

Zimbabwe Human Rights Commission (ZHRC) Statement On The Suspension Of Elections In Zimbabwe
12 October 2020

1. The Zimbabwe Human Rights Commission (ZHRC/Commission) is mandated to promote the protection, development and attainment of human rights and freedoms at all levels of society. Furthermore, the Constitution of Zimbabwe Amendment (No.20) Act 2013 (Constitution) accords the ZHRC the mandate to protect the public against abuse of power and maladministration by State and public institutions and by officers of those institutions (the Public Protector functions), in terms of Section 243 (1) (e). The ZHRC is worried by the recent pronouncement by the Minister of Health and Child Care, Vice President C.G. Chiwenga, in terms of SI 225A /2020 of the Public Health (COVID 19 Prevention, Containment and Treatment) (Amendment) Regulations 2020, No.4. In his remarks, the Honourable Minister and Vice President suspended the holding of electoral processes indefinitely, “for the duration of the period of declaration of COVID-19 as a formidable epidemic disease”. The ZHRC also takes note of the announcement by the Zimbabwe Electoral Commission (ZEC) of conducting By-Elections on 5th of December 2020, and a pledge to adhere to the COVID-19 safety guidelines in the conduct of such elections

2. The Constitution under Section 67 provides for political rights. It gives every Zimbabwean citizen the right to free, fair and regular elections for any elective public office and to make political choices freely. Section 67 (2) (c), (d) provides for the right “to participate in peaceful political activity; and to participate, individually or collectively, in gatherings or groups or in any other manner, in peaceful activities to influence, challenge or support the policies of the Government or any political or whatever cause”.

3. Article 25 of the International Covenant on Civil and Political Rights (ICCPR, to which Zimbabwe is a party , provides that citizens have the right and the opportunity, (and without unreasonable restrictions) to take part in the conduct of public affairs, directly or through freely chosen representatives- meaning the right to vote through electoral processes. The ZHRC underscores the fact that the right to vote in all elections and referendums to which this Constitution or any other law applies, should therefore be observed and respected.

4. The Commission appreciates the dangers and “threats” to the rights to health and life, which came with the COVID-19 Pandemic and in this regard has been active in urging the public to adhere to measures in place to contain the spread of COVID-19. The Commission further welcomes the efforts by Government in fighting this threat by coming up with precautionary measures such as lockdowns and other restrictions, which indeed are efforts in the right direction in line with the provisions of section 86 of the Constitution of Zimbabwe limiting the enjoyment of certain rights and freedoms in times of health and other emergencies.

5. The ZHRC also notes that Government has since relaxed some lockdown measures by allowing gatherings of at most a hundred people, schools and churches have

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reopened , taking cognisance of the COVID-19 precautionary measures. Places such as schools for example, have hundreds of people concentrated in one place and by 9 November 2020, schools will be operating at maximum capacities. The ZHRC also notes that the Government (through Parliament) allowed the conducting of the Public consultations for the Constitutional Amendment Bill (No. 2), which were carried out across all provinces during the peak of the COVID-19 pandemic with more strict

lockdown measures in June 2020. Government argued that precautionary and safety measures would be adhered to during the consultations. Indeed through monitoring of these consultations, the ZHRC witnessed the practice and adherence to such precautionary measures. If COVID-19 precautionary measures could be practised in such an environment, the ZHRC is of the view that by-elections could in the same spirit, proceed as they are polling station based. The pronouncement that elections be suspended appears contradictory and selective as other electoral processes were held and continue to take place, for instance, the ruling party ZANU- PF, proceeded with its Primary elections in Kwekwe on the 4th of October 2020 and preparations are being made for the holding of District Coordinating Committees (DCC) elections countrywide.

6. In addition, the Commission draws the attention of the Government to other jurisdictions such as Malawi which conducted its Presidential elections on the 23rd of June 2020, when the pandemic was still posing serious threats. Tanzania (28 October 2020, General elections) and South Africa, which recorded higher Confirmed COVID-19 cases, has scheduled to proceed with their electoral processes during this same COVID-19 period. Considering the high numbers of vacant seats for both Legislatures and Councillors, following recalls and other reasons, it follows that service delivery and representation of citizens are now compromised and so elections would be ideal to address such gaps in compliance with the WHO guidelines and precautionary measures.

7. COVID-19 is indeed a significant threat to public health hence swift and effective government action is necessary. However, the ZHRC has noted that the COVID-19 active cases have significantly declined and no longer as alarming as in other countries in the region. Therefore, the indefinite suspension of by-elections goes against principles of democracy and contradicts the situation on the ground. The Commission believes that any manageable crisis must not be used as a pretext to undermine people's Constitutional political rights and freedoms.

8. Recommendations

Government of Zimbabwe 8.1. The ZHRC calls upon the Government of Zimbabwe to observe and respect the democratic and political rights of its people as enshrined in the Constitution and other regional and international instruments and guidelines. While restrictions may be necessary in a democratic society, they must respect pluralism, broadmindedness and tolerance. Measures should be for a limited and reasonable duration not indefinite.

8.2. Government authorities and structures must exercise separation of powers, consultative engagements and inclusion in serious decision making processes. Pandemics should not be used as an opportunity for States to unleash absolute Executive powers. Such powers should be exercised fairly and reasonably and

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should avoid taking shortcuts which in the long run may tend to persist and become permanent features eroding or diminishing democratic principles and values.

9. Zimbabwe Electoral Commission

9.1 Should continue exercising its independence and autonomy with regards to the electoral processes as per its Constitutional mandate

Citizens and Civil Society

9.2 Citizens should, when necessary, peacefully claim their Constitutional rights and take duty bearers to account.



9.3 They should also always adhere to Government's Safety guidelines especially during pandemics, such as the COVID-19. Coronavirus

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