Petition to be Handed into 10 Downing Street on 11th July 2018

# Written: 4th July 2018

**Independence Day in the USA – but sadly not the case in Zimbabwe.**

***As we are writing, the MDC Alliance calls for outside help from SADC and AU to intervene on several issues of Constitutional and Electoral Law breaches by ZEC 4th July 2018 13:00***

The Zanu PF regime in Zimbabwe, was not elected in a democratic manner, in 2008 the army refused to allow the clear winner Morgan Tsvangirai of the MDC to form a Government, instead Mnangagwa & General Chiwenga [now deemed President and Vice President] ordered Mugabe to forcefully take office.

In 2013 serious electoral fraud took place, and again Mugabe as supported by Mnangagwa took power.

In November 2017 a de facto Military Coup d’état took place to remove Mugabe. Whilst this action was popular with the ‘masses’ – only to the extent of removing the dictator, another dictator was installed. Whilst many took at face value the endless promises and plans made by Mnangagwa and Chiwenga [now a ‘retired General’ and “Vice President”] few now would take the same stance.

At the same time, your Government, through the Foreign Office, has seemly ‘accepted’ that these coming Elections will be Free, Fair and Credible. This is simply not that case on several aspects as will be shown below from many sources and institutions.

""In a democracy, procedural legitimacy is earned through an election. The government has to be elected in accordance with the procedures set out in the Electoral Law. The quality of those rules is not an issue. This is why some dictators religiously hold elections. They make rules, unfair rules, which they faithfully follow to the letter and afterwards claim to have been duly elected in accordance with the law. When they are challenged that their rules are unfair, their response is that they are a sovereign state with the power to make their own laws which they followed. Their aim is to claim procedural legitimacy.""

"" This is why, for example, when asked to conduct elections fairly, electoral institutions such as ZEC respond by saying that they are simply following the law and they have no power to change it.""

Alex Magaisa

Dr Alex Magaisa holds a PhD in Law from University of Warwick in the U.K. He trained as a lawyer in Zimbabwe and the U.K and he currently teaches law at Kent Law School, the University of Kent. Alex has extensive experience in and knowledge of Zimbabwean law and politics. He has held positions which have given him a vantage view of Zimbabwean law and politics.

Free Fair and Credible Elections?

# Partisan Application of the Law

The Southern Africa Litigation Centre (SALC) has criticised the Zimbabwean High Court

In a statement on 3rd July 2018, SALC said that the dismissal of the case on a technicality was a "disappointment".

Kaajal Ramjathan-Keogh, SALC's executive director, said the legal change by Veritas had emphasised that the Electoral Act limitations were violating freedom of expression and had created a virtual "state monopoly on speech and constitute unjustifiable prior restraint".

He added that the Electoral Act violated the "general public's rights to receive information and ideas, their right to equality, their right to free and fair elections and their right to make free and informed political choices".

(see [http://www.southernafricalitigationcentre.org/2018/07/03/news-release-veritas-v-zimbabwe-electoral-](http://www.southernafricalitigationcentre.org/2018/07/03/news-release-veritas-v-zimbabwe-electoral-commission-2-others/) [commission-2-others/)](http://www.southernafricalitigationcentre.org/2018/07/03/news-release-veritas-v-zimbabwe-electoral-commission-2-others/)

# No Diaspora Vote for 5 million Zimbabweans

UN says

“….First, would people living outside the country (an estimated 5 million Zimbabweans) have the right to vote? There was no official word from government, but there were some indications that at the very least, Zimbabweans living in countries such as South Africa and England could cast their votes (both countries have the highest number of Zimbabwean nationals). **Mnangagwa said so himself at the World Economic Forum, where he assured international delegates that Zimbabweans outside the country would not be excluded from the electoral process**.

However, the final answer only came on **30 May [2018**] with Mnangagwa’s announcement: **NO, THE DIASPORA WOULD NOT BE ABLE TO VOTE.”**“All this has re-ignited fears of election tampering. Tawanda Chimhini, the Director of the Election Resource Centre (ERC), believes that there is real reason to be worried. “We’ve not seen a fundamental shift in what’s happening in Zimbabwe since the 2013 elections. We have seen a consistent attempt in disenfranchising Zimbabweans. This has not changed under the new administration.””

(See [https://www.undispatch.com/zimbabwe-is-about-to-hold-its-first-elections-since-robert-mugabes-ouster-](https://www.undispatch.com/zimbabwe-is-about-to-hold-its-first-elections-since-robert-mugabes-ouster-will-it-be-free-and-fair/) [will-it-be-free-and-fair/)](https://www.undispatch.com/zimbabwe-is-about-to-hold-its-first-elections-since-robert-mugabes-ouster-will-it-be-free-and-fair/)

# State Institutions Compromised and Partisan

The British campaigning organisation Action for Southern Africa (ACTSA) has expressed fears that the outcome of the July elections are a foregone conclusion. ACTSA, formerly the Anti-Apartheid Movement, speaks of suspicion that what it calls the Zanu PF / military alliance will not allow Emmerson Mnangagwa to lose his first election. ACTSA’s report notes that the alliance is become increasingly sophisticated at manipulating state institutions and official processes and that the Zimbabwe Electoral Commission (ZEC) has refused to allow a comprehensive audit of the voters’ roll by an independent body – adding ‘some opposition politicians have noted a suspicious number of

centenarians on it’.

# Ballot Paper Printing: Real Worries Persist

ACTSA says that, although ZEC is allowing parties to observe the printing of ballot papers [**in fact, at a distance through glass**], it will still not permit independent verification of their distribution. It goes on: ‘For at least a year ACTSA’s partners have said that Zanu PF activists in rural areas have been intimidating people, telling citizens that their vote will not be secret. Moreover, since the announcement of the elections, the government has reportedly deployed around 5000 (plain- clothed) soldiers in rural areas, and some traditional leaders aligned with Zanu PF have allegedly

called on people to vote Zanu PF or face the threat of eviction from their homes.’ (See: <https://actsa.org/key-issues-regarding-the-zimbabwean-general-election-on-30-july-2018/>)

# Release of Voters Roll: MDC Alliance discriminatory tactics

There has been an insensitive disregard for the principles of transparency. Amongst other very pertinent issues;

* ZEC has refused to provide stakeholders with a proper Voters’ Roll as compiled and required

by the Electoral Act.

* ZEC has refused parties an opportunity to observe the printing of ballot papers and proceeded to print without the knowledge and input of stakeholders.
* ZEC has not put in place mechanisms for joint storage of the printed ballots in a secure manner.
* ZEC has not put in place mechanisms of transparent distribution of printed ballot papers.
* ZEC has allowed the state media to run a smear campaign against opposition candidates.

# Undue Influence of Voter Intentions by Traditional Chiefs

ZIMBABWE Peace Project (ZPP) national director Jestina Mukoko said traditional leaders were letting the nation down due to their involvement in politics as the country moves towards the elections.

“I was in Nyanga recently, a lot of people that I spoke to are afraid of the role of the traditional leaders. What has happened in courts regarding Chief Charumbira and him failing to respect the court ruling, for me that demonstrates impunity. They actually know that nothing will happen to them. Up to this day, he has not retracted. The other traditional leaders will do likewise.

“People are afraid and this is evident on the ground. Even though cases of violence are slightly lower in comparison, there are a lot of issues at play. The role of traditional leaders has been magnified and this is being used as a tool of intimidation,” she said.

Extreme Poverty enables these Traditional Leaders to Exert undue influence with food and other distributions via the State Apparatus. OVER five million people in Zimbabwe are living in extreme poverty, throwing into doubt the country’s capacity to meet the United Nations Sustainable Development Goal to end extreme poverty by 2030, a new report by **World Poverty Clock** has revealed.

According to the report, 5 679 092 people in Zimbabwe were living in extreme poverty, with a target escape rate at 51,8% and a current escape rate at 11,1%.

Please also note that the number of registered voter in Zimbabwe is around 5,500,000 as verified by ZEC

# ZEC [Zimbabwe Electoral Commission] is heavily Compromised

A grouping of civil society organisations operating under the banner of Crisis in Zimbabwe Coalition (CZC) accuse the Zimbabwe Electoral Commission (ZEC) of making "piecemeal" and "inadequate" reforms before elections due to be held in a month's time.

The grouping‚ in its open report to the Southern African Development Community (SADC)‚ argues that relations between the military and civil society in Zimbabwe have collapsed to a point that the smooth running of the electoral process on July 31 would be impossible.

This is largely because the electoral body has allegedly failed to keep the military away from politics and this poses a danger to the SADC region.

"The state has literally been captured by the military and critical autonomous entities such as the Zimbabwe Electoral Commission (ZEC) have been compromised and cannot execute their mandate independently‚" said CZC.

**David Coltart**: *13 June 2018 at 19:52* · Twitter: reports the major concern about the issuance of the electronic voter’s roll needed to have been completed before the Nomination of Candidates for the Election – as only registered voters can nominate them. This level of mismanagement is an impediment to Free, Fair or Credible Elections.

The failure of the @ZECzim to supply opposition political parties with an electronic copy of the voter’s roll is a brazen and inexcusable breach of section 21(4) of the Electoral Act. We are just a few hours away from nomination courts opening and still don't have the voters roll.

# Media Not only Biased but peddlers of Fake News

<https://www.herald.co.zw/uk-embassy-exposes-mdc-alliance-lies/>

This link to the Herald in Zimbabwe [from 19th June 2018] is still LIVE today [9th July 2018] It shows a photo of Catriona Laing, the Ambassador to Zimbabwe. The Headline says “UK Embassy Exposes MDC Alliance Lies”.

“”THE United Kingdom embassy in Zimbabwe yesterday exposed lies by the MDC Alliance that the Zimbabwe Electoral Commission (ZEC) is refusing to avail the voters’ roll for the July 30 harmonised elections, with its Ambassador Catriona Laing saying they easily got their copy at the electoral body’s office in Harare.””

The Embassy in Zimbabwe printed a counter to this article

The British Embassy in Harare has said that it never said that the MDC Alliance was lying about failing to get the Voters’ Roll as was alleged in the State-owned publication, The Herald. John Culley the Political Counsellor at British Embassy Harare also revealed that he had in fact written a letter to the Herald asking them to correct the distortions. The letter was neither published nor acknowledged.

Writing on Twitter, Culley said

We have never said MDC (was) lying. We wrote to @HeraldZimbabwe yesterday to correct this distortion. They didn’t publish or even acknowledge our letter!

# Human Rights Watch, May 2018

The Zimbabwe government’s failure to carry out legal and electoral reforms threatens the credibility

of national elections scheduled for July 30, 2018.

Despite President Emmerson Mnangagwa’s repeated promises that elections will be free and fair, the ability of voters to freely choose their leaders is in serious doubt. Human Rights Watch research in May, including interviews across the country, found that security force involvement in the electoral process, abusive laws that remain in effect, and violence and intimidation by the ruling party all contribute to an environment that is not conducive to free and fair elections.

“President Mnangagwa needs to go beyond mere rhetoric and take genuine steps to level the playing

field for all candidates and their parties,” said Dewa Mavhinga, Southern Africa director at Human Rights Watch. “A key test will be whether state media give equal coverage and access to all political parties without bias or favour.”

Zimbabwe’s military and other state security forces have for many years interfered in the nation’s political and electoral affairs, adversely affecting the right of Zimbabweans to vote for the candidates of their choice.

Mnangagwa and his administration should level the electoral playing field by preventing the military from engaging in partisan politics or interfering in electoral processes, and taking strong action to deter violence and intimidation by the military during the campaign period and elections. The military leadership should publicly demonstrate its commitment to a fair election process and not interfere with the outcome of the vote.

The role of the Zimbabwe Electoral Commission, which is charged with overseeing the 2018 election process, is also of particular concern. The commission has not demonstrated independence or

impartiality. At least 15 percent of the Zimbabwe Electoral Commission’s secretariat are serving or former military officials. The military should help make the commission more independent and professional by removing serving military officers from the body, Human Rights Watch said.

The government’s failure to repeal or significantly revise key laws or to address the partisan conduct of the police further undercuts free elections. Repressive laws needing reform include the Public Order and Security Act, the Access to Information and Protection of Privacy Act, and the Criminal Law (Codification and Reform) Act. All of these laws have been used to arrest peaceful protesters and censor critical media.

The lack of reform places a greater burden on the police to ensure that the rights to freedom of association and peaceful assembly are respected during the campaign period. The Zimbabwe constitution in s156 on the conduct of elections and referendums states that: At every election and referendum, the Zimbabwe Electoral Commission must ensure that-

(a) whatever voting method is used, it is simple, accurate, verifiable, secure and transparent;

(c) appropriate systems and mechanisms are put in place-

1. to eliminate electoral violence and other electoral malpractices; and
2. to ensure the safekeeping of electoral materials.

The Zimbabwe Constitution is very clear in section 155 that a candidate must “have reasonable access to all material and information necessary for them to participate effectively”. These materials include the voters roll in its final form and the process of printing ballot papers. ZEC has so far failed to meet these requirements.

Furthermore, section 156 makes it clear that ZEC must ensure that “whatever voting method is used, it is simple, accurate, verifiable, secure and transparent”. We do not believe ZEC has put in place measures to fulfil this obligation, particularly regarding verification, security and transparency of materials used in the election.

Zimbabweans are not demanding new rights or new laws. They are simply demanding that existing laws and rights be given full effect. That is not too much to ask. ZEC should be working hard to satisfy contestants, instead of ridiculing them by casting aspersions and suggesting that demands are trivial.

# Update 6th July 2018

The Press Statement published by Dr Noah Manyika of opposition party BZA, regarding the visit to the ballot Printers on the 29th June raises serious doubts as to the integrity of the ZEC ballot paper Printing concept. They and others including an EU Observer were denied seeing the process or

handling samples – questions to the ZEC staff were not answered. Dr Manyika’s final paragraph state the [the printing process observation] was “null and void”. His letter is enclosed for reference.

The EU Observers in a Press Conference today raised the issue of Transparency of the technical election process – something the above paragraph noted.

# In conclusion

Therefore, we as Zimbabweans put it to you as the duly democratically elected Prime Minister of the United Kingdom, that the ruling ‘Military Regime’ in Zimbabwe has failed to enact reforms, that these elections are far from Free, Fair, Credible or TRANSPARENT, and that democracy is not yet evident in Zimbabwe.

These conditions should preclude the assistance of the United Kingdom from offering state help to an illegal and corrupt regime. It would also be wrong to allow Zimbabwe, without the clearly defined reforms to be re-instated to the Commonwealth. To put matters into perspective we have attached the ``Zimbabwe Democracy and Economic Recovery Amendment Act of 2018'' enacted on 28th June 2018 as a precondition to opening lines of credit from the USA. Their cognisance of the issues seems at some considerable variance with the Foreign Office

Signed:

John Burke:

Kingstone Jambawo: Salom Nkiwane: Sibongile Bvungidzire: Molly Ngavaimbe: Nanacy Makurira: Mary Muteyerwa: Tandiwe Sithole: Gladys Hellen Meck: Joyce Mutengezanwa: Tryness Ncube:

Encls``Zimbabwe Democracy and Economic Recovery Amendment Act of 2018'' BZA Letter dated noon 5th July 2018 regarding Ballot Paper Printing