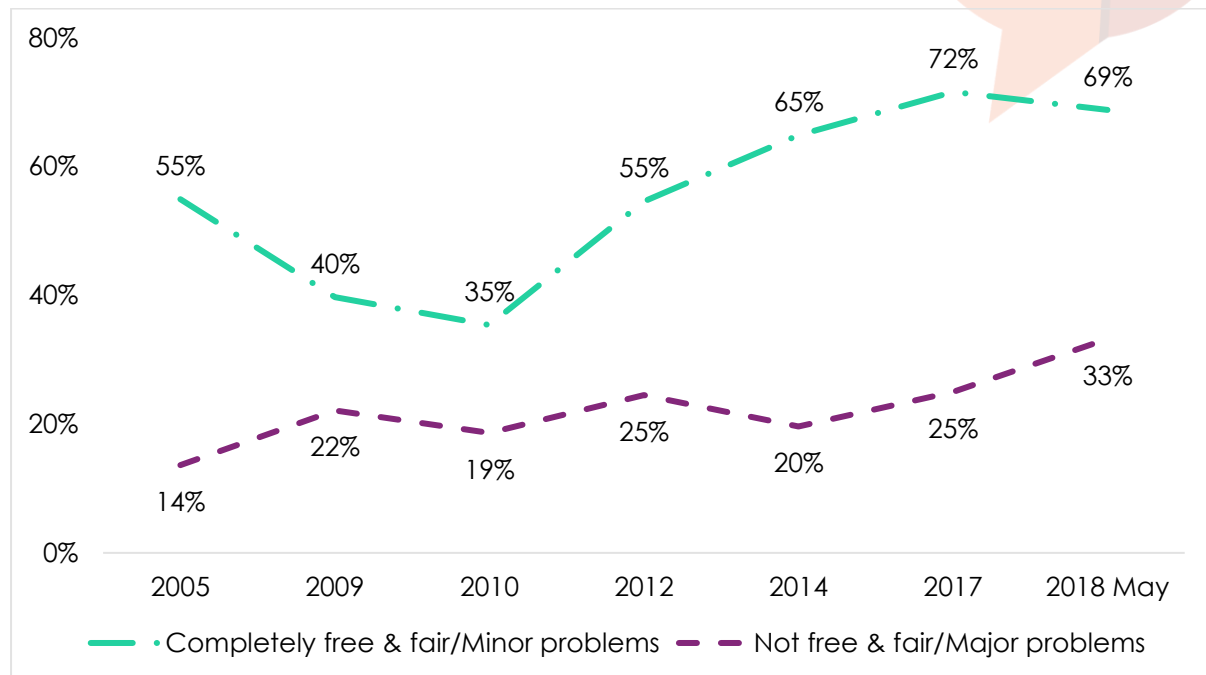


Figure 13: Trust in ZEC by perceived quality of last election | Zimbabwe | 1999-2018

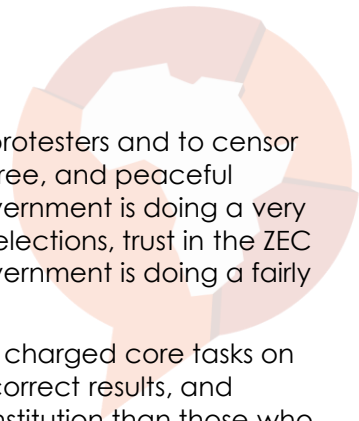


Respondents were asked: How much do you trust each of the following, or haven't you heard enough about them to say: Zimbabwe Electoral Commission? (% who say "somewhat" or "a lot")

One possible explanation for this trend among skeptics of the ZEC – respondents who think that previous elections had major problems or were not free and fair – is that citizens recognize an increase in the commission's technical capacity (see percentage-point increase prior to elections in 2013 and 2018) but are doubtful of its political independence in the aftermath of Election Day. In other words, citizens trust the ZEC to register potential voters and staff voting stations, but they are not confident that it tallies the votes accurately and announces the correct results. Although the pattern between 2009 and 2018 provides tentative support for this hypothesis, we do not have the longitudinal data to fully test this hypothesis for previous elections.

Nevertheless, the May 2018 pre-election survey may offer additional evidence via several questions about election and campaign laws, the new biometric voter registration (BVR) process, and the counting of votes and announcing of results. These questions can be separated into two groups that resemble the above-mentioned categories of "technical capacity" (concerning polling locations and the BVR rollout) and "political independence" (concerning the freedom and fairness of the election). As can be seen in Table 5, about half of citizens who are satisfied with the BVR rollout also express trust in the ZEC – only about 10 percentage points more than the proportion who are satisfied with the BVR rollout but do not trust the electoral commission. This suggests that technical capacity is only weakly associated with trust in the ZEC.

In contrast, the gap in trust in the ZEC is considerably larger when we look at questions related to the ZEC's political independence. This is well illustrated by looking at the government's efforts to change electoral laws. In a recent analysis, Human Rights Watch (2018) identified several laws as repressive and in need of reform to ensure free and fair elections, including the Public Order and Security Act (POSA), the Access to Information and Protection of Privacy Act (AIPPA), and the Criminal Law (Codification and Reform) Act.



According to the analysis, these laws were used to arrest peaceful protesters and to censor critical media, making it impossible for all parties to conduct open, free, and peaceful campaign rallies. Among survey respondents who think the new government is doing a very or fairly good job at getting rid of laws that undermine free and fair elections, trust in the ZEC is more than twice as high than among those who think that the government is doing a fairly or very bad job (65% vs. 27%).

Similarly, citizens who believe that the ZEC can execute its politically charged core tasks on and after Election Day (counting all votes accurately, announcing correct results, and managing post-election disputes) are much more likely to trust the institution than those who doubt its ability to handle these tasks.

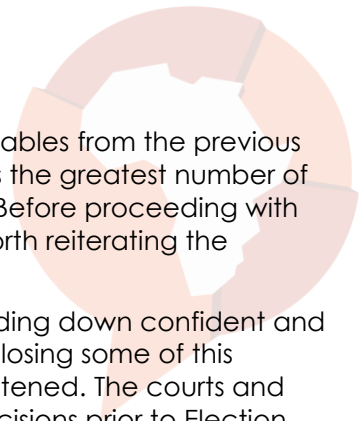
Thus, a picture similar to that of the courts emerges. Trust in the electoral commission is more dependent on its perceived political independence when the stakes are high, rather than on its technical capacity.

Table 5: ZEC’s technical capacity and political independence, by trust in the commission | Zimbabwe | May 2018

Trust ZEC			
	Not at all/just a little	Somewhat/a lot	Difference (percentage points)
Know location of the polling station	40%	48%	8
Satisfied with availability of information about the location of BVR centers	38%	49%	11
Satisfied with functioning of BVR equipment	39%	49%	10
Satisfied with conduct of BVR officials	39%	49%	10
Satisfied with way BVR officials handled proof of ID or proof of residence issues	38%	49%	11
Government getting rid of repressive laws that undermine free & fair elections	27%	65%	38
Think elections will be free & fair in terms of counting and reporting results	30%	60%	30
Think elections will be free & fair in terms of the resolution of any post-election disputes	30%	59%	29
Unlikely that cast ballot will not be counted	34%	53%	19
Unlikely that an incorrect election result will be announced	25%	62%	37

ZEC: High political stakes and low public confidence

A regression model (similar to the previous analysis of trust in the courts) helps us to tease out in greater detail how the commission’s technical capacity and political independence (independent variables) relate to popular trust in the ZEC (dependent variable). We use the



questions discussed above as well as the standard set of control variables from the previous analysis. We focus on the May 2018 pre-election survey as it includes the greatest number of suitable questions to test our explanation of “bounded autonomy.” Before proceeding with the regression analysis for the electoral commission, however, it is worth reiterating the different parts of the explanation for why people trust this institution.

Courts: The previous section argued that the courts are seen as handing down confident and well-crafted judgments on issues that are not politically sensitive but losing some of this perceived independence when the balance of state power is threatened. The courts and the ZEC are linked in their official capacity to make authoritative decisions prior to Election Day and binding pronouncements on election results. At the moment, the two institutions have an additional point of contact: The sitting High Court Judge Priscilla Chigumba is currently also the chair of the ZEC. Mafukidze (2018) has argued that this is done merely “to give the electoral management process the façade of judicial independence and impartiality.” While Mafukidze says it’s a “façade because experience has shown that the judges so appointed seem not to be in charge of the vital cogs of electoral management,” it is nonetheless conceivable that citizens judge the ZEC in part based on the performance of the courts.

Performance of security services: As mentioned at the outset, the police and military join the ZEC and the courts as supposedly independent institutions that play an important role in executing free and fair elections. Citizens’ knowledge of, or experience with, one institution can conceivably inform their views of the others. For example, those who do not think that the military conducts itself in a professional manner and does not protect the country from external or internal threats might be less likely to trust the ZEC. Given that the military was instrumental in removing former President Mugabe, and since then has deployed several officers to important positions on the electoral commission, it is conceivable that citizens expect the military to intervene in the electoral process despite the latter’s assurance to the contrary (Mutasa, 2018).

ZEC performance: Citizens have several opportunities to evaluate the ZEC’s performance. Including 1) their experiences during past elections, 2) their evaluation of the commission’s technical capacity to prepare for upcoming elections (e.g. BVR rollout), and 3) their expectations of how accurate the reported election results will be (political independence). We measure each type of evaluation (past, present and future) separately in the regression analysis. Lastly, we include a question that assesses citizens’ expectations about how often

parties ignore election laws. This is a measure of ZEC’s ability to enforce a common set of rules onto all players – a different way of measuring the commission’s political independence.

Do your own analysis of Afrobarometer data – on any question, for any country and survey round. It’s easy and free at www.afrobarometer.org/online-data-analysis.

Partisanship: Bratton and Masunungure (2018) have shown that Zimbabwe’s ruling and opposition party supporters not only have very different views of the economy,

but also get their information about elections from very different sources and assess the potential for electoral violence quite differently. We saw a similar pattern when comparing partisans’ confidence in the ZEC over time. We include partisanship in the regression model to see the importance of this variable compared to the role of the security services and courts in general, and ZEC’s technical capacity and political independence in particular.

Control variables: As discussed previously, factors such as respondents’ age, gender, location (urban/rural), level of formal education, and level of personal wealth could also shape whether and how citizens gather information about the electoral commission and to what extent they place trust in it.

Table 6 describes the variables and summarizes their expected effect on popular trust in the ZEC.

Table 6: Overview of hypotheses for trust in ZEC | Zimbabwe | May 2018

Variable name	Description	Predicted effect on trust in ZEC
Courts		
Trust in courts	Confidence in the judicial system to hand down independent and fair judgments	Increases trust in ZEC
Performance of security services		
Police preparedness	Expectation that police are prepared for election	Increases trust in ZEC
Military behaviour index	High level of perceived professionalism and ability to keep country safe	Increases trust in ZEC
ZEC performance		
Last election free and fair	Perception that the most recent national election was “completely free and fair” or “free and fair with minor problems”	Increases trust in ZEC
ZEC technical capacity index ¹¹	Positive evaluation of BVR process and knowledge of voting station for election day	Increases trust in ZEC
Govt repealing repressive laws	Perception that govt is getting rid of repressive electoral laws such as POSA and AIPPA	Increases trust in ZEC
Announcing incorrect results	Expectation that results will be reported accurately in next election	Increases trust in ZEC
Parties/candidates ignore election laws	Perception that parties and candidates ignore election laws	Decreases trust in ZEC
Partisanship		
Partisanship	Divided into three groups: ZANU-PF supporters, MDC supporters, and those who do not openly identify with a political party	ZANU-PF supporters are more likely to trust ZEC than MDC supporters and non-partisans
Control variables		
Age	Divided into three groups: 18-35, 36-55, and 56+	Older citizens are more likely to trust ZEC
Gender	Male/female	No difference
Location	Urban/rural	Urban residents are less likely to trust ZEC
Education	Divided into four categories: no formal education, primary, secondary, post-secondary	More educated are less likely to trust ZEC
Personal wealth	List of items that someone in the household owns: radio, TV, motor vehicle or motorcycle, computer, bank account, and mobile phone	No difference

¹¹ This index is only included in robustness tests due to its high proportion of missing values (14%). When it's included, the main findings do not change.

As with the previous regression analysis, we compare the explanatory power of the different parts of our explanation by comparing the standardized coefficients (Beta) in Table 7.

Table 7: Factors contributing to trust in ZEC | Zimbabwe | May 2018

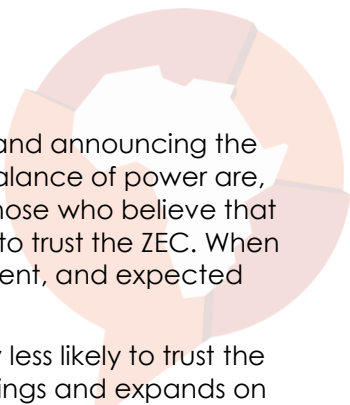
	Unstd. coeff.		Std. coeff	Sig.
	B	Std. error	Beta	
(Constant)	0.728	0.201		0.000
Trust in courts	0.240	0.022	0.227	0.000
Police preparedness	0.044	0.017	0.047	0.012
Military behaviour index	0.180	0.021	0.179	0.000
Last election free and fair	0.072	0.016	0.099	0.000
Government repealing repressive laws	0.088	0.018	0.097	0.000
Announcing incorrect results	-0.119	0.020	-0.124	0.000
Parties/Candidates ignore election laws	-0.097	0.018	-0.109	0.000
MDC supporters	-0.535	0.062	-0.220	0.000
Non-partisans	-0.396	0.053	-0.168	0.000
Location (ref. category: urban)	0.080	0.049	0.035	0.105
Age	0.009	0.029	0.006	0.746
Gender (ref. category: male)	-0.012	0.040	-0.005	0.773
Education	-0.004	0.036	-0.003	0.904
Personal wealth	-0.060	0.049	-0.028	0.217

Dependent variable: Trust in ZEC

Courts: Citizens who trust the courts are also more likely to trust the electoral commission. In fact, knowing an individual's level of faith in the judiciary is the single best predictor of trust in the ZEC in our model. This not only supports our hypothesis that citizens judge the ZEC in part based on the performance of the courts, but also has important implications for future efforts to improve the ZEC's legitimacy. To increase public trust in the ZEC, it also seems crucial to increase the court's autonomy (especially in politically sensitive cases, as seen above).

Performance of security services: As expected, citizens who in May 2018 thought that the police was prepared for the upcoming election are more likely to trust the ZEC. More importantly, the military's role is even more central in this context: The value of the standardized coefficient for the military behavior index is more than three times higher (.179) than our predictor representing the preparedness of the police (.047).

ZEC performance: Earlier findings about the association between citizens' evaluations of how free and fair the 2013 elections were and their trust in the ZEC are confirmed in this analysis. The ZEC's past performance matters. In contrast, positive evaluations of the ZEC's technical capacity in the run-up to elections do not have a significant positive effect on trust in the commission. In a separate regression analysis (results not shown), we included a "technical capacity index," but it was not significant.



Views on the politically sensitive task of getting rid of repressive laws and announcing the correct results, irrespective of whether this would upset the current balance of power are, however, significant predictors of public trust in the ZEC. Moreover, those who believe that parties and candidates frequently ignore election laws are less likely to trust the ZEC. When comparing the standardized coefficients, we can see that past, present, and expected performance of the ZEC seem to be equally important.

Partisanship: Both MDC supporters and non-partisans are significantly less likely to trust the ZEC than are ruling party supporters. This corroborates our earlier findings and expands on Bratton and Masunungure's (2018) assertion of the importance of partisanship as a filter through which citizens form their views of public life. The high values of the standardized coefficients for both MDC and non-partisans suggest that the ZEC has a long way to go before it will be perceived as a truly independent custodian of elections.

Control variables: Previously observed differences based on geographic location and education turn out to be non-significant. Similarly, differences in age, gender, and personal wealth are also non-significant predictors of trust in the ZEC.

We also ran additional models in which we included variables such as how committed a citizen is to democracy, how diverse their sources of information about the elections are (e.g. friends and family, traditional leaders, community events, etc.), and the kind of media (government or private) they consume to get information about the elections. These differences did not have a significant effect on respondents' trust in the ZEC.

Conclusion

Despite recent improvements, popular trust in Zimbabwe's electoral commission has remained below that accorded the courts since 1999. Our analysis indicates that both institutions enjoy only bounded autonomy. For the judiciary, its (in)ability to hold the president and his inner circle to account play an important role in predicting popular trust. Similarly, trust in the ZEC is less dependent on its technical capacity than on its perceived political independence when the stakes are high (e.g. when announcing election results and dealing with post-election disputes).

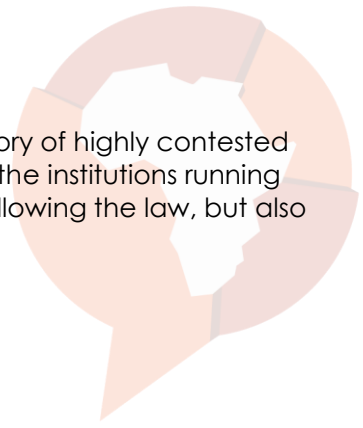
If Zimbabwe's judiciary and electoral commission are unable or unwilling to make unbiased and fact-based decisions, then it is unclear how public trust in these institutions can grow. This analysis suggests that merely increasing the institutions' capabilities in politically non-sensitive areas (e.g. with regard to the BVR rollout or the processing of cases that do not involve political heavyweights) will be insufficient to increase Zimbabweans' trust. Instead, the formal and de facto independence of these institutions must be strengthened in order to insulate them from political interference.

Section 180 of Zimbabwe's Constitution stipulates several avenues for public participation in the process of filling vacancies on the Supreme Court. For example, positions have to be publicly advertised, the public can nominate candidates, and the candidates should be publicly interviewed (Masengu, 2016). These are steps in the right direction as they move the process away from "tap on the shoulder" appointments driven by the executive branch. Options like this should be strengthened but can only be effective if they are put to use by the citizenry to balance executive power.

The appointment process for members of the electoral commission is more clearly political. As Mafukdize (2018) notes, all nine ZEC members are appointed by the president. For just one of these appointments – that of the chair – is the president required to consult with an independent, non-political body (the Judicial Service Commission). The other eight are appointed from a list submitted by the Committee on Standing Rules and Orders – most of whose members are under the control of the ruling party.

This is not a process designed to encourage the ZEC's image as an independent, non-partisan body. Instead, a process should be adopted that allows for stronger involvement of independent and non-political bodies as well as the public to ensure the appointment of

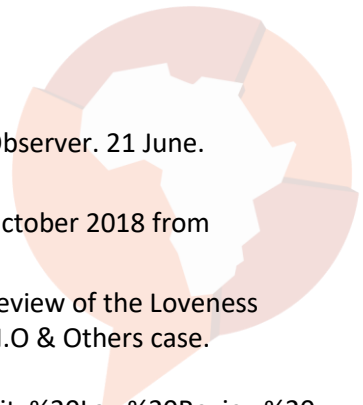
able and honest administrators to run the ZEC. With Zimbabwe's history of highly contested elections and a society divided along partisan lines, it is crucial that the institutions running the elections and deciding challenges to their results are not only following the law, but also perceived to be doing so.





References

- Allison, S. (2014). Analysis: The Khampepe report, a crushing blow to SA's diplomatic credibility. 17 November. <https://www.dailymaverick.co.za/article/2014-11-17-analysis-the-khampepe-report-a-crushing-blow-to-sas-diplomatic-credibility/>.
- BBC. (2001). New top judge in Zimbabwe. 13 March. <http://news.bbc.co.uk/2/hi/africa/1218621.stm>.
- BBC. (2003). Was Zimbabwe's election fair? 3 November. <http://news.bbc.co.uk/2/hi/africa/3237327.stm>.
- BBC. (2013). Zimbabwe election: A guide to rigging allegations. 7 August. <https://www.bbc.com/news/world-africa-23591941>.
- Bratton, M. (2016). *Power politics in Zimbabwe*. Scottsville, South Africa: University of KwaZulu Natal Press.
- Bratton, M., Dulani, B., & Masunungure, E. (2016). Detecting manipulation in authoritarian elections: Survey-based methods in Zimbabwe. *Electoral Studies*, 42, 10–21. <https://doi.org/10.1016/j.electstud.2016.01.006>.
- Bratton, M., & Masunungure, E. V. (2018). Heal the beloved country: Zimbabwe's polarized electorate. Afrobarometer Policy Paper No. 49. <http://afrobarometer.org/publications/pp49-heal-beloved-country-zimbabwes-polarized-electorate>.
- Bulawayo24 News. (2013). Constitutional court biased towards Zanu-PF, claims MDC-T. 5 July. <https://bulawayo24.com/index-id-news-sc-national-byo-32664.html>.
- Coppedge, M., Gerring, J., Lindberg, S. I., Skaaning, S.-E., Teorell, J., Altman, D., ... Wilson, S. (2017). *V-Dem (country-year/country-date) dataset v7.1*. Varieties of Democracy (V-Dem) Project.
- Court Watch. (2015). Prosecutor general accepts defeat over private prosecutions – for now. 10 November. http://www.veritaszim.net/sites/veritas_d/files/Court%20Watch%202015%20-%20Prosecutor-General%20Accepts%20Defeat%20over%20Private%20Prosecutions%20-%20for%20Now.doc.
- Dugger, C. W. (2008). Zimbabwe court refuses to release vote results. 15 April. <https://www.nytimes.com/2008/04/15/world/africa/15zimbabwe.html>.
- EWN. (2018). Zim constitutional court rules against diaspora vote bid. <https://ewn.co.za/2018/05/30/zim-constitutional-court-rules-against-diaspora-vote-bid>.
- Gagare, O. (2012). Zim 2008 election: "Taken by a gun, not a pen." 10 August. <https://mg.co.za/article/2012-08-10-00-zim-2008-election-taken-by-a-gun-not-a-pen/>.
- Gagare, O., & Kuwaza, K. (2016). Military takes over prosecuting authority. Zimbabwe Independent. 28 October. <https://www.theindependent.co.zw/2016/10/28/military-takes-prosecuting-authority/>.
- Human Rights Watch. (2018). Zimbabwe: Lack of reform risks credible elections. <https://www.hrw.org/news/2018/06/07/zimbabwe-lack-reform-risks-credible-elections>.
- Logan, C. (2017). Ambitious SDG goal confronts challenging realities: Access to justice is still elusive for many Africans. Afrobarometer Policy Paper No. 39. <http://afrobarometer.org/publications/pp39-access-to-justice-in-africa>.
- Mafukidze, T. (2018). Judges should not run elections. Zimbabwe Independent. 14 September. <https://www.theindependent.co.zw/2018/09/14/judges-should-not-run-elections/>.
- Magaisa, A. (2018). Why there is perception of ZEC bias. 23 July. <https://www.newsday.co.zw/2018/07/why-there-is-perception-of-zec-bias/>
- Masengu, T. (2016). A reflection on Zimbabwe's JSC interviews for the supreme court. *Judges Matter*. 14 November. <http://www.judgesmatter.co.za/opinions/a-reflection-on-zimbabwes-jsc-interviews-for-the-supreme-court/>.



- McGreal, C. (2008). This is no election in Zimbabwe. This is a brutal war. Observer. 21 June. <https://www.theguardian.com/world/2008/jun/22/zimbabwe1>.
- Movement for Democratic Change. (2018). Official website. Retrieved 3 October 2018 from <https://www.mdc.co.zw/index.php/meda/news>.
- Mushohwe, B. (2017). A positive step towards ending child marriages: A review of the Loveness Mudzuru & Anor vs Minister of Justice, Legal & Parliamentary Affairs N.O & Others case. *Midlands State University Law Review Journal*. <https://zimlii.org/system/files/journals/Midlands%20State%20University%20Law%20Review%202017%20Vol%20III%20ARTICLE%20I.pdf>.
- Mutasa, H. (2018). Zimbabwe election: Army will not influence results. Al Jazeera. 5 July. <https://www.aljazeera.com/news/2018/07/zimbabwe-election-army-influence-results-180705080821714.html>.
- Ndlovu, R. (2013). All eyes on Zimbabwe's election ruling acid test. 13 August. Business Day. <https://www.businesslive.co.za/bd/world/africa/2018-08-13-all-eyes-on-zimbabwes-election-ruling-acid-test/>.
- Ndoma, S. (2017). Popular trust in national electoral commission a question mark as Zimbabwe enters new era. Afrobarometer Dispatch No. 177. http://afrobarometer.org/sites/default/files/publications/Dispatches/ab_r7_dispatchno177_trust_in_zimbabwe_electoral_commission.pdf.
- Thornycroft, P. (2018). Zimbabwe finally produces a checkable voters' roll. IOL News. 19 June. <https://www.iol.co.za/news/africa/zimbabwe-finally-produces-a-checkable-voters-roll-15558730>
- VonDoepp, P. (2009). *Judicial politics in new democracies: Cases from southern Africa*. Boulder, CO: Lynne Rienner.
- Zimbabwe Mail. (2018). Supreme court overturns order barring Zanu-PF from forcing school children, teachers to attend rallies. 27 July. <https://www.thezimbabwemail.com/law-crime/supreme-court-overturns-order-barring-zanu-pf-from-forcing-school-children-teachers-to-attend-rallies/>.

Appendix

Survey question texts for tables



Table 1

- Sometimes people do not take a case to the government courts, even if they think they have a legitimate complaint and deserve justice. In your opinion, what would be the most important reason that people like yourself would not take a case to court? (first response)

Table 2

- For each of the following statements, please tell me whether you disagree or agree: The courts have the right to make decisions that people always have to abide by? ("agree" or "strongly agree")
- In your opinion, how often, in this country, does the president ignore the courts and laws of this country? (% "rarely" or "never")
- In your opinion, how often, in this country, do ordinary people who break the law go unpunished? (% "rarely" or "never")
- In your opinion, how often, in this country, do officials who commit crimes go unpunished? (% "rarely" or "never")
- How much do you trust each of the following, or haven't you heard enough about them to say: Courts of law? (% who say "somewhat" or "a lot")

Tables 3 and 4

- How many of the following people do you think are involved in corruption, or haven't you heard enough about them to say: Police? (% "most" or "all")
- Index combining the following two questions:
 - o In your opinion, to what extent do the armed forces of our country operate in a professional manner and respect the rights of all citizens?
 - o In your opinion, to what extent do the armed forces of our country keep our country safe from external and internal security threats?
- In your opinion, how often, in this country, does the president ignore the courts and laws of this country?
- In your opinion, how often, in this country, do officials who commit crimes go unpunished?
- In your opinion, how often, in this country, do ordinary people who break the law go unpunished?
- How many of the following people do you think are involved in corruption, or haven't you heard enough about them to say: Judges and magistrates
- Do you feel close to any particular political party? [If "yes":] Which party is that?
- Which of these things do you or anyone in your household own: Radio? Television? Motor vehicle, car, or motorcycle? Computer? Bank account?

Table 5

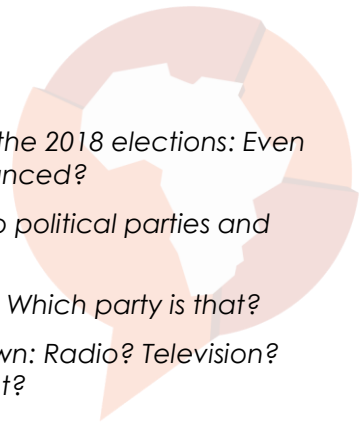
- Do you know the location of the polling station where you will vote? (% "yes")
- How satisfied are you with the following aspects of the biometric voter registration (BVR) that was conducted in 2017/2018:
 - o The availability of information about the location of BVR centers?



- The functioning of BVR equipment?
- The conduct of BVR officials?
- The way BVR officials handled proof of identity or proof of residence issues for some registrants?
(% "fairly" or "very" satisfied")
- How well or badly would you say this new government is handling the following matters, or haven't you heard enough to say: Getting rid of repressive laws that undermine free and fair elections (e.g., POSA, AIPPA)? (% "fairly well" or "very well")
- Let's break down the various parts of the upcoming 2018 elections. How free and fair do you expect these elections to be in terms of:
 - The counting and reporting of results?
 - The resolution of any post-election disputes?
(% "completely free and fair" or "free and fair with minor problems")
- In your opinion, how likely will the following things happen in the 2018 elections:
 - Even though you will cast a ballot, your vote will not actually be counted?
 - Even after all ballots are counted, an incorrect result will be announced?
(% "not very likely" or "not at all likely")

Tables 6 and 7

- How much do you trust each of the following, or haven't you heard enough about them to say: Courts of law? (% "somewhat" or "a lot")
- In your opinion, how well prepared are the following institutions for the 2018 elections, or haven't you heard enough to say: The police?
- Index combining the following two questions:
 - In your opinion, to what extent do the armed forces of our country operate in a professional manner and respect the rights of all citizens?
 - In your opinion, to what extent do the armed forces of our country keep our country safe from external and internal security threats?
- On the whole, how would you rate the freeness and fairness of the last national election, held in 2013?
- Index of ZEC technical capacity:
 - Do you know the location of the polling station where you will vote?
 - How satisfied are you with the following aspects of the biometric voter registration (BVR) that was conducted in 2017/2018?
 - The availability of information about the location of BVR centers?
 - The functioning of BVR equipment?
 - The conduct of BVR officials?
 - The way BVR officials handled proof of identity or proof of residence issues for some registrants?
- How well or badly would you say this new government is handling the following matters, or haven't you heard enough to say: Getting rid of repressive laws that undermine free and fair elections (e.g., POSA, AIPPA)?

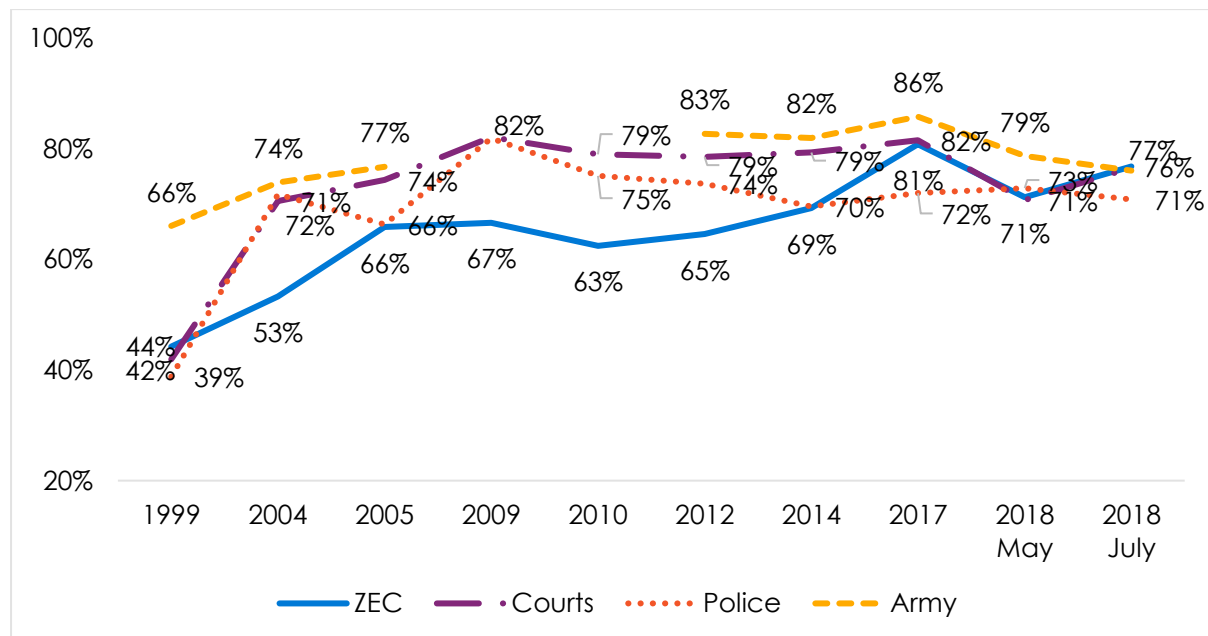


- In your opinion, how likely will the following things happen in the 2018 elections: Even after all ballots are counted, an incorrect result will be announced?
- In your opinion, how often, during elections in this country, do political parties and candidates ignore election laws?
- Do you feel close to any particular political party?" [If "yes":] Which party is that?
- Which of these things do you or anyone in your household own: Radio? Television? Motor vehicle, car, or motorcycle? Computer? Bank account?

Trust in independent institutions by party identification

From 2005 onward, roughly two-thirds of ruling-party supporters trust the ZEC, the courts, the police, and the military "somewhat" or "a lot." The ZEC still enjoys less trust on average than the army, the police, or the courts.

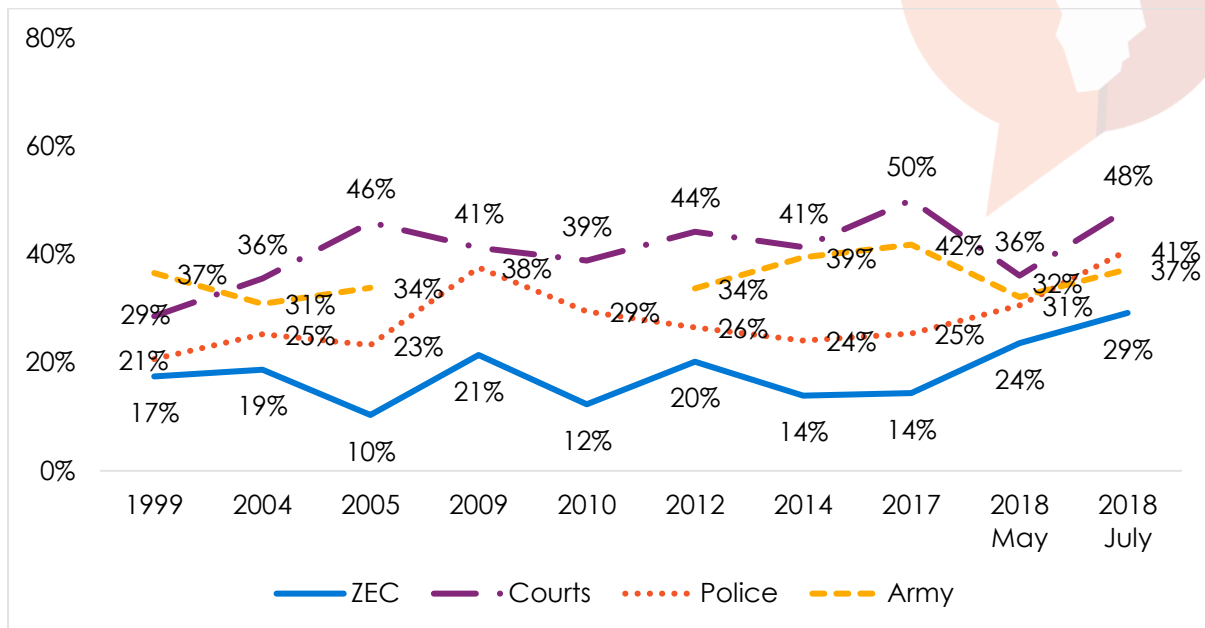
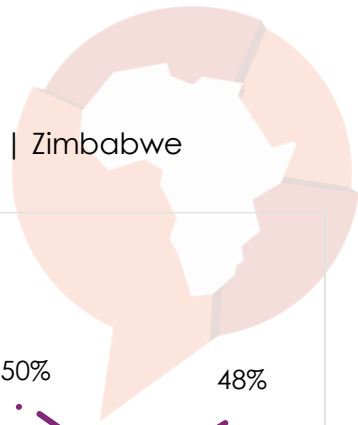
Figure A.1: Trust in independent institutions by ZANU-PF supporters | Zimbabwe | 1999-2018



Respondents were asked: How much do you trust each of the following, or haven't you heard enough about them to say? (% who say they trust them "somewhat" or "a lot")

Although the rank order of the four institutions remains the same for the majority of the time between 1999 and 2017, the absolute levels of trust are drastically lower among MDC supporters. Levels of trust in the police trace those in the ZEC, especially from 2012 onward. It is encouraging to see that in 2017 (50%) and July 2018 (48%) the MDC supporters' trust in the courts has increased to approximately one in two, yet the gap with ZANU-PF supporters remains substantial (32 percentage points in 2017 and 29 points in July 2018).

Figure A.2: Trust in independent institutions by MDC supporters | Zimbabwe
 | 1999-2018



Respondents were asked: How much do you trust each of the following, or haven't you heard enough about them to say? (% who say they trust them "somewhat" or "a lot")

AFRO BAROMETER

LET THE PEOPLE HAVE A SAY



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