

SADC - REMAIN TRUE TO COMMITMENT FOR PEACEFUL, FREE AND FAIR ELECTIONS IN ZIMBABWE

CIVIL SOCIETY JOINT PETITION

ISSUED AHEAD OF
SADC HEADS OF STATE SPECIAL SUMMIT ON ZIMBABWE

South Africa

Noting the Constitutional Court ruling which ordered and directed the President of the Republic of Zimbabwe “to proclaim as soon as possible a date for the holding of Presidential elections, general elections, and for the election for members of governing bodies of local authorities in terms of section 58 (1) of the Constitution of Zimbabwe which elections should take place no later than 31 July 2013”;

Emboldened by the SADC Troika of the Organ on Politics, Defence and Security Cooperation resolutions of 10 May 2013 in Cape Town, South Africa, which urged the Zimbabwean “parties to finalise the outstanding issues in the implementation of the Global Political Agreement (GPA) and preparations for holding free and fair elections in Zimbabwe”

Acknowledging the enactment of a New Constitution in Zimbabwe, which became operational on 22 May 2013

Fully aware of the implications of the New Zimbabwean Constitution the political and legal framework preceding the election of a new government as set out in the Transitional clauses of the constitution (Sixth Schedule, Section 15) and holding of elections,

Maintaining our own commitment to peaceful, free and fair elections in Zimbabwe, based universal suffrage, respect of peoples freedoms and a level political playing field,

Concerned by the prevailing unfavourable conditions and the limited time that is left before the elections; if the Constitutional Court ruling of May 31 2013 is valid and is abided by,

Worried by the evident non-compliance and failure to fully implement the GPA by the concerned political parties;

Commending the unwavering commitment of SADC towards resolving Zimbabwe’s challenges, and its un-tiring dedication towards maintaining peace and stability in the region;

Thankful for the noble gesture by SADC in proffering support for electoral processes in Zimbabwe:

Convinced that the role of SADC in monitoring the progress and compliance of the GPA and allied political processes remains essential and necessary for the conduct of free and fair elections in Zimbabwe.

Now therefore, we place the following petition at the feet of the SADC Heads of State Special Summit on Zimbabwe's electoral process, of Maputo on the 9th of June 2013,

That SADC remains true to its commitment to the conduct of “free, fair and peaceful” democratic elections in Zimbabwe based on SADC's own Principles and Guidelines Governing Democratic Elections, and that it will not recognize the legitimacy of any election result that is materially tainted by violence, intimidation, or obstruction or manipulation of the processes of registration and voting.

As a **minimum**, we assert that the next Zimbabwean Election must be conducted in a manner that ensures –

1. Free formation of voter preferences without coercion, manipulation or intimidation regarding whom to vote for, and security of this choice through effective secrecy of the vote;
2. The election is based on a transparent and updated voters roll developed after an open and accessible registration process, which allows for equal participation of all those who are eligible and have an interest;
3. Equal access to the media by all contesting parties and fair coverage of the election process, especially by state controlled media;
4. Adequate voter education that is not monopolized by the Election Management body (ZEC) and political parties;
5. Impartiality by Constitutional bodies, the judiciary and state institutions, especially the security sector, before, during and after the election;
6. Early deployment of local and international observers, without undue restrictions such as criminalization of domestic observers, or cherry picking of regional and international ones;
7. Votes are counted and weighed equally in a transparent process; and
8. The will of the people is respected, and irreversible.

We specifically petition SADC on the following issues, which we believe must be attended to ahead of the holding of Elections in Zimbabwe:

FUNDING FOR THE ZIMBABWEAN ELECTION

- i. That any SADC financial support for the election be expressly conditioned on compliance with previous SADC communiqués and SADC principles and guidelines governing democratic elections, or else the election will not be recognised as credible by SADC;
- ii. That SADC insists on the transparent and non-partisan handling of funds and their distribution in the various stages and elements of the electoral process.

URGENT ALIGNMENT OF THE LAWS IN LINE WITH THE NEW CONSTITUTION

- i. That SADC impresses upon the Governing authorities in Zimbabwe the need to ensure speedy alignment of election-related legislation with the New Constitution especially but not limited to amendments to the Electoral Law as the life of Parliament will legally come to an end on 29th of June, 2013;
- ii. That in line with paragraph 1 above, SADC encourages the Government of Zimbabwe to look beyond the Electoral Act, and also align other pieces of legislation which have an impact on elections, such as the Public Order and Security Act (POSA), Access to Information and Protection of Privacy Act (AIPPA), Broadcasting Services Act, Criminal law Codification and Reform Act, which have some sections which are clearly not consistent with provisions of the new constitution's Declaration of Rights, Chapter 4; and
- iii. That the alignment be followed through with actual operationalization of new legal framework before voting takes place.

VIOLENCE AND INTIMIDATION IN ELECTORAL ENVIRONMENT

- i. That SADC puts in place a clear agreed-to framework in which Political Parties commit to campaigning in a peaceful manner, devoid of violence and intimidation of the electorate, in line with Section 156 (c) of the new constitution;
- ii. That such a framework also ensures that political parties desist from using arms of government, state security apparatus and extra-legal bodies to fan violence and intimidate the electorate ahead of, during and after the elections;
- iii. That SADC secures a commitment from all political parties, that they will abide by the political par-

ties code of conduct to eliminate all forms of violence, including sexual gender based violence and hate speech throughout the electoral cycle; and

- iv. That SADC facilitates a commitment from Government of Zimbabwe that it will ensure that Heads of public institutions and their staffers such as Zimbabwe Electoral Commission, Registrar General Office, Attorney General's office and Judicial service among other institutions will be made to conduct themselves in a professional and non-partisan manner, in line with the Constitution and as required by law.
- v. That SADC facilitates an independent and transparent referral system and support mechanism for minimum standards of operation for responding to all forms of violence including threats to life and unlawful arrests, questioning or detention.

SECURITY SECTOR BEHAVIOUR AND CONDUCT

- i. That SADC institutes a mechanism or code for monitoring the adherence of security sector personnel to their constitutional mandates, and adherence to professional and non-partisan conduct of their duties;
- ii. The SADC-instituted mechanism ensures that Service chiefs are prohibited from making reckless, partisan and unconstitutional utterances and actions that would in any manner instil fear in the citizenry and political contestants and inhibit free participation in the electoral processes, and influence the outcome of the election; and
- iii. That SADC makes it unequivocally clear that failure by members of the security sector to adhere to the above-stated code, and attempts at subverting the will of the people will jeopardize SADC's recognition of the legitimacy of the electoral outcome.
- iv. That all structures of violence such as militia camps are disbanded and measures are put in place not to remind communities of past violations as a means of intimidation or cohesion.

FREEDOM OF SPEECH, ACCESS TO INFORMATION AND MEDIA FREEDOM AHEAD OF ELECTIONS

- i. That SADC encourages the Government of Zimbabwe to urgently ensure that the public media is accessible to all citizens and political players in fair and equal measure;
- ii. That SADC impresses upon the government of Zimbabwe to allow media practitioners and journalists to operate freely without intimidation, harassment and selective application of libel and defamation laws, which are also inconsistent with the New Constitution and need to be amended or repealed; and
- iii. That governing authorities ensure that public media refrain from the use of abusive, inflammatory language and hate speech before, during and after elections.

POLITICAL AND OPERATING ENVIRONMENT AND PROCESSES AHEAD OF ELECTIONS

We urge SADC to impress upon the governing authorities in Zimbabwe that the obligation to conduct “free, fair and peaceful elections” requires them to:

- i. Create a conducive environment by allowing civil society organizations to carry out their lawful activities without harassment, raids, restrictions and unlawful arrests and prosecutions;
- ii. Facilitate timely and adequate Voter and Civic education, which is freely conducted within the confines of the Declaration of Rights in the new Constitution and the electoral law, by the Zimbabwe Electoral Commission (ZEC), Civil Society and Political Parties,
- iii. Conduct a well-publicised, transparent and accessible Voter registration process that allows every Zimbabwean who wants to, to register without unnecessary impediments and bottlenecks.
- iv. That the issue of 'aliens' be resolved by putting practical measures for this cohort of the population to be eligible to vote through provision of accurate information, expedient service delivery that is affordable, accessible and simplified.

LOCAL, REGIONAL AND INTERNATIONAL ELECTION OBSERVERS

Given the urgency that the Constitutional Court Judgement creates, we strongly urge SADC to:

- i. Constitute and deploy an observer mission to monitor key electoral processes and assess the pre-electoral environment as soon as possible, preferably before the expiry of the life of Parliament (June 29);
- ii. Insist on the full accommodation of its Organ on Politics, Defence and Security Cooperation deployees to the Joint Monitoring and Implementation Committee (JOMIC) immediately, to assist with monitoring commitments and implementing the remainder of the GPA;
- iii. Call upon the governing authorities in Zimbabwe to ensure that local and International observers are accredited and deployed without undue delays, selectivity and cherry picking; and
- iv. Encourage the Zimbabwean government and electoral officials to ensure that all civil society organisations, media and political parties operating lawfully in Zimbabwe, who have an interest to play a role, be accredited to observe and monitor the electoral process without undue restrictions.

We believe that the measures above will assist the people of Zimbabwe and SADC to attain the shared aspiration of a Peaceful, Free and Fair Election in Zimbabwe, and we emphasise urgency in the above matters, in order to conform to the rule of law and the dictates of democratic elections

END/

ENDORSED BY:

1. Achieve Your Goal Trust (AYGT)
2. Ammenesty International
3. Beitbridge Residents Association (BRA)
4. Build a Better Youth Zimbabwe (BABY-Zimbabwe)
5. Bulawayo Progressive Residents Association (BPRA)
6. Centre for Natural Resource Governance
7. Chiredzi Residents Association (CRA)
8. Chitungwiza Progressive Residents Association (CPRA)
9. Combined Harare Residents Association (CHRA)
10. Community Tolerance Reconciliation and Development (COTRAD)
11. Counselling Services Unit (CSU)
12. Crisis in Zimbabwe Coalition (CiZC)
13. Ecumenical Support Service (ESS)
14. Election Resource Centre (ERC)
15. Gays and Lesbians of Zimbabwe (GALZ)
16. General Agriculture And Plantation Workers Union Of Zimbabwe (GAPWUZ)
17. Greater Kadoma Residents And Ratepayers Association (GKRRPA)
18. Gweru United Residents Association (GURA)
19. Habakkuk Trust (HT)
20. Heal Zimbabwe Trust
21. IUSHIN
22. Kariba Residents Association (KRA)
23. Kwekwe Progressive Residents Association (KPRA)
24. Legal Resources Foundation (LRF)
25. MACRA
26. Masvingo Residents and Ratepayers Association (MRRA)
27. Media Alliance Zimbabwe (MAZ)
28. Media Institute for Southern Africa (MISA)
29. Media Monitoring Project for Zimbabwe (MMPZ)
30. Mutare United Residents and Ratepayers Association (MURRA)
31. NASA
32. National Association of Societies for the Care of the Handicapped (NASCOH)
33. National Youth Development Trust (NYDT)
34. Nonviolent Action and Strategies for Social Change (NOVASC)
35. Zimbabwe Human Rights NGO Forum
36. Nonviolent Action and Strategies for Social Change (NOVASC)
37. Norton Residents Association (NRA)
38. Platform for Youth Development (PYD)
39. Research and Advocacy Unit (RAU)
40. Restoration of Human Rights Zimbabwe (ROHR)
41. Student Solidarity Trust (SST)
42. Women's Action Group (WAG)
43. Women's Coalition
44. Women of Zimbabwe Arise (WOZA)
45. Women's Trust (WT)
46. Youth Agrarian Society (YAS)
47. Youth Agenda Trust
48. Youth Initiative for Democracy in Zimbabwe Trust (YIDEZ)
49. Zimbabwe Civic Education Trust (ZIMCET)
50. Zimbabwe Coalition on Debt and Development (ZIMCODD)
51. Zimbabwe Congress of Trade Unions (ZCTU)
52. Zimbabwe Democracy Institute (ZDI)
53. Zimbabwe Election Support Network (ZESN)
54. Zimbabwe Farmers Union Development Trust (ZFUDT)
55. Zimbabwe Human Rights Association (ZimRights)
56. Zimbabwe Lawyers for Human Rights (ZLHR)
57. Zimbabwe National Students Union (ZINASU)
58. Zimbabwe Organisation for the Youth in Politics (ZOYP)
59. Zimbabwe Peace Project (ZPP)
60. Zimbabwe Poets for Human Rights (ZPHR)
61. Zimbabwe Women Lawyers Association (ZWLA)
62. Zimbabwe Young Women's Network For Peace Building (ZYWNP)