

THE CARTER CENTER



Zimbabwe

NGO Submission to the U.N. Human Rights Committee

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The Carter Center

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Introduction

The Carter Center submits this report as part of the consideration of the State of Zimbabwe at the 143rd session of the UN Human Rights Committee. The submission addresses issues related to Articles 2, 3, 14, 21, 25 and 26 of the International Covenant on Civil and Political Rights (ICCPR).

The Carter Center has a long history of observing the development of democracy in Zimbabwe and the respect for the human rights of its people. Beginning in 2002, The Carter Center expressed interest in observing the country's elections and engaged key stakeholders to discuss upcoming electoral preparations and the prospects for a credible, democratic election. Ultimately, however, the Zimbabwean government decided against extending an invitation to the Center to observe at that time. Again in 2013, The Carter Center expressed interest in observing and carried out a pre-election visit to Zimbabwe to assess whether its engagement would be welcomed. Several interlocutors, including representatives from three of Zimbabwe's major political parties, indicated they would welcome a Carter Center observation presence. Nonetheless, the Zimbabwe Electoral Commission accreditation committee denied the Center's application to observe.

In 2018, The Carter Center was invited to observe the harmonized presidential and parliamentary elections in Zimbabwe and deployed an expert mission to assess key aspects of the electoral process. In March 2018, the Center conducted a pre-election assessment and established an on-the-ground presence in May 2018. The team analyzed Zimbabwe's legal and electoral framework, election administration, political and electoral context, campaign environment, women's participation, civil society engagement, and electoral dispute resolution. Additionally, Carter Center experts provided technical assistance to the Zimbabwe Election Support Network, a prominent citizen observer organization, to support its data-collection efforts. It did not deploy an observer delegation or conduct election day observation in a systematic and comprehensive manner. The Center submitted a shadow report to the Universal Periodic Review (UPR) of Zimbabwe in 2021 based on the data collection and analysis of its 2018 election observation mission to encourage and promote electoral reform in Zimbabwe.

Following an invitation to observe Zimbabwe's 2023 elections, The Carter Center deployed a comprehensive international election observation mission to Zimbabwe to assess key aspects of the electoral process. The Center's mission was composed of a core team of technical experts and a delegation of long- and short-term observers deployed throughout the country to assess the pre-election atmosphere and election-day procedures. The Carter Center's election observation methodology is grounded in international human rights principles. Its mission assessed the compliance of Zimbabwe's electoral process with regional and international obligations and standards for democratic elections, including principles enshrined in national law and regional and international treaties, including the International Covenant on Civil and Political Rights, among others. The Carter Center conducted its election observation mission in accordance with the 2005 Declaration of Principles for International Election Observation.

The Center found that the 2023 elections took place in a restricted political environment marked by an unlevel playing field, while the election administration demonstrated lack of independence and transparency in key areas, undermining the credibility of the process. Overall, the Center concluded that the 2023 electoral process did not adequately respect Zimbabwe's regional

and international commitments for democratic and inclusive elections, which made it difficult for contestants to compete on an equal basis and prevented the genuine expression of the will of the Zimbabwean people. The Center’s final report from its international election observation mission to Zimbabwe’s Aug. 23 harmonized elections is available [here](#).

In addition to these findings, The Carter Center documented several human rights issues and violations in the context of election observation, which remain of significant concern and in need of remedy. Human rights are a prerequisite for a credible and meaningful electoral process, and genuine elections are a necessary and fundamental component of an environment that protects and promotes human rights.

1. Constitutional and legal framework within which the Covenant is implemented (Arts. 2)

While Zimbabwe’s Constitution largely safeguards fundamental human rights—including the freedoms of opinion and expression, assembly, and association—subordinate legislation unduly limits those rights in the context of elections and is not fully consistent with international standards for elections and Zimbabwe’s obligations under the ICCPR. Some of the most controversial legislation that needs to be revisited and revised to allow for citizens’ full participation in public affairs include the Maintenance of Peace and Order Act (MOPA) 2019, the Criminal Law (Codification and Reform) Amendment Act 2023 (otherwise known as the Patriotic Act), as well as the Private Voluntary Organizations (PVO) Act, 2016 and PVO Amendment Bill, 2021.

Among other restrictions, the Maintenance of Peace and Order Act, 2019 requires organizers of public gatherings to provide local regulatory authorities with a seven-day advance notice for demonstrations and a five-day advance notice for public meetings. While this requirement is reduced to three days for public meetings during an election period, the Act effectively mandates that organizers obtain authorization from the police, who are granted broad powers, often resulting in bans on assemblies at specific locations and limitations on the types of assemblies allowed. This requirement imposes undue limitations on the organizers of election-related events. Failing to give notice constitutes a criminal offense punishable by imprisonment for up to one year.

The so-called ‘patriotic provisions’ introduced to the criminal code in 2023 criminalize anyone found guilty of “willfully injuring Zimbabwe’s sovereignty and national interest,” with up to 10 years’ imprisonment. This is broadly defined as participating in meetings to consider or plan armed intervention in Zimbabwe, subverting or overthrowing its government, or imposing or extending sanctions or trade boycotts against Zimbabwe. The law also imposes strict limitations and penalties on engagements with foreign governments or their representatives, significantly limiting journalists’ access to sources considered anti-government.

The PVO Amendment Bill introduced in 2021 enables the Minister of Public Service, Labor and Social Welfare to designate civil society organizations as vulnerable to misuse by terrorist organizations, thereby limiting the freedom of assembly and association for civil society organizations guaranteed in Articles 21 and 22 of the ICCPR. The PVO Bill would require any “material change” within the organization to be registered with the Government of Zimbabwe. While the bill is yet to be signed into law, it has promoted self-censorship and general hesitance of members of civil society to meet with representatives of the international community, including

representatives of international election observation missions. The provisions of the PVO Bill do not align with the principles of legality and proportionality and lack legal certainty.

In addition to this repressive legislation, the Carter Center would also like to highlight the need for a constitutional amendment, as well as legislative action, to support a balance of powers. As a result of recent constitutional changes made in 2017 and 2021, Zimbabwe's executive branch has increased its powers to appoint personnel of key institutions such as the judiciary and the office of the prosecutor general. This includes the power to extend the tenure of senior judges beyond the official retirement age. This weakens trust in the judiciary and undermines the independence of the courts and the role they play in safeguarding human rights and freedoms. This is contrary to Article 14 of the ICCPR which requires independence and effective functioning of the judiciary, particularly in criminal cases. Overall, public confidence in the judiciary remains low.

Last amended in 2023, the Electoral Act facilitates the right to vote and encompasses all essential facets of the electoral process. Nevertheless, there is a pressing need for its alignment with the Constitution through a comprehensive electoral reform. Provisions related to the electoral system, electoral administration, voter and candidate registration, election observation, campaign finance, and electoral complaints and appeals warrant a comprehensive review to ensure that the legal framework fully aligns with the Constitution and international standards for elections.

Recommendation: *We encourage the committee to make the following recommendations to the Government of Zimbabwe:*

- To ensure a coherent electoral framework, the Electoral Act should be reviewed and aligned with Zimbabwe's 2013 Constitution, regional and international standards adopted by Zimbabwe, and best practices for democratic elections to more fully protect the rights of speech, assembly and association, as well as the independence of the judiciary. A meaningful and comprehensive reform process should take place well in advance of the next election period and should include an inclusive and transparent consultation process.
- Remove repressive provisions in laws such as the Maintenance of Peace and Order Act and the Patriotic Act; cease the enactment of the PVO Amendment Bill in its current form to protect the rights of citizens to freedom of association and allow their full participation in public affairs.

2. Anti-Corruption Measures (Arts. 2, 25)

During the 2023 election campaign, a network of official social media accounts – including that of the president; the Ministry of Information, Publicity and Broadcasting Services; some members of the government; the governing party, ZANU-PF; state-owned media accounts; and supporters – shared coordinated messages covering the incumbent's achievements and campaign events. The similar, repeated, and concurrent messages shared by accounts of state officials, the Ministry of Information, Publicity and Broadcasting Services, and state-owned media blurred the lines

between state officials and campaign staff. International good practice recommends that the legal framework clearly provides for a general prohibition of abuse of one's official position.¹

Campaign finance is not regulated in Zimbabwe, which undermines the transparency and accountability of the electoral process. The absence of regulations to limit donations from individual donors and the lack of caps on electoral campaign expenditures, as well as inadequate reporting and oversight procedures, and the absence of requirements to publish party finance reports, keep the electoral playing field uneven and enable the misuse of state resources for campaign purposes. This undermines the rights of people to meaningfully participate in public affairs in line with Article 25 of the ICCPR.

The Zimbabwe Constitution provides that a member of parliament (MP) or a councilor can be recalled by a political party if they cease to belong to the political party of which he or she was a member when elected to Parliament. The principal objective of the provision is to protect political parties and their supporters against defections. However, sections 129 and 278 of the Constitution have been interpreted by the courts as giving political parties, rather than the electorate (including people who voted the MP or councilor into office), exclusive powers to recall elected officials. This mechanism is damaging to representative democracy. This interpretation of the recall provisions has been challenged in court several times since the adoption of the 2013 constitution, most recently by CCC legislators in an ongoing legal challenge against the recall of several CCC MPs, senators, and councilors elected in August 2023. These dynamics highlight the need for either scrapping or revising the recall provisions to prevent the abuse and manipulation of the provisions to subvert democratic processes.

Recommendation: *We encourage the committee to make the following recommendations to the Government of Zimbabwe:*

- Revise the legal framework to prevent civil servants, senior officials, and members of political parties from using their positions for their own personal or collective political gain. The Government of Zimbabwe should introduce robust mechanisms to prohibit civil servants and senior officials from using their positions of power to campaign, including on social media, or misuse administrative resources, including the use of state vehicles in the campaign. Furthermore, sections 129 and 278 of the 2013 Constitution should be revised to include safeguards against the abuse of recall power.
- Introduce regulations on campaign expenditures, including requiring campaigns to regularly submit financial reports and ensuring the publication of financial reports are accessible to the public. If campaigns or individuals are guilty of violating campaign finance regulations, the Carter Center suggests that graduated sanctions should be implemented to prevent further violations. An independent institution with trained and

¹ [OSCE \(ODIHR\), CoE \(Venice Commission\): Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources During Electoral Processes](#), Para. II.A.1.1 stipulates that "The legal framework should provide for a general prohibition of the misuse of administrative resources during electoral processes. The prohibition has to be established in a clear and predictable manner. Sanctions for misuse of administrative resources have to be provided for and implemented. Such sanctions need to be enforceable, proportionate and dissuasive." 130 By Aug. 18, ZANU-PF released ads for a total of US\$23,140 accounting for more than 80% of the total amount spent since July 2022. CCC and its "For Everyone" campaign page shared paid ads for a total amount of US\$4,887, mostly during the last weeks of the campaign (US\$4,687 from Aug. 3 to Aug. 23).

competent professionals should be established with a mandate and resources to audit campaign expenses and ensure adherence to campaign financial regulations.

3. Gender Equality (Arts. 2, 3, 25 and 26)

Zimbabwe's Constitution and legal framework for elections include commitments to ensure gender parity. Temporary measures exist to promote the participation of women.² However, these measures are not fully supported by subordinate legislation (thus far, the government of Zimbabwe has not implemented incentives to promote parity in the nomination of candidates, nor have they put in place measures to address noncompliance). Consequently, women's participation was lower in 2023 than in previous elections, as political parties failed to achieve gender balance among their nominated candidates for directly elected seats, relying on seats reserved exclusively for women to ensure their inclusion.³ Overall, in 2023, 11% of the political aspirants nominated to run for National Assembly seats were women. This represented a decrease of more than three percent from 2018, when 14.4 percent of women candidates were nominated for directly elected seats. The significant increase in candidate nomination fees limited the ability of all but the wealthy (disproportionately male candidates) to run for the directly elected National Assembly seats.

***Recommendation:** We encourage the committee to make the following recommendations to the Government of Zimbabwe:*

- Review existing mechanisms aimed at promoting women's participation in close consultation with all relevant stakeholders to ensure higher representation of women in elective offices, in line with the constitution. The selection and nomination of female candidates by political parties, including for proportional representation seats, should be regulated to ensure equal opportunities for all candidates as well as compliance with constitutional provisions requiring representation of young women and women with disabilities on party lists, supported by dissuasive sanctions and incentives, including financial. Revise the existing provisions for women's quotas to ensure effective measures to ensure gender equality and fair representation provided by the Constitution.

4. Access to justice, independence of the judiciary, and fair trial (Arts. 2 and 14)

When faced with the possibility of election-related disputes, political parties in Zimbabwe are required to present a discretionary security deposit to cover potential legal settlements and fees as decided by the judge, which may restrict parties' rights and access to justice.⁴ The Electoral Act provides that the security fees prescribed by the commission, in consultation with the chief justice,

² In addition to the directly elected seats in the National Assembly and local councils where women compete with men on an equal basis, the constitution provides for special quotas for women on all levels of elective offices based on proportional representation (PR) party lists. This was introduced as a temporary measure for the life of the first two parliaments after 2013 and extended for the life of four parliaments in 2021, the Constitution of Zimbabwe Amendment (No. 2) Act, 2021.

³ Reserved seats for women are distributed to political parties based on the number of seats they win in each of Zimbabwe's ten provinces.

⁴ See [Malaba CJ Retirement case: Full High Court Judgment in Kika v Minister of Justice & Ors; YLAZ v JSC & Ors, HH 264-21 | veritaszim.](#)

should be paid no later than seven days following the submission of a petition.⁵ In practice, the fees are set so high that they could restrict parties' right to justice and constitute an additional barrier for election-related disputes, especially for women and other underrepresented groups.⁶ Some candidates reported having to pay large amounts for court fees, legal representation, and related travel and accommodation costs that significantly impacted their campaign resources.

As mentioned previously, constitutional amendments in 2017 and 2021 increased the president's powers to appoint members of the judiciary and to extend the tenure of senior judges beyond the official retirement age, undermining the independence of the courts. Furthermore, the powers of the High Court and the Electoral Court are not clearly delineated, and overlapping powers contribute to delays in resolving election-related disputes. These delays undermine public confidence in the judiciary and erode trust in the electoral process.

Recommendation: *We encourage the committee to make the following recommendations to the Government of Zimbabwe:*

- Lower the cost of security fees for election-related court disputes to ensure equitable access to justice.
- Amend the judicial appointment procedure to guarantee the separation of powers. In particular, the government of Zimbabwe should limit executive involvement in the selection of High Court justices to protect judicial independence and the rights of citizens, in line with the Art.14 of the ICCPR. Establish clear and distinct mandates for both the High Court and the Electoral Court, ensuring that their roles are well-defined and complementary.

5. Freedom of expression and the right of peaceful assembly (Arts. 21)

Political environment: Although incidents of political violence were fewer than in the 2018 election cycle, tensions and polarization increased in the months leading up to the 2023 vote, as legislation was introduced or considered that restricted individuals' freedoms of speech, movement, and association, including the Criminal Law (Codification) Amendment Act [Patriotic Act] and the PVO Amendment Bill. While the PVO legislation has yet to be signed into law by the president of Zimbabwe, its potential enactment, along with the Patriotic Act, has created a chilling effect on civil society.

Campaign periods: The 2023 election campaign occurred in a restrictive and highly polarized environment. Authorities reportedly banned over 300 public gatherings, making it extremely difficult for parties and candidates to connect with potential supporters and the electorate. There were isolated incidents of violent clashes both within and between parties. The Patriotic Act further

⁵ On Aug. 8, 2018, the chief justice announced that the amount prescribed for petitions related to the July 30, 2018, harmonized elections were: US\$1,000 for local authority election petitions, US\$2,000 for local National Assembly petitions, and US\$5,000 for presidential election petitions.

⁶ U.N. (CCPR): General Comment 32: Right to Equality Before Courts and Tribunals and to Fair Trial (Article 14), Para. 11; "...the imposition of fees on the parties to proceedings that would de facto prevent their access to justice might give rise to issues under article 14, paragraph 1.

restricted the right to peaceful assembly and negatively impacted the exercise of the rights to freedom of association and expression, particularly in the context of campaigning.

Information environment and social media: Despite reforms to align the legal framework with the constitution, Zimbabwe’s laws still criminalize legitimate speech and provide for harsh prison terms, contrary to the country’s international commitments. This includes the 2021 Cyber and Data Protection Act, which restricts the freedom of expression online with the threat of unduly severe legal penalties.

Recommendation: *We encourage the committee to make the following recommendations to the Government of Zimbabwe:*

- Repeal the legal provisions criminalizing freedom of assembly and free speech, including online, such as those in the Criminal Law Codification and Reform Amendment Act, 2023 (Patriotic Act) and the 2021 Cyber and Data Protection Act.
- Revise and remove repressive measures within the current PVO amendment bill, prior to its enactment

6. Participation in public affairs (Arts. 25 and 26).

Zimbabwe’s constitution contains a range of provisions aimed at guaranteeing rights and prohibiting discrimination. The constitution recognizes sign language as one of the country’s 16 languages and mandates the promotion of its use. It also provides that two members of the Senate shall be elected to represent people with disabilities and that those members should be persons with disabilities as defined in the Electoral Law.⁷ The 2021 constitutional amendments also promote representation of women with disabilities within the 60-seat quota for women for the National Assembly.

Despite these legislative safeguards, the participation of persons with disabilities remain low at all levels of society. Some of them lack identity documents and so are not able to exercise their right to vote or stand for office.⁸ Interlocutors expressed concerns that families of some persons with disabilities did not take steps to ensure that they were registered as voters because of existing cultural norms and stigma, or because of challenges in accessing registration venues. Moreover, women and girls with disabilities are particularly vulnerable to discrimination.⁹

⁷ The Electoral Act defines “person with a disability” as a person with a physical, mental or sensory disability, including a visual, hearing or speech functional disability, which gives rise to physical, cultural or social barriers inhibiting the person from participating at an equal level with other members of society in activities, undertakings or fields of employment that are open to other members of society.

⁸ According to the National Human Rights Commission report, “Parents’ and other family and community member’s negative and discriminatory attitudes towards PWDs often resulted in them ‘hiding’ their children with disabilities and they neither cared nor found value in registering them.”

⁹ The CEDAW Committee noted with concern the stigmatization and increasing risk of violence, exploitation, and abuse for women and girls with disabilities. CEDAW concluding observations, para. 45.

Recommendation: *We encourage the committee to make the following recommendations to the Government of Zimbabwe:*

- Introduce enabling legislation to ensure that political parties respect the constitutional provisions regarding the participation of persons with disabilities.
- To increase participation of persons with disabilities in political life, introduce enabling legislation to introduce temporary quotas for persons with disabilities for the National Assembly, provincial/metropolitan and local councils with mandatory requirements for political parties to nominate persons with disabilities. This should be preceded by a participatory consultative process with relevant stakeholders.