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# EISA ELECTION OBSERVER MISSION REPORT ZIMBABWE



THE ZIMBABWE HARMONISED ELECTIONS OF  
29 MARCH 2008  
PRESIDENTIAL, PARLIAMENTARY  
AND LOCAL GOVERNMENT ELECTIONS

with  
POSTSCRIPT ON THE PRESIDENTIAL RUN-OFF OF  
27 JUNE 2008  
and the  
MULTI-PARTY AGREEMENT OF 15 SEPTEMBER 2008



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EISA is a non-partisan organisation which seeks to promote democratic principles, free and fair elections, a strong civil society and good governance at all levels of Southern African society.

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## Acronyms

### General

AIPPA	Access to Information and Protection of Privacy Act
AU	African Union
BSA	Broadcasting Services Act
BAZ	Broadcasting Authority of Zimbabwe
CCJP	Catholic Commission for Justice and Peace
CIO	Central Intelligence Organisation
COMESA	Common Market for Eastern and Southern Africa
CSO	Civil Society Organisation
EISA	Electoral Institute of Southern Africa
ESC	Electoral Supervisory Commission
FBO	Faith-based Organisation
HRW	Human Rights Watch
ICG	International Crisis Group
JOC	Joint Operational Command
MAZ	Media Alliance of Zimbabwe
MIC	Media and Information Council
MMPZ	Media Monitoring Project of Zimbabwe
NGO	Non-governmental Organisation
OSI	Open Society Institute (associated with Open Society Initiative for Southern Africa)
POSA	Public Order Security Act
PVT	Parallel Vote Tabulation
SABC	South African Broadcasting Corporation
SADC	Southern Africa Development Community
SADC-ECF	SADC Electoral Commissions Forum
SPT	Solidarity Peace Trust
WMD	World Movements for Democracy
ZBC	Zimbabwe Broadcasting Corporation
ZEC	Zimbabwe Electoral Commission
ZESN	Zimbabwe Election Support Network
ZMC	Zimbabwe Media Commission

### Political Parties

FDU	Federal Democratic Union (founded in 2008)
Forum	Forum Party (incorporated into United Parties in 1994)
MDC	Movement for Democratic Change
RF/CAZ	Rhodesian (Republican) Front / Conservative Alliance of Zimbabwe (Smith)
UANC	United African National Council (Muzorewa)
UP	United Parties (amalgamation of UANC and Forum Party)
UPP	United People's Party (founded in 2006)
ZANU-Ndonga	Zimbabwe African National Union-Ndonga
ZANU-PF	Zimbabwe African National Union-Patriotic Front
ZAPU	Zimbabwe African Peoples' Union (merges with ZAPU in 1987)
ZPP	Zimbabwe People's Party (founded in 2007)
ZUD	Zimbabwe Union of Democracy (formed M. Dongo 1995 when expelled by ZANU-PF)
ZUM	Zimbabwe Unity Movement (Tekere; formed 1989; unites briefly UANC 1993)

# ZIMBABWE



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The EISA mission to the Zimbabwe 2008 Harmonised Elections would not have been possible or successful without the support and cooperation of a host of people and institutions.

Our gratitude goes to election stakeholders, most notably representatives of political parties and members of civil society, who met with the members of the mission and gave insight into the Zimbabwean electoral process.

We also thank the people of Zimbabwe for their willingness to share experiences, thoughts, opinions and views on the electoral process with our delegates.

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## EXECUTIVE SUMMARY<sup>1</sup>

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In furtherance of its vision of an African continent in which democratic governance, human rights and citizen participation are upheld in a peaceful environment, EISA deployed a regional observer mission to the 29 March 2008 Zimbabwe Harmonised Elections. The Harmonised Elections combined elections for President, the House of Assembly, Senate and local government. EISA executive director Denis Kadima was the mission leader. The mission had short-, medium- and long-term observers. In total, it consisted of 25 observers.

This report deals primarily with the Harmonised Elections of 29 March 2008. It provides an assessment of the EISA observer mission. The EISA mission used the Principles for Elections Management, Monitoring and Observation in the SADC Region (PEMMO; ECF & EISA, 2003) as the basis for its assessment.

The Harmonised Elections were the major 2008 election event and were observed by EISA, despite the Zimbabwean authorities declining EISA accreditation. The presidential (one-man) run-off of 29 June 2008 is included in the report in the form of a post-script. Whereas EISA did not directly observe the run-off, it continuously monitored and researched this essential post-election phase of the Harmonised Elections. EISA observed the run-off process indirectly through its partnership with other accredited election observer missions. The run-off circumscribed the effects of the Harmonised Elections and contributed to the subsequent political events, including transitional negotiations. The post-script also recognises the power-sharing deal of September 2008. On the one hand, the agreement was criticised for not reflecting the essential outcome of the March election. On the other hand, the March and the June elections were seen to have *triggered* the power-sharing outcome.

The rest of the Executive Summary is devoted to a summary of observations of the series of 2008 elections.

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<sup>1</sup> Full substantiation of the Executive Summary, including detailed observations and references to sources, is provided in the main text of the report.

### **Positioning the 2008 Zimbabwe Elections**

The 2008 Harmonised Elections in Zimbabwe constituted an extraordinary electoral process. In a departure from past practice, assessments of the election strongly focused on ‘elections as a process’ and not on ‘elections as an event’. This further facilitated the systematic assessment of the pre-election, election and post-election phases of the process. In addition, the pre- and post-election phases had several important sub-phases, all of which are considered in this report.

In the broader scheme of unfolding post-election events, it emerged that the March elections, significant as they were, constituted only one spoke in the wheel of a broader electoral and transitional process. Equally important is the fact that negotiations on constituting a post-election government rebounded in the aftermath of the June run-off event. Negotiation positions and outcomes were only partly linked to the actual (and disputed) March and June election results.

Thus, the 2008 elections – through their direct results as the expression of will by the electorate – brought significant shifts in electorally expressed power. It was the first time since the emergence of the party that the MDC could officially accumulate more votes than ZANU-PF. Yet, the elections and their results were not enough to effect a change of power. One reason for this was the uncertain outcome of the first-round presidential election: it failed to deliver an unambiguous outright presidential victory. The run-off was characterised by violence, opposition candidate withdrawal, and the proclamation of incumbent victory. A second reason was the nature of incumbency power and the associated difficulty of dislodging incumbents.

### **The Harmonised Elections – Pre-election and Election Day**

The March elections started off on a controversial political footing in that they bore the stamp of being premature, rushed and inappropriate, given the ongoing negotiations mediated by then South African president Thabo Mbeki in his capacity as the envoy of the Southern African Development Community (SADC).

The Harmonised Elections of 29 March were remarkable in their combination of opening of space for electoral contestation and their continuously

oppressive and vindictive processes. The gains were possible largely due to opening being permitted by the ruling ZANU-PF. Some of the prescient observations on the elections included their being realised against a background of continuous fear amongst the electorate, as had also been witnessed in past elections. They also delivered one-sided beneficence of the ruling ZANU-PF through, for example, state-owned mass media exposure, security force bolstering of its campaign, and law-enforcement with pro-ZANU-PF twists. Yet, there was more freedom (albeit not unlimited) for standard electoral activities, including opposition campaigning (which signalled some opening of political space for contestation).

Despite the ensuing disputes and clashes, the crucial pre-election phase was significant in its facilitation of general electoral participation and (compared with the past) the relatively free expression of political choice. Neither voter registration nor delimitation was widely challenged, even if there was a lack of transparency in the two processes, accompanied by a lack of detailed information to voters on where they should vote. Gerrymandering was suspected, but only specifically exposed in one instance. Stakeholders were, however, obstructed in obtaining working access to the voters' roll. In short, there was more political tolerance, more freedom of expression and more space to 'wear T-shirts and put up posters' (as a metaphor for the spirit of the period) than in the preceding elections.

The pre-election phase was conducted in a continuously oppressive environment. This was a consequence of previously discriminatory and oppressive legislation (which by 2008 was accepted and noted as objectionable, but was no longer as actively contested as it had been in previous elections). The campaign period was specifically characterised by the 2007 government actions of physical attacks and general harassment of the opposition, continuous and consolidated virtual state monopolisation of media, and ZANU-PF's acclaimed presence in the state-owned media. There were continuous government campaigns to discredit dissent from ZANU-PF. The use of state resources in the form of the monopolisation of positive state media coverage to advance the ZANU-PF campaign was rife. Modest state media exposure for the opposition came with the arrival of international observers, including the opening of space for opposition parties to have advertising and some editorial space in the state-owned broadcast and print media

(although this was neutralised by counter-posing, surrounding reportage and comment). The repeated threats – up to the eve of the election – by ZANU-PF and the security forces that a non-ZANU-PF electoral verdict would be swept aside further exacerbated the tense pre-election conditions.

ZEC, as was the case of its predecessor electoral management bodies in Zimbabwe, continued to play a contested role in the election process. This was due to its independence being seen as compromised and its operations, in many respects, as inadequate. There were improvements in the structure of the Zimbabwe Electoral Commission (ZEC) (see, for example, the *Constitution of Zimbabwe Amendment Act (No. 17), 2005*), yet continuous concerns prevailed about it being politically subject to undue influence by government and ZANU-PF in particular. The ZEC acknowledged that on many crucial matters it did not have the final decision-making powers, and often recommended actions to government without being able to take the final decision itself.

Several aspects of the ZEC's electoral preparations were contested. It monopolised voter education and specifically excluded civil society participation. It was also noted to have printed an excessive surplus of ballots. Whereas the *active* electorate was estimated to be around 3 million, and the registered number of voters approximately 6 million (based on a dated voters' roll), a total of 9 million ballots were printed, for 'strategic reasons'. An under-controlled and largely unsupervised postal voting process followed.

Election Day of March 2008, as on several past occasions, went off smoothly. It was celebrated as an opportunity to demonstrate the 'will of the people'. The increase in the number of voting stations (pressured for by opposition and civil society groupings), along with the effectively reduced size of the electorate, meant that queues were modest to short and the one-day voting period was adequate. This phase was characterised by peaceful electoral activity with largely professional operations conducted by electoral officials and party election staff. The ballot processes generated popular excitement and expectation of change through the ballot. This was despite many voters having been turned away due to not being on the voters' roll, being on the voters' roll but being excluded from the right to vote due to 'foreign origins', or arriving to vote in the wrong ward or constituency. Counting processes proceeded without initial controversy.

### **From Post-election into the Run-off and Power-sharing Agreement**

The post-(Harmonised) election phase converged with the political and administrative preparations for the presidential run-off event. These two phases became meshed, and this report, of necessity, has to consider both election events. The post-election period was a highly contested phase in Zimbabwe's 2008 electoral process. It was an 'unconventional' electoral *campaign* in the sense that it was violence-driven. In terms of violence in Zimbabwean politics, it was unconventional only in as far as the levels of violence were most comparable to those last seen in Zimbabwe in the mid-1980s. The ruling party and its associated state security and paramilitary forces discarded the electoral edifice of civility and the degree of campaign etiquette that characterised much of the March election.

The March 2008 campaigning and polling atmosphere was thus decidedly different from the conditions that ensued in the run-up to, and conduct of, the June presidential run-off. The time of the Harmonised Elections created hope for an election-inspired democratic era that would be guided by relatively freely rendered election verdicts. The exceptional post-election developments, however, came to typify much of Zimbabwe's 2008 elections. As the sub-phases of the post-election period unfolded they brought substantiation of suspicions that this phase was being used to reverse the March voter verdicts.

Post-election developments that are observed in this report include the early processes of parallel vote tabulation that were facilitated by the posting of results outside polling stations (in terms of the Electoral Laws Amendment Act, 2007, Section 64). This enabled predictions of the broad outcome of the elections. This was followed by delays in the official announcement of parliamentary results, a suspension of the announcement of the presidential result, and a post-recount confirmation of the earlier House of Assembly result.

Beyond the electoral domain, yet with immediate relevance to the unfolding electoral processes, was the deployment of Zimbabwe security and associated forces to launch project *Votera Papi* – 'Where did you cast your vote?' In some areas there was an associated regional campaign called *Tsuronegwenzi* – 'Attack both the hunted and those who shelter them'. The main text provides



substantiation for the verdicts that *Votera Papi* aimed to reverse the March result, and that it was conducted amidst diversion provided by the re-counts. In the end, the MDC withdrew, sensing the elusive victory in conditions of violence on voters and leaders, and, by implication, a poll that would expose voters to excessive risk.

The run-off, one-man, presidential election went ahead. The 2008 series of Zimbabwe elections thus ended with the inauguration of Robert Mugabe for a sixth term as president of Zimbabwe. Within days, negotiations for an inclusive transitional government, or a government of national unity, resumed. The elections, however, had brought both changes in relative power positions and instilled added urgency to find a political settlement. The resumed inter-party SADC-facilitated negotiations led to the power-sharing agreement of 15 September 2008.

Overall, as stated in the EISA Interim Statement of 31 March 2008, the elections were partially free but left much to be desired in the domain of being fair. Yet, it was still possible that democracy, as a manifestation of the will of the people, could emerge from the electoral processes that occurred during and after the Harmonised Elections of 29 March 2008. If so, it would mean that even if indirectly and in the somewhat longer term, the elections would have helped facilitate Zimbabwe's gradual and hesitant transition to democracy.

## TERMS OF REFERENCE

This Terms of Reference (ToR) memorandum describes the role and responsibilities of the EISA mission during field deployment for the 2008 Harmonised Elections in Zimbabwe. It essentially provides a summary of the mission's objectives and outlines the activities of an EISA international observer.

EISA and all other international observers are invited guests in Zimbabwe and the election and related processes are for the Zimbabwean people to conduct. As observers, EISA mission members are expected to support and assess the election processes, but not to interfere. EISA believes that international observers can play a critically important supportive role by helping enhance the credibility of the elections, reinforce the work of domestic observer groups and eventually increase popular confidence in the entire electoral process.

Specific objectives for the particular mission to observe the 2008 Harmonised Elections in Zimbabwe included:

- To assess whether the conditions exist for the conduct of elections that reflect the will of the people of Zimbabwe;
- To assess whether the elections are conducted in accordance with the electoral legislative framework of Zimbabwe; and
- To assess whether the elections met the benchmarks set out in the 'Principles for Election Management, Monitoring and Observation in the SADC Region' (PEMMO), developed under the auspices of EISA and the Electoral Commissions Forum of SADC countries (ECF).

In order to achieve the above, the mission sought to undertake the following activities:

- Obtain information on the electoral process from the Zimbabwe Electoral Commission;
- Meet with political parties, civil society organisations and other stakeholders to acquaint itself with the electoral environment;

- Report accurately on its observations and refer any irregularities to the relevant authorities;
- Observe all aspects of the election in the areas it will visit;
- Assess if all registered voters had easy access to voting stations and whether or not they were able to exercise their vote in freedom and secrecy;
- Assess the logistical arrangements to confirm if all necessary materials are available for the voting and counting to take place efficiently; and
- Find out if all the competing parties and candidates are given equal opportunity to participate in the elections.

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## THE EISA APPROACH TO ELECTION OBSERVATION

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EISA strives for excellence in the promotion of credible elections, participatory democracy, a human rights culture, and the strengthening of governance institutions for the consolidation of democracy in Africa. In this regard, EISA undertakes applied research, capacity building, advocacy and other targeted interventions. It is within this context that EISA fields election observer missions to assess the context and the conduct of elections in SADC.

EISA, thus, deployed a Regional Election Observer Mission to the 29 March 2008 Harmonised Elections in Zimbabwe. The EISA Regional Election Observer Mission formed part of EISA's ongoing support of the processes of democratisation and democracy in Zimbabwe. EISA has fulfilled this function on several occasions in previous elections in Zimbabwe. The particular political circumstances at the time, combined with the political authorities' control over processes to invite and accredit observers, had resulted in EISA not being present in the country for either the 2005 House of Assembly or the Senate elections.

EISA has on several occasions contributed to the training of electoral stakeholders. It has also done research on the unfolding political processes in Zimbabwe. EISA's objectives found resonance in the fact that it was instrumental in terms of training and logistics in a range of other 2008 missions, especially those of the Pan African Parliament (PAP), SADC and South African contingent of observers that formed part of the SADC Election Observer Mission.

Since October 2005, EISA has promoted the Principles for Election Management, Monitoring and Observation in the SADC Region (PEMMO, 2003). This document and its associated practices informed the work of the 2008 EISA Regional Election Observer Mission.

### **THE MARCH 2008 EISA REGIONAL OBSERVER MISSION**

In the implementation of its electoral advancement objectives, EISA ensured that it would conduct a well-rounded and complete observation mission. It

thus arranged that all three phases of the process, namely the pre-election period (both longer-term and short-term), Election Day, and the post-election would be covered.

There were five long-term and 20 short-term observers. This overall mission of 25 members came from electoral commissions, civil society organisations and academic institutions in SADC countries. Their countries of origin were the Democratic Republic of Congo, Lesotho, Malawi, Mozambique, South Africa, Swaziland, Tanzania and Zambia. The work of this mission was complemented by processes of long-term pre-election and post-election observation.

In line with the phases of observation, EISA deployed four sequential observation teams for observation of the Harmonised Elections. As a fifth step, it followed through with detailed research on the late-post-election period and run-off electoral event.

- i. First was the pre-election assessment mission, whose main rationale was to assess the political, legal and logistical conditions prior to the elections. This early mission had three components. First, a three-member team visited Harare and Bulawayo from 13-20 January 2008. Next, EISA dispatched a three-person team, led by its Board Chairperson. They spent three days in Harare meeting stakeholders, including the Zimbabwe Electoral Commission (ZEC). After that, a two-person EISA delegation observed the processes of candidate nomination on 15 February 2008. The objective of this part of the mission was to assess the immediate period following the issuance of the writ. In addition, from 4-5 March EISA conducted training of political parties and candidates' poll watching agents. It took the form of training of the trainers and was open to all political parties and candidates.
- ii. Second, EISA deployed a team of five long-term observers, who arrived in Zimbabwe on 9 March 2008. The objective was to gain insights into the pre-election period when observers started assembling in the country. This team was based in Harare, from where they moved around the country to hold consultative and information-gathering meetings with stakeholders in the provinces.

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- iii. Third, EISA deployed a group of 20 short-term observers, who arrived in Harare on 19 March 2008. Observers' briefings took place on the days following. Observers were acquainted with their terms of reference, observation practices and all required logistical matters. The briefings first dealt with the principles, standards and practices of election observation. The second part of the briefings comprised inputs from a range of stakeholders, including political parties and NGOs that operate in the electoral field. Still awaiting the outcome of its application for observer accreditation (see below), the mission was deployed to the provinces with the objective of observing ZEC's preparations for the election, party political activities, and the general electoral climate in the immediate run-up to Election Day. The provinces covered by the mission were Harare, Bulawayo, Mashonaland East, Mashonaland West, Mashonaland Central, Manicaland, Midlands, Matabeleland North and Matabeleland South. In the provinces, the teams succeeded in observing field practices. They also engaged with a range of political parties, NGOs, FBOs and CSOs.
  - iv. Fourth, EISA retained a core observation mission in Zimbabwe in the post-election period. It is important that all observers, whether accredited or not, had the same type of distanced access to electoral information in this period. There were few privileges of special access to anyone with observer status. Observation in this period thus took place both from within and outside Zimbabwe and took the form of interviews and extensive media and direct party political monitoring, ensuring diversity and inclusivity of individual and media sources consulted. Particular note was also taken of Zimbabwe government and ZEC statements. Whereas direct observation (even if somewhat constrained by non-accreditation) was no longer possible, there was compensation for this through corroboration of data.
  - v. The post-election period converged with the run-up to the presidential run-off event. EISA directly observed events up to the early post-election period. The rest of the five-month electoral interregnum of early April to late August was monitored through documentary research, media monitoring, and verbal and report-based briefings by, and select interviews with, stakeholders. This process covered the

final announcement of parliamentary results, (late) announcement of the presidential result, run-off campaigning in as far as it was allowed, withdrawal by the MDC, the run-off result, and in broad outline the negotiation-driven aftermath.

Despite a range of persistent attempts to gain accreditation, the Zimbabwean authorities declined accreditation to the EISA mission. They decided, however, that the mission would not be expelled from the country. At the time of the refusal to accredit the mission, a wide range of preliminary briefings and electoral data collection had already been undertaken, and mission members had been deployed on an interim basis.

The EISA steps to obtain accreditation had included:

- i. On 29 January 2008, EISA wrote a letter to the Ministry of Foreign Affairs in Zimbabwe, requesting an invitation and accreditation for the observation of the Harmonised Elections of 29 March 2008.
- ii. There was regular follow-through on the application and EISA representatives amplified their contact with ZEC and related officials in the final run-up to the Harmonised Election.
- iii. No final answer was provided until the morning of 28 March 2008. EISA was then informed that it would be denied accreditation, yet would not be required to leave Zimbabwe. EISA thus continued its low-key observation processes, respecting the fact that mission members would not be allowed into the inner circles of polling and command centres.

### **THE EISA OBSERVER MISSION REPORT**

In line with the EISA approach to election observation, this report gives systematic attention to the pre-election, Election Day and post-election phases of the 2008 electoral process in Zimbabwe. The specific objective is to report on and assess the processes that centre on the events of 29 March 2008. The presidential run-off that resulted on 27 June 2008 was not part of the Harmonised Elections that EISA directly observed. Yet, the event was an essential part of the 2008 electoral process. This report thus covers it in

the form of a post-script. Given its centrality to the overall 2008 election process, the run-off also features in other parts of the report. Finally, the second part of the post-script to the mission's report recognises that the power-sharing agreement of 15 September was integral to the post-election period. The settlement events led to the first tentative steps in the formation of an inclusive and potentially conciliatory government. The composition of this government was affected, at least in part, by the result of the March election.



### Composition of the EISA Observer Mission to the Zimbabwe Tripartite Elections, March 2008

NAME	ORGANISATION	COUNTRY	GENDER
Alwine Awases	NANGOF	Namibia	Female
Ayesha Kajee	IHRE	South Africa	Female
Deane Stuart	EISA	South Africa	Male
Denis Kadima	EISA	Democratic Republic of Congo (DRC)	Male
Dieudonne Tshiyoyo	EISA	DRC	Male
Drake Orurach	EISA	Uganda	Male
Gaston Djilio Kalombo	Self	South Africa	Male
Grant Masterson	EISA	South Africa	Male
Jean Jacques Cornish	Self	South Africa	Male
Kedibone Tyeda	EISA	South Africa	Female
Khabele Matlosa	EISA	Lesotho	Male
Hon. Khatib M.K. Mwinyichande	Electoral Commission	Zanzibar	Male
Miguel de Brito	EISA-Moz	Mozambique	Male
Romy Chevallier	SAIIA	South African	Female
Sizakele Hlatshwayo	CANGO	Swaziland	Female
Susan Booyesen	Self	South Africa	Female
Tsakane Bok	Finnish Embassy	South Africa	Female
Valma Hendricks	University of Western Cape	South Africa	Female
Victor Shale	EISA	South Africa	Male
Zahira Seedat	EISA	South Africa	Female
Zefanias Matsimbe	EISA	Mozambique	Male
<b>Long Term Observers</b>			
Bhukani Ellen Masinga		South Africa	Female
Elijah Rubvuta	FODEP	Zambia	Male
Moses Mkandawire	MESN	Malawi	Male
Moses Pitso	Self	South Africa	Male
Tebogo Ntjanyana	EISA	South Africa	Male
<b>Mission Coordinator</b>			
Belinda Musanhu	EISA	Zimbabwe	Female

# 1

## Historical and Political Overview



- Recent political and economic history of Zimbabwe
- Zimbabwe's recent electoral history
- Political changes anchored in the SADC negotiations

The context and political background to the March 2008 Zimbabwe elections help illuminate the specific historical moment of the 2008 elections that are the focus of this report. The EISA Regional Observer Mission to the Zimbabwe elections recognised the grounded nature of elections. It thus took care to familiarise itself with the historical and political settings of the 2008 elections. It recognised that political and other historical background helps explain both the electoral events of 2008 and the reasons why these elections came close to being eclipsed by negotiations, deals and 'supplementary action' (for example in the roll-out of state-sponsored violence) to deal with unexpected election results.

This section offers brief overviews of the recent political and economic history of Zimbabwe, the specifics of Zimbabwe's electoral history, and the negotiation context of the 2008 elections. It highlights how the 2008 elections – constitutionally above-board yet contrary to timelines that emerged in the negotiation process – came to be positioned in an extended, tortuous transition.

### **1.1 RECENT POLITICAL AND ECONOMIC HISTORY OF ZIMBABWE**

For about three decades, the nationalist movements waged an independence struggle for Zimbabwe, first through petitions to the imperial authority Britain, then through political confrontation with the settler government and finally through armed struggle. After ninety years of colonial rule, Smith (the last colonial prime minister) unilaterally declared independence through

the UDI of 1965. Soon thereafter, the armed guerrilla struggle was launched. It continued for fourteen years before constitutional negotiations led to a settlement in 1979, the Lancaster House Agreement. However, there had been serious divisions and factions in the nationalist movement from the 1960s on. The most serious was between the Zimbabwe African Peoples Union (ZAPU) and the Zimbabwe African National Union (ZANU) in 1963. This split was temporarily healed in 1976 with the formation of a Patriotic Front. However, this would crumble soon after independence, with far-reaching consequences in the provinces of Matabeleland North, Matabeleland South and Midlands (CCJP, 1997; Ranger et al., 2000, as referred to in Sachikonye et al. 2007).

Political developments after independence consisted of both change in government and leadership personnel, and continuity in repressive state structures and practices. This limited form of transformation was buttressed by the provisions of the Lancaster House independence constitution, which placed restrictions on both socio-economic redistribution and major constitutional change before 1990. The uneasy amalgam of the new (political players) and the old (state structures geared to repression) proved unequal to the challenge of conflict prevention and resolution (Sachikonye et al., 2007). The post-1980 state under the ZANU-PF did not break with either the tradition of nationalist authoritarianism and violence or the methods and techniques of past colonial settler oppression (Ndlovu-Gatsheni, 2004). Failing to 'de-militarise' its political mobilisation methods and management of state institutions, the new government inherited the resilient colonial and security-oriented structures left by the settler state (Ndlovu-Gatsheni, 2004).

ZANU-PF won the 1980 election by a wide margin – 57 out of the 100 contested seats. It was not magnanimous in this victory to rival PF-ZAPU, with its 20% support. This led to the 1982–1987 Matabeleland conflict. From 1980 to 1987 there was an attempt to create national unity (and, in effect, a one-party state; this idea was abandoned only in 1992; see below) through the use of state force to either bring the opposition into an alliance with ZANU-PF, or to silence it. The 1985 election took place amidst this turmoil. The result enabled ZANU-PF to continue ruling virtually unopposed. Its major party political opposition, PF-ZAPU, was eventually usurped in 1987 when the two parties merged. It followed the crushing of resistance through the Gukurahundi killings of the period 1982–1987, with 1985 as the apex. This led to the unity

talks between the two major actors, effectively bringing the conflict in the Matabeleland provinces to an end and establishing ZANU-PF. For close to a decade, however, Zimbabwe also witnessed the politics of quiet resentment and gradual build-up of the motivation to mobilise.

The elections from the 1980s on have been painstakingly regular, albeit flawed (for results and participation outlines from 1980–2005, see Tables 2 and 3). In all instances, the elections and their results provide insights into Zimbabwean politics and the state of Zimbabwean democracy at the time (see, for example, Scarnecchia, 2006).

In most of the 1980s elections, electoral participation was high. Lower turnouts emerged in the 1990s (see Tables 2 and 3). The 1990s was the period of consolidation of political power for ZANU-PF. Through a combination of electoral dominance, the brutal exercise of violence and force in the Gukurahundi in Matabeleland in the mid-1980s, and a unity deal with ZAPU, ZANU-PF gained a virtual monopoly of power in the 1990s. By the late 1990s, however, things would start falling apart for Mugabe and ZANU-PF.

The first decade of independence also brought a range of constitutional and institutional changes. The Constitution that came into force on 18 April 1980 was amended on five occasions in the 1980s. In line with transitional agreements, the 20 House of Assembly and 10 Senate seats reserved for whites were abolished towards the end of the first decade of independence. The Senate itself was then abolished in 1989. The ceremonial presidency gave way to an executive presidency in 1987. Provision was also made for seats for eight provincial governors, 10 chiefs and 12 presidential nominees in the House of Assembly. These 30 non-constituency members of the Assembly were appointed by the president and were 'beholden to presidential patronage in a system that became more politically centralized than before' (Sachikonye et al., 2007; Electoral Laws Amendment Act, 2007, section 31-32).

Several developments in the early 1990s demonstrated the limits of the merger between the two major liberation era parties. Against the background of the end of the Cold War and stirrings of the democratisation movement elsewhere in Africa, a strong movement against the one-party state concept emerged (Sachikonye et al., 2007). This included an array of civil society

organisations such as student and labour bodies, human rights and women's groups (Moyo, Makumbe & Raftopoulos, 2000). Their pressure was also instrumental in pushing ZANU-PF to reverse its intention to introduce a one-party state system. As far as party politics was concerned, opposition forces in the early 1990s fragmented into parties such as the Zimbabwe Unity Movement (ZUM), the Democratic Party (DP) and the Forum Party. The 1990 and 1995 elections, however, delivered landslide victories to ZANU-PF (see Makumbe & Compagnon, 2000). The opposition movement proved weak against ZANU-PF, which freely drew on state resources, also for election campaigns. The opposition parties of this period resembled the small and ineffective older parties such as the United African National Council (UANC) and Zanu Ndonga, led by Muzorewa and Sithole, respectively.

The wider context was one of growing economic hardships in the 1990s, leading to, *inter alia*, labour militancy against the state (Saunders, 2001; Bond & Manyanya, 2002; Sachikonye, 2006). This period coincided with the introduction of the World Bank-induced Economic Structural Adjustment Programme (ESAP) in Zimbabwe. The Zimbabwe Congress of Trade Unions opposed ESAP from as early as 1992, leading to major strikes.

A major political turning point in this period was the 1997 revolt of the war veterans. They prevailed on the state for economic support. This was to the detriment of fiscal prudence (see Sachikonye *et al.*, 2007). This triggered stresses on the Zimbabwean state's finances that created economic turmoil, and exacerbated discontent with the government. The war veterans came to be a major ally of ZANU-PF in its reorganisation in the post-referendum 2000 period. By the beginning of 2000, the stage was thus set for a titanic struggle between forces pressing for the opening of the system (democratisation), and those resisting reform by clinging to power and authority (authoritarianism) (Sachikonye *et al.*, 2007)

It was only in 1998 with the founding of the National Constitutional Assembly (NCA), the workers' convention of February 1999 and the subsequent September 1999 formation of the Movement for Democratic Change (MDC) that the opposition movement became better organised and focused. The MDC's emergence represented a confluence of several social forces and processes. It was a culmination of growing disenchantment amongst civil

society groups such as the Zimbabwe Congress of Trade Unions (ZCTU) and the NCA, among other groups, with the state authoritarianism represented by the ZANU-PF government. The immediate context of the formation of the MDC was a stalemate over a new constitution. The NCA developed a popular version. The government-appointed Constitutional Commission presented *its* draft. The ZANU-PF government called a referendum on its own constitutional proposals for 12–13 February 2000. It lost the referendum and the no-vote incontrovertibly changed the face of contemporary Zimbabwe and its political system. It unleashed a wave of events in which political violence and farm invasions marked the run-up to the 2000 elections.

It was particularly in the period from 2000 on, therefore, that the tensions between ZANU-PF (working to retain power despite elections) and opposition and voters (using elections to try to oust the ruling party) started to characterise contemporary politics. Most notable were the fierce and often violent campaigns and electoral practices.

## **1.2 REVIEW OF ZIMBABWE'S RECENT ELECTORAL HISTORY**

The constitutional referendum introduced a phase in Zimbabwean politics that was characterised by ZANU-PF using a combination of often violent elections and between-election actions to both regain and potentially stabilise its previous electoral dominance over the opposition. This section's emphasis is on the elections of the decade of the 2000s, which were of specific direct importance to the EISA Regional Election Observer Mission's analysis.

In the referendum campaign Mugabe and ZANU-PF thus advanced an endorsement of ZANU-PF's proposed constitution (a 'Yes' vote), and the MDC campaigned for the rejection of the proposed constitution (a 'No' vote). The draft constitution that ZANU-PF offered to the Zimbabwean electorate was then rejected by 54.3% to 45.7% of the votes (see Table 1). Voter turnout was estimated at 26%.

The rejection of the government-initiated constitution unleashed a wave of events. Political violence and farm invasions marked the run-up to the 2000 elections, the conduct and outcome of which were disputed (Sachikonye *et al.*, 2007). The power battle was conducted via electoral means, but always with state power and force deployed behind the ZANU-PF initiatives. The

**Table 1**  
**The 2000 Constitutional Referendum Result per Province**

Province	'No' Vote	'Yes' Vote	Total
Harare	218,298	73,410	291,708
Bulawayo	90,422	27,737	118,159
Mashonaland Central	43,385	96,661	140,046
Mashonaland East	39,930	60,354	100,284
Mashonaland West	53,328	75,251	128,597
Manicaland	67,787	38,993	106,780
Masvingo	49,658	61,927	111,585
Midlands	70,572	91,587	162,159
Matabeleland North	31,224	26,413	57,637
Matabeleland South	31,759	33,606	65,365
NATIONAL	696,363	585,939	1,282,302
Vote proportions	45.69%	54.31%	100%

Source: *Registrar of Elections, 2000*

2000 and 2002 elections incorporated particularly brutal elements, including, in the 2002 election, the so-called war veterans and youth militia (the so-called 'Green Bombers'). The war veterans became a major ally of ZANU-PF both in the campaign for the March election (see Chinotimba, 2008) and in its reorganisation in the post-referendum period.

The 24–25 June 2000 parliamentary and the 9–10 March 2002 presidential elections saw the full deployment of ZANU-PF and government forces to retain power in the face of the opposition onslaught (see Raftopoulos & Phimister, 2004). These elections confirmed that ZANU-PF was in danger of losing to the opposition. Many were convinced that had it not been for ZANU-PF's use of force and violence in the run-up, combined with the 'restructuring' of civil society and, probably, its manipulation of vote tabulation and postal votes, it would not have recorded its 2002 electoral victory (Raftopoulos, 2002; Nhema, 2002). ZANU-PF thus retained its narrow

majority (see Table 2), but no longer had a two-thirds parliamentary majority. Its constitutional amendments became obstructed. Increasingly, extensive presidential powers were relied on to substitute for constitutional and law-based measures of governance.

The March 2002 presidential elections, despite suspicions of being rigged, consolidated presidential power in the face of a strong opposition vote (see Table 3). It was one of the most oppressive elections of the decade, and showed that ZANU-PF had for the time being thwarted the opposition assault of the beginning of the 2000s (see Booysen, 2003).

Leadership succession in ZANU-PF was one of the complicating factors in this period. There were tensions and the possibility of a succession-related split in ZANU-PF. In 2004, the tension came to a head with a split in the party between those who backed Joyce Mujuru and those who supported Emmerson Mnangagwa. Mugabe's intervention and out-manoeuvring of the Mnangagwa faction defused the tensions at the time. The factions, however, continued to exist (Moyo, 2006).

By 2005 the opposition MDC appeared to have been beaten into submission. With 65% of the House of Assembly seats (and 59% of the national vote), ZANU-PF appeared to have regained a popular standing, despite the type of campaign and electoral practices that had facilitated this victory (see Booysen, 2008). The 2005 election result was engineered through a sustained beyond-electoral initiative by ZANU-PF to construct electoral outcomes. The full repertoire of oppression and persecution of the opposition and the building of alternative and pro-government civil society networks characterised the period of the mid-2000s.

The supplementary measures used by ZANU-PF to influence electoral outcomes also comprised legislative provisions (see section 2.1); the creation of political climates (often with the aid of state security forces) that induced fear, compliance and voting in order to prevent retaliation for non-voting; the use of state resources to assist in the logistics of ZANU-PF campaigns; the manipulation of vote-counting, constituency boundaries and voters' rolls; retribution against the urban provinces that tended to support opposition parties; and the use of the presence of the military and intelligence services



to create the sense that it would be futile to vote for the opposition (see Booyesen, 2002a). The actions also included processes such as *Murambvatsina* (see Moore, 2008) to punish urban voters for their support of the MDC opposition. Economic (including food) targeting of voter dissent became a component of the electoral landscape.

The opposition struggled on, and also experienced rifts. A final straw in turning the rifts into a split was the Senate elections of 2005. The MDC's Morgan Tsvangirai and the co-leaders of his camp opposed participation. This was informed by their conviction that parliament could no longer be the MDC's main site of struggle, given that it was wholly under control of ZANU-PF. There were also suspicions that MDC General Secretary Welshman Ncube (leading the opposing MDC faction) was 'selling out' to ZANU-PF and that ZANU-PF was deliberately using the Senate elections issue to exacerbate MDC disunity (Raftopoulos, 2005: 23-27). One of the results was that the MDC split into two factions, led by Tsvangirai and Arthur Mutambara (for the Ncube faction) respectively.

The Zimbabwean parliament had included a senate in the early period of 1980 to 1989. It was abolished in the course of political and institutional reforms of the late 1980s (see section 1.1). In 2005, ZANU-PF used its two-thirds-plus parliamentary majority to amend the constitution for a re-introduction of the Senate (see *Constitutional Amendment Act No. 17 of 2005*). The Senate elections – for 50 elected seats, five for each of the 10 provinces – took place on 26 November 2005. A further 16 Senate members were appointed – 10 traditional leaders (chiefs) and six by choice of the president. A total of 610,295 voters cast their ballots. The turnout rate for the election was a low 19.5% – a rate that was the lowest in any of the post-independence elections. ZANU-PF won 73.7% of the vote and 86% of the elected seats. The participating MDC faction (the MDC had split in this period; see section 1.2) garnered 21.2 % of the vote and 14% of the Senate's elected seats (ZEC, 2005).

In total, therefore, Zimbabwe in the period from its 1980 independence to 2005 had held five House of Assembly elections, three presidential elections (since the introduction of an executive presidency in 1989), and one Senate election (the latter since the re-introduction of the Senate in 2005). All of these elections, EISA's Regional Election Observer Mission noted, had been won

by ZANU-PF or its presidential candidate, even if the fairness and validity of the votes had frequently been disputed.

### **1.3 POLITICAL CHANGES ANCHORED IN THE SADC NEGOTIATIONS**

The Harmonised Elections of 29 March 2008 took place in the context of the political mediation process that had been initiated by SADC. The main trigger for mediation was the widespread ZANU-PF assaults on the opposition in early March 2007 (Raftopoulos, 2008: 2). The Extraordinary Summit of SADC Heads of State and Government in Tanzania at the end of March 2007 mandated Mbeki to facilitate negotiations aimed at resolving the governance crisis in Zimbabwe (EISA, 2008c: 2). Negotiations commenced soon thereafter. The objectives of the negotiations were to establish conditions conducive to the holding of free and fair parliamentary elections in Zimbabwe in 2008, and to ensure that all concerned accepted the outcomes of the elections and the measures to be implemented to facilitate a legitimate election.

Towards the end of 2007 some progress was evident. There were suggestions that the talks had elicited agreement on most substantive issues (see *The Star*, 10 January 2008, p. 3), including several transitional mechanisms. Agreements reached included mostly minor amendments to electoral, media and security laws, a draft constitution, and issues concerning violence, sanctions, land and food aid. The initiative led, inter alia, to a series of 2007 amendments to the country's constitutional and legal framework.

However, as Raftopoulos reports (2008: 2), ZANU-PF's unwillingness to relax political restrictions led to the impasse of late 2007. In a joint subsequent statement on 20 February 2008, the secretaries-general of the two MDC factions would confirm that the election date, the time-frame for the implementation of agreements on reform, and 'the process and manner of the making and enactment of a new constitution' had been at the heart of the new deadlock in the negotiations with ZANU-PF.

The mediation initiative (even if deadlocked at the time) was interrupted abruptly by the unilateral ZANU-PF proclamation of the date of the election, before agreement was reached on the issues that created the deadlock. In addition, SADC in February 2008 issued a statement that the political parties had reached 'agreement on all substantive matters relating to the

political situation in Zimbabwe' (see Raftopoulos, 2008: 3), thus creating the space for the March 2008 elections to proceed without SADC penalising the unscheduled act of proclamation.

Mugabe said that the opposition had known from 2007 on that the elections were being scheduled for March 2008. The MDC had expected the elections to be deferred until the agreements would become established and gain popular acceptance. In contrast, ZANU-PF asserted that the prevailing constitution still had to be adhered to. That constitution prescribed that elections had to be held in March 2008. Mugabe thus rejected the introduction of a new constitution, which, the MDC believed, would have assisted in levelling the playing field in the run-up to an election. President Mugabe insisted that a new constitution could only be introduced via a referendum. Justice Minister Patrick Chinamasa argued that 'the state was not in a hurry to craft a new constitution ... in order to please one political grouping' (*Mail & Guardian online*, 28 January 2008). The March election requirement, however, would not allow for a referendum to be held.

#### NOTES FOR TABLE 2 AND 3 BELOW

##### NOTES TABLE 2

- (1) Figures for the 'White voters' roll' elections of 1980 & 1985 are separate. The 'Common Roll' had a total of 80 seats.
- (2) The MDC challenged 37 ZANU-PF constituency wins, hoping to gain reversals of the result.
- (3) In all cases of 120 seats total, another 30 should be added in the category of appointed seats – done at the discretion of the president.
- (4) Estimated; no registration figures available (Saunders, 2000: 46). Other.
- (5) Estimated.
- (6) Estimated; based on questionable ESC registration figures (Saunders, 2000: 46). Other estimates: 54-65%.
- (7) Other sources estimate participation at 57% (see Booyesen, 2001).

##### NOTES TABLE 3:

- (1) From 1980–87 Zimbabwe had a prime ministerial system with a ceremonial president. In October 1987 this was replaced with an executive presidency. On 31 December 1987 Mugabe was inaugurated as the first executive president. March 1990: First election for post of executive president.
- (2) Withdrew week before election but names remained on ballot.

**Table 2**  
**Zimbabwe Electoral History I: House of Assembly Election Results, 1980–2005**  
**Number of elected seats and percentages of votes; of seats**

POLITICAL PARTY	1980 (1)	1985	1990	1995	2000	2005
ZANU-PF	57 (63.0; 57%)	64 (77.2%)	117 (75.4; 97.5%)	118 (-1) - 117 (81.4%; 97.5%)	62 (48.1; 51.6%)	78 (59.6; 65%)
ZAPU (ZAPU-PF)	20 (24.1; 24%)	15 (19.3%)	-	-	0 (0.4%)	-
ZANU-Ndonga (ZANU)	0 (2%)	1 (1.3%)	1 (0.9; 0.8%)	2 (6.6%; 2%)	1 (0.63; 0.8%)	0 (0.3; 0%)
MDC (2)	-	-	-	-	57 (46.7; 47.5%)	41 (39.5; 34.2%)
RF/CAZ	[20]	[15]	-	-	-	-
UANC	3 (8.3; 8%)	- (2.2%)	- (0.5; 0%)	-	-	-
ZUM	-	-	2 (16.6; 2%)	0	0	-
Independents / Others	0	5	0 (34; 0%)	1 (in by-election) (5.86; 1%)	0 (2.1%)	1 - J Moyo (0.6; 0.8%)
FPZ, ZCP, ZFP, ZA, ANP	-	-	-	0 (6.3%, 0.3%, 0.2%, 0.1%, 0.0%)	-	-
UP, ZUD, Other minor	-	-	-	-	0 (4.6; 0%)	-
<b>TOTAL VOTES &amp; SEATS</b> (incl. spoilt)	- 100	+/- 3m for 80 black seats; 100 97.3%	- 120 (3)	1,468,191 120	2,506,973 120	2,634,645
<b>% TURNOUT</b>	94-98+% (4)	97.3%	42.8% (5) -60%	53.9% (6)	50% (7)	47.66%
<b>Context of voting and participation</b>	Electorate of 2,9m; first post-Lancaster House election	Separate elections held for 'white', common roll seats	Election preceded by merger ZANU & ZAPU	Several opposition parties boycott; 55 ZANU-PF seats not contested	Emergence of MDC as opposition	5.9 million as official estimate of electorate

Sources: Registrar General of Elections, 1995; 2000; ZEC, 2005; Saunders, 2001: 38, 46; Booysen, 2005; Note: Empty cells mean that there was no participation by the particular party

**Table 3**  
**Zimbabwe Electoral History II: Presidential Election Results: 1990, 1996, 2002**  
**Number of elected seats and percentages**

POLITICAL PARTY	1990 28-30 March (1)	1996 16-17 March	2002 9-11 March
ZANU-PF (Zimbabwe African National Union – Patriotic Front)	Robert Mugabe 83% (2,026,976 votes)	Robert Mugabe 92.7% (1,404,501 votes)	Robert Mugabe 56.1% (1,681,212 votes)
MDC (Movement for Democratic Change)	–	–	Morgan Tsvangirai 42.1% (1,262,403 votes)
ZANU-Ndonga (ZANU) (Zimbabwe African National Union – Ndonga)	–	Ndabaningi Sithole 2.4% (36,960) (2)	Wilson Kambula 1.1% (31,368 votes)
Zimbabwe Unity Movement (ZUM)	Edgar Tekere 17% (413,840 votes)	–	–
United Parties (UP)	–	Abel Muzorewa 4.8% (72,600) (2)	–
National Alliance for Good Governance (NAGG)	–	–	Shakespeare Maya 0.4% (11,906 votes)
Independent	–	–	Paul Siwela 0.4% (11,871 votes)
TOTAL VALID VOTES	2,440,816	1,514,406	2,998,760
% TURNOUT	Not known	31%	53.89%
SPOILT BALLOTS	Not known	2.8% (43, 497)	1.58% (48,131)
TOTAL (Incl. spoilt ballots)	Not known	1,557,558 votes	3,046,891 votes

Sources: Booyesen, 2005; 2008; Registrar General of Elections, 1996; 2002

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The elections of March and June 2008 followed. As this report shows, they ended in a new deadlock. Negotiations resumed, with a view to finding a form of power-sharing that would deliver Zimbabwe from the new deadlock that emerged from the 2008 elections. In the period of July–September 2008, the resumed negotiations of the post-election period were veering in and out of stalemate. There was the Memorandum of Understanding of 21 July 2008, which again created hope for settlement. Hope receded when parties deadlocked on the specifics of the incumbents relinquishing some crucial components of power-sharing between ZANU-PF and the two formations of the MDC. Nevertheless, the negotiations again resumed, through a number of further cycles of talks and deadlocks.

In the period that followed, parliament was convened – in terms of a certain interpretation of the SADC-Johannesburg Summit directives of the weekend of 16–17 August 2008. When parliament convened on 25 August 2008, the MDC succeeded in voting in an MDC speaker, with some MPs of both the Mutambara faction and ZANU-PF supporting the MDC (see *Business Day*, 26 August 2008) in a secret ballot. A day later, Mugabe was jeered as he tried to address the House of Assembly, over which he had presided for 28 years. Under continuous pressure from the African Union and SADC, talks resumed on 8 September 2008 and a settlement was reached three days later. The formal power-sharing agreement was signed between ZANU-PF, the MDC-T and the MDC on 15 September 2008 in Harare (also see Table 14). This was still an incomplete agreement, with, for example, several aspects of executive power-sharing to be deliberated between the leaders of the main political parties.

# 2



## Constitutional, Legal and Institutional framework

- Legislative and regulatory framework
- Changes in institutional frameworks

Constitutional, legal and institutional frameworks by definition play a determining role in the management and conduct of elections. Legislation, for example, places strict controls on election campaigns. A range of institutions are crucial to enforcing the legislative frameworks. The institutions that control the conduct of elections are pivotal to the even-handedness with which the laws and regulations are applied. In addition, the composition and construction of the institutions to which the candidates get elected determine how the votes translate into representation. Election observation thus needs to take account of the frameworks. The EISA Regional Observer Mission fully acquainted itself with the necessary details. In particular, it was noted that over the years and especially in the decade from 2000 on, these frameworks impacted mostly in partisan ways on the conduct of elections in Zimbabwe.

The frameworks thus had a bigger than the 'by-definition' role of legislative and institutional frameworks in general. The section reviews the legal and institutional frameworks (both encompassed in constitutional changes over time) of the 2008 Zimbabwe elections, with the major emphasis on the Harmonised Elections of March. It assesses the frameworks and, where relevant, highlights their partisan impact.

### 2.1 LEGISLATIVE AND REGULATORY ENVIRONMENT

A wide range of Zimbabwean legislation was adopted and amended over the years to regulate elections and election management, campaign

activities, access to the mass media, freedom of expression, mobilisation and association, and aspects of security around elections. The EISA Regional Observer Mission noted that it is necessary for this review to focus on cumulatively relevant legislation since 2000. It includes the series of amendments that were facilitated by the SADC negotiations and were introduced in preparation for future elections. The legislative changes were piecemeal and did not offer an inclusive package dealing with all of the agreed changes that had emanated from the SADC-driven negotiations. The March 2008 Harmonised Elections had not been envisaged so soon after the main new legislative changes that emerged from the negotiations. Yet, the amendments prevailed and impacted on aspects of the Harmonised Elections.

The cumulative impact of legislation on the 2008 elections is notable. As the issues of contestation changed, and voters became used to the legislative order, some of the previously heavily-contested laws shifted into the background and became part of the political landscape. However, these laws, even if hardly contested by 2008, continued to have a notable impact on the March 2008 events.

The Constitution itself was amended in 2007 through the *Constitution of Zimbabwe Amendment (No. 18) Act, 2007*. The amendments dealt, for example, with the election and term of the president, and the composition of parliament. It was recognised by ZANU-PF that the amendments to the Constitution were ‘only a beginning of a process of national healing’ (SABC, 2008: 33). There was also general opposition and civil society alarm in Zimbabwe that the March 2008 elections preceded the introduction of a new constitution, which had only been partly negotiated at the time of the governing ZANU-PF announcing the March election.

The processes of constitutional amendments and design of a new constitution were also set to continue in the period beyond the 2008 elections and September 2008 power-sharing agreement. The Constitution of Zimbabwe Amendment Act No. 19 was set to capture the changes that resulted from the September 2008 Agreement (see Agreement, 2008, section 24.1). Section 6.1 of the Agreement captured the requirement for the forthcoming creation of a new constitution.



### **2.1.1 Major legislative enactments of the early to mid-2000s**

Preceding and continuously prevailing legislation that continued to impact on the March 2008 election included:

- Access to Information and Protection of Privacy Act (AIPPA) of 2002: created to help build the type of election environment that was desired by the ZANU-PF government for the 2002 elections. It remained in place and was minimally amended on 21 December 2007.
- Public Order and Security Act (POSA) of 2002: created in the run-up to the 2002 election, affecting every election since, and amended (21 December 2007) in select ways for the 2008 election.
- The Electoral Act of 1990; 2002 Electoral Amendment Act: amending section 34 of the Electoral Act. It gave the Registrar-General the power to alter the voters' roll at any time without directly informing the voters concerned and without giving them the right to appeal.
- Statutory Instruments 41A-F, adopted in March 2002, reinstated aspects of the General Laws Amendment Act that could not be implemented because of the Supreme Court nullification of the Act (28 February 2002). This law, amongst other things, placed restrictions on postal votes and civil society engagement in voter education. The Statutory Instruments reinstated the restrictions. With regard to the 2002 election, the Registrar-General ruled on 6 February 2002 that applications for a postal ballot (then still within terms of the General Laws Amendment Act) would commence the following day, and these ballots could be returned up to the first day of polling (see ZHR, 2002; Booyesen, 2002a).
- Other important and cumulatively impacting pieces of legislation were the Broadcasting Services Act (2001) and its 2004 and 2007 amendments, the Non-Governmental Organisations Bill (which was not signed into an Act, yet remained as a hovering threat against the NGO sector), the Zimbabwe Democracy and Economic Recovery Act (2001), Statutory Instruments 41A – F2002, Citizen Amendment Act (2001), Miscellaneous Offences Act, and the Interception of Communication Act as well as the Criminal Codification Act of 2007. These acts have not been repealed or amended, despite the SADC mediation process.
- The Constitution of Zimbabwe 1980, as amended in 1981, 1983, 1985,

1987, 1989, 1990, 1992, 1995, 1996, 2000, 2005 and 2007, as well as the Zimbabwe Electoral Commission Act, the Referendums Act and the Political Parties (Finance) Act were all relevant to the 2008 elections.

### **2.1.2 Legislative amendments of late 2007**

The amendments noted were introduced in December 2007 in response to the SADC-led inter-party negotiations (also see Section 3.2.1.6). The amendments were passed in one day in one sitting of parliament. In summary, amendments to the following laws were introduced:

- Access to Information and Protection of Privacy Act (AIPPA), amended;
- Public Order and Security Act (POSA), amended;
- Broadcasting Services Act (BSA), amended; and
- Constitution of Zimbabwe, 17<sup>th</sup> Amendment.

The main changes brought by these four sets of changes were:

- AIPPA: The changes entailed the scrapping of the accreditation of journalists, which removed the criminalisation of practising journalism without a license. The new section 78 listed the privileges of accredited journalists, and the new section 79 dealt with the procedures for accreditation. The amendments also brought the abolition of the Media and Information Council (MIC), now replaced by the Zimbabwe Media Commission (ZMC), formed under the banner of the Media Alliance of Zimbabwe (MAZ; a coalition of media organisations). In effect, however, the old regulations still applied at the time of the 2008 elections.
- POSA: The amendments meant that appeals against the banning of a march were no longer decided by the executive authority, but by a magistrate's court. On the other hand, the amendment brought a general ban on demonstrations outside parliament, the courts and other public institutions, unless permission would be granted by the Speaker, Chief Justice, Judge President, or the responsible authority of the protected place. In addition, a new requirement was that there should now be a more detailed submission of information before a meeting or a march may be held. Names of the convenor and deputy

convenor had to be provided to the police. This allowed the police to arrest and charge individuals, whereas, before, they charged the organisation as a whole. It was also required that police would enter into dialogue with organisers of the events before a banning would take place. The period of notice by organisers of an anticipated event was also broadened.

- BSA: The changes to the BSA included that the Broadcasting Authority of Zimbabwe (BAZ) would in future consist of twelve members appointed by the President after consultation with the Minister of Information and the Committee on Standing Rules and Orders. The changes also entailed that some of the powers of the Minister would be transferred to BAZ, and a new section contained a detailed statement of the purpose of the Act. This included ensuring the efficient use of broadcasting service bands, and encouragement of the establishment of modern and effective broadcasting infrastructure. The changes thus potentially opened the airwaves and relaxed requirements for setting up broadcasting houses. These changes, however, had not had any realised effect by the time of the March 2008 elections. In addition, rural Zimbabweans had a severe shortage of information (see Zimbabwe Africa Media Barometer, 2008b).
- Constitution of Zimbabwe 18<sup>th</sup> Amendment: Lawmakers added a standard for measuring the legitimacy of freedoms, and arguably that of expression, namely through determination of whether the activity would be in the 'national interest'. Outcomes of court cases in future would depend on how the individual judge would interpret the 'national interest'. The amendment also brought the reconstitution of the parliament and a series of further changes.

Stakeholders alerted the EISA Regional Observer Mission to a series of remaining problems, particularly in the domain of the mass media. These included that journalists were still stifled and still had limited access to information, as non-accredited journalists were barred from reporting on national events and visit public places. In addition, the creation of ZMC negated the gains of journalists who formed their own voluntary regulatory body on 8 June 2007 (the Voluntary Media Council of Zimbabwe; see Zimbabwe Africa Media Barometer, 2008b). The changes to the BSA also retained the monopoly of the ZBC over the airwaves. It was noted

as problematic that in AIPPA and the BSA the powers of the Minister of Information were retained, as he had the final say on membership of the ZMC board and the Broadcasting Authority of Zimbabwe board.

## 2.2 CHANGES IN INSTITUTIONAL FRAMEWORKS

Several institutional changes provided new or amended frameworks for the 2008 elections in Zimbabwe. These range from changes in the elected offices and institutions (the President, House of Assembly and Senate), to the composition of the Zimbabwe Electoral Commission (ZEC) and the position of the courts in enforcing electoral provisions. Many of these changes were informed by the Electoral Laws Amendment Act of 2007. The members of the EISA mission fully acquainted themselves with these framework details.

### 2.2.1 Presidential run-off provisions

The legislative environment entailed, inter alia, a series of provisions regarding a possible presidential run-off election. In the pre-election period there was concern about an inconsistency between different sets of legislative provisions.

**Table 4**  
**Inconsistency in Regulations Guiding a Presidential Race**

Section	Provisions	Status
Section 110(3) of the Electoral Act	Where two or more candidates for President are nominated, and after a poll taken in terms of subsection (2) no candidate receives a majority of the total number of valid votes cast, a second election shall be held within twenty-one days after the previous election in accordance with the Act.	This option prevailed, despite high levels of pre-election uncertainty.
Section 3(1)(a) of the second schedule to the Electoral Act (a schedule issued under section 110 of the principal Act)	Subject to subparagraph (2), after the number of votes received by each candidate as shown in each constituency return has been added together in terms of subparagraph (3) of paragraph 2, the Chief Elections Officer shall forthwith declare the candidate who has received – (a) where there are two candidates the greater number of votes; (b) where there are more than two candidates, the greatest number of votes; to be duly elected as President of the Republic of Zimbabwe with effect from the day of such declaration.	In pre-election debates it was feared that this option would be applied in direct favour of Mugabe, even if there were contrary official assurances. In subsequent practice it was not applied – if it had been, Tsvangirai would have been president.

Source: *Zimbabwe Lawyers for Human Rights, Statement, March 2008a*

These entailed the contradiction between section 110(3) of the Electoral Act and section 3(1)(a) of the second schedule to the Electoral Act (a schedule issued under section 110 of the principal Act) (see Table 4). The Zimbabwe Lawyers for Human Rights (2008a) published the government's assurance that the former would prevail in the possible conduct of a run-off election.

### **2.2.2 Electoral system and institutional representation**

Zimbabwe's electoral system and associated processes remained largely unchanged compared with the preceding elections of the 2000s (see EISA, 2002). There were nevertheless a range of other reforms that impacted on the composition of the institutions that were to be elected. These included the increase in the number of seats in the House of Assembly and the change in the composition of Senate. This was the most significant change since, in 1987, Zimbabwe had switched from a prime ministerial system (with a ceremonial president) to an executive presidency. Following that change, Mugabe was inaugurated as the first executive president of Zimbabwe on 31 December 1987.

Further changes were to follow in the post-election period to give effect to the September 2008 Agreement. First, three non-MP (and non-voting) cabinet ministers were to be appointed to the House of Assembly. Each of the three parties to the Agreement would nominate one. Their role was set to be assistance with government management, where required (Agreement, 2008, section 20.1.6(5)). Second, nine additional senatorial appointments – 3 for each of the parties to the Agreement – would follow (Agreement, 2008, section 20.1.7(b)).

The *single member plurality system* was in place in 2008 for the parliamentary elections. ZEC had delimited Zimbabwe into 210 House of Assembly single member plurality seats (ZEC, 2008a), following the 2007 constitutional changes. This constituted a sharp increase on the preceding number of 120 directly elected Assembly seats. All members of the House of Assembly would be elected in the 2008 elections – in contrast with the preceding dispensation the President of the Republic would no longer appoint any members of the House (see *Constitution of Zimbabwe Amendment (No. 18) Act of 2007*). The system of appointed seats in the House of Assembly used to favour the ruling party.

The composition of Senate was also changed. Roughly one-third of the Senate from 2008 on would comprise appointed members, either directly by the preference of the president, or through the president's appointments of provincial governors and the indirect election of traditional leaders (see Table 5). A total of 60 Senate members would be directly elected, also on the basis of single member plurality seats.

The president is elected by universal adult franchise, and an absolute majority was required. A second round, run-off election would be required in the event of no first-round absolute results, and an absolute majority would thus be required (Constitution 1980, 28(2); Electoral Act, 110(3)).

**Table 5**  
**Composition of the Senate, 2007 – Valid at the time of the 2008 elections**

Number of appointees or elected members	Senatorial Designation
60	Elected from single member plurality constituencies (6 from each of the 10 provinces). Special constituencies were delimited.
16	Chiefs elected to the Senate by their peers, on the basis of 2 from each of the 8 non-metropolitan provinces. The 8 Provincial Assemblies of Chiefs met on 31 March 2008 for the purpose of these elections.
10	The governor from each of the 10 provinces, constituting <i>ex officio</i> members of Senate. Governors are appointed by the president of Zimbabwe.
2	The president and deputy president of the Council of Chiefs are also <i>ex officio</i> members of Senate.
5	Members who are appointed by the president.
93 TOTAL	Total of 60 elected and 33 appointed

Source: *Constitution of Zimbabwe Amendment Act (No. 18) Act, 2007 Section 34.*

### 2.2.3 ZEC as organiser of the elections

ZEC had undergone a set of commendable changes in the period preceding the 2008 elections, in particular in as far as it had been rationalised into one body. Previously, four different bodies were involved in the running and

management of Zimbabwe's elections: the Delimitation Commission, the Electoral Supervisory Commission (ESC), the Directorate of Elections, and the Registrar-General of Voters. This situation undermined the effective and efficient management of elections. Power and authority were dispersed and ultimate responsibility was unclear. The Directorate of Elections was composed of a number of government ministries playing a role in terms of logistics, transport and communication.

The functions of ZEC are to do the delimitation of constituency boundaries; prepare for and conduct elections and referenda; ensure that these are conducted efficiently, freely, fairly, transparently and in accordance with the law; direct and control voter registration; compile voters' rolls; and conduct voter education (Constitution, 61(4); Zimbabwe Electoral Commission Act, 4). The Chairperson of the ZEC is appointed by the president in consultation with the Judicial Services Commission. The six other commissioners, at least three of whom must be women, are appointed by the president from a list of nine nominees submitted by the Committee on Standing Rules and Orders (Constitution 1980, 61(1)). Justice George Chiweshe, 2008 chairperson, is a former military lawyer, and previously served in the Zimbabwe National Army as a court marshal judge (SABC, 2008).

The restructuring of ZEC made a difference, but failed to solve the full problem of ZEC's electoral management functions. Three sets of issues still affected the status of ZEC as the manager of the 2008 elections. These were ZEC appointments without stakeholder consultation of individuals with known links to the governing party; the capacity of ZEC for organising and managing the unprecedented-scale elections; and the close working relationship between ZEC and the ruling ZANU-PF. These factors were also interdependent. Because of the close relationship, ZEC either inadvertently or by design failed to address many of the shortcomings of the March elections (overview in the following sub-sections).

### **2.2.3.1 ZEC's autonomy**

ZEC underwent restructuring and reorganisation processes to build more autonomy from ZANU-PF. In the preceding elections of the 2000s, ZEC had consistently received criticism for failing to conduct independent elections. This was despite the fact that in terms of practical, logistical arrangements,

the elections were credible. Much of the continuous 2008 criticism of ZEC had to do with either the rushed nature of the election (often referred to as a snap election on demand of ZANU-PF) or ZEC's lack of autonomy in taking a series of crucial decisions about the elections (see Crisis Coalition, 2008a: 28).

In a range of core functions, ZEC remained subservient to both ZANU-PF, and government ministries, for example those of Foreign Affairs and Home Affairs. This was also by ZEC's own admission (Chiweshe, 2008a; ZEC, 2008b). These problems were anchored in the legislative changes. According to paragraph 7 of the First Schedule of the Zimbabwe Electoral Commission Act, the Commission may establish one or more committees in which it may vest such of its functions as it deems fit. ZEC accordingly established a National Logistics Committee and subcommittees to assist it in mobilising the resources for the 2008 elections. Members were drawn from almost all government ministries, security forces and the parastatal sector. ZEC thus in essence played a supervisory role, rather than a policymaking and effective management role (EISA, 2008c: 3).

Many of the criticisms of ZEC were anchored in its partisan composition. The current members are persons with close state institution, recent appointment and personal friendship ties either to the president or to ZANU-PF (see Crisis Coalition, 2008a: 28). Its general partisan reputation was supplemented by several questioned actions in the course of the 2008 electoral process. For example, ZEC did not challenge ZANU-PF upon the latter's demand for a re-count of votes outside of the legally prescribed period. This was besides the fact that the demand was probably also lodged in a manner that constituted an illegal procedure (in terms of the Electoral Act, 2007 Section 67A; Chapter 2:13).

By law, ZEC is responsible for the accreditation of observers. In practice, however, the Ministry of Justice exercises sole authority over the invitation and accreditation of local observers; and the Ministry of Foreign Affairs has the power to invite international observers. ZEC rubberstamps the invitations from the two ministries. These processes, along with the Ministry of Justice's delayed accreditation of approximately 8,000 domestic observers, were 'selective, discriminatory and shrouded in a cloud of secrecy' (EISA, 2008c: 3).



The merging of roles between ruling party and election manager emerged in all phases of the March 2008 elections, and was specifically also confirmed in the crucial post-election period. In this context, ZEC was widely believed to have operated as an adjunct to ZANU-PF (see Matlosa, 2008).

ZEC's subservience to ZANU-PF in government was further highlighted in the post-election period when ZEC was stopped from continuing with the release of results (see section 3.3.2.1), and where the Central Intelligence Organisation (CIO) took over the role of managing and guarding the process, as well as the ballots, in the between-count period (see *The Sunday Independent*, 20 April 2008, p. 1; ZESN, 2008d). ZESN (as reported in IRIN, 2008) criticised the closure of the ZEC command centre in this period, whilst ZEC averred that it had merely 'scaled down' operations and moved them to an alternative (undisclosed) location (ZEC's deputy elections officer Utoile Silaigwana, as quoted in IRIN, 1 April 2008; 2008b). Furthermore, in May 2008 ZEC simply announced that the 21 days that the Electoral Act Section 110(3) allows for the period from result to run-off had been insufficient. It stated that 'the Commission requires more than twenty-one (21) days to thoroughly preparing [sic] for the run-off' and that it would conduct the run-off 'within the shortest possible time' (ZEC, 2008c).

### ***2.2.3.2 ZEC's institutional capacity for the March elections***

The Harmonised Elections of 29 March brought a series of demands to bear on ZEC. It had to work within an adapted legislative framework, and organise multi-level (presidential, House of Assembly, Senate and local) elections that had to take place on one day. The preparations needed to be undertaken within a relatively short period. The formal time span from the announcement of 24 January 2008 to implementation was just over two months. Prior to this period, however, ZEC had been readying itself in terms of preparations for voter registration and planning the delimitation process (see ZEC, 2007a).

In an interview conducted with ZEC chairperson Justice George Chiweshe by the SABC (25 March 2008), Chiweshe stated that ZEC was 'fully prepared' for the implementation of high quality elections. As the detailed sections below indicate, however, much of the preparatory activities were implemented piecemeal and in the nick of time. For example, voter education was limited

and largely focused on print media; and polling education in terms of acquainting voters with the requirements of where to vote was limited (CCJP, 2008) – and, on Election Day, proved to have been insufficient.

Whereas Justice Chiweshe expounded the fact that ZEC, unlike many other electoral management bodies in the region, had staff of its own, much of the electoral operations required the extensive deployment of public officials, both from state administrative and security branches. The Electoral Laws Amendment Act No. 17 (2:13) also specifies that electoral staff could be recruited from public institutions such as the Public Service Commission, local authorities, statutory bodies and health services. The recruitment was thus largely confined to the pool of personnel from the public service (although there were also reports of hiring ‘on the ground’).

#### **2.2.4 Zimbabwean courts as extension of the electoral machinery**

A range of electoral disputes have found their way into the Zimbabwean court system. It was thus appropriate for this EISA Regional Observer Mission also to note the role and performance of the courts, in the context of elections and in particular in positioning for the March 2008 elections. The independence of the judiciary is also one of the SADC principles.

Two events of the last eight years compromised the independence of the judiciary (and thus reflected on its 2008 inclinations to reach impartial decisions) when it comes to matters of electoral dispute. First, President Mugabe had removed from the bench several judges who had in the past passed judgments that were unfavourable to ZANU-PF and government (see Crisis Coalition, 2008a: 34). Second, the courts by 2008 still had to deal with a range of contested result cases that had emerged in the 2005 election. These factors thus cast doubt on the judiciary’s potential role in ensuring that electoral disputes would be fairly heard, if and when these would arise.

# 3

## Conduct and results



- The Pre-election Phase
- Election Day
- Post-election Phase and Final Results

In line with internationally recommended approaches, EISA uses a framework for election observation and reporting that recognises the importance of all phases of the electoral process. Thus, section 3 of this Election Observer Report is structured in terms of the details of the pre-election, Election Day and post-election phases. Both the pre- and post-election phases are recognised as potentially having extended durations. The EISA Regional Observer Mission’s pre-election observations deal mostly with the specific preparations for the March elections. These observations stand in the context of the political, legislative and constitutional issues that were presented in Section 1 and 2. Those details shed light on the longer-term developments that shaped and directly contributed to the conduct and impact of the 2008 elections. The Election Day phase of the report deals with the particular voting day processes up to the early counting phase. The post-election phase in this report deals with the extended period of counting, announcement and acceptance of results, and the results themselves. As a post-script to this third and last phase of the Harmonised Elections, Section 4 of this report focuses on the presidential run-off event of June 2008 and the early phase of the inter-party settlement of September 2008.

### **3.1 THE PRE-ELECTION PHASE**

The Observer Mission’s analysis of the pre-election period of the March 2008 Zimbabwe Harmonised Elections first documents the general political environment immediately preceding the March elections, linking the

immediate antecedent factors to the details of Section 1. It then addresses the main issues that were dealt with in preparation for Election Day. The issues are identified in line with the EISA-ECF 'Principles for Election Management, Monitoring and Observation in the SADC Region' (ECF-EISA, 2003). In addition and since 2005, Zimbabwe has been a signatory to the SADC Principles and Guidelines Governing Democratic Elections, which further inform EISA electoral observations and guide the report.<sup>2</sup>

### **3.1.1 Political environment**

The Zimbabwe 2008 election was contested from the point of its inception. President Mugabe pre-emptively and unilaterally (albeit in line with the prevailing constitution) set the election date. The opposition was still hoping for Mbeki, through the SADC-sponsored negotiation process, to persuade ZANU-PF first to agree to an amended constitution before announcing an election. An expectation that the opposition would call a boycott did not materialise, even if the MDC described the announcement of 27 March 2008 as the election date as 'an act of madness and arrogance' and a slap in the face of regional mediation efforts (see MDC spokesman Nelson Chamisa, in interview with *Mail & Guardian*, electronic, 28 January 2008).

The EISA mission nevertheless noted the peaceful environment that prevailed in the 2008 period of run-up to the elections. This atmosphere of calm followed earlier incidents of political violence and intimidation. For example, far-reaching and widely reported violence was unleashed on the opposition MDC in the course of 2007. State violence against the opposition receded as the campaign unfolded. Unlike in previous elections, the campaign period was generally characterised by freedom of assembly, freedom of association, freedom of movement and freedom of speech, which could generally be exercised without undue hindrance (see EISA, 2008c). This was particularly evident in the final weeks of the pre-election period. This was also the period in which international observers were present in the country. Mission observation reports indicated voter appreciation of this 'Zimbabwe spring

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2 The issues that are listed in this section of EISA's report generally resonate with the issues of concern that are pointed out by both the PAP (2008) and the SADC (2008b) missions. SADC (2008b: 5-6) uses 'observer mission speak', highlighting 'issues and areas of concern that will require change and improvement in future electoral processes in Zimbabwe'. Observer missions commonly use this type of language in order to present critiques in as friendly and constructive a manner as possible.

period'. Voters revelled in the fact that, for the first time in a decade, they were free to wear party political regalia such as T-shirts and display the posters of their preferred parties (EISA observer interviews, Harare constituencies; EISA 2008a: 6; Madhuku, 2008a; also see ZESN, 2008h).

Tolerance, however, was not complete. Several stakeholders pointed out that the ruling party's posters were often forcibly displayed on buses or on houses. Other stakeholders pointed out that ZANU-PF agents would force community members to close markets and attend rallies, for example in the Mbare constituency (Matienga, 26 March 08). Intolerance would also extend into the display of posters, albeit on a peaceful level, with the over-layering of posters, mostly initiated by the so-called *Chipangano*, or young ZANU-PF activist gangs. The gangs were also responsible for attacks on opposition supporters (Matienga, 2008).

In the broader political landscape, high-level ZANU-PF and security force statements regarding the possible acceptance or not of electoral verdicts (also see Section 3.1.2.9) created uncertainty about the veracity of the electoral verdicts. For example, in a speech in Beitbridge on 24 February 2008 President Mugabe stated that 'there will never be regime change here ... never' (quoted in *Mail & Guardian*, 20-27 March 2008, p. 6). At a point later in the election cycle he stated: 'The MDC will never be allowed to rule this country ... Only God, who appointed me, will remove me ...' (Solidarity Peace Trust, 2008: 8).

Although limited in the context of the electoral and post-electoral events of March 2008, the relaxations of the time nevertheless allowed relatively open campaigning. This contributed to the widely prevailing atmosphere of voter and party exuberance in the pre-election period.

### **3.1.2 Major issues in preparation for Election Day**

A range of activities that constitute preparation for Election Day, and that constitute essential components of the pre-election phase, are now considered:

1. Delimitation
2. Voter registration and voters' roll
3. Registration of political parties and presidential candidates

4. Nomination process
5. Campaign process
6. The media – state and private
7. Use of state resources
8. Political violence and intimidation
9. Role of security forces
10. Voter and civic education
11. Preparation of ballots
12. Postal voting process
13. Voting station planning

### ***3.1.2.1 Delimitation***

In terms of relevant laws and regulations, ZEC was responsible for the delimitation of constituencies. In terms of the *preceding* dispensation, there was a separate Delimitation Commission. The 2008 process was generally veiled, and the EISA mission learnt that the task was undertaken between 5 December 2007 and 10 January 2008. The results of the delimitation were made known with ZEC's publication of the 'Delimitation Proclamation', published in the *Gazette Extraordinary* of 1 February 2008. The Commission delimited a total of 1,958 wards, 210 House of Assembly constituencies and 60 Senate constituencies.

Stakeholders informed the EISA mission that the delimitation process had been insufficiently consultative and participatory. There was no evidence of dialogue and discussion of the contents of a preliminary report in the run-up to ZEC's submission of the final report to the President in January 2008. The final delimitation report was published only a few days after the date for the nomination court had been set. In all (see Table 6) this left under-prepared opposition parties with less than two weeks to determine their candidates (also see Zimbabwe Human Rights NGO Forum, 2008: 13). Opposition parties and civil society organisations also made representations to the PAP mission on this lack of transparency and consultation. They noted that this was contrary to the legal requirements (PAP, 2008b: 14). The report was also supposed to have been submitted to parliament before finalisation. In relation to voter education, the new boundaries were insufficiently publicised amongst the voters (see section 3.1.2.10).

**Table 6**  
**The March 2008 Harmonised Elections Timetable (also see Table 12)**

Event	Original Date	Amended Date
<b>Proclamation</b>	24 January 2008	–
<b>Voter registration</b>	18 June–17 August 2007 for the main drive; Originally would have closed on 6 February 2008	Closed 13 February 2008
<b>Mobile voter registration</b>	18 June–17 August 2007 for the main drive; originally would have closed on 6 February 2008	–
<b>Inspection of voters' roll</b>	1–8 February	Up to 14 February 2008
<b>Delimitation</b>	Reported to have taken place between 5 December & 12 January ZEC report on parliamentary constituencies gazetted 1 February 2008	–
<b>Nomination courts</b>	Closing date of 8 February 2008	15 February 2008, also for presidential nominations, altered through a special statutory instrument
<b>Accreditation of observers</b>	19 February–29 March	–
<b>Election day</b>	29 March 2008	–
<b>Election of chiefs for Senate by Provincial Assemblies of Chiefs</b>	31 March 2008	–
<b>Counting &amp; announcement of results</b>	Assumed to be within 6–8 days of election ZEC orders re-count in 23 constituencies on 12 April 2008	Final parliamentary result announced 30 April 2008; final presidential first-round result on 2 May 2008
<b>Run-off presidential election</b>	Within 21 days of the election of 29 March; 23 May (counting from announcement of results); 19 April 2008 (counting from election day)	Proclamation of run-off date of 29 June 2008 on 16 May 2008

Source: EISA, 2008b; *Electoral Laws Amendment Act of 2007*; *Monitoring by author, 2008*

Stakeholder concerns prevailed regarding delimitation issues. These related to the delimitation process having deliberately distorted constituency boundaries in favour of the ruling party. Opposition dismissed the delimitation report as fraudulent and intent on preserving ZANU-PF interests (Crisis Coalition, 2008a). Gerrymandering was done through the merger of some urban constituencies with peri-urban and rural ones (see Smith, 2008). Some stakeholders raised the issue that more constituencies were created in rural as opposed to urban areas. It is well known that electoral politics in Zimbabwe up to the 2008 election had resulted in the rural areas largely having been governing party strongholds. Furthermore, political actors and international observer missions (such as the PAP mission; also see PAP 2008: 2) raised concerns with ZEC that some wards attached to urban constituencies such as Harare North were fictitiously populated, if populated at all. The MDC briefing to the EISA mission detailed these concerns. PAP (2008a: 2) noted the ZEC response, namely that the law provides for a communal address system whereby community members can register using the same address. PAP concluded: 'The Mission is of the view that the communal address registration system can be abused and gives rise to gerrymandering which can unduly influence the outcome of the election.' This was supplemented with the Election Day EISA mission observation of voter queues in the Harare North constituency being far longer than any comparable queue in the Harare area.

A further point of controversy concerning delimitation was that the date of candidate nomination was set before the publication of the final delimitation report in the Government Gazette (see *ZimOnline*, 6 February 2008).

### ***3.1.2.2 Voter registration and voters' roll***

Voter registration in Zimbabwe is voluntary and continuous. A number of special registration drives were also undertaken. The drive for voter registration was mainly conducted in the period of 18 June to 17 August 2007. In this period, registration was conducted via mobile registration actions (ZEC, 2007b). Voter registration was first set to have closed on 6 February 2008. It was then extended to 13 February 2008, and a registration surge was reported in the period following the announcement of the presidential candidacy of Simba Makoni. In terms of the Electoral Act (CAP 2:13,17A,26A) registration closes 24 hours before nomination day. Registration is with a



constituency registrar who is subject to the supervision of ZEC (Constitution 1980, 61(4)(c),(d),(h); Electoral Act CAP 2:13,24). Applicants have to present a national identity card and proof of residence. Upon registration the applicant is issued with a registration certificate (Electoral Act CAP 2:13, 24-26).

Despite these multiple arrangements, there were reports detailing the observation that ZEC had not truly taken the task of voter registration seriously (ZESN, 2008f; Zimbabwe Human Rights NGO Forum, 2008: 13). There were also reports of continuous voter registration beyond the legally provided period, and that this had favoured ZANU-PF. Various stakeholders informed the EISA mission that the voter registration process was undertaken with little consultation and that it had lacked transparency (EISA observer interviews, 2008a). The process was also observed to have been selective (Zimbabwe Human Rights NGO Forum, 2008: 13). The EISA mission furthermore received reports that the inspection of the voters' roll was not accorded adequate time (EISA, 2008a: based on stakeholder interviews). These reports were further substantiated by ZESN in its comprehensive set of recommendations for future elections in Zimbabwe (ZESN, 2008e).

**Table 7**  
**Registered Voters & Number of Polling Stations Per Province, 2008**  
**with Comparative Registered Voter Numbers for 2000 & 2005**

Province	Number of registered voters 2000	Number of registered voters 2005	Number of registered voters 2008	Number of polling stations 2008
Harare	799,452	832,571	784,598	722
Bulawayo	257,281	339,990	320,772	241
Mashonaland East	506,812	610,715	658,123	1,048
Mashonaland Central	418,277	490,181	522,107	819
Mashonaland West	502,964	593,354	625,729	1,058
Midlands	658,422	745,822	786,237	1,380
Masvingo	593,778	675,234	740,969	1,210
Manicaland	576,404	686,767	774,482	1,138
Matabeleland North	317,405	342,745	366,271	755
Matabeleland South	319,015	341,258	355,480	627
<b>TOTAL</b>	<b>5,049,815</b>	<b>5,568,637</b>	<b>5,934,768</b>	<b>8,998</b>

Source: *Veritas, 2008a; ZEC, 2008d; Delimitation Commission, 2000; 2004*

The initial voter registration figure was 5.6 million, and, after the extension of the registration period, the total number rose to 5,934,768 voters. Inspection of the rolls started on 14 February 2008. (Table 7 shows the provincial breakdown of the voter corps in comparison with the number of polling stations.)

The electronic copies of the voters' roll were not user-friendly. They were provided in 'jpg' format, which rendered them inappropriate, except through labour-intensive reformatting, to an analysis of the voters' roll. Where political parties managed to do reformatting for analysis (as the MDC did), evidence of vote rigging in the form of 'ward-loading' emerged. This was proven in the case of the Harare North constituency (EISA observer briefing, 2008a). Time and labour-intensiveness precluded opposition parties and other stakeholders from conducting a comprehensive voters' roll audit.

In addition, copies of the voters' roll were often unobtainable owing to the cost being prohibitive. Civil society organisations such as ZESN (2008a) were also denied permission to purchase copies on the grounds of the organisation not being a political party. In cases where opposition parties had purchased copies, they found the copies (and especially the electronic ones) to be onerous to work with (EISA observer briefing, 2008a). On 13 March 2008, the Electoral Court turned down an MDC application to compel ZEC to supply a copy of the electronic roll in a searchable format. The Court maintained it did not have the jurisdiction to deal with the matter. The MDC also sought a full print-out copy of the roll from ZEC, but was informed that it could only be supplied after the election (Zimbabwe Human Rights NGO Forum, 2008: 16).

These factors adversely affected the credibility of the registration process and the voters' roll. Stakeholders lacked a sense of confidence in the integrity of the voters' roll. MDC-associated Eddie Cross (6 April 2008) estimated that the real voters' roll should realistically have been put at 2.8 to 3 million.

### *3.1.2.3 Registration of political parties and presidential candidates*

Zimbabwe's March 2008 elections brought several new party political developments to the fore. The major political parties of the first decade of the 2000s, however, remained the continuous primary players. Twelve further small (and some new) parties registered, and independents assumed a potential king-making role. Most of the party political changes followed in

the first three months of 2008. This was not surprising, given the snap nature of the election and the fact that opposition had expected the election only to follow at a stage further down the negotiation chain (see section 1.3).

An important political development was that the two major parties both faced the election as divided entities. The extent of divisions was possibly over-estimated in that the election results showed that voters overwhelmingly backed the existing major groupings. There can be no doubt, however, that the divisions had impacted both on the result and the post-election developments.

- The MDC faced the election as a divided party. In early February 2008, leaders of the two MDC factions failed to agree on constituting a united force for entering the elections. Talks broke down after the factions could not agree on the selection of candidates (see *ZimOnline*, 4 February 2008; Mutambara, 2008). The MDC had formally split in 2005, with disagreement on whether or not to contest elections for the Senate constituting the final straw. Mutambara subsequently claimed ownership of the 'real' MDC, and the Tsvangirai faction became formally (as on the ballots) known as the MDC-Tsvangirai (MDC-T). In popular parlance, however, the Tsvangirai faction retained its status as *the MDC* (see Raftopoulos, 2005).
- ZANU-PF emerged as internally divided in the wake of disputes regarding the succession of Mugabe. The party was further shaken when, after many earlier denials, Dr Simba Makoni, hitherto ZANU-PF and former Politburo member and Minister of Finance, on 5 February 2008 announced his contestation of the presidential election against Mugabe. He did this on an independent ticket. It was regarded as a rebellion in ZANU-PF ranks. This rendered ZANU-PF somewhat uncertain of factional alignments and loyalty of the security forces.
- Subsequent to these two developments, Mutambara and Makoni entered into a presidential alliance, with Mutambara supporting Makoni in the presidential race. The Makoni group formally entered the election as independents (see *ZimOnline*, 6 February 2008).

#### 3.1.2.4 *Nomination process*

Nomination processes were affected by the rushed nature of the March 2008 elections. For example, the nomination of candidates preceded the formal publication of the delimitation report. Independent legislator and candidate Jonathan Moyo, together with former legislator and 2008 Senate candidate Margaret Dongo, lodged a court appeal alleging that Mugabe had broken the law when he set the nomination date prior to the publication of the delimitation report (*ZimOnline*, 6 February 2008).

Several aspirant presidential candidates were declined nomination either because they handed in nomination details late, or because they submitted incomplete sets of nomination documents. EISA received reports of a fair amount of chaos surrounding nomination procedures, for example in the Harare nomination court. Confusion centred on precisely what documentation was required and where documents had to be tendered. Reports were received of candidates being allowed to submit somewhat late nominations, after having been misdirected on the appropriate procedures (which had been inadequately publicised) (Mhanda, 2008). Despite this confusion, the EISA mission did not receive reports of major disqualifications that might have been politically motivated.

A total of 17 political parties and a range of independent candidates contested the March Harmonised Elections. In the House of Assembly elections, ZANU-PF nominated 214 candidates in the 210 House of Assembly constituencies, thus fielding more than one candidate in some constituencies, while MDC-Tsvangirai nominated 200. The MDC-Mutambara fielded 152 House of Assembly candidates. Only 1 House of Assembly candidate was nominated unopposed ZEC, March 2008b, 2008d).

As the details in Table 8 indicate, the political parties and other formations (such as the Independents) nominated a fair number of women candidates. The proportions for Senate were especially high. ZANU-PF was the party that fared best on this front. Opposition parties (in EISA observer briefings, 2008a) noted that the prevailing highly violent conditions in Zimbabwe inhibited them from fielding larger numbers of women candidates.

**Table 8**  
**Women Candidates in the 2008 Harmonised Elections per Party**

Party / Formation	House of Assembly			Senate		
	Total candidates	Women candidates	% Women	Total candidates	Women candidates	% Women
ZANU-PF	214	44	20.6	59	27	45.8
MDC-T	209	25	12.0	60	18	30
MDC-M	144	19	13.2	34	6	17.7
Makoni	51	8	15.7	9	3	33.3

Source: *Veritas, 2008e*

### 3.1.2.5 Campaign process

The campaign process offered a window onto the nature of contestation of the election. The EISA mission's observations offered many illustrations of unequal and uneven opportunities and resources for campaigning. The dominant (and advantaged) party was almost without exception the governing party. With its access to and widespread use of its virtual monopoly over the public media, ZANU-PF had distinct advantages in the process of campaigning.

In the mission's consideration of the election campaign, it is deemed necessary to distinguish between the period of approximately 2-3 weeks in the immediate run-up to the election, and the longer-term pre-election period. The immediate pre-election period was one of tolerance and a reasonable level of freedom to campaign. Stakeholders from opposition party ranks were appreciative of the short-term opportunities to campaign freely (EISA observer interviews, 2008a). This contrasted with the longer-term use of violence against the opposition (such as the well-known events of assaults on senior MDC leaders in March 2007 and January 2008; see ZESN, 2008f; WMD, 2007; Crisis Coalition, 2008a: 15-27), and attacks on and victimisation of opposition leaders and supporters in many parts of the country. These events are in the long-term pre-election period. Yet, the report notes them due their constituting an integral part of the ruling party project to reduce the electoral threat posed by opposition.

Despite the relaxation of the short-term pre-election period, the campaigns remained under strict legislative, police-enforced control. For example, permission was required in terms of Section 25 of POSA to hold election meetings or rallies. The procedure was that the police established a convenor for each area with whom permission for the assembly had to be negotiated. If negotiations failed, it was regarded not to be in the public interest to have a particular rally, and it would then become a security concern to have a rally. In such an instance, permission would be denied. Such cases were reported to the EISA mission. In addition, appeals against the banning of a march would now be decided by a magistrate's court whereas previously the executive decided (Zimbabwe African Media Barometer, 2008a: 3).

Some stakeholders shared with EISA their concerns about the content of the electoral campaign, particularly as regards statements made by contestants constituting hate speech and character assassination of other contestants. A range of NGOs repeated these charges, referring to, amongst other things, Mugabe's use of terms such as sell-outs, political witches, political prostitutes and traitors to refer to the opposition (Zimbabwe Human Rights NGO Forum, 2008: 8; Crisis Coalition, 2008b; CCJP, 2008).

The mission was concerned by threats emanating from security chiefs asserting that they would not recognise an opposition victory of the presidential poll. Neither ZEC nor the government took visible action to prevent or condemn such utterances. The statements were repeated in various ways, and were also carried by the ZANU-PF aligned daily newspaper, *The Herald*, on Election Day (see *The Herald*, 29 March 2008, p. 1; also see Section 3.1.2.9).

### **3.1.2.6 *The media– state and private***

In consideration of the role of the media in the Zimbabwe 2008 elections, this observer report takes account of two sets of factors that were brought to its attention. First, there is the role of public institutions and persons in monitoring and controlling the media. Second, there is the operation of the media in the process of covering the elections. As background it should be noted that the SADC-led negotiations had led to a January 2008 agreement that independent broadcasters would be allowed to operate in a more relaxed environment and that media were compelled to give equal coverage to all political parties (see MMPZ in *Mail & Guardian*, 20-27 March 2008, p.6).

ZEC continued to monitor the coverage of the March 2008 elections. This was done in terms of the requirement that media in election periods were expected to abide by the provisions of Part IV(A) of the Zimbabwe Electoral Commission Act (Chapter 2:12) and the Zimbabwe Electoral Commission (Media Coverage of Elections) Regulations, 2008 (S. I. 33). These measures require that election broadcasts and articles 'should be presented in a balanced, fair, complete and accurate manner'. In addition, the 2007 amendments to the Broadcasting Services Act maintained the monopoly of the Zimbabwe Broadcasting Holdings over the airwaves in the provision of broadcast media services (Zimbabwe African Media Barometer, 2008a).

The voters of Zimbabwe have access to a range of media, both private and state, yet all the major public media (television, radio and most of the print media) are overwhelmingly owned by the state and under the control of ZANU-PF. The mass media (both state and privately owned) in Zimbabwe were observed to be as divided as their party political patrons.

The private media cover mainly events relating to the opposition. Because they are private, they do not fall within the immediate ambit of this report. It is essential for the report to note, however, that through persistent state action against the privately owned media over the years, voters had been deprived of balanced access to information. The opposition-aligned newspaper, the *Daily News*, was bombed on several occasions in the early 2000s, leading to its closure (along with that of the *Daily News on Sunday*) on 12 September 2003. In 2004 *The Tribune* was closed, and in 2005 *The Weekly Times* followed. There were also attacks and raids on, and charges against, radio stations and individual journalists see Crisis in Zimbabwe, 2008b). *The Standard* and *The Independent* remained reliably available as sources of independent electoral and campaign information. In the run-up to the election all available newspapers were flooded with party political and NGO advertisements supporting party campaigns or conducting various forms of voter education.

The MMPZ, responsible for reliable media monitoring projects in Zimbabwe, reported that the public media's coverage of the elections favoured the ruling party much more than the opposition (EISA observer briefing, 2008b; EISA 2008a: 5-6; also see MMPZ 2008a; 2008c). They substantiated this through

detailed qualitative and quantitative content analyses. They issued regular reports on their findings and briefed observer missions. The observations in this section are based both on the MMPZ analyses and on direct observation by the EISA mission.

The electronic public media remained unabashedly pro-ZANU-PF. There was some opening of the airwaves when the first observer missions started arriving in Zimbabwe around 9 February 2008. This turning point (with regard to both the electronic and the print media) enabled opposition party advertisements to be flighted. ZBC complied with legal requirements by affording air time to all contesting parties and independents in order for them to communicate their election manifestos (ZEC, 2008b). These advertisements and manifesto spaces, however, were routinely surrounded with hostile election reporting or editorials that were designed to negate potentially positive opposition messages. Furthermore, the state media almost exclusively provided coverage of the election campaign of ZANU-PF, to the exclusion of campaigns of the MDC and independent candidates.

Two of the agencies conducting monitoring of media access to the different political parties, MMPZ and ZEC, came to different conclusions about balance and fairness. On the one hand, ZEC in its monitoring of media coverage recorded frequencies of exposure. This style of monitoring was illustrated in the ZEC (2008b) briefing to SADC-ECF. For the period of 29 February–14 March 2008 they recorded these trends:

- On television, there was a total of 240 relevant items – 157 on ZANU-PF, 80 on MDC, 5 on MDC (Mutambara) and 8 on Makoni; 15 on government in the context of the elections and 8 on ZEC; and
- On Radio Zimbabwe’s four radio stations, there was a total of 773 news bulletin items, with, for example, 166 on ZAPF, 23 on MDC-T; 8 on MDC-M, 4 on ZDP and 12 on Makoni; also 14 on ZEC, 6 on government departments in relation to elections, and 6 on civil society. ZEC noted that there were minor variations across the radio stations.

The ZEC conclusion was that there was ‘a maturity of coverage’ in the state media. The MMPZ did both frequency and contextual research. The MMPZ (2008b) was thus in the position to point out the changing trends over



time (with more favourable opposition opportunities being manifested as the observers were being deployed). They were also able to point out that instances of opposition exposure were almost always surrounded by negating reports and editorials.

### ***3.1.2.7 Use of state resources***

The EISA mission noted several manifestations of the use of state resources for party political purposes by the ruling ZANU-PF. At the height of the campaign, there was virtually unrestrained use of public media for the governing party's election campaign. The president of Zimbabwe and contender in the presidential race made multiple donations such as buses, motor vehicles, generators, television sets, food aid and agricultural equipment to communities and organisations across the country. The programme was funded by the Reserve Bank of Zimbabwe.

The handouts were mostly done at high-profile and lavish government occasions, with the participation of cabinet members, and often with extensive television and radio coverage of the events (EISA field observations Central Hospital, Harare, 2008a; also see ZESN, 2008e; *Sunday Mail*, 9 March 2008). Whereas these handouts were done in its capacity as the government, many other instances occurred in the immediate and direct context of campaigning. State media coverage of the handover events peaked in the final campaign days.

In addition, public sector security staff members were continuously deployed to bolster images of incumbent power. This would include the presence of police officers in all polling stations on Election Day.

### ***3.1.2.8 Political violence and intimidation***

The Electoral Law provides for both a Multi-Party Liaison Committee (MPLC) in the various constituencies and wards, and a National Multi-Party Liaison Committee. These committees are established to deal with electoral disputes that may arise during the electoral process. The Multi-Party Liaison Committee functions include hearing and attempting to resolve disputes, concerns or grievances regarding the electoral process, such as disputes arising from allegations on non-compliance with the Electoral Code of Conduct of Political Parties.

The general short-term pre-election conditions of peace, calm and conditions that were conducive to the expression of political preference were better than in preceding elections. Yet, the EISA mission took note that the March 2008 election's pre-election period was far from free of incidents of violence and intimidation. This was particularly true for the more extended pre-election period in which, throughout 2007 and early 2008, there were attacks on supporters, members and leaders of the MDC in particular (see Zimbabwe Human Rights NGO Forum, 2008: 19 for trends from 2001–2007; Zimbabwe Solidarity Forum, 2008). There also were instances of MDC attacks on ZANU-PF, but these were far fewer than the other way around (Solidarity Peace Trust, 2008: 26).

Equally, the shorter term pre-election period delivered evidence of a range of instances of violence and intimidation, with the Green Bombers (the ZANU-PF youth) frequently at the forefront of intimidation (Crisis Coalition, 2008a: 5; 28).

### **3.1.2.9 Role of security forces**

The predominant security force role in the short-term pre-election period was evident in its explicit backing of ZANU-PF. A continuous strain of intimidation (for example through the threat of 'punishment', should the ruling party not be returned to power) was exercised by members of the military, security and intelligence forces. They issued several notices, widely reported in the media, that they would not accept a pro-opposition election result (see for example *The Herald*, 29 March 2008, p. 1; *Nationmedia*, 2008). They thus provided explicit support for Mugabe as presidential candidate. Statements of this nature were made by the Commissioner of Police, Chief of Staff of the Zimbabwe Armed Forces, and the Commissioner of Prisons. The PAP mission reported that it sought clarification from the Assistant Commissioner of Police, 'but the reply was unprofessional and regrettable' (PAP, 2008a: 2). The EISA mission also noted that these statements were neither denounced by the President of Zimbabwe, nor publicly repudiated by any other member of ZANU-PF.

An illustration of this is Chief General Constantine Chiwenga of the Defence Force remarking that the army 'will not support or salute sell-outs and agents of the West either before, during or after the elections' (see *Mail & Guardian*,

20-27 March 2008, p. 9). On the day before the election, President Mugabe averred that he would take his war veterans back to the bush to fight the MDC in the event of an MDC electoral victory. The mission from the PAP also took a strong position on the security force utterances, noting that PAP 'decries the fact that the appropriate authorities, who are expected to protest the integrity of the electoral process failed to denounce such unfortunate outbursts' (PAP, 2008a: 2).

#### **3.1.2.10 Voter and civic education**

The EISA mission observed that voter education was limited and mostly inadequate. Where it was undertaken, it was done in haste. There was little if any effort by ZEC to mount a systematic voter education and information programme to alert the electorate to the details of the new electoral boundaries, and to do so in good time. There was an equal lack of systematic attention to education on the new requirement that voting would take place at ward level.

The mission noted that ZEC was formally the body responsible for voter education and information. Voter education by anyone except the government was outlawed (*Thinking Beyond*, 2008: 15). Stakeholders such as NGOs, FBOs and CBOs, as well as political parties, are supposed to play a role in voter education functions, yet were precluded from doing so. For example, ZESN was barred by ZEC from undertaking voter education and distributing electoral information (see Zimbabwe Human Rights NGO Forum, 2008: 14; EISA, 2008a: 7; 9). This was in terms of the Electoral Law forbidding foreign-funded NGOs from engaging in voter education. All ZESN voter education advertisements were also withdrawn from ZBC.

Many of the voter information tasks happened only in the last week before the election (EISA media monitoring, 2008). Stakeholders also informed EISA that there had been little access to information for Zimbabweans in the remote areas of the country, whether in the form of media service provision or government information relating to elections.

In supplementing the ZEC and ZBC shortcomings, a wide range of NGOs placed newspaper advertisements that provided both ballot and process education and encouraged participation. In the week prior to the election,

newspapers such as *The Standard* were flooded with such civil society voter education information. NGOs also distributed leaflets, especially in the urban areas. ZESN furthermore operated a telephone and electronic information hotline (see ZESN, 2008g).

The EISA mission received stakeholder reports indicating that voters appeared not to be confused by the four ballots that each received, suggesting that some form of voter education did filter through (EISA observer interviews, 2008c)

#### **3.1.2.11 Preparation of ballots**

Given the climate of high suspicion about the integrity of Zimbabwean elections (built on experiences of preceding elections) there were doubts about the excessive number of ballots printed for the 2008 elections.

According to ZEC's chairperson, Justice Chiweshe (2008a) the existence of 5.9 million voters would require the printing of 6 to 7 million ballot papers. It came to the EISA and other missions' attention (also confirmed to the PAP mission; see PAP, 2008a: 3), however, that approximately 9 million ballots were printed (for each of the four types of elections that were conducted). This translated into an approximate one-half surplus of ballots (should the figure of 5.9 million voters be accepted). The surplus would be to ensure that shortages would not be experienced. Chiweshe remarked, 'We have to make sure there are enough plus extras'. When the PAP mission raised the issue with ZEC's Justice Chiweshe, he replied that the surplus was printed 'for strategic reasons' PAP, 2008a: 3).

Key players in the electoral process, including opposition parties and CSOs, remained uninformed as to the exact number of ballots printed.

#### **3.1.2.12 Postal voting process**

There is provision for postal voting in Zimbabwe. The postal voting process, even more than other veiled components of the March 2008 election, remained shrouded in *de facto* secrecy. It was restricted to the members of the army, the police, the prison services and electoral officers who are absent from their constituencies on electoral duties, government officials who are absent from the country on government service, and the spouses of such persons.

The process was characterised by a lack of information-sharing with stakeholders. Observers too did not have access to reliable information. Aspects of concern included the uncertainty of the exact number of postal ballots that were printed, lack of transparency in the commencement of postal balloting, and reports of garbled attempts to get party agents and independents to help certify the sealing of postal ballot boxes (Mhanda, 2008).

It was estimated that the exact number of postal ballots required would be 10,000 for the security forces, a small number for diplomats out of the country, and a modest number for civil servants who would be doing duty on Election Day. Whereas it was never formally revealed how many postal ballots were printed, party political stakeholders reported receiving information of a figure up to 600,000 (Chaibva, 2008). These factors thus contributed to scepticism about aspects of ZEC's operations.

### ***3.1.2.13 Voting station planning and distribution***

In the pre-election period concerns prevailed that the number of voting stations planned would be insufficient for the processing of the expected number of voters. In the final pre-election days, ZEC issued several statements to allay fears. It also provided general information on the establishment of multi-centre polling stations. The processes of establishing additional voting points within polling stations, however, continued right up to the eve of the election. Last-minute proliferation, even if in response to election management and turnout concerns, led to an inability of election observers, and especially monitors, to be deployed in sufficient numbers (EISA field observations, 2008b).

ZEC established over 258 composite (or multi-centre) polling stations. Justice Chiweshe, ZEC chairman, explained: '[T]here are areas especially in urban areas and some rural constituencies, where a simple polling station would not be able to serve the number of people trying to vote' (*The Herald*, 27 March 2008, p. 1). Officially, and prior to last-minute proliferation, there were 8,998 polling stations in 2008. This compares with the 4,548 across the country in 2002, and the 8,265 in 2005 (ZESN, 2005: 24).

Up to the eve of the March election, ZEC did not announce the final March 2008 number of polling stations. The closest details at the time came from

*The Herald* (27 March 2008, p. 2). It reported that ‘the commission was still establishing more polling points’. Quoting ZEC’s Justice Chiweshe, the paper noted: ‘The list of polling stations could be increased as more stations are still being identified in the provinces because ZEC wants to make sure that voting is completed during the set period.’ The approximate provincial spread of the *composite* polling stations is demonstrated through the following selection of provinces (*The Herald*, 27 March 2008, p. 1):

- Masvingo: 79
- Bulawayo metropolitan province: 56
- Manicaland: 40
- Mashonaland East: 26
- Midlands: 24
- Matabeleland South: 18
- Matabeleland North: 8

There were also concerns about the president using the Presidential Powers (Temporary Measures) (Amendment of Electoral Act, No. 2) Regulation to reverse an earlier agreement and in terms of the change allow the police to be in polling stations to assist some voters (such as those with insufficient literacy) in casting their ballots. This change, the EISA mission learnt, was done without consultation – also without consulting ZEC. It was done eleven days before the election. It was feared that police presence would intimidate voters (Zimbabwe Human Rights NGO Forum, 2008: 15).

## **3.2 THE ELECTION DAY PHASE**

The analysis of the ‘election phase’, or Election Day, of the March 2008 Zimbabwe Harmonised Elections first briefly reviews the political environment that prevailed on the day of the first-round presidential, House of Assembly, Senate and local government elections. The report then follows through with emphases on the major issues that prevailed on Election Day.

### **3.2.1 Political environment**

Whereas the preparations for Election Day were characterised by a series of concerns, the day itself, like in many previous Zimbabwe elections, proved to

be conducive to the voters casting their ballots. This was possible in conditions of widespread peacefulness, which several missions referred to as ‘tranquil’. As many of the details (below) indicate, there were no significant political or procedural upheavals on the day. In general, the electoral machinery operated smoothly. Election Day’s expressions of political choice thus contrasted with the unevenness of much of the pre-election period and the turmoil of the post-election period.

### **3.2.2 Main aspects of the Election Day phase**

The main aspects of the Election Day phase that are addressed are the operational aspects of activities up to the early stages of counting of votes. Re-counts and the announcement of results follow in the EISA assessment of the post-election phase. This section deals with:

1. The voting process
2. Polling staff and party agents
3. Monitors and observers
4. Counting
5. The re-count

Whereas the EISA mission was constrained through non-accreditation, it cooperated with the PAP mission in particular to gain information on processes inside the polling stations. In addition, EISA mission members had the opportunity to interview voters, observers and party political actors in the surrounds of the polling stations and counting centres.

#### **3.2.2.1 *The voting process***

Polling day was generally marked by peaceful behaviour and tranquillity. In most parts of the country there were early-morning queues of up to several hundred (often 200–300) voters. The queues had largely dissipated by mid-day. In the afternoon, the streams of voters had turned into trickles. There were no reports of unattended-to voters by the time of the closing of the polls.

The EISA mission learnt from stakeholders that, for the most part, the voting process proceeded smoothly. The number of polling stations available for the voting process appeared to be both adequate and well organised (EISA field observations, 2008c; also see Table 7).

PAP (2008a) recorded that the fears of stakeholders about the insufficiency of the number of polling stations and their capacity to process voters had not materialised.

The EISA observation reports (2008b), as well as information shared by the PAP mission, indicated that election materials had been sufficiently supplied, and that the voting station lay-outs were properly done. The EISA mission's eve-of-election admission into a select number of polling stations confirmed this trend. In terms of the reports received, the voting stations were equipped and largely functional when it came to opening time on Election Day.

The conditions on polling day appeared to have facilitated the casting of ballots. Overall, polling stations opened on time, with few exceptions. Where delays occurred, it appeared that they were without substantial inconvenience to voters. Voters appeared to be familiar with the process of marking and casting their ballots on the four colour-coded ballots and placing them in the correspondingly marked ballot boxes (presidential, House of Assembly, Senate and local). Voters emerging from the polling centres confirmed that in their experience the process of casting ballots had generally proceeded smoothly (EISA observer interviews, 2008a).

An extent of disenfranchisement was recorded, however, in that many voters were turned away to other wards or constituencies. These cases related to the voters having had faulty information on where they were supposed to vote, or to a faulty voters' roll. The EISA mission's observations confirmed that, in places such as Chitungwiza, up to about 20% of voters at some polling stations were turned away because they had reported for voting in the wrong wards or constituencies. In some of these instances, where voters were told that they were in a wrong constituency, they reported exasperation. They indicated that they would rather go out to try to find food than negotiate up to several further kilometres to get to another constituency (EISA observer interviews, 2008c).

In previous elections when local and national elections were conducted separately, voters as a rule were required to cast their votes at a polling station within the constituency in which they were registered for parliamentary and presidential elections. In 2008, they voted at any polling station within the



local authority *ward* in which they were registered. This was the result of the concurrence of the local and national elections.

### **3.2.2.2 *Polling staff and party agents***

According to the reports that the EISA mission received, polling staff were generally efficient and conducted themselves professionally. The polling staff reflected gender balance. Women were often in the role of polling officers. Although the presence of police in the polling centres remained a general concern, the EISA mission did not receive specific reports of police interfering in the voting process. In general, however, police presence inside the polling stations posed a form of covert intimidation and had the *potential* to compromise aspects of the secrecy of the ballot. EISA reports indicated widespread condemnation of this practice of police presence (also see ZESN, 2008i). The voters that EISA directly interviewed on Election Day, however, did not record intimidation by police who were present inside the polling stations.

Information that the PAP mission shared with EISA indicated that opening and closing procedures were adhered to.

### **3.2.2.3 *Monitors and observers***

Election observation has been recognised within the SADC region, on the African continent and worldwide as an important tool to enhance the transparency and the credibility of an electoral process (EISA, 2008c). The March 2008 Zimbabwean elections, however, took place in an ambiguous observation context. This was related, in the main, to select invitations to observe, accreditation being done selectively, the prohibitive cost of accreditation, and the sluggish and bureaucratic nature of the accreditation process. The only two accreditation centres were in Harare and Bulawayo.

The EISA mission noted that accreditation was done in a selective manner, with preference given only to countries and organisations perceived as being friendly to the government of Zimbabwe (EISA, 2008c). Approximately 47 invitations to observe were issued by the Zimbabwean government (see Table 9). These went overwhelmingly to fraternal organisations, as well as continental ones that had not alienated themselves from the ZANU-PF government through previous, critical observation reports. A small number

of accredited missions, however, did distinguish themselves through professional observation, statements and reports that did justice to the requirement of election observation processes.

According to the Electoral Laws Amendment Act of 2007:

No individual other than a chief elections agent or election agent or polling agent, may observe any election, or be permitted to enter and remain at any polling station or constituency centre as an observer, unless such person is accredited as an observer by the Observers' Accreditation Committee before the commencement of the poll.

The Observers' Accreditation Committee is established by ZEC, with the function to accredit both international and domestic observers. It consists of the chairperson of ZEC, the vice-chairperson of ZEC, another member of ZEC, one person nominated by the Office of the President and Cabinet, one person nominated by the Minister of Justice, Legal and Parliamentary Affairs, and one person nominated by the Minister responsible for foreign affairs. The assessment from the EISA mission (2008c) was that an independently acting ZEC should be the sole authority responsible for the invitation and accreditation of both domestic and international observers. The process was officially required to be open to all interested parties, without discrimination.

The Zimbabwean government in association with ZEC strictly controlled both invitations and associated accreditation. ZESN's Chipfunde (2006) pointed out that a similar process was followed in the 2005 parliamentary elections, when the government refused to invite observers from countries and organisations that had given negative reports on previous elections. They consequently only invited entities that were expected to rubberstamp the election as free and fair. This also applied to the 2002 election (see Booyen, 2002b).

The main observer missions were the Pan African Parliament (headed by Hon. Marwick Khumalo), SADC, the South Africa mission that was included in the SADC mission, COMESA, the AU (headed by the former Sierra Leone

president, Mr Ahmed Tejan Kabbah), China, and a range of other smaller missions.

The majority of the observer missions were very small ones. The smaller missions often joined forces in order to gain a semblance of cross-Zimbabwe deployment, or went about their observer tasks without purporting to have done systematic observation. Others confined themselves to Harare. Many of the smaller missions were from national and international fraternal organisations that were in Zimbabwe to offer pro-ZANU-PF affirmative observer statements.

ZESN deployed 8,800 observers for the 29 March Harmonised Elections (*see* Table 9). (ZESN decided not to deploy observers for the run-off, since it was granted accreditation for only 500 out of the 23,000 observers it applied for; *see* section 4.2.1.3).

An accreditation fee of US \$100 was levied for each international observer. Domestic observers were also required to pay this fee. Both international and domestic observers were required to produce their accreditation certificates upon demand to any electoral officer. In terms of the regulations, no more than the (unspecified) prescribed number of observers would be permitted to enter or remain at any polling station (and be present for the counting or collating of votes) at a polling station or constituency centre.

As in all instances in Zimbabwe's preceding decade of elections, there were limitations on the type and scale of observation that could be conducted. In addition, few missions took care to observe more than just the immediate pre-election, election and the first three to four days of post-election events. By the third day after the election most of the missions who took the trouble of issuing statements had done so. This time around, the EISA mission noted, most of the statements were generally congratulatory and were completed by 3 April 2008 (also *see AllAfrica.com*, 2008). Furthermore, most of the observer teams left Zimbabwe whilst results were still trickling in – and well before the controversies of the post-election phase started enveloping the country. There were thus generally very few attempts at following through and ensuring that a substantial part of the important post-election period would be covered.

**Table 9**  
**International Election Observers to the 2008 Harmonised Elections**

Uninvited Delegations	Invited to send observers	Not invited but present
International & regional organisations	African Union (AU), the Pan African Parliament (PAP), SADC secretariat, SADC – Electoral Commissions Forum (SADC-ECF), the Common Market for Eastern and Southern Africa (COMESA), the Non-Aligned Movement (NUM), Africa, Caribbean and the Pacific (ACP), Association of South East Asian Nations (ASEAN), East African Community, Economic Community of West Africa States (ECOWAS), Economic Community of Central African States (ECCAS), East African Community (EAC), Caribbean Community (CARICOM), Inter-Governmental Authority on Development (IGAD) and MAGHREB Union, Community of Lusophone Countries (CPLP).	European Union (EU), and SADC Parliamentary Forum (SADC-PF)
Countries, including all Southern African Development Community Members	<b>SADC:</b> Angola, Botswana, DRC, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia; <b>Rest of Africa:</b> Algeria, Egypt, Ethiopia, Ghana, Kenya, Libya, Nigeria, Senegal, Sudan, Uganda; <b>Eurasia:</b> China, India, Indonesia, Iran, Malaysia, Russia; <b>Latin America:</b> Brazil, Jamaica, Nicaragua, Venezuela	Japan, Australia, Norway, United States of America, United Kingdom (US and British embassies accredited in Harare sent teams throughout the country as election ‘witnesses’)
Non-governmental organisations	December 12 Movement	Electoral Institute of Southern Africa (EISA)
Political parties & trade unions	African National Congress (South Africa), Chama Chama Mapinduzi (Tanzania) & FRELIMO (Mozambique)	Congress of South African Trade Unions (COSATU), Southern African Trade Union Co-ordination Council (SATUCC) and Young Communist League (South Africa)

Source: *www.eisa.org.za*, 2008

The bigger missions of SADC and PAP issued relatively detailed statements (see SADC, 2008a; PAP, 2008a). There was controversy around the SADC statement, which, according to mission members, was partially contradictory to the one that the mission believed it had adopted. The PAP mission issued a statement that was widely acclaimed as balanced and detailed. EISA also received accolades for its statement of 31 March 2008 (see Appendix A),

which focused on the specifics of achievements and problems, and refrained from making generalised and potentially meaningless pronouncements. In essence, the statement gave credit for the fact that the polls were ‘partly free in that there existed a more peaceful environment allowing for freedom of association, freedom of assembly, freedom of speech ...’ It noted, however, that ‘the Mission found the electoral process to be severely wanting in respect of fairness as most of the critical aspects of the process lacked transparency ...’ (EISA, 2008c).

Observers were present at many of the polling stations that were visited by the EISA mission. It was noticed that the ZESN monitors, however, often only covered one of the polling centres within the multi-centre, composite polling stations (EISA field observations, 2008b). Upon the formal closing of polling at 7 pm, party agents, international and local observers witnessed the counting process at the polling stations.

#### **3.2.2.4 Counting**

Detailed planning for the counting processes was implemented in the run-up to Election Day. There was a process through which counting would be done on site, and results recorded on the so-called V-11 forms and posted outside each of the polling centres.

Counting processes in the post-election period in Zimbabwe’s March 2008 elections took the form of a primary count and then a re-count. The vote count mostly commenced on Election Day, immediately following the completion of voting on 29 March 2008. The re-count followed more than two weeks later, after late appeals by ZANU-PF against the results in 23 constituencies (in terms of the Electoral Act, 2007 Section 67A; Chapter 2:13, yet contrary to the provisions of this Act). ZEC accepted the demand for a partial re-count. The ZEC re-count order included the senatorial ballot (Muleya, 2008).

The following broad sets of arrangements governed the counting processes that started upon the closure of polls and continued in the following days (more details follow below):

- Counting happened at each of the polling stations and the counts on V-11 forms, verified by party agents, were to be posted

outside the polling stations. This would enable parallel vote counts (PVCs). For the House of Assembly and Senate results, the constituency forms would be tabulated by Constituency Command Centres.

- For the presidential results, a total of 9,400 V-11 forms were anticipated to be tabulated by the national command centre.
- Counting of votes was to be done at polling stations for the presidential, Senate, House of Assembly and council elections, 'but results for the presidential poll would be announced at the National Command Centre. Counting would be at the polling stations and the results would be signed for by polling officers, election agents and observers at that polling station. Each polling station would tabulate results before they were to be transmitted to the various command centres where the results would be added up' (*The Herald*, 27 March 2008, p. 1).

According to reports received by the EISA mission, the two adjunct phases of verification and counting had, as far as observed in the Harmonised Elections, proceeded in terms of the requirements. In its interim statement PAP (2008a) noted that the opening, closing and counting that was conducted at the polling stations had been conducted in a transparent and efficient manner. The requirements included that verification processes would be the same for each polling station. Verification of the number of ballots found in each ballot box was undertaken at each of the ward's polling stations, one at a time, as well as one additional box containing postal ballots cast (in terms of Section 61 of the Electoral Act). Other requirements that were adhered to, in terms of reports received, included that the presiding officer, using a record book, was required to reconcile the total number of ballot papers with the number of ballot papers issued. The number of used ballots is counted taking into account unused ballot papers and returned spoilt ballot papers that had required a second issue. After agreement on the number of ballots that should be found in the box, the seals were to be examined to ensure that they had not been tampered with and removed. This was required to be carried out in the presence of the election staff, observers, and party agents. The ballot papers are then emptied onto tables and counted face down. The actual number of ballots found in the box is compared with the number of ballots determined to have been cast. In cases where reconciliation fails the

process is repeated. Once this verification process is complete, the ballots are returned to the ballot box, to await the count itself.

The counting was to begin once verification was concluded. In fact, it is conducted in two steps: verification of the voting material brought in the polling station as well as the postal votes, as mentioned above, and the count itself. Ballot boxes are re-opened and the ballot papers are emptied out, mixed together face up, and then sorted into piles per candidate. Once the count had begun, no one, including the observers, would leave until the counting process is completed. When the votes have been counted at a polling station, the presiding officer records them on a return sheet and posts this outside the polling station before sending it on to the constituency elections officer.

The publication of the results at the polling station follows, in the presence of international and domestic observers (if present), the candidates and their agents. Finally, ZEC is given the power to order a re-count of votes at any polling station, either on its own initiative or at the request of a candidate or political party contesting the election, if the Commission has reason to believe that a miscount occurred that might affect the result. The Commission's decision to order, or not to order, a re-count is not subject to appeal.

The presiding officer shows the results to all present (polling officers, monitors and observers and the candidates and their election agents). They are then displayed outside the polling station (Electoral Act, 62-64). The presiding officer announces the result, transmits it to constituency elections officer and posts a copy of the results outside the polling station. In the presence of monitors and observers and the candidates and their election agents the constituency elections officer verifies the returns, adds up the votes, and declares the result. The outcome is transmitted to Chief Elections Officer, and it is published in the *Gazette* (Electoral Act, 64-67).

Further aspects of this counting process entailed that the results obtained at the polling station had to be forwarded, for example, to the relevant House of Assembly constituency elections officer, who had the function (in the presence of all the agencies noted in the previous paragraph) to verify the returns of the polling stations, summate these results from the polling stations and the postal ballots, and announce the results for the relevant constituency.

Polling station returns for a senatorial constituency were forwarded by the House of Assembly constituency elections officer (although for Senate) to a designated senatorial constituency elections officer, who would go through the same process to derive the winner of the Senate seat. The EISA mission received information that this process was adhered to.

As in previous Zimbabwe elections, and also largely in line with international practice, the processes of counting were accessible for observation, yet this was not so for the processes in the Command Centres where the collating was conducted and many of the political interventions are believed to have taken place. For example, this was also the case of the SADC team at the time of the re-count of parliamentary and presidential ballots, which commenced on 19 April 2008. SADC was then allowed to observe the counting, yet had not had (nor had they demanded) access to where the ballot boxes had been kept in the period between the original counts in the relevant 23 constituencies and the time of the re-count.

The EISA mission observed that the counting process of the March votes was slow. The results started emerging the day after the election. The completed results were posted outside the polling stations. By the second and third post-election days, several PVCs (for example by the MDC) were completed and ZESN (2008b) had issued its sample-based, projected presidential election result. Even in these early days, however, the EISA mission noted that ZEC was unable to release the collated results timeously. The situation created anxiety amongst contestants and voters, and it was set to get worse. Section 3.3.2.1 offers further details of counting, given that the process was substantially delayed and thus slipped into the post-election phase.

The first phase of the counting processes was reported to have been completed within approximately two days of the election, thus by late 1 April 2008 at the latest. In line with Zimbabwean law, the counting took place at the polling station immediately after completion of voting. According to most reports, it was conducted in the presence of polling officers, accredited national or international observers, the candidates and their election agents. The law also determined that the results return had to be shown to all present, and candidates or their agents were permitted to sign the return if they wished. Thereafter a copy of the return, known as the V-11 form, had



to be displayed outside the polling station (Electoral Act, 661-64). Where the EISA mission could check, this process was confirmed.

Several stakeholders also highlighted concerns about counts on the presidential vote. The law is not explicit on the handling of returns from polling stations for the presidential election, nor does it provide clarity on verification and tabulation of the presidential ballots. It merely states that the result of an election to the office of the President shall be declared by the Chief Elections Officer (Electoral Act 110(6)). The EISA mission observations from the provinces noted variations in this regard. For example, many polling stations did not display copies of the presidential result.

Other concerns included that the opposition, including the MDC, was excluded from the counting of the V-11 forms for the presidency (Cross, 13 April 2008). ZEC barred all independent observers and moved the counting operation to a secret, 'high security' venue. ZEC had the ballot boxes under its control for 14 days, and reports circulated that ZEC might have used the time to print ballots with the same numbers on them as those used in the original ballot books. The opposition MDC pointed out that ZEC was 'perfectly capable of falsifying the V-11 forms and the ballots themselves' (Cross, 13 April 2008).

#### *3.2.2.5 The re-count*

The re-count phase ensued upon the (late) ZANU-PF challenges regarding results in 23 of the 210 constituencies. In General Notice 58A / 2008 (12 April 2008) ZEC ordered a re-count of the presidential, House of Assembly, senatorial and local authority ballots in 23 constituencies (see Muleya, 2008). They were, by province (and specific constituency) and across seven of the provinces:

1. Manicaland (Buhera South, Chimanimani West and Mutare West);
2. Mashonaland East (Goromonzi East);
3. Mashonaland West (Zvimba North);
4. Masvingo (Bikita South, Bikita West, Zaka West, Chiredzi North, Masvingo Central, Masvingo West, Gutu Central, Gutu North and Gutu South);

5. Matabeleland North (Lupane East);
6. Matabeleland South (Bulilima East); and
7. Midlands (Zhombe, Silobela, Gokwe-Kabuyuni, Mberengwa East, Mberengwa West, Mberengwa North and Mberengwa South).

The re-counting started on 19 April 2008. The process remained intensely contested. Details of this process only gradually emerged, again signifying the lack of transparency. Veritas (2008c) highlights the MDC's insistence that the vote re-count was illegal in that, in terms of the Electoral Act, the declaration of the winner of an election by a constituency elections officer may only be overturned by the Electoral Court.

The last results of the re-count were announced on 30 April and the original winners of the House of Assembly and Senate constituencies were confirmed. This allayed earlier fears that the period would be used to manipulate the outcome. There was increasing consensus, however, that the demand for the re-count was to create a diversion and time for deployment of the military and other forces that were to conduct the ZANU-PF run-off campaign (see Section 3.3, 3.3.2.2 and 3.3.2.3).

### **3.3 THE POST-ELECTION PHASE**

The post-election phase of Zimbabwe's Harmonised Elections was not to be a relatively simple *denouement* of the preceding phase of casting and counting ballots. In the case of Zimbabwe March–April 2008 a whole new post-election situation unfolded. Owing to the ambiguity and lack of a definitive first-round presidential result, a second-round presidential election (run-off) became inevitable. The final phases of the March elections were extended. They came to constitute a substantial part of the pre-election phase of the presidential run-off. The time of waiting for the results of electoral challenges and re-counts became the space for security force deployment (see Moyo, 2008) to try to reverse the March result. Moyo emphasised that by the third week of April there was election-related military deployment in all 58 districts of Zimbabwe. Thus, whilst aspects of the run-off election will be handled in the post-script in Section 4, this report notes that the post-election phase of the one election was the pre-election (and especially campaign) period of the run-off.

### **3.3.1 Political environment**

Zimbabwe's 2008 post-March election period brought more turmoil and contestation than had been the case in comparable periods in previous elections (see Solidarity Peace Trust, 2008: 6; 26-30; ZESN, 2008f). This was largely due to the seeming acceptance, long before the announcement of the result, of the inevitability of a run-off election. All the steps of counting, announcing and accepting results became points of contestation ahead of the run-off poll. In addition, the research for this part of the EISA observer report, revealed that non-electoral ingredients such as strategically calculated projections of results, possible deals concerning unity government, the unleashing of violence on the opposition by state security forces, and various attempts at international mediation (also with a view to gaining a non-electoral settlement) moved much of the post-election phase well beyond the ambit of the actual election results.

### **3.3.2 Main aspects of the post-election phase**

The issues in a post-election phase are clearly different from those of the pre-election and election periods, and this also pertained to the post-election case of Zimbabwe, March 2008. Attention in post-election periods largely shifts to domains where political parties have partial and observers minimal oversight beyond the direct counting events. When matters move beyond counting at polling stations, into the domain of verifying, collating, and announcement of the results, they enter a territory that is characterised by far less transparency than the preceding phases of the election.

The main dimensions of the post-election phase that this section explores are:

1. (Non) Announcement of the results;
2. Political violence and intimidation;
3. Preliminary result trends;
4. Acceptance of results; and
5. Pre-emptive campaigning for a possible presidential run-off.

The report recognises that the current section moves beyond the direct observation brief of the predominant part of the EISA mission. Yet, the approach for the section is in line with the brief regarding the pre-election

period. It builds on EISA's recognition of the need for longer-term observation. The aftermath of the March 2008 elections is as important as the pre-election and Election Day phases. The events and processes in this phase have the potential to undo the essence of electoral democracy.

### 3.3.2.1 (Non) Announcement of the Results

The processing of the parliamentary results proceeded in the first four to five post-election days. The announcements were orchestrated, ensuring that neither the MDC nor ZANU-PF would at any stage be seen as a clear frontrunner.

The announcement of results, however, was suspended before the release of the presidential outcome (see EISA, 2008d). Herewith started a process of non-announcement of results, interspersed with diplomatic, regional and international pressure to bring forward the announcement and ensure a conclusion to the electoral process. The international appeals for the release of the results included appeals from the AU, UN, some SADC members, a range of individual African and Western countries and international NGOs (see *Business Day*, 21 April 2008; OSI, 1 April, 2008).

The major instances of international pressure to solicit an announcement of the results in the first month after the election included:

- The Extra-Ordinary SADC Summit of Heads of State and Government of 12 April 2008, convened by the late President Levy Mwanawasa of Zambia and the then SADC chairperson;
- MDC shuttle diplomacy around Africa and other destinations to build support for the release of the results;
- Former UN Secretary-General Kofi Annan questioning on 19 April 2008 whether African leaders were doing enough to help Zimbabwe resolve 'a rather dangerous situation' (Shaw, 2008); and
- UN Secretary-General Ban Ki-moon discussing the crisis with other African leaders at a UN trade meeting in Ghana.

The SADC statement read:

'The Summit urged the electoral authorities in Zimbabwe that verification and release of results are expeditiously done in accordance with due process of law. [The] Summit also urged all the parties in the electoral process in Zimbabwe to accept the results when they are announced. By due process of law [the] Summit understood to mean that: (a) the verification and counting must be done in the presence of candidates and/or their agents, if they so wish, who must all sign the authenticity of such verification and counting (and) (b) SADC offers to send [an] Election Observer Mission who would be present throughout such verification and counting' (SADC, 2008b).

The efforts to get the results released also unfolded in the legal field. When the official tally still had to be declared six days after the poll, MDC lawyers went to the Harare High Court on Saturday 5 April 2008, hoping to force an announcement of the presidential election result. Various obstacles were placed in their way. First, on the first day their way into the court building was temporarily blocked by police from Mugabe's office (see *The Sunday Times*, 6 April 2008). One of the lawyers, Alec Muchadehama, said the police threatened to shoot them. The case was postponed until the following day. It was then ruled that the High Court would first be required to rule whether the matter might be heard as an 'urgent matter'. On the Monday 7 April 2008 there was a ruling in favour of 'urgent status' (SAFM-SABC news bulletin, 7 April 2008). The lack of transparency and silence regarding the reasons for the delay on the side of ZEC, presumably still in charge of the elections by 11 April (the date of the EISA post-election statement, see Appendix B), exacerbated the situation.

Just prior to the weekend of the SADC Lusaka special summit on Zimbabwe, it emerged that ZANU-PF would appeal the results of 23 constituencies on the parliamentary and presidential counts (also see Section 4). The MDC went to Court on Sunday 13 April 2008 to demand that the 'illegal re-counts' ordered by the ZANU-PF government be suspended pending their application to the Courts to the effect that the act was illegal and unconstitutional. The High Court ordered a halt to the re-count. Even so ZEC went ahead in Bikita

and duly announced that the new count showed that an MDC victory had been overturned and that ZANU-PF had won (Cross, 13 April 2008). The hearing of the MDC petition was postponed from 16 to 17 April, and then to 18 April. On that day it was dismissed and the 23 constituency re-count was to commence. The MDC also lost its case for the immediate release of the (first-phase) result, given ZANU-PF's defence that contested matters first had to be resolved, was upheld by the court. The re-count finally started on 19 April.

### ***3.3.2.2 Political violence and intimidation***

The escalation of incidents of political violence and intimidation in the post-election phase created an atmosphere that would be detrimental to the presidential run-off election, to the point of derailing and internationally and nationally delegitimising the process. A wave of mutually reinforcing early, mid- and late April 2008 reports from human rights organisations, FBOs, medical doctors and opposition parties built a body of concrete evidence of escalated human rights abuses in post-election Zimbabwe (for example, see Solidarity Peace Trust, 2008).

The reports emanating from Zimbabwe pointed to a consistent and sharp increase of violence in this post-election period. For example, HRW Zimbabwe (2008a; b) highlighted ZANU-PF's setting up of torture camps. The Zimbabwe Lawyers for Human Rights (2008b) confirmed that it was state agents that were responsible for the deployment of violence against opposition members, and the Zimbabwe Association of Doctors for Human Rights (ZADHR, 2008) focused on the upsurge in cases of organised violence and torture. These reports included a wide range of victim and eye-witness accounts. Section 18 of the inter-party September Agreement (2008) equally recognises the severity of the violence that followed the March elections.

### ***3.3.2.3 Results and the process leading to their release***

In many respects the March 2008 election became characterised by the non-release, for a period of five weeks up to 2 May 2008, of the presidential results. It was equally characterised by the preceding slow count, and the challenges that followed. These were by ZANU-PF, and were lodged in a period beyond what was allowed in terms of the Electoral Law. In addition, this phase of the electoral process unfolded beyond the direct scrutiny of election observers,

accredited or non-accredited. Thus, observer reliance on media reports and well-targeted interviews increased. This part of the EISA report thus takes due cognisance of media reports, provided that these reports received corroboration by either additional media groups or validated interviews.

The emergence of several sets of possible results was a dominant feature of the April leg of the post-election phase of the March 2008 Harmonised Elections. These sets of results included: the informal parallel parliamentary and presidential counts by the opposition MDC; the unannounced result that is said to have been available to ZEC within two days of the end of balloting (see *The Sunday Times*, April 6, 2008); the PVC-based vote released by ZESN (2008b); and the Independent Results Centre's (IRC) extensive gathering of V-11 results, enabling a complete PVT (IRC, 2008).

Next followed the phase of challenges to the results in 23 constituencies, with re-counts demanded on all four ballots. The challenges were lodged by ZANU-PF. The re-counts were demanded for reasons of 'inaccuracies' and 'divergence' between different polling station and constituency records. They were said to have been motivated through ZANU-PF allegations of the MDC having 'bribed electoral officials' in the March elections. At the time, these were seen as attempts by ZANU-PF to subvert the House of Assembly result to gain a majority in the house (see *Save Zimbabwe Campaign*, 2008). The MDC (2008) at the time was convinced that the re-count was conducted with a view to rigging the result. However, even at this stage many increasingly averred that it was a diversion technique by ZANU-PF to buy time for the deployment of security forces around the country to launch its run-off campaign (see Moyo, 2008; Masungure, 2008). The re-count started on 19 April 2008. This date was both preceded and followed by country-wide acts of violence, in particular on the opposition (see *Solidarity Peace Trust*, 2008). The final result was also delayed by the slowness of the re-count – a process that eventually took about two weeks.

The official March parliamentary and presidential election results were finally announced on 2 May 2008. The date for the presidential run-off of 27 June 2008 was announced in the *Government Gazette* of 16 May 2008 (see Table 14).

### 3.3.2.3.1 Turnout trends

Turnout for the presidential, House of Assembly and Senate elections of 29 March 2008, were, respectively, 42.8%, 40.9% and 40.6% (see Table 12) (ZEC, 2008d; Veritas, 2008d). As the trends in Tables 2, 3 and 10 on comparative election trends indicate, these percentages were the lowest that had been experienced in Zimbabwe since the independence election of 1980.

The recording of electoral data has been imperfect and sometimes remains expressed in terms of wide ranges) and the results are likely, from time to time, if not regularly, to have been manipulated. Yet, in relation to reported figures, the previous lowest turnout was probably in the House of Assembly elections in 2005, when a 48% rate was recorded. The other preceding House of Assembly turnout results were likely to have been in the ranges of: 1980–94–98%; 1985–97%; 1990–43–60%; 1995–54%; 2000–50%; and 2005–48%.

Historically, the turnout rates for the presidential polls (held in different years from the parliamentary polls) had varied on either side of the reported 2008 rate of 42.8%. The estimated 2002 rate was 54% and in 1996 it was given as 31%. As Section 4 notes, the reported turnout rate for the presidential run-off of June 2008 was 42.4%,

**Table 10**  
**Summary of Turnout and Ballot Spoilage, Zimbabwe Elections 2008**

	President March	President June	House of Assembly	Senate
<b>Electorate size</b>	Total electorate: 5,934,768 voters			
<b>Total valid votes</b>	2,497,265	2,384,169	2,424,808	2,406,478
<b>Percentage turnout</b>	42.8%	42.4%	40.9%	40.6%
<b>Spoilt ballots</b>	39,975 (1.6%)	131,481 (5.2%)	Not released	
<b>Totals</b>	2,537,240	2,515,650	207 seats (3 by-elections pending at the time) <b>(1)</b>	60 elective seats out of 93 in total

Sources: ZEC, 2008d; ZESN, 2008c & 2008d

Note: **(1)** Comparable details were not released for these by-elections, which were held on 27 June 2008



The 2008 turnout rates were manifested against the background of both a deficient voters' list and wide-ranging migration out of Zimbabwe. Although at face value the 2008 rates appear low, they are in fact relatively high if voters' list and migration issues are taken into account.

### 3.3.2.3.2 *Party political result trends*

The results of the March 2008 parliamentary and presidential results were in all probability impacted by all of the ballots cast by the voters, inter-party positioning for power, and results 'management' by ZEC and ZANU-PF. In the end, there was at best modest certainty that the presidential result in particular reflected the state of the ballots cast.

The parliamentary results (House of Assembly and elected Senate seats) were available soon after the election. PVT counts could be used to corroborate most of the result. The official result, however, was delayed due to the challenges. Nevertheless, there were sound indications as to the overall trends. Just less than one week after Election Day there was a range of reports, including statements from ZEC, announcing the final result for the House of Assembly. It was thus mostly the presidential result that created uncertainty and speculation as to causes and possible consequent manipulation.

The long period of awaiting the results saw a range of trends regarding the presidential result emerging. These included:

- It was understood that the ZANU-PF Politburo was briefed on Friday 4 April 2008 (six days after the election and with regard to the result of the presidential election) that Tsvangirai had won 47.7%, compared with 43.4% for Mugabe and the remainder for Simba Makoni (see 'Opposition braced for dirty war as Mugabe clings on to power', *The Sunday Times*, April 6, 2008). Another report suggested that by 2 April ZANU-PF had completed its projection and arrived at 43% for Mugabe and 48.3% for Tsvangirai (Nyamhangambiri & Mafaro, 2008).
- The MDC's initial projection indicated that the opposition party had only won a simple majority. Later on, MDC projected an absolute majority. Its own calculation of presidential race results came to the conclusion that Tsvangirai had won 50.2% of the vote (against 43.8% for Mugabe). Yet, many reports confirmed that the party had little certainty

that this result was reliable. It had confirmed to various sources that it would be prepared to enter the presidential run-off race (also to the South African embassy in Zimbabwe).

- The Independent Results Centre (IRC, 2008), based on a complete PVT, forecast 50.3% for Tsvangirai (although its percentages excluded the results of one constituency and the percentage vote won by presidential candidate Towungana).
- The ZESN vote projection, based on a sample of constituencies, received much publicity. However, ZESN responses at a Harare media and observer briefing of 1 April 2008 (2008b) revealed sampling flaws in that their universe of sampling was based on the officially announced polling stations and did (could) not take account of the last-minute proliferation of polling stations.

The final 29 March 2008 House of Assembly result delivered a total of 99 seats (47.83% of the vote) to the MDC-T and 97 seats (46.86% of the votes) to ZANU-PF (see Tables 11 and 12). The three by-election results of 27 June 2008 pushed the two main parties' tallies to 100 seats for the MDC and 99 for ZANU-PF. After having won one of the three by-elections, the MDC's final vote proportion thus came to 47.62%. ZANU-PF's two by-election wins pushed its proportion of the overall Assembly vote up to 47.14%. The MDC (Mutambara) held the balance of power through its 10 Assembly seats (4.83% of the vote). The only successful independent was Jonathan Moyo (1 seat; 0.48% of the vote) in his Matabeleland North constituency. The final House of Assembly difference between the two parties, measured by vote proportion, thus came to 0.48%.

The Senate also rendered a close match between ZANU-PF and the MDC. The result gave a draw between ZANU-PF on the one hand, and the two MDCs, on the other hand. These two sides had 30 seats each (MDC-T had 24 Senate seats and the MDC 6). The balance of power in the Senate – and overall in parliament, given the closeness of the Assembly result – would thus depend on the 33 appointed Senate members. They are either indirectly elected or appointed, largely by choice of the president (see Table 5).

The Senate balance of power thus added extra impetus to the subsequent presidential run-off. In terms of the prevailing constitutional-institutional

dispensation, whoever would win the presidency of Zimbabwe in 2008 would also have the power of parliament (House of Assembly and Senate combined). These outcomes, obviously, continued to hinge on the status of the unilaterally announced 2008 elections vis-à-vis the suspended negotiations for transition and possible unity government or a power-sharing dispensation.

The provincial breakdown of the House of Assembly results (as initially released and confirmed in the re-count) confirmed the metropolitan provinces of Harare and Bulawayo as close to unanimously MDC-Tsvangirai. Manicaland followed.

**Table 11**  
**House of Assembly Results: Provincial Split between the Main Contestants**

PROVINCES	MDC-Tsvangirai %	MDC %	ZANU-PF %	Independent
Harare	96.55	–	3.45	–
Bulawayo	100	–	–	–
Mashonaland East	17.39	–	82.61	–
Mashonaland Central	11.11	–	88.89	–
Mashonaland West	27.27	–	72.73	–
Midlands	25.93	–	74.07	–
Masvingo	53.85	–	46.15	–
Manicaland	76.92	–	23.08	–
Matabeleland North	38.46	23.08	30.77	0.48%
Matabeleland South	16.87	58.33	25	–

Sources: [Http://www.eisa.org.za/WEP/zim2008results2.htm](http://www.eisa.org.za/WEP/zim2008results2.htm)

NOTES TABLE 12:

(1) A total of 12 parties failed to win any seats. They were the United People's Party (UPP), Zimbabwe Progressive People's Democratic Party (ZPPDP), Zimbabwe Development Party (ZDP), Patriotic Union of Matabeleland (PUMA), Federal Democratic Union (FDU), Peace Action is Freedom for All (PAFA), Zimbabwe African National Union-Ndonga (ZANU-Ndonga), Zimbabwe African People's Union-Federal Party (ZAPU-FP), Voice of the People (VP), Christian Democratic Party (CDP), Zimbabwe Youth in Alliance (ZIYA) and ZURD.

(2) Gender: 14.3% of the House of Assembly & 33.3% of Senate shall be women.

**Table 12**  
**Results of the March and June 2008 Zimbabwe Elections – Presidential, House of Assembly & Senate**

POLITICAL PARTY	PRESIDENTIAL 2008		PARLIAMENT 2008	
	FIRST ROUND (% of Votes; Number of Votes)	RUN-OFF (% of Votes; Number of Votes)	HOUSE OF ASSEMBLY (210 elected seats; % of Seats)	SENATE (60 elected seats; % of Seats)
Zimbabwe African National Union – Patriotic Front (ZANU-PF) / Robert Mugabe	43.24% (1,079,730 votes)	90.22% (2,150,269 votes)	97 (46.86%) (1,110,649 votes) +2 by-elections 99 (47.14%)	30 (50%)
Movement for Democratic Change (MDC): a. MDC-Tsvangirai / Morgan Tsvangirai b. MDC (Mutambara)	47.87% (1,195,562 votes)	M Tsvangirai withdrew, recorded: 9.78% (233,000 votes)	99 (47.83%) (1,036,696 votes) +1 by-election 100 (47.62%)	24 (40%)
Presidential Independent – Simba Makoni House of Assembly Independent – Jonathan Moyo	8.31% (207,470 votes)		10 (4.83%) (206,739 votes)	6 (10%)
Others – 12 parties (1)	L Towungana 0.58% (14,503 votes)		1 (0.48% Moyo + Others total 67,889 votes)	–
Total valid votes	2,497,265 (out of 5,934,768)	2,383,269 (out of 5,934,768)	2.4 m (estimated)	–
Percentage turnout	42.75%	42.37%	40.9	40.6
TOTAL	2,537,240	2,514,750	207 seats + 3 by-elections 210 in total (pre-Sept '08)	60 elective seats out of 93 in total (pre-Sept '08)

Sources: ZEC, 2008d; Booyisen, 2008; ZESN 2008c, *Kubatana.Com 2008; Vertias, 2008d*

The two Matabeleland provinces were struck by the MDC factionalism. In these two provinces, the combined MDC forces engendered dominance of the MDC over ZANU-PF. The results also indicate the inroads that the MDC had made into the Mashonaland East, Central and West provinces, which were previously virtually unanimously ZANU-PF. It would be these inroads that triggered widespread and intense violent onslaughts on party political dissent in the subsequent ZANU-PF campaign for the presidential run-off.

The results of the Harmonised Election show that it was a modest percentage of women that were elected. A total of 30 out of 210 (or 14.7%) of the House of Assembly turned out to be women, whilst 20 out of 60 (or 33.3%) of the directly elected Senators were women (see Table 13). The 14.7% for the House of Assembly was just below the 16.7% that was reached in the 2007 House of Assembly elections and was on par with the 14.7% (on that occasion including appointed members) of 1995 (see Note 1 in Table 13).

**Table 13**  
**Women elected in the 2008 Harmonised Elections**

Election	Total number of positions available	Number of women elected	Percentage of women elected
President	1	0	0
House of Assembly	210	30	14.3
Senate (1)	60	20	33.3
Councils	1,958	No data	-

Source: *Veritas, 2008b*

NOTE:

- (1) The Senate figures are for the 60 directly elected members (out of the total membership). The 18 chiefs elected to the Senate by their peers are all men.
- (2) The comparable House of Assembly figures for preceding elections were: 20 in 2005 (16.7%); 14 in 2000 (9.3%) and 22 in 1995 (14.7%). The 2000 and 1995 figures include nominated women.

### 3.3.2.4 Acceptance of results

The two major political parties each went through a struggle to determine what results to accept and what the alternatives to acceptance of the results would be.

First, ZANU-PF, through President Mugabe in the days immediately after the emergence of the first-round presidential and House of Assembly results, was reported to have accepted defeat and would have been ready to move into a settlement and possible unity government. However, the generals balked and ZANU-PF strategised on how to reclaim lost power.

Second, the MDC-T vacillated between insisting that it had won an absolute majority, even if it was by decimal points. Later, the MDC-T insisted that it had won a simple majority – and certainly had gained more votes in the March election’s presidential and House of Assembly elections than ZANU-PF. An indication of its eventual acceptance of the result was that it resolved to participate in the run-off election (although it later withdrew, following the ZANU-PF campaigns to try to reverse the March verdicts). The ZANU-PF run-off campaign in itself was evidence of non-acceptance of the March results.

Indications of initial non-acceptance of the results on other fronts included the fact that ZANU-PF had lodged appeals against 23 constituency results that led to a re-count. Subsequent judgements on this step were that it was a time-winning strategy to prepare for a run-off, rather than a genuine problem with the result (Moyo, 2008). ZANU-PF accepted the result when the re-count failed to deliver reversals of the earlier result.

The non-acceptance of the first-round presidential race continued to haunt the post-election situation in Zimbabwe. Even at the stage of advanced post-election settlement negotiations, both Tsvangirai and Mugabe would aver that they had in fact won the election – Tsvangirai the first round, after having received more votes than Mugabe (albeit possibly not the required absolute majority), and Mugabe the run-off (after the violent campaign and, in effect, the forced withdrawal of Tsvangirai).

### *3.3.2.5 Pre-emptive campaigning in the wake of the non-release of results*

There were fears in the early days of delay in the announcement of results that the delay of the presidential election result would afford more time to the Mugabe camp to mobilise forces of retribution. As this period of limbo continued, multiple reports emerged regarding how the period was being used to spread messages of force and punishment – messages that amounted to pre-emptive campaigning for a presidential run-off election.

This period was characterised, for example, by increasing ‘war-talk as method of campaigning’. There were widespread research and media reports that ZANU-PF as government was deploying the youth militia (the so-called Green Bombers; see Solidarity Peace Trust, 2008). Many media reports suggested that attempts to intimidate the opposition had already been under way from the first week after the election. For example, according to one African news agency, Zimbabwean soldiers beat supporters of the MDC in some parts of the country to punish them for ‘premature’ election victory celebrations. Other reports stressed the role of the war veterans.

Overall, the reports converged on the point that the Joint Operational Command (JOC), Zimbabwe’s top military authority (comprising service chiefs), had established a chain of command to ensure that ZANU-PF would remain in office (see Thornycroft, 2008; Solidarity Peace Trust; 2008: 26; Moyo, 2008). Reportedly, these command centres coordinated the campaign of intimidation and violence, and was also said to be in charge of possible vote manipulation. The operational legs of this project would entail that each command centre consisted of three police, a soldier and a war veteran. The latter would be in charge. They would dispatch militias, comprising war veterans and members of ZANU-PF’s youth wing, to assault and torture known opposition reporters. They would also control the local police to ensure that the militia were immune from arrest (Thornycroft, 2008). This related to other media reports that identified this project by the name of *Operation Mavhoterapapi* or ‘Operation How Did You Vote?’ (see *Sunday Times*, 20 April 2008, p. 1).

The National MPLC proved ineffective in preventing or stopping the campaign of violence, hatred, harassment and political intolerance ahead of the controversial run-off (see MPLC, 2008). The ZEC’s National MPLC for the Presidential Run-Off Election only issued a declaration on 20 June 2008. In this statement, both the MDC and ZANU-PF committed, inter alia, to ‘refrain from acts of violence and the use of language that is intimidatory or may provoke violence’.

# 4

## Postscript

*on the Run-off of 29 June and September 2008 Agreement*



- Locating the run-off in the 2008 election cycle
- Main aspects of phases in the run-off process
- Political aftermath and the September 2008 Agreement

The 27 June 2008 Presidential Run-off Election is in some respects beyond the boundaries of the EISA Regional Observer Mission activities. However, it is an integral part of determining the result and impact of the March 2008 Harmonised Elections. The preceding parts of the report would therefore be ungrounded and incomplete should the report not consider this electoral event. It is simultaneously acknowledged that the run-off was intensely contested in terms of its origins, its operational processes, its character as an 'election' and its legitimacy. These factors are essential parts of this postscript.

The postscript relies on sources such as the Pan African Parliament's observations regarding the run-off, the reports and observations of a series of stakeholders (including NGOs, political parties and research initiatives), and wide-ranging media monitoring and analysis.

### **4.1 LOCATING THE RUN-OFF IN THE 2008 ELECTIONS CYCLE**

The run-off phase of Zimbabwe's cycle of 2008 elections would legally follow in the event that the first round presidential election of March 2008 did not deliver an outright majority. Its contentious origins result from the fact that the result of the run-off was disputed. It was uncontested that the MDC-T had gained more votes than ZANU-PF (and also more than independent presidential candidate Makoni). However, it was contested whether the MDC-T had garnered a 50%+ majority or a simple majority. The MDC-T itself



made various claims (see Section 3). Controversy grew in that ZANU-PF in association with ZEC drew out the counts, ZEC accepted ZANU-PF's late challenge to the result in 23 constituencies, ordered a drawn-out re-count, and, eventually about five weeks after the election, announced the result. By this time it had already been accepted that there would be a second round, and Tsvangirai had confirmed his participation.

The run-off poll, therefore, was meant to conclusively determine the final presidential winner. The winners of three House of Assembly by-elections were also determined on this date (see Table 12). The timetable for the run-off, including the dates of political turning points, is set out in Table 14.

## **4.2 MAIN ASPECTS OF PHASES IN THE RUN-OFF PROCESS**

This brief overview and assessment of the run-off follow the conventional three-phase assessment of pre-election, Election Day and post-election, albeit in a truncated form. The MDC's Tsvangirai withdrew from the run-off five days prior to the event, citing the fear of even more bloodshed should the run-off continue. The run-off was not cancelled. It proceeded five days later. NCA chairman Lovemore Madhuku (2008b) pointed out that candidatures in the run-off are not voluntary exercises. Contesting the first round irreversibly leads into the run-off (unless an absolute majority had been attained).

### **4.2.1 Pre-election**

The pre-election period of the run-off presidential context in many respects doubled as the post-election period of the Harmonised Election. This period also provides important supplementation of the March elections.

#### **4.2.1.1 *Pre-election environment***

The pre-election political environment was tense, hostile and volatile, as it has been characterised by an electoral campaign marred by high levels of intimidation, violence, displacement of people, abductions, and loss of life (PAP, 2008c). Further manifestations of the violence included torture, rape, beatings by youth militia invading villages, burning down houses, and setting up torture camps in rural and urban areas. In addition, ZANU-PF was reported to have set up in excess of 3,000 militia bases across the country. Road blocks and confiscation of ID cards (denying the victims the chance to vote) were rife. Estimates were that more than 100 MDC supporters had been

killed, more than 2,000 had been detained, 20,000 homes destroyed and more than 10,000 had been injured or maimed (see *ZimOnline*, 23 June 2008).

These conditions prevailed in all provinces, but were even more notable in the provinces that had registered opposition inroads in the March elections. Human Rights Watch (HRW, 2008b) offered substantiation to observations that the perpetrators of the state-sponsored violence were overwhelmingly officials and supporters of ZANU-PF, armed forces and police, war veterans and youth militia. SADC (2008c) concluded that the conditions were neither safe nor fair for a fresh vote to take place. Many other international voices joined in appeals for postponement, including AU commission chairman Jean Ping. United Nations secretary-general Ban Ki-Moon (2008) called for a postponement because there was 'too much violence and too much intimidation'.

#### ***4.2.1.2 ZEC and election management***

The independence and impartiality of ZEC was rendered questionable (PAP, 2008c). The role of ZEC in this particular election was seen to have been even more wanting than in the March elections, even if the March event had already earned ZEC a range of serious 'recommendations for improvement'. PAP (2008c) stated: '[ZEC's] deafening silence was alarming and created a perception of a sequestered body'. A report by the ICG (2008) provided details of the military having taken over the election process from ZEC. Despite international recognition of the problem, ZEC's Justice Chiweshe (2008b) told observers in Harare: 'We don't have a war. We will be able to hold credible elections.'

There were also instances of the 'cleaning out' of ZEC's March employees. A total of 120 were detained. This created the opportunity for the appointment of state and law enforcement agents, intelligence officers, war veterans and graduates of the National Youth Service Training Programme, as 'secure' employees, to take the place of those who were now discredited by government and ZEC (Petras, 2008).

#### ***4.2.1.3 Restrictions on accreditation of local observers***

The PAP mission noted that the rules of accreditation that obtained in March for local observers had changed. This time around, there was a

dramatic scaling down of the number of accredited observers (PAP, 2008c). An illustration of this is ZESN being offered such limited accreditation that observation acts would have been meaningless. ZESN consequently withdrew from observing the electoral process.

#### ***4.2.1.4 Lack of freedom of movement, association and speech***

Apart from displacements, abductions and lethal violence, the following acts were also widespread: houses burnt down, people assaulted and sustaining serious injuries, and abductions. The PAP mission visited various locations of the evicted and displaced and noted the large extent to which the normal life of ordinary Zimbabweans had been disrupted (2008c). The PAP mission visited aggrieved and bereaved families, obtained an official post-mortem report and attended the funeral of one such victim.

The prevailing atmosphere was therefore one of war, and the ZANU-PF campaign was frequently compared with the widespread Gukurahundi violence of the 1980s. The 2008 run-off campaign delivered frequent instances of hate speech, incitement of violence and use of war rhetoric. PAP (2008c) noted: 'Statements made by esteemed leaders in Zimbabwe make it difficult to dismiss claims of state-sponsored violence and it is highly regrettable.'

In this environment, it became virtually impossible for MDC-T candidate Morgan Tsvangirai to openly campaign. The opposition operated in continuous fear for their lives. Opposition leaders were arrested and detained, including Tsvangirai on his way to several rallies. MDC-T Secretary-general Tendai Biti in this period was charged with treason and detained for several weeks. Both Biti and Tsvangirai had returned to Zimbabwe after post-March periods of exile in the Southern Africa region in order to campaign and contest the run-off. The MDC head office in Harare was raided, followed by the mass detention of supporters, who were forced out of Harvest House.

In this context, PAP (2008c) observed restrictions on the fundamental civil and political rights such as freedom of assembly and freedom of movement. It noted that the mission was able to attend star rallies organised by the presidential candidate of ZANU-PF. It noted, in contrast, that the MDC presidential candidate was not accorded the opportunity to hold rallies. The PAP mission was also disturbed by the numerous arrests that the

MDC candidate was subjected to. Stakeholders in Zimbabwe reported that Zimbabweans that had in March associated with the MDC were forced to attend ZANU-PF rallies. On these occasions, they were required, for example, to chant variations of: 'We have sinned against you Mugabe. We ask for forgiveness ... We shall not do it again' (PAP observer interview, 2008).

Political tolerance in Zimbabwe at the time of the run-off was seen to have deteriorated in unprecedented ways to its lowest ebb in the period since the Gukurahundi of the 1980s. Freedom of movement became as curtailed as in periods of war. Roadblocks by militia-type groups allegedly identified with the ruling party (PAP, 2008c) curtailed free movement of ordinary Zimbabweans.

#### ***4.2.1.5 Lack of access to the media and information***

The Electoral Act (section 3) specifies that ZEC is to ensure reasonable access to the media by contesting parties. However, as PAP (2008c) noted, the state-controlled media were used as a vehicle to discredit the opposition candidate in all forms. They refused to carry advertisements of MDC candidate Tsvangirai. Even the state media suffered a clampdown. The chief executive of ZBC was dismissed for failing to slant coverage towards ZANU-PF in the March elections.

In addition, the private media were under attack. Campaigns were conducted to silence alternative sources of information. For example, trucks bringing *The Zimbabwean* into the country were torched. International media workers were jailed for breaking media regulations that required all to be registered and accredited.

#### ***4.2.1.6 Postal voting***

The lack of transparency of the postal voting process, coupled with allegations of lack of secrecy of the vote, was widely reported. In one instance, the BBC managed to record instances of severe transgressions of the right to secrecy of the vote. Amongst other things, PAP (2008c) received numerous complaints that indicated that the postal voting was conducted in a non-transparent manner. Attempts by the PAP mission to observe and verify were met by denial of access. When raising the issue with ZEC, the mission was informed that, as the law stands currently, the commanding officer is the only authority who could grant access to observers using his/her discretion.

#### 4.2.1.7 Security forces

The politicisation of security forces led to partiality and probably further exacerbated voters' loss of confidence in the voting process. The PAP (2008c) mission noted that the leadership of the security forces persisted in its position of overt support to the ruling party despite calls, following the March Harmonised Elections, for it to reconsider its ways. In addition, many stakeholders, along with PAP, noted the discriminatory treatment in the granting of permission to hold campaign rallies. The security forces were furthermore reluctant to arrest alleged ZANU-PF-aligned individuals who perpetrated violence. In many instances, uniformed police officers on duty were seen wearing the ruling party regalia.

**Table 14**  
**The 2008 Presidential Run-off and Negotiation Timetable**

Run-off event	Date
Campaign for run-off by ZANU-PF (MDC campaign never gets off the ground)	Starts approximately 2 April 2008
Re-count in 23 constituencies on all ballots	Starts 12 / 19 April 2008
Verification and collation exercise	Starts 1 May 2008
Release of the result of first-round presidential result	2 May 2008
Tsvangirai announces his participation	11 May 2008
Proclamation of the run-off date	16 May 2008
Processing of postal ballots	Starts 3 June 2008
Tsvangirai withdraws from run-off	22 June 2008
Run-off day	27 June 2008
Announcement of result	28 June 2008
Inauguration of Mugabe as president	29 June 2008
Convening of parliament	25 August 2008
Post-run-off negotiation event	Date
AU meeting in Sharm el-Sheikh, calling for a negotiated solution and formation of a government of national unity, with immediate effect	1 July 2008
Memorandum of Understanding, Harare	21 July 2008
SADC Summit, Johannesburg	16–17 August 2008
Phases of negotiation – several deadlocks & resumptions	July–September 2008
Agreement reached among three main parties	11 September 2008
Official signing ceremony of the September Agreement	15 September 2008

Sources: ZEC press statements; media monitoring by author; EISA Regional Round-Up Reports, May–June, 2008

## **4.2.2 Election Day**

Election Day, as is quite common in Zimbabwe, unfolded 'relatively quietly and peacefully'. In its statement, PAP (2008c) observed that 'voting day was fairly quiet. Voters proceeded to cast their ballots in an orderly manner'. However, as on past occasions of pre-election swaying of the vote, the work to affect the outcome of the vote had already been done. Such measures had ranged from information deprivation and legal control to outright violence and intimidation.

### **4.2.2.1 Turnout, intimidation and ballot spoilage**

Turnout on the day was seen to have been relatively low, yet was declared to have been maintained at the levels of the March election. On the day, there was a range of reports that many voters had heeded the call to boycott elections. In other instances, various reports were received that voters had been frog-marched to polls (SABC news broadcasts including eye-witness reports, 29 June 2008). There was a substantial fear that it could be lethal to be caught without the purple 'voting ink' on one's finger.

In many polling stations visited by the PAP mission it was observed that certain male-dominated groups intercepted voters and gave them pieces of paper on which they were required to write the serial number of their ballots (PAP, 2008c).

A high percentage of spoilt ballots were recorded in the polling stations where the PAP mission observed the counting process (see Table 10). Unpalatable messages were written on many of those spoilt ballots.

## **4.2.3 Post-election**

The run-off period first saw the rapid finalisation and release of the presidential result and the inauguration of Robert Mugabe as president of Zimbabwe, and then the main party contestants to the preceding March and June elections returning to the negotiating table (see Table 14).

### **4.2.3.1 Results**

The results of the run-off presidential election were generally contested. The main reasons included the fact that the event took place at all (despite the withdrawal of Tsvangirai), and the fact that the withdrawal was widely

accepted to have been a *forced* withdrawal, given the prevailing conditions of extreme violence and intimidation. The trends that emerged from the ballot are presented in Table 12, along with the results of the Harmonised Elections. As the details indicate, a substantial number of run-off votes were cast for Tsvangirai, despite the fact that he had withdrawn (see PAP, 2008c).

The main trends on violence and intimidation in the run-off period (see section 4.2.2.1), along with the MDC-Tsvangirai's reasons for withdrawal (to save lives in conditions of extreme violence against opposition supporters), suggest that many voters did not have the freedom to abstain on the day. The MDC on the day of the run-off also reminded its supporters that they should indeed vote should this help save lives.

The results were announced on the day after the election: 28 June 2008 (see Table 14). On 29 June 2008 Robert Mugabe was inaugurated into the formal (yet generally contested and widely declared to be illegitimate) position of a sixth term as president of Zimbabwe.

#### **4.3 POLITICAL AFTERMATH AND THE SEPTEMBER 2008 AGREEMENT**

The failure of the run-off to determine a legitimate future leadership for Zimbabwe was reflected in the fact that there was an immediate (see, for example SADC, 2008c; PAP, 2008c) post-run-off return to the negotiating table, as mediated by SADC under Thabo Mbeki, at the time president of South Africa. Both the AU and SADC made crucial interventions and insisted on a settlement at several points in the post-run-off period (see Table 14).

The negotiations led to the 15 September 2008 signing of an inter-party agreement to power-sharing and inclusive government. At the time of writing, the phase that was introduced by this settlement remained far from secured. There were many power-ceding actions by ZANU-PF and dependent power-sharing actions by the three parties jointly that had to be given effect.

This stage of the longer-term post-election period had demonstrated the extent to which the result of the June presidential election had been discarded in as far as Mugabe was not recognised as the winner – even if he and ZANU-PF would retain the title of president and substantial political power. The

phase, however, also demonstrated the difficulty of dislodging a recalcitrant and, in many ways, still powerful incumbent from an office that had been lost through electoral verdict.

#### **4.3.1 Setting the stage for the September 2008 settlement**

Throughout this period in Zimbabwe political history both SADC and the AU played crucial roles. It was SADC-mandated facilitator, Thabo Mbeki, who continued to steer the mediation and negotiations. SADC, especially through its Johannesburg Summit of 16–17 August 2008, made it clear that there was no acceptable alternative to an inclusive inter-party agreement (SADC, 2008d).

In many respects, the negotiations of July–September 2008 took off from the point where the negotiations had stalled in late 2007 and early 2008. One of the major causes of initial stalemate in this round of power-sharing negotiations (see section 1.3 for an overview of the earlier phases) was the extent to which the result of the March 2008 election would serve as a formula for power-sharing. (The June election results were discarded in as far as Mugabe was *not* recognised as the electoral winner.) Tsvangirai and the MDC insisted on being afforded the right (at least an equal right) to the top positions of executive power in terms of the presidency, prime ministership and cabinet positions.

The success of the post-run-off negotiations hinged on agreements regarding the details of power-sharing and inclusive government. ZANU-PF at this stage in the negotiations refused to relinquish the core cabinet positions and a presidency with substantial executive powers. There were several rounds of negotiations that all stalled on this and related points. The negotiations also included a short-lived pact between ZANU-PF and the Mutambara MDC faction for a bi-partisan settlement that would have constructed a parliamentary majority.

The dalliance was thwarted when the mediation team ignored it and continued negotiating. The mediation team then proposed, effectively, a dual system of executive power, with the retention of a national president (who would chair the cabinet) and the introduction of a prime minister (who would command a council of ministers; see Section 4.3.2).



A Memorandum of Understanding between the main negotiating parties (respectively led by Mugabe, Tsvangirai and Mutambara) was signed in Harare on 21 July 2008. The next formal step was the deal that was effected between the three main parties on 11 September 2008, and its formal signing on 15 September 2008. This took place more than five months after the March election, about four months after the final announcement of the House of Assembly result, and just over two months after the run-off and Mugabe's attempt to commence a further, sole term in presidential office.

#### **4.3.2 Select details of the September 2008 Agreement**

The Agreement of September 2008 was wide-ranging. It covered many of the government and party political activities that, in the past, had impacted severely on Zimbabwean politics and elections. At the time of writing, there were only a few indications beyond formal signatures on the agreement that all of the signatories would adhere to the spirit and word of the document (for the full details, see Agreement, 2008).

Some of the main areas of commitment that are of direct importance to the EISA Election Observer Report and future elections in Zimbabwe included commitment to the following (constitutional amendment issues were dealt with in section 2 of this report):

- The enhancement of free political activity and participation in national institutions (Agreement, 2008, sections 8; 10);
- Freedom of assembly and association, as well as freedom of expression and communication (sections 12; 19);
- Processes of national healing, and the creation of cohesion and unity, along with security and the prevention of violence (sections 7; 18);
- General advancement of the Rule of Law, and respect for the Constitution and laws (section 11);
- Opening up in non-partisan manner of the National Youth Training Programme (section 15); and
- Humanitarian action and dissemination of food aid (section 16).

The Agreement (2008, section 20) deals with some details of the institutional-power framework of the emerging government. Several of these details

impact on the institutions of political power, both on the levels of the appointed executive institutions and the elected institutions of national government, namely the House of Assembly and Senate. Important aspects include:

Executive:

- A president that will co-govern with a prime ministers – the agreement often articulated the details of respective and cooperative or consensual powers in vague terms, without detailed or explicit articulation of the power-sharing impact;
- There will be two deputy presidents, and two deputy premiers;
- The president will chair the multi-party cabinet of 31, whilst the prime minister will chair the council of ministers that will include all cabinet members;
- Of the new cabinet of 31 members (formerly 38), 15 are to be nominated by ZANU-PF, 13 by the MDC-Tsvangirai, and 3 by MDC-Mutambara; and
- Of the 15 deputy ministers, 8 are to be nominated by ZANU-PF, 6 by the MDC-Tsvangirai and 1 by the MDC-Mutambara.

Legislative:

- The House of Assembly is to remain virtually unaffected, expect for the possible addition of 3 non-voting and non-elected members in ministerial capacity, in order to assist as required with the management of government.
- In the Senate, the president shall continue ‘in his discretion’ to appoint 5 senators, whilst there will be an additional 9 appointed senatorial posts, 3 to be nominated by ZANU-PF, 3 by the MDC-Tsvangirai and 3 by the MDC-Mutambara.
- In addition, on the provincial level negotiations were set to continue on achieving better proportionality in the appointment of provincial governors. Hitherto, they had been appointed by the president. All were members of ZANU-PF, also in provinces where the MDC had majorities (Mbeki, 2008).

These are interim arrangements. They are likely to be affected by the Agreement-prescribed making of a new constitution for Zimbabwe. In terms of section 6, the parties agreed to a process of constitution-making that would be driven by a Select Committee of Parliament. This committee would consult with civil society, and would be responsible for constructing draft constitutions and presenting these to 'all-stakeholder conferences' (section 6.1). The acceptance of the constitution will be subject to approval by referendum. The Agreement prescribes timelines for the referendum part of the process, but not for the earlier steps.

#### **4.3.3 Future elections**

The agreed process on the formulation and adoption of a new constitution suggests that the constitutional process and referendum will take precedence over an early next election. In addition, the Agreement (2008) places a moratorium on competitive by-elections. It specifies that, for a period of 12 months from the signing of the Agreement, 'should any electoral vacancy arise in respect of a local authority or parliamentary seat, for whatever reason, only the party holding that seat prior to the vacancy occurring shall be entitled to nominate and field a candidate to fill the seat subject to that party complying with the rules governing its internal democracy' (section 21.6).

# 5

## Conclusions and Recommendations



- Conclusions
- Recommendations

This final section of the EISA Regional Observer Mission Report provides a set of conclusions that arise from the mission observations, and follows through with recommendations for the conduct of future elections in Zimbabwe.

### 5.1 CONCLUSIONS

The Zimbabwe 2008 Harmonised Elections – with specific emphasis on the presidential, House of Assembly and Senate elections – came at a time when these elections were constitutionally legitimate, yet politically at odds with the spirit of ongoing negotiations. The negotiations were meant to arrive at a political and constitutional compromise. In view of the electoral stalemate that arose from the 2008 elections, there was a return to negotiations in the period from July to September 2008. The negotiations and September settlement were only partly affected by the results of the 2008 Harmonised Elections.

A conclusion on the 2008 Zimbabwe elections would be incomplete without recognition of the interplay between elections and negotiations, and how this unfolded in the run-up to and aftermath of the Harmonised Elections. In the end, the original narrow House of Assembly victory of the opposition MDC-T, and its majority (but not outright majority) in the presidential election, came unstuck in the post-election period. This happened through, first, the result of the presidential run-off and, second, the seeming capture of power, through negotiations and alliance, by ZANU-PF of substantial continuous

power. The MDC by late August 2008 had had successes in capturing House of Assembly power.

Whereas there were serious questions about the freeness and fairness of the March Harmonised elections, the period of the presidential run-off appeared to undo the relative electoral and democratic advances of the period of the Harmonised Elections. The relative inconclusiveness of the September Agreement created both *uncertainty* as to the retention of the MDC's March advantages, and *certainty* that this election had contributed to an altered balance of forces. The conclusions have their primary focus on the EISA-observed Harmonised elections. Yet, in concluding about the post-election period, the section takes into account essential aspects of the meshing of the post-Harmonised election period and the pre-run-off period. It also recognises how the run-off results and subsequent resumed negotiations and settlement interacted with the election results.

#### **5.1.1 The pre-election period**

The March 2008 Harmonised Elections in Zimbabwe witnessed improvements in the electoral framework. In some respects the 29 March 2008 elections were conducted in a more open, freer environment than other elections in Zimbabwe in the preceding decade. In particular, there was greater peace and tolerance in the weeks preceding the election, more space for opposition campaigning, and more transparency in the counting and posting of results for the parliamentary elections. Yet, the improvements were offset by continuous slants in the playing field. As the Zimbabwe Solidarity Forum (2008) states, the electoral field remained 'unacceptably and undemocratically skewed' to the advantage of the ruling party. This included issues around the electoral commission, the voters' roll, delimitation of constituencies, media coverage, voter education, and vote buying through the use of state resources.

ZANU-PF as the ruling party had full benefit of the use of state-owned mass media (print and electronic), the explicit backing by security forces, and lack of transparency in many of the actions of election management. ZEC faced many challenges, and only some of them were sufficiently overcome. ZANU-PF as party and government continuously dominated and prescribed to its elections management body.

In addition, the March 2008 elections were conducted overwhelmingly within the context of the previous constitutional and legal framework. The composition of the to-be-elected institutions had changed, and some controls were relaxed, but both the electoral system and the political environment remained only partially conducive to free, fair and credible elections.

### **5.1.2 The Election Day period**

The Election Day phase of the electoral process in Zimbabwe, in March 2008, was conducted in a peaceful manner and there was little evidence of direct voter or electoral management transgressions.

It was well-managed and afforded voters the opportunity to cast their ballots in a generally problem-free environment. Whereas the counting, collation and announcement of results had been envisaged as, effectively, voting day processes, it became clear upon the second day after the harmonised elections that the results were not being released as had been envisaged. The relatively smooth Election Day processes were set to become effectively eclipsed by the problems of the post-election phase.

### **5.1.3 The post-election period**

The post-election phase of the March 2008 Zimbabwe elections unfolded under the cloud of questions about the acceptance of results and the possible 'management' of the process to ensure both a run-off and the pre-run-off conditions that would maximise advantage to the incumbent. EISA (2008d) in its post-election statement remarked on a series of critical questions: the slowness of the release of results, lack of transparency by ZEC, the unexplained closure of the National Command Centre, and the wide-scale use of violence, especially on the opposition.

The post-election period was characterised by several delays in the counting and announcements of results. Whereas broad trends emerged soon after Election Day, the official processes were long delayed. The final parliamentary results were only announced after appeals (mainly by ZANU-PF) and drawn-out re-counts. Well before the first-round results were announced, there was a general acceptance of the fact that there would be a presidential second-round election.

At first there was suspicion that the delays were being used by ZANU-PF to manufacture a more favourable result, both for the parliamentary and presidential races. As events unfolded, however, it became clear that the period had been used by the ZANU-PF government to unleash operations like *Votera Papi* and *Tsuronegwenzi* to 'mop up' or 'attack both the hunted and those who shelter them' (Solidarity Peace Trust, 2008: 30).

When the results came, the MDC-T had gained a small edge over ZANU-PF. It would only yield a House of Assembly majority in alliance with, for example, the Mutambara faction. In terms of the elected portion of Senate membership, there was a draw between the MDC-T and ZANU-PF. The party that won the presidency would thus, through the appointed members, be able to establish control over the Senate. Given the closeness of the parties in the House of Assembly, control over the Senate would also render overall control over parliament.

It was only in August 2008 that parliament was convened. In the election of the Speaker, the MDC (with some support from the Mutambara MPs and ZANU-PF) gained the majority vote. This thwarted ZANU-PF ideals of parliamentary dominance and helped emphasise the inevitability of an inclusive settlement.

#### **5.1.4 The run-off period**

This report handled the presidential run-off event and September inter-party Agreement in a post-script to the directly observed March elections. Both the run-off and settlement had a range of implications for the result and the gains of the March elections.

First, it diminished the political significance of the presidential simple majority for the opposition MDC that was gained in March. Second, through three by-elections, the House of Assembly gap between the MDC-T and ZANU-PF was narrowed to one seat. It became stressed that the MDC under Mutambara could in future exercise a power-broking status in the House. Late August 2008 developments also showed that cross-over voting by some ZANU-PF Assembly members would play a role. Third, through formally handing the presidency to Mugabe, the run-off increased the chances that the Senate majority (and thus overall parliamentary majority) would be likely to

swing in favour of a ZANU-PF majority – unless the resumed negotiations would be successful and would be made to prevail over the run-off result. The September 2008 inter-party Agreement led to both a lessening of the MDC March victory and to a partial cancellation of the June presidential victory of Mugabe.

## 5.2 RECOMMENDATIONS

Few of the recommendations offered in this section have not previously been put on the table in observer reports to the Zimbabwean electoral authorities, either by EISA or other internationally credible observer missions. This has also been done both in the 2008 elections and before. The EISA Regional Election Observer Mission recommendations that follow have to be put in the context that it is often not the electoral authorities that have the final say in how the country's elections are conducted. Unless the political powers of the time *allow* the electoral authorities to act with integrity and credibility, the electoral authorities will not be in the position to implement recommendations that are truly intended to advance democratic governance in Africa.

It is important that Zimbabwe's 2008 Harmonised Elections in several respects delivered an improved quality of election management, compared with Zimbabwean elections of the previous decade. Despite leaving much to be desired in terms of internationally accepted standards of election management, the March elections were of a far higher standard than the run-off. In line with the major thrust of the report, the recommendations focus on the March Harmonised Elections, yet also place these elections in the broader 2008 election context.

The EISA Interim Statement of 31 March 2008 commended the political and electoral authorities of Zimbabwe on the manner in which the March Harmonised Elections had constituted improvements on preceding practice. These are fully documented in Appendix A.

The rest of this section thus identifies a range of areas for improvement of future electoral practice in Zimbabwe. The recommendations recognise that the September 2008 Agreement implored both political parties and the emerging inclusive government to act in ways that will strengthen freedoms



of assembly, association, expression and participation. If successful, all of these actions will, in own right, help strengthen future Zimbabwean elections. EISA's recommendations are:

### **5.2.1 Non-intervention by the ruling party or parties**

Credible elections that do justice to the electorally expressed will of the people are only possible in conditions of non-interference, in partisan ways, by the government and governing parties of the day. Without having the autonomy not to advantage the ruling party or parties in its operations, ZEC will remain disempowered in terms of delivering credible and legitimate elections.

### **5.2.2 Autonomy for ZEC to implement professional electoral management**

The EISA mission has no doubt that the electoral authorities of Zimbabwe, and ZEC in particular, are fully familiar with the requirements for the conduct of free, fair and credible elections. It thus urges that ZEC be granted the full opportunity to realise its functions. An important criterion for the future appointment of the members of ZEC would also be for these persons to be willing to abstain from advantaging any particular political party, or to accept party politicians in positions of power as the masters of the conduct of elections.

### **5.2.3 Security force abstention from party politics and elections**

Zimbabwe's 2008 elections were severely marred by the interventionist role of the security forces. Political powers of the day have to ensure the effective management of all security forces in order to prevent the delegitimisation of elections and ensure a climate of freedom to contest. Such action is essential in the process of ensuring the credibility of elections. It will also contribute to voter interest in electoral participation.

### **5.2.4 Creation of a violence-free electoral environment**

Politically motivated incidents of violence and intimidation in the post-election phase created an environment that was not compatible with 'elections of integrity'. Realising that it is often a political rather than electoral management function to minimise, if not eliminate, violence (particularly in the time of elections), the EISA mission urges all relevant authorities to create the necessary mechanisms for the reporting and resolution of instances of

electoral violence. State agencies of policing and law enforcement need to give their full commitment and cooperation. In addition and in general, an environment that will be conducive to holding free, fair and credible elections needs to be created as a matter of urgency, irrespective of whether a future election date is predictable or not. In this respect the EISA recommendations are in full support of section 18.5 of the September Agreement (2008).

Recommendations 5.2.5 – 5.2.9 concern specific aspects of election management *per se*, beyond the ambit of the interface between political and electoral authorities:

### **5.2.5 Tabulation and publication of results**

Electoral authorities need to guard the integrity of the finalisation and publication of results. All measures need to be put in place to effectively (and in predictable ways) manage the counting, tabulation and announcement processes. The unexplained closure of the ZEC National Command Centre before the announcement of the presidential results had raised serious concerns regarding the credibility of the tabulation process, the integrity of election materials and the reliability of the results themselves. Measures to deal with these problems also need to empower the electoral authorities to undertake these processes without political interference of any kind. This will help ensure the containment of tensions and possible non-acceptance of results. The result management processes thus need to be conducted with full transparency. Reasons for delays and all other problems should at all times be fully and clearly communicated. The electoral authorities need to operate in fully accountable ways.

### **5.2.6 Delimitation, registration and voter education**

The EISA mission recommends the timely and fully professional future conduct of all aspects of the preparation for elections. In particular, the March processes raised concerns that the registration processes were deeply flawed, delimitation was not transparent and had severe shortcomings, and voter education on the effects of delimitation and voting location were insufficient. These processes need to be corrected. Action needs to be commenced, for example, to effect an overhaul of a dated and inaccurate voters' roll.

It is recognised that a possible political settlement in Zimbabwe will impact

on the internal and international migration of voters. This needs to be taken into account in both voter registration and future delimitation processes. It is also imperative that political decisionmakers will afford adequate preparation time for elections.

### **5.2.7 Access to media and information**

The 2008 Zimbabwe elections were severely flawed as regards freedom of access to information. Both short- and longer-term corrective action is urgently required. As a starting point, the state media need to be overhauled in order to eradicate partisan orientations. As a second step, the privately owned media should again be allowed to operate. Where required, and in order to facilitate this process, EISA recommends that reparations should be considered to help get private broadcasting and print media off the ground again – in particular where these media have been halted or destroyed because of state and party action. In addition, the EISA recommendations support the creation of a free media environment in Zimbabwe, as expressed in section 19.1 of the Agreement (2008).

### **5.2.8 Preparation of ballots and postal voting processes**

The 2008 elections were also marred by the insufficiently explained printing of excessive numbers of ballots and the biased conduct of processes of postal voting. Internationally accepted standards and operational measures regarding these two matters are well known. The EISA mission thus recommends the urgent implementation of all preparatory measures to help ensure the integrity of ballot production and safeguarding, as well as the implementation of postal voting processes.

### **5.2.9 Conversion of the electoral result into a political settlement**

Finally, the EISA mission calls on all relevant SADC, AU and other credible international organisations to assist in the further conversion of the (relatively) free electoral expressions of political will by the people of Zimbabwe in 2008 (even if these were cast in unfavourable conditions) into a solid and sustainable political transition and future democratic elections.

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## APPENDICES

### APPENDIX A

#### EISA Regional Election Observer Mission to the 2008 Harmonised Elections in Zimbabwe

#### INTERIM STATEMENT

Harare, 31 March 2008

#### I Introduction

EISA deployed a Regional Observer Mission to the 2008 Harmonised Elections held in Zimbabwe on Saturday 29 March 2008. The Mission was composed of 25 members drawn from electoral commissions, civil society organisations and academic institutions from SADC countries, namely the Democratic Republic of Congo, Lesotho, Malawi, Mozambique, South Africa, Swaziland, Tanzania and Zambia.

Zimbabwe held four sets of elections simultaneously. These are the Presidential, House of Assembly, Senatorial and Local Council elections. In the past, these elections were held separately: presidential elections were held every six years, parliamentary elections every five years and local council elections every four years. The harmonisation of these elections was, in part, a result of the mediation process undertaken by President Thabo Mbeki of South Africa on behalf of the Southern African Development Community (SADC), and the subsequent constitutional amendments.

The overall goal of the EISA Observer Mission to Zimbabwe was in line with its vision of an African continent where democratic governance, human rights and citizen participation are upheld in a peaceful environment. The specific objective of the Mission was to assess whether the 2008 Harmonised Elections meet the benchmarks set out in the *Principles for Election Management, Monitoring and Observation in the SADC Region* (PEMMO).

The EISA Mission has done the assessment of the March 2008 electoral process in Zimbabwe. Its preliminary findings and recommendations are presented

in this interim statement. EISA will produce a more comprehensive and final report on the entire election process. The final report will provide an in-depth analysis, detailed observations, and recommendations for the improvement of the country's electoral process.

## **2 Method of work**

EISA deployed three sets of observation teams. First was the pre-election assessment mission to Zimbabwe, whose main rationale was to examine political, legal and logistical conditions prior to the March 2008 elections. The 3-member team visited Harare and Bulawayo from 13 through 20 January 2008. EISA also dispatched another team of three people led by its Board Chairperson. They spent three days in Harare meeting a number of stakeholders, including the Zimbabwe Electoral Commission (ZEC). A two-person EISA delegation also observed the nomination of candidates on 15 February 2008.

Based on the recommendations of the advance teams, EISA, on 29 January 2008, wrote a letter to the Ministry of Foreign Affairs in Zimbabwe requesting invitation and accreditation to observe the 2008 Harmonised Elections. While awaiting the outcome of its application, EISA deployed a team of five medium-term observers, who arrived in the country on 9 March 2008. The members of the team were based in Harare, from where they were able to move around country, holding consultative meetings with relevant stakeholders in various provinces.

The group of short-term observers, consisting of 20 members, arrived in Harare on 19 March 2008. Still awaiting the outcome of its application for accreditation, the EISA mission was deployed to various parts of the country to observe the electoral process. The nine provinces covered by the mission were Harare, Bulawayo, Manicaland, Midlands, Mashonaland West, Mashonaland East, Mashonaland Central, Matabeleland South and Matabeleland North.

It is also worth mentioning that EISA provided training to a number of regional and continental observer missions deployed by governmental and inter-governmental bodies which were accredited to witness the Harmonised Elections in Zimbabwe. EISA furthermore conducted the training of political

parties and candidates' poll watching agents. This training of trainers took place in Harare from 4 to 5 March 2008 and was open to all political parties and candidates.

### **3 Preliminary findings of the Mission**

After analysing the observations made by its different teams deployed on the ground and basing its findings on the norms and guidelines contained in the PEMMO, the EISA Mission has made a number of observations in relation to the electoral process.

#### ***3.1 General context of the 2008 Harmonised Elections***

The Mission observed that the 2008 Harmonised Elections in Zimbabwe took place within the framework created by the political mediation process initiated by the Extra-Ordinary SADC Summit held in Tanzania in March 2007, which mandated President Thabo Mbeki to facilitate negotiations aimed at resolving the governance crisis in Zimbabwe. One of the main objectives of the Mbeki-led negotiation process was the establishment of political conditions conducive for the holding of free and fair elections in Zimbabwe. The mediation initiative has led, inter alia, to a series of amendments to the constitutional and electoral framework, and the establishment of dialogue between the ruling and opposition parties. The Mission notes, however, that the mediation initiative ended abruptly.

With regard to the Harmonised Elections, the EISA Mission noted, with some satisfaction, the peaceful environment within which the 2008 elections were held, despite some incidents of intimidation and political violence. EISA commends the constructive role played by all key electoral stakeholders in creating and maintaining an atmosphere of calm and tranquillity in which candidates, parties and people from diverse political backgrounds were able to operate. The Mission noted that, unlike in previous elections, freedom of assembly, freedom of association, freedom of movement and freedom of speech could be generally exercised without undue hindrance. The Mission notes that the polling day was also generally marked by a peaceful atmosphere and tranquillity.

#### ***3.2 Electoral System***

The Mission noted that recent constitutional amendments have introduced

important electoral reforms in Zimbabwe. One of these relates to the fact that while in the past voters would elect 120 members of Parliament and the President would appoint the additional 30, presently all 210 members of the House of Assembly are directly elected. The system of appointed seats in the House of Assembly used to favour the ruling party. As for the Senate, 60 of the 93 members are directly elected.

### *3.3 Management of the Electoral Process*

In the past, there were four different bodies involved in the running and management of the electoral process in Zimbabwe. These were the Delimitation Commission, the Electoral Supervisory Commission (ESC), the Election Directorate and the Registrar General of Voters. This situation undermined effective and efficient management of elections. Power and authority on election management were dispersed among all these institutions and it was not clear where the buck stopped. As part of recent electoral reforms, some of the above institutions have been abolished with the establishment of the ZEC. However, the EISA mission noted that power and authority for management of elections are still dispersed, effectively reducing ZEC to a mere supervisory structure with little, if any, independence. For instance, the registration process, the core element of elections, is undertaken by the Registrar-General of Voters under the supervision of ZEC. When the voters' roll has problems, it is not clear whether it is ZEC or the Registrar-General of Voters who has to take responsibility.

In previous elections, the Directorate of Elections was composed of a number of Government ministries playing a role in terms of logistics, transport and communication in the electoral process. It does seem that the more things change in Zimbabwe, the more they stay the same. According to Paragraph 7 of the First Schedule to the Zimbabwe Electoral Commission Act, the Commission may establish one or more committees in which it may vest such of its functions as it deems fit. In this regard, ZEC has established a National Logistics Committee and subcommittees to assist it in mobilising resources for the 2008 elections. Members of the committee and its subcommittees are drawn from almost all government ministries, security forces and the parastatal sector. ZEC plays, in essence, a supervisory role, rather than a policy-making and management role.

As for recruitment and training of electoral staff, according to the Electoral Laws Amendment Act No. 17 [Chapter 2:13], electoral personnel could be recruited from public institutions such as the Public Service Commission, local authorities and statutory bodies. The recruitment is therefore not open and is limited to the pool of personnel from the public service. By law, ZEC is responsible for the accreditation of observers. However, in practice the Ministry of Justice enjoys the sole authority to invite and authorise accreditation of local observers, while the Ministry of Foreign Affairs has power to invite international observers. ZEC simply rubber-stamps lists of observers from the two ministries. The EISA Mission noted that it took an unnecessarily long period for the Ministry of Justice to invite and authorise accreditation of about 8 000 domestic observers under the umbrella of the Zimbabwe Election Support Network (ZESN). The mission further notes that the invitation of international observers by the Ministry of Foreign Affairs was selective, discriminatory and shrouded in a cloud of secrecy. All these issues have created doubt about the independence and impartiality of ZEC.

### *3.4 Voter Registration and Voters' Roll*

The EISA Mission noted that the registration process was undertaken with little consultation of the relevant stakeholders. Various stakeholders informed the Mission that the registration process lacked transparency. This situation created suspicion among stakeholders, thereby adversely affecting the integrity and credibility of the registration process and the voters' roll itself. Various opposition parties raised concerns that the voters' roll of 5,934,768 people is inflated. The Mission received reports that the inspection of the voters' roll was not accorded enough time. Some stakeholders, including ZESN, did not have copies of the voters' roll up to the end of polling day. In sum, stakeholders lacked a collective sense of confidence in the voters' roll.

### *3.5 Date of Elections*

The 2008 Harmonised Elections were rushed and bore the characteristic features of a snap election. Stakeholders did not agree on the date of the election. The date of the election was determined unilaterally by the President. The opposition parties would have preferred an election later on, following a constitutional review process guided by agreements emanating from the negotiation talks mediated by President Mbeki. It does appear that the date

of the election was rather arbitrary, thereby becoming an issue that was contested by political stakeholders. As good practice, it is advisable that the date of an election be predictable so that all stakeholders are able to prepare adequately for electoral contests. Even better is a practice whereby the date of an election is defined within the country's constitution.

### ***3.6 Delimitation of Constituencies***

In terms of the current relevant laws and regulations, ZEC is responsible for the delimitation of constituencies. The Mission learnt that electoral commission undertook the delimitation exercise between 5 December 2007 and 10 January 2008. The Commission delimited 1 958 wards, 210 House of Assembly and 60 Senatorial constituencies. The Mission was informed by stakeholders that the delimitation process was not sufficiently consultative and participative. Both the preliminary and final reports were submitted to the President by ZEC. There is no evidence of dialogue and discussion of the contents of the preliminary report by stakeholders between December 2007 and January 2008 when the final report was submitted to the President. The report was also supposed to be submitted to Parliament before being finalised.

As a result, the EISA Mission noted concerns from stakeholders suggesting that the delimitation process tended to distort the constituency boundaries, merging some urban constituencies with peri-urban and rural ones in a process deemed by some as amounting to gerrymandering. Some stakeholders also raised issue with the fact that more new constituencies were created in rural compared to urban areas. It is well known that electoral politics in Zimbabwe has been such that urban constituencies were the stronghold of opposition parties while rural constituencies were the stronghold of the ruling party. Both the political players and some international observer missions raised concerns with ZEC that some wards attached to a number of urban constituencies were allegedly fictitious and not populated at all.

### ***3.7 Voter Education and Information***

The Mission noted that there was little, if any, effort by ZEC to mount a systematic voter education and information programme to alert the electorate about the new electoral boundaries, especially the new requirement that voting would take place at ward levels.

The majority of stakeholders that the Mission met expressed the view that voter education and information was limited and inadequate. It was undertaken by ZEC in haste and only started as late as February 2008. The Mission noted that ZEC is formally the body responsible for voter education and information. However, other stakeholders, including non-governmental society organisations (NGOs), community-based organisations (CBOs), faith-based organisations (FBOs) and political parties are supposed to play a role in voter information and education. The Mission learnt that ZESN was barred by ZEC from undertaking voter education and information. The Mission believes that given its own constraints, ZEC should have considered working collaboratively with other actors, including CSOs, CBOs and FBOs, to conduct extensive voter education and information programmes and campaigns.

### *3.8 Media Access and Coverage*

Stakeholders noted that the media in Zimbabwe are as polarised as political parties themselves. The public media give preference to campaign activities of the ruling party. The private media cover mainly those of opposition. The MMPZ reported that the public media coverage of elections favoured the ruling party much more than the opposition. It was only with the arrival of international observers that opposition adverts were flighted on state-owned TV, radio stations and newspapers.

### *3.9 Election Campaign*

One of the critical stages in the electoral process is the campaign. Some stakeholders shared with the EISA Mission their concerns about the content of the electoral campaign, particularly statements made by some contestants, which amounted to hate speech and character assassination of other contestants. The Mission was concerned by threats emanating from security chiefs asserting that they would not recognise victory of the presidential poll by the opposition. This conduct required a strong condemnation from both the Government and ZEC. Both the Government and ZEC never took any action regarding this conduct by the security forces.

### *3.10 Use of State Resources*

The Mission observed that the incumbent President of the Republic and contender in the presidential race made donations including buses, television sets, food aid, and agricultural equipments among other things,

to communities and organisations throughout the country at the height of the electoral campaign. Good electoral practices require that such donations be prohibited during the electoral campaign.

### ***3.11 Accreditation of observers***

Election observation has been recognised within the SADC region, on the African continent and worldwide as an important tool to enhance the transparency and the credibility of an electoral process.

The EISA Mission noted that accreditation was done in a selective manner, with preference given only to countries and organisations perceived as being friendly to the Government of Zimbabwe. The cost for accreditation was exorbitant and prohibitive. The Mission noted the sluggish and bureaucratic nature of the accreditation process. The only two accreditation centres were in Harare and Bulawayo.

The Mission is of the view that an independently acting ZEC should be the sole authority responsible for the invitation and accreditation of both domestic and international observers. The process should be open to all interested parties, without discrimination.

### ***3.12 Ballot papers***

It came to the attention of the Mission that approximately 9 million ballot papers were printed for each of the four types of election, with a total number of 5 934 768 registered voters. This translates into an approximate one-third surplus of ballots. Best practice suggests that about 10% surplus of ballot papers, in comparison to the number of registered voters, is acceptable. A huge surplus of ballot papers tends to fuel a climate of suspicion, reinforced further by lack of transparency in the issuance of postal ballots who voted ahead of polling day. Key players in the electoral process, including opposition parties and CSOs, remained uninformed about the exact number of ballot papers printed and the postal ballot process.

### ***3.13 Polling stations***

ZEC established 8998 polling stations. The EISA Mission noted concerns by some stakeholders that information about the polling stations was rather scanty. One of the reasons that accounted for the failure of some voters to



cast their ballots on polling day was the fact that they could not identify the wards where they were entitled to vote. The Mission also learnt of concerns of various stakeholders regarding the late changes to the electoral framework by the President through Presidential Powers (Temporary Measures) (Amendment of Electoral Act) (No. 2) Regulation. This amendment reversed earlier agreements by allowing the police to enter the polling stations and assist some of the voters in casting their ballots. This change appears to have been done without consultation with other key stakeholders, including ZEC; hence a heated controversy was triggered. Best practice is that the police ensure law and order during elections and are supposed to be posted about 100 meters from the polling stations and certainly not inside the station.

### ***3.14 Voting process***

The Mission learnt from stakeholders that the voting process largely proceeded smoothly. The conditions of the polling day facilitated the casting of the ballots. Overall, polling stations opened on time, with few exceptions, and without substantial inconvenience to voters. On the technical aspect of voting, polling staff were efficient and conducted themselves professionally. By midday, long queues had largely dissipated.

The polling staff reflected gender balance with women often acting as presiding officers. Voters seemed to be aware of the procedures.

The Mission witnessed that some voters were turned away to other wards or constituencies. This trend may have contributed to the disenfranchisement of voters. Reasons for turning voters away included lack of voter information and/or a faulty voter's roll.

### ***3.15 Counting and Tabulation of Results***

Party agents, international and local observers witnessed the counting process at the polling stations, upon the formal closing of polling. The Mission observed that the counting process was slow. When the counting was completed, the results were posted outside the polling stations. The Mission noted that ZEC was not able to release the collated results timeously. This situation created anxiety among the contestants and voters.

#### **4 Conclusion**

In conclusion, the EISA Mission found that, compared to previous elections, the 2008 Harmonised Elections in Zimbabwe were partly free in that there existed a more peaceful environment allowing for freedom of association, freedom of assembly, freedom of speech.

However, the Mission found the electoral process to be severely wanting in respect of fairness as most of the critical aspects of the process lacked transparency. At the time of compiling this interim statement, the tabulation of results was still unfolding and the announcement of results was painstakingly slow.

The EISA Mission urges Zimbabweans to build on the momentum created by these elections and continue to engage in the dialogue initiated by the SADC in order to improve the conduct of future elections. A credible and legitimate election is a key building block towards political stability, democratic governance and socio-economic development.

**Denis Kadima, Mission Leader**

**Khabele Matlosa, Deputy Mission Leader**

(<http://www.eisa.org.za/EISA/pr20080401.htm>)

## APPENDIX B

### EISA Regional Election Observer Mission to the 2008 Harmonised Elections in Zimbabwe

#### POST-ELECTION STATEMENT

Johannesburg, 11 April 2008

Following its interim statement of 31 March on the 2008 Harmonised Elections in Zimbabwe, EISA has continued to monitor the unfolding events in Zimbabwe in anticipation of the announcement of the final and complete election results. This statement is a follow-up which highlights issues in the post-election phase that deserve urgent attention. EISA will produce a more comprehensive and final report on the entire election process in due course. Since the poll and counting took place on 29 March 2008, EISA has noted with deep concern a number of developments that, in the overall, can seriously undermine the credibility of the already contested electoral process. These developments also have the potential to throw the country into a grave political crisis and ultimately exacerbate the suffering of the people of Zimbabwe.

EISA welcomes the initiative by the Southern African Development Community (SADC) to hold an extraordinary summit in Lusaka, Zambia on Saturday 12 April 2008, to address the current situation in Zimbabwe. We wish to kindly alert SADC leaders to the following issues:

1. The publication of results, which was painstakingly slow, was suspended before the release of the presidential outcome without any satisfactory explanation by the Zimbabwe Electoral Commission (ZEC). This unnecessary and inexplicable delay of the announcement of the presidential poll results has led to frustration, suspicion and anxiety among the contesting parties and voters, and created simmering tension in the country;
2. The lack of transparency on the part of ZEC, combined with its poor communication strategy about the reasons for the delay, has exacerbated the situation;

3. The escalation of politically motivated incidents of violence and intimidation in the post-election phase creates an environment which may not be conducive to a peaceful atmosphere ahead of any possible run-off; and
4. The unexplained closure of the ZEC National Command Centre before the announcement of the presidential results raises serious concerns regarding the credibility of the tabulation process, the integrity of election materials and the reliability of the results themselves.

EISA calls for the immediate announcement of the presidential election results. In future, specific time frames for the release of election results must be set in order to avoid uncertainty and potential disputes.

The people of Zimbabwe must be commended for the dignity and maturity they have demonstrated during this challenging time. The will of the people of Zimbabwe, as democratically expressed during the 29 March 2008 polls is not subject to negotiation. EISA therefore urges SADC leaders to ensure that the choice of Zimbabweans is ultimately protected.

**Denis Kadima, Mission Leader**

**Khabele Matlosa, Deputy Mission Leader**

(<http://www.eisa.org.za/EISA/pr20080411.htm>)

## ABOUT EISA

EISA is a not-for-profit and non-partisan non-governmental organisation which was established in 1996. Its core business is to provide technical assistance for capacity building of relevant government departments, electoral management bodies, political parties and civil society organisations operating in the democracy and governance field throughout the SADC region and beyond. Inspired by the various positive developments towards democratic governance in Africa as a whole and the SADC region in particular since the early 1990s, EISA aims to advance democratic values and practices and to enhance the credibility of electoral processes. The ultimate goal is to assist countries in Africa and the SADC region to nurture and consolidate democratic governance. SADC countries have received enormous technical assistance and advice from EISA in building solid institutional foundations for democracy. This includes: electoral system reforms; election monitoring and observation; constructive conflict management; strengthening of parliament and other democratic institutions; strengthening of political parties; capacity building for civil society organisations; deepening democratic local governance; and enhancing the institutional capacity of the election management bodies. EISA was formerly the secretariat of the Electoral Commissions Forum (ECF) composed of electoral commissions in the SADC region and established in 1998. EISA is currently the secretariat of the SADC Election Support Network (ESN) comprising election-related civil society organisations established in 1997.

### **VISION**

An African continent where democratic governance, human rights and citizen participation are upheld in a peaceful environment

### **MISSION**

EISA strives for excellence in the promotion of credible elections, participatory democracy, human rights culture, and the strengthening of governance institutions for the consolidation of democracy in Africa

### **VALUES AND PRINCIPLES**

Key values and principles of governance that EISA believes in include:

- 
- Regular free and fair elections
  - Promoting democratic values
  - Respect for fundamental human rights
  - Due process of law / rule of law
  - Constructive management of conflict
  - Political tolerance
  - Inclusive multiparty democracy
  - Popular participation
  - Transparency
  - Gender equality
  - Accountability
  - Promoting electoral norms and standards

**OBJECTIVES**

- To enhance electoral processes to ensure their inclusiveness and legitimacy
- To promote effective citizen participation in democratic processes to strengthen institutional accountability and responsiveness
- To strengthen governance institutions to ensure effective, accessible and sustainable democratic processes
- To promote principles, values and practices that lead to a culture of democracy and human rights
- To create a culture of excellence that leads to consistently high quality products and services
- To position EISA as a leader that consistently influences policy and practice in the sector

**CORE ACTIVITIES**

- Research
- Policy Dialogue
- Publications and Documentation
- Capacity Building
- Election Observation
- Technical Assistance
- Balloting

## ELECTORAL OBSERVER REPORTS

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CODE	TITLE
EOR 1	Mauritius Election Observation Mission Report, 2000
EOR 2	SADC Election Support Network Observer Mission's Report, 1999/2000
EOR 3	Tanzania Elections Observer Mission Report, 2001
EOR 4	Tanzania Gender Observer Mission Report, 2001
EOR 5	Zimbabwe Elections Observer Mission Report, 2001
EOR 6	South African Elections Observer Mission Report, Denis Kadima, 1999
EOR 7	Botswana Elections Observer Mission Report, Denis Kadima, 1999
EOR 8	Namibia Elections Report, Tom Lodge, 1999
EOR 9	Mozambique Elections Observer Mission Report, Denis Kadima, 1999
EOR 10	National & Provincial Election Results: South Africa June 1999
EOR 11	Elections in Swaziland, S. Rule, 1998
EOR 12	Lesotho Election, S. Rule, 1998
EOR 13	EISA Observer Mission Report: Zimbabwe Presidential Election 9-11 March, 2002 (P/C)
EOR 14	EISA Observer Mission Report: South Africa National and Provincial Elections 12-14 April 2004
EOR 15	EISA Observer Mission Report: Malawi Parliamentary and Presidential Elections 20 May 2004
EOR 16	EISA Observer Mission Report: Botswana Parliamentary and Local Government Elections 30 October 2004
EOR 17	EISA Observer Mission Report: Mozambique Parliamentary and Presidential Elections 1-2 December 2004
EOR 18	EISA Observer Mission Report: Namibia Presidential and National Assembly Elections 15-16 November 2004
EOR 19	EISA Observer Mission Report: Mauritius National Assembly Elections 3 July 2005
EOR 20	EISA Observer Mission Report: Tanzania Presidential, National Assembly and Local Government Elections 14 December 2005
EOR 21	EISA Observer Mission Report: The 2005 Constitutional Referendum in the DRC/ Le Référendum Constitutionnel en RDC 18-19 December 2005

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- EOR 22 EISA Observer Mission Report: Zanzibar Presidential, House of Representatives and Local Government Elections 30 October 2005
- EOR 23 EISA Observer Mission Report: Zambia Presidential, Parliamentary and Local Government Elections 28 September 2006
- EOR 24 EISA Observer Mission Report: Madagascar Presidential Elections 3 December 2006
- EOR 25 EISA Observer Mission Report: DRC Presidential, Parliamentary and Provincial Elections/Elections Presidentielles, Parlementaires et Provinciales 30 July and 29 October 2006
- EOR 26 EISA Election Observer Mission Report Madagascar National Assembly Elections 23 September 2007
- EOR 27 EISA Election Observer Mission Report Lesotho National Assembly Elections 17 February 2007



