

# “Crush Them Like Lice”



## Repression of Civil and Political Rights Ahead of Zimbabwe’s August 2023 Election

Citizens Coalition for Change (CCC) party supporters protest in front of police after the party was banned from hosting an election campaign rally in Marondera, Zimbabwe, March 12, 2022. © 2022 JEKESAI NJIKIZANA/AFP via Getty Images

## Summary

*Right now, we cannot hold meetings in towns and cities, and we cannot go to the rural areas. [The ruling party] ZANU-PF declared that rural areas are no-go zones for the opposition, and the ruling party causes violence any time the opposition tries to venture into the rural areas.*

*– Ostallos Siziba, opposition spokesperson, Harare, April 2023*

On August 23, 2023, Zimbabweans will go to the polls to vote for the president of the country and members of the parliament (MPs). Of the 11 candidates currently running for president, there are two clear frontrunners: President Emmerson Mnangagwa of the ruling Zimbabwe African National Unity-Patriotic Front (ZANU-PF) party, and Nelson Chamisa of the main opposition party, the Citizens Coalition for Change (CCC).

Human Rights Watch spent two weeks in Zimbabwe in April and May 2023. Twenty-eight (28) people were interviewed, including representatives from the main opposition party, election observer groups, lawyers, human rights activists, and ordinary citizens. These people provided first-hand accounts on electoral conditions in the country ahead of the August 23, 2023, elections.

Human Rights Watch’s research found that rights critical for Zimbabwe’s election, such as to freedom of expression, association, and assembly, are imperiled. Violence, intimidation, harassment, and repression linked to ZANU-PF and aimed principally at CCC members and civil

society activists have restricted civic and political space. The environment for a credible, free, and fair election has been grossly diminished.

Cases of abductions, arbitrary arrests of political opposition figures, critics of the government, and other human rights abuses by ZANU-PF supporters and state security officials have operated to advance ZANU-PF's electoral interests.

The authorities have weaponized the criminal justice system against the ruling party's political opponents. CCC politicians have been held in prolonged pre-trial detention or convicted on baseless, seemingly politically motivated charges.

Further, the Zimbabwean authorities have greatly limited the space for opposition parties to campaign. Through various means, they have restricted the rights to freedom of expression, movement, and association, leaving the opposition unable to stage rallies, mobilize, campaign, and associate with supporters. ZANU-PF has ensured that the playing field is skewed, with the Zimbabwe Republic Police persistently refusing to issue permits to the opposition to hold campaign rallies while allowing ZANU-PF to meet without hindrance.

The actions against CCC members and supporters by government authorities contravene basic rights guaranteed under the Constitution of Zimbabwe. They also violate rights to freedom of expression, movement, association, and peaceful assembly protected under the International Covenant on Civil and Political Rights,<sup>[1]</sup> the African Charter on Human and Peoples' Rights,<sup>[2]</sup> and other international human rights treaties to which Zimbabwe is a party.

Crucial for addressing electoral rights is an independent and impartial national election commission. However, there are serious concerns about the independence, composition, and conduct of the Zimbabwe Electoral Commission (ZEC). Past elections were widely perceived as problematic largely because the ZEC has been closely aligned with the interests of the ruling party. The management of the ZEC secretariat remains in the hands of people widely believed to be ZANU-PF sympathizers. These individuals, many of whom have ties to the country's military, police, and intelligence services, supervised previous deeply flawed electoral processes.

The government has sought to enact repressive laws ahead of the August election, most notably an amendment to the Private Voluntary Organizations (PVO) Act. On July 14, 2023, President Emmerson Mnangagwa signed into law the Criminal Law Codification and Reform Amendment Bill 2022, commonly referred to as the "Patriotic Bill." The law empowers the National Prosecuting Authority to prosecute anyone it considers to be undermining the country or using false statements to paint a negative picture of the country to foreign governments. Opposition politicians, civil society activists, and government critics have expressed strong fears that the authorities will use these laws to criminalize their activities.

Ahead of the general election, there is little evidence to indicate that the Zimbabwean government is ready to meet its obligations under national, regional, and international law and standards to allow people to freely vote for candidates of their choice in an environment free of intimidation, fear, and violence.

The credibility of the election will be measured against the standards set out in the African Union's (AU) African Charter on Democracy, Elections and Governance and the Southern African Development Community's (SADC) Principles and Guidelines Governing Democratic Elections. Under the two documents, member states are to observe and respect the full participation of citizens in the political process; freedom of expression and association; political tolerance; equal opportunity for all political parties to access the state media; independence of the judiciary; independence of the media; impartiality of the electoral institutions; and voter education.

The restrictive environment in Zimbabwe falls short of these standards. As Zimbabweans prepare for the August election, the authorities should ensure they have the opportunity to exercise their fundamental rights to freely vote for individuals and parties of their choice. The authorities should

end all improper and unlawful interference in the election-related activities guaranteed by domestic, regional, and international human rights law and standards.

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## Recommendations

### To the Government of Zimbabwe

- Cease the politically motivated arrests and targeting of opposition politicians, civil society activists, and journalists.
- Allow national and international electoral observers, human rights monitors, and journalists seeking to observe, monitor or report on the elections to access all parts of the country.
- Take all steps necessary to ensure that the Zimbabwe Republic Police act in a neutral and non-partisan fashion in relation to the electoral campaign and all political party activities.
- Ensure the police promptly and impartially act to protect all persons in Zimbabwe from human rights violations and investigate all apparent politically motivated abuses. Appropriately discipline or prosecute those responsible for serious human rights violations, regardless of position or rank.
- Ensure that the rights to freedom of expression, movement, assembly, and association of both political party members and supporters are respected at all times.

- Amend or abrogate existing laws that restrict fundamental rights and freedoms in violation of international law.

## **To SADC and AU Member States:**

- Make public statements ahead of the August 2023 elections calling for an environment free of intimidation, harassment and violence.
- Call on the government of Zimbabwe to ensure that ahead of the election, national and international electoral observers have access to all election sites, and are free to move throughout the country, and are able to report on any election-related intimidation and violence.
- Make public statements noting any concerns with pre-election conditions that affect the ability of voters to freely express their opinions and obtain access to information.
- Ensure that SADC and AU election observers remain in Zimbabwe for a sufficient period beyond the vote count to monitor possible post-election related human rights violations.
- Urge the government of Zimbabwe to implement the SADC Principles and Guidelines Governing Democratic Elections and the African Charter on Democracy, Elections and Governance.

## **To all political parties:**

- Condemn all acts of violence and call on supporters and party members to desist from carrying out acts of violence ahead of the August vote.
- Ensure that in the days that remain until the August 23 vote, campaigning is held in an environment free of intimidation, harassment, and violence.

## **Methodology**

This report is based on field research conducted in Zimbabwe in April and May 2023. Human Rights Watch researchers conducted 28 interviews with lawyers, journalists, human rights activists, civil society actors, victims of political violence, members of the CCC, including members of parliament and party officials.

Researchers conducted interviews in English and Shona, which is one of Zimbabwe's official languages and is spoken by a majority of the country's population. Human Rights Watch researchers visited Harare, the capital city, and Chitungwiza, about 26 kilometers southeast of Harare.

Human Rights Watch also requested additional information via email communication from the ZEC and the Ministry of Information, Publicity, and Broadcasting Services on July 20, 2023, the ruling ZANU-PF on July 25, 2023, and the Zimbabwe Republic Police on July 26, 2023. We did not receive any response. Requests for interviews with ZANU-PF and the ZEC were also unsuccessful.

For security reasons, Human Rights Watch has withheld the names and identifying features of some interviewees, including details of locations where interviews were conducted when such information could place a person at risk. Human Rights Watch informed all interviewees about the purpose and voluntary nature of the interviews, the ways in which it would use the information, and that they could decline to answer questions or could end the interview at any time. The interviewees received no inducement, payment, service, or other personal benefit for the interviews.



# Background and Context

## History of Election-Related Violence in Zimbabwe

Zimbabwe has a long history of election-related violence and serious human rights violations committed primarily, but not only, by the ruling ZANU-PF state security agents—including the army and police—and ZANU-PF’s political allies, dating back to the 1980s.[3] The state security forces were involved in systematic and widespread atrocities in Matabeleland and Midlands provinces in the 1980s, aimed at weakening the Zimbabwe African People's Union (ZAPU) led by Joshua Nkomo.[4]

At that time, President Robert Mugabe’s ZANU-PF, which had been in power since Zimbabwe’s independence in 1980, created what was essentially a “one-party mantra” that brooked no debate or opposition. It regarded Nkomo’s ZAPU as a threat[5] and an enemy that could not only be called names but was supposed to be eliminated from the political landscape.[6] In the 2000,[7] 2002,[8] 2005,[9] and 2008[10] elections, victims of political violence were largely leaders[11] and members of the opposition Movement for Democratic Change (MDC), their supporters, and others perceived to be MDC supporters, including journalists, civil society activists, and ordinary Zimbabweans.[12]

In the run-up to these elections, international human rights organizations such as Amnesty International documented extrajudicial executions, torture, beatings, and abductions—largely perpetrated by supporters of the ruling ZANU-PF and government agents.[13]

The Joint Operations Command, headed by senior ZANU-PF officials, which included the heads of the Zimbabwe Defence Forces, police, prison services, and the Central Intelligence Organization (CIO),[14] orchestrated the 2008 violence, which far exceeded the violence that accompanied other elections.[15] Human Rights Watch investigations, especially in respect of the 2008 elections, indicated that the army played a major role in supporting the violence.[16] The Joint Operations Command supplied “war veterans” and ZANU-PF supporters with guns, transportation, and bases from which serious human rights violations were carried out.[17]

Unfortunately, those credibly implicated in election-related abuses have not been held accountable, allowing individuals responsible for past abuses to carry out further acts of violence and intimidation.[18]

The impact of this legacy of threats, violence, and impunity on the electorate has been profound. Tendai Biti, a lawyer and opposition CCC Member of Parliament, said that because of the lack of accountability for past abuses, “ZANU-PF continues to harvest from this history of violence by threatening communities with: ‘do you know what we can do to you? Do you know what we did in 2008?’”[19]

## The 2018 Elections

During the run-up to the August 2023 elections, many Zimbabweans have been ruminating over the violence that followed the July 2018 elections, after the declaration of Mnangagwa as the winner of that election.[20] 2018 marked the first time in the country’s history as an independent nation that a general election did not have Mugabe’s name on the ballot paper. The 2018 election had pitted Mnangagwa of ZANU-PF against challenger Chamisa of the then-main opposition party, the Movement for Democratic Change Alliance (MDC-A) party. Mnangagwa secured 50.8 percent of the vote, while Chamisa had 44.3 percent. By narrowly winning over 50 percent of the vote, Mnangagwa had avoided a run-off election.

Ahead of the 2018 election, Human Rights Watch documented cases of intimidation and harassment, mainly in Zimbabwe’s rural communities, perpetrated largely by ZANU-PF party officials.[21] This included threats to repeat the “2008 violence” if the ruling ZANU-PF lost the

July 30, 2018 elections.[22] Human Rights Watch expressed serious concerns about the government's failure to institute legal and political reforms necessary for citizens to freely express themselves no matter their political views, and to vote without fear of intimidation and violence. Human Rights Watch in a June 2008 report pointed at the security forces' involvement in the electoral process, abusive laws that remained in effect, and violence and intimidation by the ruling party, all which contributed to an environment that was not conducive to free and fair elections.[23]

On August 1, 2018, before the release of the election results, violent protests broke out in Harare with hundreds of protesters demanding the release of presidential election results.[24] The authorities deployed armed anti-riot police and soldiers to quell the protests on the streets, and soldiers used live ammunition against protesters. As a result of the violence, President Mnangagwa set up an international panel, the Motlanthe Commission of Inquiry, which found that 6 people died and 35 others were injured because of state security forces' actions.[25] The commission's recommendations have not been implemented yet, including holding those responsible for the abuses to account and compensating families of those killed and those who lost property.[26]

While the 2018 AU Election Observer Mission to Zimbabwe said that "by and large the process was peaceful and well-administered," [27] the European Union Observer Mission noted that an "un-level playing field, intimidation of voters and lack of trust in the process undermined the pre-election environment." [28]

Events of the past several months indicate that, like the 2018 polls, the August 2023 elections may be conducted in an environment of intimidation, fear, and violence.

## State of the Opposition

Following the death of MDC leader Morgan Tsvangirai on February 14, 2018, at a South African hospital, Chamisa led the MDC-A at the June 30, 2018, poll. However, a rival faction of the MDC in 2018 brought a case against Chamisa's leadership in the High Court.[29] In May 2019, Judge Edith Mushore ruled Chamisa's leadership "unconstitutional and therefore null and void." [30] The MDC appealed to the Supreme Court, and on March 31, 2020, the Supreme Court ruled Chamisa's leadership illegitimate and ordered the MDC to hold a congress to replace him within three months. [31]

On the day the judgment of the Supreme Court was delivered, armed police sealed off MDC's headquarters in Harare and prevented the party's executives from entering the building. David Coltart, the MDC-A Treasure General wrote on April 1, 2018, that: "If ever there was evidence that this is entirely a plan concocted by the Mnangagwa regime to destroy the only political party which poses any threat to its control, then this is it. ... Without a court order in the name of the Trust, the Police has no lawful right to bar the MDC-A from using the building." [32]

Thokozani Khupe, who participated in the 2018 elections as the Movement for Democratic Change-Tsvangirai (MDC-T) president and received 45,000 votes compared to Chamisa's 2.1 million votes, celebrated the Supreme Court decision which she said "confirmed [her] rightful place as leader of the MDC." [33] After Khupe assumed leadership of the MDC-T, members of parliament (MPs) and councilors elected under the Chamisa-led MDC were recalled from Parliament. [34] When Douglas Mwonozora later became president of the MDC-T following an extraordinary party congress in December 2020, he continued with recalling and expelling parliamentarians and councilors who were linked to or supported Chamisa. [35] Under the Zimbabwean constitution, if an MP or a councilor changes party or is expelled from their party, the MP or councilor would be recalled, and a by-election held. The ZEC announced that by-elections for 28 parliamentary seats and 122 local authorities would be held on March 26, 2022. [36]

On January 24, 2022, Chamisa announced the formation of a new political party, the CCC, with the new party participating in the March 2022 by-elections. [37]

Ahead of the by-elections, the Zimbabwe Electoral Support Network (ZESN),<sup>[38]</sup> a coalition of 37 NGOs that works to coordinate activities pertaining to elections, reported a host of electoral malpractices including violence during campaigns, restriction of some opposition campaign activities, vote buying, and unequal access to the public media, among others.<sup>[39]</sup> On February 27, 2022, at a CCC rally in the city of Kwekwe, where Chamisa was campaigning, more than a dozen men suspected of being members of a ZANU-PF militia group arrived and began attacking CCC supporters using machetes, beer bottles, iron bars, spears, and bricks.<sup>[40]</sup> Mboneni Ncube, a 30-year-old man and supporter of the CCC, died after being stabbed, while at least 22 others were seriously injured.<sup>[41]</sup>

The CCC won 19 out of the 28 national assembly seats (67.9 percent of the vote), while the ruling ZANU-PF took the remaining 9 seats.<sup>[42]</sup> The CCC also won 75 of the 122 local council seats.

Political analysts regarded the March 2022 parliamentary and local government by-elections as a preview of the August 2023 general election, in which Chamisa's CCC party is hoping to dislodge ZANU-PF.<sup>[43]</sup>

## **Zimbabwe Electoral Commission and Role of Military**

The conduct of the ZEC in past elections has called into question its ability to hold credible, free, and fair elections. Pedzisai Ruhanya of the Zimbabwe Democracy Institute think-tank told Human Rights Watch that "ZEC has no capacity or the fidelity of running free and fair elections because both the commission and its secretariat are captured by the military. And this militarization of ZEC goes back into history."<sup>[44]</sup> The CCC spokesperson, Fadzayi Mahere, told Human Rights Watch: "We have a problem with the composition of ZEC — it is heavily militarized."<sup>[45]</sup>

Ruhanya pointed out that since the 2002 election, former and serving military officials have dominated the secretariat of the ZEC, with the Zimbabwe National Army chief of staff, Maj. Gen. Douglas Nyikayaramba, heading the elections management body during the 2002 and 2005<sup>[46]</sup> elections, and George Chiweshe, a former army brigadier, who was previously in charge of the Military Court Martial, leading the ZEC during the 2008 elections.<sup>[47]</sup>

In 2008, when the opposition MDC defeated the ruling ZANU-PF in parliamentary elections, the ZEC announced the presidential results more than a month after voting ended.<sup>[48]</sup> Then MDC leader Morgan Tsvangirai won 47.9 percent of the vote while the incumbent Mugabe obtained 43.2 percent.<sup>[49]</sup> Under Zimbabwe's electoral laws, for a candidate to be declared winner in the first round, the candidate must win 50 percent plus one vote, otherwise there would be a runoff between the two leading candidates.<sup>[50]</sup> What followed after that was a bloody period in which hundreds of opposition supporters were killed, forcing Tsvangirai to withdraw from the run-off, declaring that a free and fair election was impossible in a climate of violence and intimidation.<sup>[51]</sup> Nevertheless, ZEC went ahead to hold the runoff and Mugabe was declared the winner.<sup>[52]</sup>

Chiweshe left the ZEC in 2010 to take up an appointment as a judge of the High Court.<sup>[53]</sup> Rita Makarau, then judge president of the High Court and a non-constituency MP of ZANU-PF in 2000, was appointed.<sup>[54]</sup> She chaired the ZEC during the 2013 elections. Makarau resigned in December 2017, soon after Mugabe was ousted from power.<sup>[55]</sup> She was succeeded by Justice Priscilla Makanyara Chigumba, the incumbent, who was appointed on February 1, 2018.<sup>[56]</sup>

According to section 238 of Zimbabwe's Constitution, the ZEC chairperson, who should be a judge, former judge, or someone qualified for appointment as a judge, is appointed by the president.<sup>[57]</sup> Chapter 12 (sections 235 and 236) of the Constitution further states that a member of ZEC has to be non-political and must not, in the exercise of their functions, act in a partisan manner or further the interests of any political party or cause.

In March 2018, ZEC Chairperson Justice Chigumba told the Zimbabwe Parliamentary Portfolio Committee on Justice that at least 15 percent of the ZEC secretariat is made up of "former members of the security services."<sup>[58]</sup> The ZEC admitted that it employed serving members of the army,

police, and CIO, Zimbabwe's feared intelligence unit, but would later ask them to resign.[59] The ZEC stated disingenuously that it would not "discriminate" against employing retired members of the security services as doing otherwise would be against the Constitution.

The current chief elections officer,[60] Utoile Silaigwana, is a former Army major.[61] When he was appointed in March 2018, Crisis in Zimbabwe Coalition, a coalition of NGOs, criticized his appointment, declaring that it would put into doubt the credibility of the ZEC since he was part of the ZEC secretariat and contributed to what the coalition described as ZEC's militarization during the 2008 elections.[62]

"The Zimbabwe Electoral Commission has a perception problem," a member of a national rights monitoring group, Heal Zimbabwe Trust, told Human Rights Watch.[63] "The way the commission is constituted is a problem. Previously, the main political parties would second people to become commissioners, but the commissioners are now mostly chosen by the president after vetting by parliament. People lost confidence in the process because they think that the process is controlled by the state."

In July 2022, President Mnangagwa appointed[64] six new commissioners in a move that the Zimbabwe Human Rights Association (ZimRights), an NGO with 225 000 members and the largest grassroots human rights movement in the country,[65] severely criticized. In its July 14, 2022, statement, ZimRights called into question the impartiality of the six commissioners, especially that of Abigail Millicent Mohadi Ambrose, the daughter of Kembo Mohadi, the vice-president of the ruling ZANU-PF. ZimRights said such an appointment was a "direct attack on the independence and integrity of ZEC." [66]

Kenneth Magwada, the ZimRights media and advocacy specialist, said that "the method of appointing commissioners, in which a sitting state president, who belongs to a certain political party, is the sole appointing authority is problematic and taints the impartiality of the commission. This has a bearing on the perception of the credibility of the commission or fairness of the elections." [67] ZEC's ability to organize free, fair, and transparent elections is doubted, as its unbalanced composition gives the impression that the commission is skewed to give an electoral advantage to the ZANU-PF party.

Also problematic is ZANU-PF's insistence that only international election observers from countries deemed to be friendly to Zimbabwe will be allowed to observe the elections. In April 2023, President Mnangagwa said Zimbabwe will not be told who to invite to observe its elections and only friendly nations will be invited to observe the August elections.[68] Given this position, there are concerns that many human rights issues related to the elections will go unnoticed and the opportunity to hold Zimbabwe to the strictest standards set out in the SADC Principles and Guidelines Governing Democratic Elections in Africa and the AU Charter on Democracy, Elections and Governance will be lost.

However, on June 29, the EU announced that it had been invited by Zimbabwe's minister of foreign affairs and international trade to deploy an Election Observation Mission (EOM). The EU said its team would arrive in Harare the first week of July and remain in the country until the completion of the electoral process.[69] On July 6, it was reported that a joint AU and Common Market for Eastern and Southern Africa (COMESA)[70] pre-election mission was in Zimbabwe to assess the country's readiness.[71]

## Human Rights Concerns Ahead of the August Election



# Banning and Disruption of Opposition Meetings

Leading opposition figures told Human Rights Watch that there was a marked lack of space for the opposition to campaign freely ahead of the August 2023 election.

Tendai Biti, the CCC MP, said that his party has “not been allowed to campaign”:

*At least 63 of our rallies have been banned from January 2023 to now. We have not been able to hold any single rally or meeting this year. Even those who have attempted to hold meetings in their houses have been arrested. In urban areas we can mobilize to some extent but in rural areas we cannot. Some constituencies are declared “no-go areas” by ZANU-PF so that we cannot even protect our vote there.[72]*

Biti added: “We lived during Mugabe’s time, and we thought it was bad, but I think I owe him an apology. This regime is worse.”[73]

Ostallos Siziba, the CCC deputy spokesperson said:

*Right now, we cannot hold meetings in towns and cities, and we cannot go to the rural areas. ZANU-PF declared that rural areas are no-go zones for the opposition, and the ruling party causes violence any time the opposition tries to venture into the rural areas. They use police and military to cause violence.*

Siziba described the brutality of one such obstruction against CCC members:

*The police set up roadblocks that are illegal [and] manned by at least a police or military officer and ZANU-PF activists. In March, ZANU-PF members from the area, the police, and military officers erected such a roadblock at Gutu Centre, in Gutu District, Masvingo. They stopped the car in which our councilor for Bulawayo, Arnold Batsirayi, together with a CCC female MP and her husband were traveling. In a bid to create some sort of discord within our ranks, they forced the councilor and MP to denounce Nelson Chamisa, our party president, and instead say they supported our vice chair. After that, they were beaten up and had to be admitted at a hospital in Masvingo town.[74]*

On January 14, 2023, the police arrested, detained, and beat with batons the CCC MP for Budiriro, in Harare, Costa Machingauta, and 25 others.[75] They were charged with participating in what police said was an illegal meeting at the MP’s house in Harare. The 25, including an 82-year-old man, spent two weeks at Harare’s Chikurubi Maximum Security Prison before 24 of them were granted 30,000 Zimbabwean dollars (about US\$90) bail each by a Harare Magistrate Court.[76] The 82-year-old was released without bail. They were charged with illegal gathering and disturbing public peace and were represented by lawyers from the Zimbabwe Human Rights NGO Forum.

Zimbabwe police spokesperson Paul Nyathi told the media that, “we confirm the arrest of the CCC activists. They were attending an unsanctioned meeting.”[77]

A 39-year-old mother of four, who was among those arrested, narrated what had transpired:

*As our numbers at the meeting grew to about 20 or so, we started singing and chanting our party slogans, as we always do when we meet. Before police officers arrived dressed in anti-riot gear and carrying guns and baton sticks. One of the police officers shouted: “What are you doing here? Leave now!” At this point, people started to scatter. I used a side gate to run into a neighbor’s house, but the police followed me there and arrested me for “illegal gathering” and they threw me into the truck. [78]*

She said that the police agents assaulted some of her fellow party members as they were being transported to the police station, but she was not beaten. At Budiriro Police Station, the police

recorded their statements and locked all 26 of them up in one single cell. She said the police denied access to friends who tried to bring them food, assaulted their lawyer, Kudzai Kadzere, and broke his hand.[79]

Contrary to the experience of opposition parties, the ZANU-PF has apparently been able to actively campaign throughout the country, including in rural areas, where most of Zimbabwe's population lives.[80] The police has selectively used[81] the Maintenance of Peace and Order Act (MOPA) of 2019 to deny opposition members the permission to hold meetings and mobilization rallies.[82]

Further, the rural parts of the Zimbabwe have remained “no-go” areas for the opposition, as its supporters and lower-ranking members faced constant threats, intimidation and, at times, assault from ZANU-PF supporters.[83]

One national human rights monitor said:

*In some areas, traditional leaders are summoning people to ZANU-PF campaign rallies and advising them to come wearing ZANU-PF regalia “for their own protection.” ... In the Midlands Province, Mashonaland East, Mashonaland West, Mashonaland Central, and Manicaland, we can say that it is only ZANU-PF that is having meetings. CCC is not having meetings. It is not allowed to.[84]*

They then stated what one of their organization's rural district monitors had said: “If CCC supporters are around, it is for their own good not to be seen or known.”

It is not only overt opposition political rallies that are banned: a tree planting day organized by the opposition on December 14, 2022, was not spared either, demonstrating the extent of the restrictions on the rights to peaceful assembly and freedom of expression.[85] On March 4, 2023, police shut down popular musician Wallace Chirumiko's show. The musician is known for his critical political commentary.[86]

The actions of the police mean that opposition figures have not been able to freely assemble, mobilize, campaign, and associate with supporters, which threatens the fundamental rights of Zimbabweans to freely choose their representatives.[87]

## **Arbitrary Arrests, Detention of Opposition Leaders, and Malicious Prosecutions**

Lawyers, journalists, human rights activists, and CCC officials who spoke to Human Rights Watch expressed concern that the authorities were weaponizing the law against critics of the government, denying those arrested the presumption of innocence and the right to bail. One national human rights activist said that the government was increasingly using the criminal justice system to target and degrade its opponents.[88]

In September 2022, a court convicted Tsitsi Dangarembga, a critically acclaimed writer, and imposed her a six-month suspended sentence and 70,000 Zimbabwean dollars (about US\$193) fine for staging a protest[89] calling for political reform in the upmarket suburb of Borrowdale in Harare.[90] In April 2023, CCC spokesperson Fadzayi Mahere was tried and convicted for “publishing or communicating falsehoods” for retweeting information that a police officer had beaten to death a child with a baton in Harare.[91] The court held that she undermined the authority of the police through her tweet. On April 28, 2023, Jacob Ngarivhume, leader of the small opposition party Transform Zimbabwe, was sentenced to four years in prison for inciting public violence over a 2020 protest call he posted on Twitter.[92] Ngarivhume had tweeted a video calling for anti-government protests over the state of the economy and rampant corruption.[93]

Opposition MP Joanah Mamombe together with activists Netsai Marova and Cecillia Chimbiri said they were abducted, tortured, and sexually assaulted after leading an anti-government protest in

Harare on May 13, 2020.[94] After stating that they recognized some of their attackers, they were rearrested on June 10, 2020, detained, and charged with faking their abduction and communicating falsehoods.[95] In July 2023, the High Court found that the evidence against the three was “grossly unreasonable, irrational characterized by bias and malice” and ordered that they should be set free.[96] The National Prosecuting Authority indicated that it was unhappy with the High Court’s decision and would appeal to the Supreme Court.[97]

CCC’s Mahere told Human Rights Watch she believes these arrests and convictions are meant to send a chilling message to the public that there is a high price to pay for getting involved with the CCC or challenging government policies.[98]

A national human rights activist said that the raft of convictions of top opposition figures should be seen in the context of an amendment to the Electoral Act, which is currently before parliament.[99] The amendment would prevent anyone convicted of an offense of dishonesty, misinformation, and public violence from running for an election to any seat.[100]

Opposition MP and CCC interim Vice-Chairperson, Job Sikhala, has been incarcerated at Chikurubi Maximum Security Prison since June 14, 2022, over a matter relating to Moreblessing Ali, a known community mobilizer and CCC supporter.[101] Ali had gone missing for three weeks before being found murdered and her body mutilated on June 11, 2022, at Mukande homestead in Nyatsime, in the Zengeza West Constituency, outside of Harare.[102]

Sikhala’s spokesperson said that Ali’s family had approached Sikhala and appointed him as their lawyer and spokesperson.[103] Zimbabwean authorities accused Sikhala of encouraging CCC supporters to cause violence in Nyatsime during Ali’s memorial.[104] They charged him with inciting violence and several appeals for bail have since been denied.[105]

A lawyer familiar with his detention conditions said that Sikhala has been subjected to leg irons, his lawyers and relatives have at times been denied access – in one instance prompting a court application –, [106] and his party colleagues have been prevented from visiting him.[107] While in detention, Sikhala’s health has deteriorated.[108]

One of Sikhala’s lawyers said:

*Sikhala has no confidence that the judiciary will deliver justice in his case. He sees this as political persecution, and an attempt to silence dissenting voices. The offense they have charged him with is bailable, but they have refused to give him bail. The state prosecution argued that he had breached previous bail conditions. It is not true, but the court agreed with the state. I know we have made about 18 applications for bail. All of which were denied.[109]*

A petition signed by prominent Zimbabweans, foreign diplomats, and other individuals calling for Sikhala’s release states that his detention erodes the value and essence of the criminal justice system, which is being weaponized against dissent.[110]

Sikhala’s detention without bail and without trial for over one year underscores concerns that Zimbabwe’s judiciary is not dispensing justice in an impartial and non-partisan manner. As a result, many Zimbabweans will remain fearful of ZANU-PF’s intimidation and may not openly engage in political activities, attend opposition rallies, or otherwise express their viewpoints.

## Attacks and Violence against the Opposition

ZANU-PF has long been responsible for physical assaults against members of the political opposition and their supporters, and there is widespread concern that such attacks could increase as the election approaches.

Ahead of the August election, there have been few cases of violence by the opposition. For example, in June 2023, Zimbabwean authorities arrested and charged 39 people believed to be opposition CCC supporters with political violence in Nyatsime, south of Harare. The suspects allegedly destroyed houses belonging to ZANU-PF members, ransacked a ZANU-PF office, and attacked people with bricks and stones.<sup>[111]</sup>

The ruling ZANU-PF and its political allies have commonly used violence as a tool of political coercion. The overwhelming majority of victims of violence during the country's previous elections were officials and members of the opposition, their supporters, and those perceived to be against ZANU-PF, including ordinary Zimbabweans and civil society activists.

Jestina Mukoko of the Zimbabwe Peace Project<sup>[112]</sup> told Human Rights Watch:

*When ZANU-PF is under pressure, it resorts to violence, and this may happen again in this election. During the 2008 post-election violence, the Zimbabwe Peace Project recorded at least 208 people who were killed. Right now, there are a lot of threats and intimidation of voters in the rural areas. People are being told by ZANU-PF that if opposition supporters were killed in 2008 and nothing has happened to the killers, "Who do you think you are?" We have heard different ruling party and government officials saying that if people thought that 2008 was violent, then they will learn in 2023 that 2008 was nothing.*<sup>[113]</sup>

Mukoko expressed concern that the 2022 by-elections might be the forerunner to the 2023 general elections:

*In the by-elections, even an opposition MP was assaulted. Honorable Jasmine Tofa was beaten in October 2022 and had to have surgery on both wrists. This happened when CCC members were on their way to a rally in Matabeleland. Some of the women supporters were ordered to remove the yellow CCC t-shirts they were wearing. They were stripped and made to run for their lives. The cars the assailants were using were emblazoned with ZANU-PF logos.*

She said that the Zimbabwe Peace Project wrote to the police, questioning their lack of action in bringing the preparators to justice, but did not get a response.

*Musa Kika, executive director of the Zimbabwe Human Rights NGO Forum, said that ZANU-PF has been using violence for a long time and for particular purposes. "Political violence happens at two levels, and we are already witnessing that," he said. "The first level is that which is unleashed by political party functionaries. The second nature of violence we experience around elections is when the state machinery is used such as the police, the military, and the judiciary."*<sup>[114]</sup>

Kika also described two incidents that exemplify their concerns for the forthcoming elections:

*In January 2023, ZANU-PF members physically disrupted and beat up participants at an opposition party supporters' meeting at a member's house in Murewa, in Mashonaland East Province. We verified that the vehicle used to ferry the attackers was an official ZANU-PF vehicle. Also, during the October 2022 by-election in Matobo, ZANU-PF supporters disrupted and beat up opposition members.*<sup>[115]</sup>

Kika believed there would be more of this party-to-party violence prior to the August election.

Odius Makoma, a 43-year-old aspiring CCC MP in Chitungwiza, described the situation in his area:

*I cannot freely campaign. In my area, ZANU-PF has declared war against us. Anyone seen wearing the yellow colors of the opposition is harassed and beaten up. We have reported such cases to the police, but nothing is done. In fact, reporting cases of political violence to*



*the police when one is a known CCC supporter is risky because the victim is often the one who ends up being arrested. ZANU-PF leaders and members are powerful. They seem to issue instructions to the police on who to arrest.*

Makoma described his own situation:

*Following the June 14, 2022 Nyatsime violence, I was arrested and spent five months in a maximum-security prison, yet I was the one whose property had been destroyed. My house and car were set on fire, yet no single ZANU-PF person was arrested.*[\[116\]](#)

Another CCC supporter, 44-year-old Godfrey Chidhau Karemba, popularly known as “Madzibaba Veshanduko” (“leader of change” in Shona) for his energetic dances and singing at CCC rallies, was arrested on March 17, 2022, during campaigns for the 2022 by-elections while walking in Harare wearing a yellow gown.[\[117\]](#) Police [alleged](#) that he verbally abused officers who tried to stop him from engaging in unsanctioned political activities in the Central Business District. Karemba described what happened after his arrest:

*I was arrested wearing my trademark yellow dress and taken to Harare Central Police Station. They took me to a dark room in the underground. They switched on the lights and three men started to beat me badly. They were saying, “Today we are going to finish you. This is the last time you are going to wear your yellow gown; this is the last time you are going to campaign for Chamisa.” They stripped me naked. Three other people joined the ones who were beating me. They took a brick and tied it on my private parts with a string and ordered me to walk around the room. It was painful. I could not walk. One of them started hitting me with a whip on the back. They were trying to force me to walk. All this time I was naked. They later made me lie down and started to whip me on the back.*[\[118\]](#)

He removed his shirt to show the whip marks on his back.

The authorities charged Karemba with undermining the authority of the police and later granted him bail.[\[119\]](#) He received a summons on January 8, 2023, which he showed Human Rights Watch, to appear before the traditional chief of his area, Chief Chipuriro, in Guruve South. He said the chief informed him at his court that his land and home had been confiscated and that he should find another place to live.

Section 71 of the Constitution of Zimbabwe protects everyone, except those occupying agricultural land subject to expropriation, against being compulsorily deprived of their property.[\[120\]](#) These property rights can be limited by law in accordance with section 86(2) of the Constitution, but the limitation must be “fair, reasonable, necessary and justifiable in a democratic society based on openness, justice, human dignity, equality and freedom.”[\[121\]](#) Karemba believes that attempts to deprive him of his land were politically motivated because of his vocal and visible support for the opposition.

## Inciting Rhetoric against the Opposition

In January 2023, a video emerged in which suspected ZANU-PF supporters were seen harassing and beating up mostly older CCC supporters.[\[122\]](#) The violence occurred in Chirowa Village, Murewa North, in Mashonaland East Province, and the victims identified as Morris Seremani, 74, Susan Seremani, 56, Beauty Chikoti, 52, Chipu Mutizwa, 37, Nyaradzai Chitauru, 52, Sekuru Dongo, 79, and Munyaradzi Dongo, 38. The victims, who had gathered for a local CCC party meeting, identified their assailants as known ZANU-PF supporters and told the media that they were forced to spend the night in the mountains fearing for their lives following the attack.[\[123\]](#)

The ZANU-PF director for information, Tafadzwa Mugwadi, said on January 8 that there was no evidence that ZANU-PF supporters were responsible for the violence. The perpetrators, he said, were “mere criminals.”[\[124\]](#) CCC spokesperson Mahere told the media[\[125\]](#) on January 12 that the

Murewa attacks were not an isolated incident of violence but fell within a pattern that had to be understood in a context of hate speech by President Mnangagwa and Vice President Constantino Chiwenga.[126]

Mahere said:

*We have seen in almost every province violence perpetrated by ZANU-PF and that violence must be understood in the context that the deputy leader of ZANU-PF actually called for our party, CCC, to be crushed like lice. It is also in this context that the leader of ZANU-PF actually called for CCC supporters to be beaten up, vakombei murove [“round them up and beat them” in Shona]. We have on record members of ZANU-PF calling for the killing of CCC president, Nelson Chamisa.[127]*

On February 26, 2022, ZANU-PF Vice-President Chiwenga addressed a political rally during which he said that his party would crush the opposition party “like lice”. “Down with CCC,” Chiwenga said. “You see when you crush lice with a rock, you put it on a flat stone and then you grind it to the extent that even flies will not eat it. ... We are as big as Goliath, and we will see it [the opposition] when the time comes.”[128]

In July 2022, ZANU-PF member Abton Mashayanyika called for the killing of Chamisa and his family while addressing a ZANU-PF rally in Mberengwa, Midlands province.[129] Police later said they opened investigations into the death threats after human rights lawyer Beatrice Mtetwa wrote to them demanding an investigation.[130] However, Mashayanyika told the media that he was “too ZANU-PF to be arrested.”[131]

Since 2018, the Zimbabwe Election Support Network (ZESN) has been calling for several electoral reforms, including the creation of a conducive electoral environment free from violence, intimidation, harassment, and in which all political parties can campaign freely.

In November 2022, ZESN issued a statement raising concerns that the proposed Electoral Amendment Bill[132] did not address some of the key principles on the conduct and management of credible, peaceful, free, and fair elections.[133] Such principles include elections conducted by secret ballot, based on universal adult suffrage and equality of votes, which are free from intimidation, violence, and other electoral malpractices as enshrined under section 155 of the Constitution of Zimbabwe.[134]

## Passage of Restrictive Laws

In recent years, the Zimbabwean government has sought to enact legislation that would substantially add to existing restrictions on the rights to freedom of movement, association, and assembly.

In 2019, the Maintenance of Peace and Order Act (MOPA) replaced the Public Order and Security Act (POSA), which had given the police extensive powers to regulate public meetings.[135] However, there is little difference between MOPA and POSA, either in design or application. Under MOPA, people will not be allowed to hold public gatherings without providing the police with a written notice: seven days notice in the case of processions and demonstrations, five days in the case of public meetings.[136] As specified in section 25 of POSA, the notice will have to specify details such as “the exact and complete route” of a procession or demonstration as well as “the number and types of vehicles, if any,” that are to take part in the procession. Under clause 7 of MOPA, anyone who fails to give notice will be guilty of a criminal offense and liable to imprisonment for up to one year.

An amendment to the Private Voluntary Organizations (PVO) Act, which will further restrict the operations of NGOs, is of major concern. Once enacted into law, the provisions of the act would allow the government to cancel the registration of organizations deemed to have “political

affiliation” with little to no recourse to judicial review. Actions considered to violate certain provisions of the law could even lead to criminal prosecution, with penalties ranging from heavy fines to imprisonment. Already, in January 2023, the authorities used the existing PVO Act to deregister several NGOs.<sup>[137]</sup> Zimbabwe’s minister of labor and social welfare said that registration was withdrawn from some groups because they allegedly failed to submit audited accounts for money raised from donors, while in other cases the revocation was for national security reasons, or for allegedly straying from their mandate.<sup>[138]</sup>

Although the amendment is yet to be signed into law, representatives of NGOs told Human Rights Watch that some government agencies, local government authorities, and traditional leaders were already asking them to comply with the proposed law’s provisions, such as having a memorandum of understanding with local authorities to be allowed into some areas.<sup>[139]</sup> The NGOs said this has forced them to curtail their activities. Zimbabwean human rights organizations also pointed that this has made it difficult for them to engage in election-related human rights activities, including voter education. One NGO representative said:

*To us, this amendment is election-related in that it is meant to disable our capacity to do voter education, election observation, and monitoring. The government has always wanted to take this role away from NGOs and, from what is happening now, has succeeded in doing so.*<sup>[140]</sup>

A member of the Zimbabwe Human Rights NGO Forum said that, because the amended law may come into effect before the general election, it means that groups that typically play an important role in the lead up to, during, and after elections could be shut out and prevented from doing so.<sup>[141]</sup>

In addition, a few human rights organizations said they had received threats that their registration under the proposed law may be denied should they say anything that the government does not like. Yet, the credibility of the upcoming elections could hinge on the ability of civil society groups to operate, monitor, and report without any fear of deregistration or criminal penalties.

Domestic and international human rights and civil society organizations, including Human Rights Watch and Amnesty International,<sup>[142]</sup> have urged President Mnangagwa not to sign the bill, as it will further threaten freedom of association in the country and contravene several international human rights instruments that Zimbabwe has ratified.<sup>[143]</sup> UN experts echoed this plea, calling on Mnangagwa to reject the bill, warning that “the restrictions contained therein will have a chilling effect on civil society organizations – particularly dissenting voices.”<sup>[144]</sup>

On July 14, 2023, President Mnangagwa signed into law the Criminal Law Codification and Reform Amendment Bill (the “Patriotic Bill”) which, among several restrictions, criminalizes “wilfully injuring the sovereignty and national interest of Zimbabwe.”<sup>[145]</sup> Critics have argued that the law aims to silence Zimbabwe citizens, civil society activists, and political opposition members, particularly as the country moves toward the upcoming general elections.<sup>[146]</sup>

## Access to the Voters Roll

CCC officials told Human Rights Watch that the ZEC has denied the CCC access to the voters roll. Mahere, the CCC spokesperson said:

*ZEC has an obligation to provide a voters roll but, to this day, we do not have it. This makes it very difficult for us to plan and to verify it for accuracy. What we know is that ZANU-PF has the voters roll and they have been using it to mobilize and send out SMS [messages] to registered voters.*<sup>[147]</sup>

In April 2023, a number of eligible voters received accurately targeted campaign SMS messages from ZANU-PF, with identifying details such as voters’ full names and where message recipients

had registered to vote.[148] Activists have raised concerns that ZANU-PF officials might have obtained data for the targeted campaign text messages from the ZEC's servers. The data analysis group Team Pachedu tweeted that voters in new constituencies were receiving unsolicited messages from ZANU-PF.[149]

A member of the ZESN told Human Rights Watch:

*The issue of the voters roll being made available to the public by the ZEC is still a contentious one. While the law requires the commission to provide the voters roll in an analyzable format, and for it to display the voters roll days before the election to give voters the opportunity to inspect and correct any anomalies, this has not always been complied with.[150]*

In March 2023, the High Court rejected a bid by opposition CCC MP Allan Markham seeking to compel the ZEC to release the voters roll electronic version for inspection and audit.[151] The ZEC argued that releasing it would expose the document to manipulation and could compromise the security of the database. The judge agreed and ruled that “a voters roll is a very sensitive document” that could not be released to the public in electronic form as this may compromise the security of ZEC's database.

In April 2023, ZEC Chairperson Priscilla Chigumba told the parliament that releasing the electronic version of the voters roll, as requested by opposition political parties, would violate the Cyber and Data Protection Act.[152] Chigumba said that the cyber law had placed additional responsibilities on the commission in terms of the format in which data should be disseminated to the public, in order to protect voters' personal data.

However, the Election Resource Centre (ERC), an independent monitoring group, said in a statement that the ZEC was legally obligated by both laws to avail voters roll data as it constitutes substantial public interest, and its availability was necessary for the administration of credible election.[153]

The statement said: “The continued denial of the voters roll, especially to persons with a legitimate interest in the voters roll and free and fair elections...under the guise of data protection is unlawful and detrimental to the credibility of the 2023 harmonized elections.”

## **ZANU-PF's Use of Traditional Leaders for Campaigns**

Section 281 of Zimbabwe's Constitution provides for the political neutrality of traditional leaders.[154] On February 23, 2018, the ERC submitted a High Court application against the Chief's Council president, Fortune Charumbira, citing comments he made that traditional leaders must support ZANU-PF and its presidential candidate in the 2018 elections[155] [COR] ERC asked the court to declare the comments as illegal and in contravention of Zimbabwe's Constitution.

In May 2018, the High Court granted ERC's request, and ordered Chief Charumbira to:

*Retract in writing the statements that he made to the effect that traditional leaders should support and vote ZANU (PF) by issuing a countermanding statement in newspaper with national circulation and endeavour to make the statement available to private and public media houses and the national broadcaster within 7 days of being served with the judgement.[156]*

However, Chief Charumbira defied the court order constitutional requirement that traditional leaders should be impartial, declaring that “we will never leave ZANU-PF”.[157]

A ZESN member told Human Rights Watch that this was a major cause for concern:



*In our recommendations after the 2018 election, ZESN questioned the role of traditional chiefs in elections because the Constitution does not allow them to advance any political interests. Yet, the chiefs have been used to actively campaign for ZANU PF. In the rural areas, chiefs are powerful. There is a chief's court, and the chief can arrest people. The chief can ban certain meetings. You cannot just go to an area without the knowledge of the chief.* [158]

CCC spokesperson Mahere said that her party's access to rural areas has, in some cases, been frustrated by traditional chiefs. She said that:

*In response to our penetration of rural areas, ZANU-PF has decreed that whole villages will be assisted to vote by their traditional leaders. This is what is called "command voting" and it is being championed by the ZANU-PF vice president, Kembo Mohadi. While the law has a provision for assisting voters who cannot read or write or are disabled, ZANU-PF is abusing this law by saying that whole villages are going to be "assisted to vote" by traditional leaders who themselves support the ruling party. This is an abuse, but the Zimbabwe Electoral Commission is not sanctioning this misconduct by ZANU-PF.* [159]

In April 2023, ZANU-PF Vice President Mohadi said he had struck an agreement with the traditional leaders who include chiefs and village heads that "when we go for the elections...the headman will marshal his subjects to the ballot box and watch them cast their votes". [160]

## Government Response

President Mnangagwa and senior government officials of the government of Zimbabwe have emphasized the need for peaceful elections. In November 2022, Mnangagwa told Zimbabweans that, "political players seeking the people's mandate during the upcoming 2023 harmonized general elections must maintain and consolidate the current peace, unity, harmony, and love that we have built." [161]

Writing in The Sunday Mail newspaper on December 11, 2022, President Mnangagwa said, "the goal of violence-free elections depends on all of us, political actors especially. I appeal to us all to play our part to ensure our elections are conducted in a spirit of peace, love, and amity." He added, "we owe ourselves and our nation total peace, and nothing less. We must shame all those within and outside our borders who have been investing in violence. Of course, all our security arms will be out in full force to ensure peace in the country before, during and after elections." [162]

However, despite such positive utterances, the authorities in Zimbabwe have failed to take concrete steps to ensure that the August 2023 elections meet the benchmarks set by the SADC Principles and Guidelines Governing Democratic Elections.

The right of Zimbabweans to freely form and express their political opinions and electoral judgments has been severely infringed upon. This has been done through limiting space for the opposition to campaign; the use of restrictive laws; the selective application of the law; and an electoral supervisory body which is seen as not impartial, inclusive, or independent. The arbitrary arrests and detentions of opposition figures, and threats, intimidation, and violence against political opponents has further eroded the electoral environment. Due to this pervasive climate of intimidation and repression, the playing field has not been level.

## Legal Provisions

# The Zimbabwe Electoral Commission

The Constitution of Zimbabwe gives the ZEC<sup>[163]</sup> the mandate of holding elections that are "conducted efficiently, freely, fairly, transparently, and in accordance with the law."<sup>[164]</sup> Zimbabwe is also obligated under regional and international human rights law to conduct free and fair elections. Relevant provisions include article 25 of the International Covenant on Civil and Political Rights (ICCPR)<sup>[165]</sup> and article 13 of the [African Charter on Human and Peoples' Rights](#) (African Charter).<sup>[166]</sup>

Article 17 of the African Charter on Democracy, Elections and Governance further obligates states parties to: "Establish and strengthen independent and impartial national electoral bodies responsible for the management of elections."<sup>[167]</sup>

Chapter 12, section 238, of the Constitution of Zimbabwe creates the Zimbabwe Electoral Commission (ZEC) as an ostensibly independent supervisory electoral body. However, this section gives the president excessive power to appoint the chairperson of the commission and eight other commissioners. These nine commissioners are appointed for a term of six years. Section 239 makes voter education an effective monopoly of the ZEC.

Zimbabwe law provides every political party access to the list of eligible voters, the voters roll. Section 21(4) the Electoral Act states that:

*Within a reasonable period of time after the calling of an election, the [Zimbabwe Electoral] Commission shall provide, on payment of the prescribed fee, to every political party that intends to contest the election, and to any observer who requests it, one copy of every voter's roll to be used in the election, either in printed or in electronic form as the party or observer may request.*<sup>[168]</sup>

Nongovernmental organizations may only provide voter education if they are registered under the Private Voluntary Organizations Act, and if the ZEC approves their participation and their voter education materials. ZEC is also mandated with the accreditation of observers of elections.

However, the ZEC is not acting in accordance with the laws. Zimbabwe is failing its domestic and international obligations since the ZEC is partial to the ruling ZANU-PF party and is not an independent electoral management body.

## Freedoms of Association and Assembly

Section 67 of the Zimbabwe Constitution provides for the establishment of political parties, to campaign freely and peacefully, and to assemble.<sup>[169]</sup> The SADC Principles and Guidelines Governing Democratic Elections calls on SADC member states to adhere to the principle of freedom of association and of political tolerance. The development of the principles governing democratic elections aims at enhancing the transparency and credibility of elections and democratic governance as well as ensuring the acceptance of election results by all contesting parties.<sup>[170]</sup>

The pre-election environment in Zimbabwe shows that there is little tolerance for political opposition, with arbitrary arrests, detention, and malicious prosecutions of opposition members, and activists, and the challenges faced by opposition parties to campaign freely and to assemble. While the police contend that denying the opposition clearance to hold campaign rallies is being done in accordance with the law, the police are violating the right to freedom of assembly as protected by section 68 of the Constitution of Zimbabwe,<sup>[171]</sup> article 11 of the African Charter,<sup>[172]</sup> and article 21 of the ICCPR.<sup>[173]</sup>

International human rights law as reflected in the African Charter and the ICCPR permits restrictions on the rights to freedom of expression, movement, assembly, and association only if they are prescribed by legislation and meet the standard of being "necessary in a democratic

society.” According to the United Nations Human Rights Committee (HRC), the independent expert body that monitors state compliance with the ICCPR, this implies that the limitation must respond to a pressing public need and be compatible with the basic democratic values of pluralism and tolerance. “Necessary” restrictions must also be proportionate, that is, balanced against the specific need for the restriction.<sup>[174]</sup> The Guidelines on Freedom of Association and Assembly in Africa, adopted in 2017, further direct states on the scope of such limitations.<sup>[175]</sup>

The measures taken by the Zimbabwe authorities have not met these international standards.

## African Standards for Democratic Elections

The African Charter on Democracy, Elections and Governance was adopted on January 30, 2007, and entered into force on February 15, 2012. Its adoption was premised on the realization that conflicts on the continent were caused or exacerbated by many factors, notably, including: lack of democratic practices in the management of public affairs, non-observance of human rights, as well as unfair electoral processes.<sup>[176]</sup> The charter seeks to entrench in the continent a political culture of change of power based on the holding of regular, free, fair, and transparent elections conducted by competent, independent and impartial national electoral bodies. It obligates states parties to:

*(1) Establish and strengthen independent and impartial national electoral bodies responsible for the management of elections. (2) Establish and strengthen national mechanisms that redress election-related disputes in a timely manner. (3) Ensure fair and equitable access by contesting parties and candidates to state controlled media during elections; [and] (4) Ensure that there is a binding code of conduct .... The code shall include a commitment by political stakeholders to accept the results of the election or challenge them through exclusively legal channels.*<sup>[177]</sup>

The Southern African Development Community’s (SADC) Principles and Guidelines Governing Democratic Elections provide the principles for the conduct of democratic elections, stipulate the responsibilities of the member states holding democratic elections, and specify the procedures for the establishment and operation of SADC Electoral Observation Missions.

The principles for the conduct of democratic elections include the full political participation of all citizens; freedom of association; political tolerance; equal opportunity for all political parties to access the state media; impartial electoral institutions and an independent judiciary; voter education; acceptance and respect of the election results proclaimed by the national electoral authorities, and legal challenges of the election results.<sup>[178]</sup>

The responsibilities of member states holding elections include that they take measures to ensure the “scrupulous implementation” of these democratic election principles; establish impartial, all-inclusive, competent, and accountable national electoral bodies staffed by qualified personnel; safeguard human and civil liberties of all citizens, including the freedom of movement, assembly, association, expression, campaigning, and access to the media on the part of all stakeholders, during electoral processes; and provide adequate resources for carrying out democratic elections.<sup>[179]</sup>

The SADC electoral charter also identifies the responsibilities of member states to SADC Electoral Observation Missions, including that member states must accredit the members of the SADC Electoral Observation Missions on a non-discriminatory basis. There are also provisions for the establishment of an Electoral Observation Mission, for a code of conduct for electoral observers, and for the observation of elections.<sup>[180]</sup>

Zimbabwe’s pre-electoral environment is not in line with African standards for democratic elections.

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[1] International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976.

[2] African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force October 21, 1986

[3] Four decades after the start of pogroms that left over 20,000 dead and tens of thousands of others missing and or displaced in Zimbabwe, survivors are still searching for closure. But closure remains elusive. See Cyril Zenda, "Genocide: An Open Wound," *Fair Planet*, February 14, 2022, <https://www.fairplanet.org/story/zimbabwes-genocide-an-open-wound/> (accessed July 18, 2023).

[4] Isheanesu Gusha, "Memories of Gukurahundi massacre and the challenge of reconciliation," *Studia Historiae Ecclesiasticae*, vol. 45 (2019), [http://www.scielo.org.za/scielo.php?script=sci\\_arttext&pid=S1017-04992019000100010](http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1017-04992019000100010) (accessed July 18, 2023).

[5] Isheanesu Gusha, "Memories of Gukurahundi massacre and the challenge of reconciliation."

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[7] "Zimbabwe: Terror tactics in the run-up to parliamentary elections, June 2000," Amnesty International news release, June 7, 2000, <https://www.amnesty.org/en/documents/afr46/014/2000/en/> (accessed July 18, 2023).

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[11] "Zimbabwe: Women forced to flee their homes for refusing to reveal their vote," Amnesty International news release, August 6, 2013, <https://www.amnesty.org/en/latest/news/2013/08/zimbabwe-women-forced-flee-their-homes-refusing-reveal-their-vote/> (accessed July 19, 2023).

[12] "Zimbabwe: Terror tactics in the run-up to parliamentary elections, June 2000," Amnesty International news release.

[13] "Zimbabwe: Terror tactics in the run-up to parliamentary elections, June 2000," Amnesty International news release.

[14] The Central Intelligence Organization (CIO) is Zimbabwe's feared intelligence unit, which has been criticized for human rights violations, including allegations of torture, extrajudicial killings, and political intimidation. "Central Intelligence Organisation (CIO)," Pindula, [https://www.pindula.co.zw/Central\\_Intelligence\\_Organisation\\_\(CIO\)/](https://www.pindula.co.zw/Central_Intelligence_Organisation_(CIO)/) (accessed July 18, 2023).

[15] Human Rights Watch, *Bullets for Each of You, State-Sponsored Violence since Zimbabwe's March 29 Elections* (New York: Human Rights Watch, 2008), <https://www.hrw.org/report/2008/06/09/bullets-each-you/state-sponsored-violence-zimbabwes-march-29-elections>.

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1. Traditional leaders must act in accordance with this Constitution and the laws of Zimbabwe.
2. Traditional leaders must not:
  - a) be members of any political party or in any way participate in partisan politics;
  - b) act in a partisan manner;
  - c) further the interests of any political party or cause; or
  - d) violate the fundamental rights and freedoms of any person.

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- [165] International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976.
- [166] African [Banjul] Charter on Human and Peoples’ Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force October 21, 1986. ratified by Zimbabwe May 30, 1986.
- [167] African Charter on Democracy, Elections, and Governance, adopted January, 2007.
- [168] Electoral Act, amended October 25, 2016.
- [169] Section 67 of the Zimbabwe Constitution sets out the political rights of Zimbabwean citizens. In terms of section 67(2)(a) of the Constitution, Zimbabweans have the right to form political parties or to belong to political parties of their choice. See also: International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No.16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, art. 22.
- [170] Comprised of 16 member states: Angola, Botswana, Comoros, Democratic Republic of Congo, Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, United Republic Tanzania, Zambia and Zimbabwe, SADC seeks to promote economic development through efficient, productive systems, deeper cooperation and integration,

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[178] SADC Principles and Guidelines Governing Democratic Elections, adopted July 2015, Art. 2.

[179] *Ibid.*, Art. 7.

[180] *Ibid.*, Art. 3-5, 7.