



# Electoral Boundary Delimitation

## in Zimbabwe

Zimbabwe elects 210 members of the National Assembly in First-Past-the-Post (FPTP) contests held in single-member constituencies.<sup>1</sup> Seats on the local authorities are filled in FPTP ward elections. Per the Constitution, the boundaries of these two sets of electoral districts must be periodically delimited to ensure that constituencies, as well as wards, are relatively equal in population.<sup>2</sup> Where the electoral district boundaries are placed impacts the results of an election, perhaps even affecting the partisan composition of the parliament or council. When constituency boundaries are intentionally manipulated to produce a particular political outcome, it is referred to as gerrymandering. It is essential for the credibility of the delimitation process that stakeholders believe that the electoral boundaries have not been gerrymandered. For this reason, it is important that the delimitation process be carried out in a manner that accords with constitutional and statutory requirements and meets international best practice standards for impartiality, transparency, equality of voting strength, and representativeness.<sup>3</sup>

### International best practices and electoral boundary delimitation in Zimbabwe

#### *Impartial boundary authority.*

In accordance with international best practices, the electoral boundary authority should be a nonpartisan, independent, and professional body.<sup>4</sup> If the boundary authority is perceived as closely aligned with a particular political party, stakeholders may view the process and its outcome as biased. Similarly, if Parliament or the President is given a deciding role in the delimitation process, this is also likely to be viewed with suspicion. Resolutions of any delimitation-related disputes must rest with an independent and impartial arbitrator, whether that arbitrator is the boundary authority or the judiciary.<sup>5</sup>

In Zimbabwe, the 2013 Constitution assigns the responsibility for delimiting constituency and ward boundaries to the Zimbabwe Electoral Commission (ZEC).<sup>6</sup> The President appoints the eight commissioners and the chairperson of the ZEC in consultation with Parliament. The executive allocates funds for the ZEC and the Ministry of Justice must approve the regulations adopted by the Commission. This has led stakeholders and international election observers to express concern about the impartiality of the ZEC.<sup>7</sup>

While the Constitution grants the President and Parliament the right to review the preliminary delimitation report and refer their concerns back to the ZEC for further consideration, the ZEC makes the final boundary determinations.<sup>8</sup> However, the path for resolving any disputes arising out the delimitation exercise is unclear.

#### *Transparency.*

The delimitation process should be as transparent and accessible to the public as possible. Stakeholders are more likely to accept the outcome of the process—and the subsequent election results—if they are aware of and can scrutinize the delimitation exercise at various stages during the process.<sup>9</sup> A public awareness program designed to educate stakeholders about delimitation is important when it first commences to ensure the process is well understood.<sup>10</sup> Public consultations should be scheduled with stakeholders to solicit their comments and concerns regarding the placement of electoral boundaries

1 The 2013 and 2018 elections included 60 National Assembly seats reserved for women, six per province regardless of population, elected via proportional representation. These seats might not be renewed in 2023, however.

2 Constitution of Zimbabwe 2013, Article 161 (1, 3, 4).

3 International standards for boundary delimitation set out in Handley, Lisa, "Challenging the Norms and Standards of Election Administration: Boundary Administration," in *Challenging the Norms and Standards of Election Administration* (IFES, 2007), pages 59-74, at [https://ifes.org/sites/default/files/4\\_ifes\\_challenging\\_election\\_norms\\_and\\_standards\\_wp\\_bndel.pdf](https://ifes.org/sites/default/files/4_ifes_challenging_election_norms_and_standards_wp_bndel.pdf).

Also see ACE Project, *Boundary Delimitation, Guiding Principles* at <http://aceproject.org/ace-en/topics/bd/introduction/bd20>.

4 Handley, Lisa, "Challenging the Norms and Standards of Election Administration: Boundary Administration," in *Challenging the Norms and Standards of Election Administration* (IFES, 2007), pages 59-74, at

5 Handley, Lisa, "Role of the Courts in the Electoral Boundary Delimitation Process," in *International Election Remedies*, John Harden Young, editor American Bar Associate, 2016.

6 Constitution of Zimbabwe 2013, Article 239 (f).

7 "[T]he guarantee of the ZEC's independence is rendered uncertain in the light of its dependency, in practice, on the Minister of Justice, and financial

allocations from the executive," Commonwealth Election Observation Mission, Final Report 2018, page 20, at <http://thecommonwealth.org/sites/default/files/inline/Zimbabwe%202018%20COG%20Report%20-%20Final.pdf>. "[T]he electoral commission lacked full independence and appeared to not always act in an impartial manner," European Union Election Observation Mission Final Report 2018, page 7, at [https://eeas.europa.eu/sites/eeas/files/eu\\_eom\\_zimbabwe\\_2018\\_-\\_final\\_report.pdf](https://eeas.europa.eu/sites/eeas/files/eu_eom_zimbabwe_2018_-_final_report.pdf).

8 Constitution of Zimbabwe 2013, Article 161 (8 and 9).

9 Handley, Lisa, "Challenging the Norms and Standards of Election Administration: Boundary Administration," in *Challenging the Norms and Standards of Election Administration* (IFES, 2007), pages 59-74, at [https://ifes.org/sites/default/files/4\\_ifes\\_challenging\\_election\\_norms\\_and\\_standards\\_wp\\_bndel.pdf](https://ifes.org/sites/default/files/4_ifes_challenging_election_norms_and_standards_wp_bndel.pdf).

10 A study conducted by the Zimbabwe Election Support Network (ZESN) found that "a majority (83.52%) of citizens does not know about the delimitation process." ZESN, *Key Considerations for Delimitation in 2023, Final Report: Citizens Perceptions on Delimitation on Electoral Constituencies and Wards in Zimbabwe*, April 2019, page 12, at <http://www.zesn.org.zw/wp-content/uploads/2019/04/ZESN-report-on-citizen-perceptions-on-Delimitation-of-Electoral-boundaries-in-Zimbabwe.pdf>.

while the process is ongoing. And when the boundaries are finalized, they should be well publicized so that voters are aware of the boundary changes. A final report justifying the choices made by the boundary authority (particularly if stakeholders objected to the alternatives chosen) should be prepared and disseminated.<sup>11</sup>

There are no provisions in the Constitution or electoral law requiring transparency or public access to the delimitation process in Zimbabwe.<sup>12</sup> The most recent delimitation exercise, conducted in 2007-2008, was criticized for lack of transparency. The ZEC was criticized for not having educated the public in a timely manner about the changes to the constituency and ward boundaries, which was especially problematic as this led to insufficient time to inspect the voters' roll and confusion as to where to cast a vote on polling day.<sup>13</sup> In addition, civil society organizations and other stakeholders felt they had limited access to information about the process for the purposes of voter education and to review and analyze the process and its outcome.<sup>14</sup>

### **Equality of voting strength.**

The voting populations of electoral districts should be as equal as possible.<sup>15</sup> Malapportioned

11 Handley, Lisa, "Challenging the Norms and Standards of Election Administration: Boundary Administration," in *Challenging the Norms and Standards of Election Administration* (IFES, 2007), pages 59-74, at [https://ifes.org/sites/default/files/4\\_ifes\\_challenging\\_election\\_norms\\_and\\_standards\\_wp\\_bndel.pdf](https://ifes.org/sites/default/files/4_ifes_challenging_election_norms_and_standards_wp_bndel.pdf).

12 Zimbabwe Electoral Act Section 37A requires ZEC to announce its intention to delimit electoral boundaries in the Gazette and in whatever other manner it thinks appropriate.

13 ZESN, Citizen Perceptions on Delimitation on Electoral Constituencies and Wards in Zimbabwe, April 2019, page 21, at <http://www.zesn.org.zw/wp-content/uploads/2019/04/ZESN-report-on-citizen-perceptions-on-Delimitation-of-Electoral-boundaries-in-Zimbabwe.pdf>.

14 ZESN, Citizen Perceptions on Delimitation on Electoral Constituencies and Wards in Zimbabwe, April 2019, page 21, at <http://www.zesn.org.zw/wp-content/uploads/2019/04/ZESN-report-on-citizen-perceptions-on-Delimitation-of-Electoral-boundaries-in-Zimbabwe.pdf>.

15 According to the UN Committee on Human Rights (General Comment 25, The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service), "The principle of one person, one vote must apply, and within the framework of each State's electoral system, the vote of one elector should be equal to the vote of another." Also see Handley, Lisa, "Challenging the Norms and Standards of Election Administration: Boundary Administration," in *Challenging the Norms and Standards of Election Administration* (IFES, 2007), pages 59-74, at [https://ifes.org/sites/default/files/4\\_ifes\\_challenging\\_election\\_norms\\_and\\_standards\\_wp\\_bndel.pdf](https://ifes.org/sites/default/files/4_ifes_challenging_election_norms_and_standards_wp_bndel.pdf).

constituencies—constituencies that vary greatly in population—can be a product of either drawing districts with unequal numbers of persons (or of registered voters, depending on the population base used) or failing to redraw boundaries in a timely manner to reflect population shifts. Malapportionment may suggest to stakeholders that intentional bias has been introduced into the delimitation process.

The 2013 Constitution requires the ZEC to delimit electoral boundaries every ten years, as soon as possible after the census.<sup>16</sup> Constituencies and wards are to contain "so far as possible" an equal number of registered voters,<sup>17</sup> and may not have "more than twenty per cent more or fewer registered voters than other such constituencies or wards."<sup>18</sup>

Constituency and ward boundaries have not been redrawn since shortly before the 2008 elections and therefore do not take into account the most recent census (2012). By the 2018 elections, there were significant variations in the size of constituencies, with deviations in the number of registered voters of more than 20 percent in 106 of the 210 constituencies.<sup>19</sup> The largest constituency (Harare South), with 76,425 voters, was more than five times larger than the smallest constituency (Gutu North), with 14,198 voters.<sup>20</sup>

### **Representativeness.**

Constituencies should be drawn taking into account cohesive communities of interest, defined by such factors as administrative boundaries, geographic features, and communities of interest.<sup>21</sup> Any deviations in equal

16 Constitution of Zimbabwe 2013, Article 161 (1). The census has been conducted decennially—2002, 2012—with the next one due to occur in 2022.

17 Constitution of Zimbabwe 2013, Article 161 (3 and 4).

18 Constitution of Zimbabwe 2013, Article 161 (6).

19 IRI/NDI Election Observation Mission Final Report 2018, page 24, at [https://eeas.europa.eu/sites/eeas/files/eu\\_eom\\_zimbabwe\\_2018\\_-\\_final\\_report.pdf](https://eeas.europa.eu/sites/eeas/files/eu_eom_zimbabwe_2018_-_final_report.pdf).

20 European Union Election Observation Mission Final Report 2018, page 9, at [https://eeas.europa.eu/sites/eeas/files/eu\\_eom\\_zimbabwe\\_2018\\_-\\_final\\_report.pdf](https://eeas.europa.eu/sites/eeas/files/eu_eom_zimbabwe_2018_-_final_report.pdf).

21 Handley, Lisa, "Challenging the Norms and Standards of Election Administration: Boundary Administration," in *Challenging the Norms and Standards of Election Administration* (IFES, 2007), pages 59-74, at [https://ifes.org/sites/default/files/4\\_ifes\\_challenging\\_election\\_norms\\_and\\_standards\\_wp\\_bndel.pdf](https://ifes.org/sites/default/files/4_ifes_challenging_election_norms_and_standards_wp_bndel.pdf).

population should be explained with reference to these criteria.

The 2013 Constitution identifies a number of criteria the ZEC should consider when delimiting constituencies and wards: physical features, the means of communication, the geographic distribution of voters, communities of interest, and the existing electoral boundaries.<sup>22</sup> In the past, accusations of gerrymandering have been levelled against the boundary authority in part because too few constituencies were assigned to some urban areas and a number of constituencies combined urban and rural areas together in a manner that may have diluted the voting strength of urban voters.<sup>23</sup>

## **Improving the legal framework for delimitation**

The legal framework for delimitation in Zimbabwe complies with international best practices in important respects: electoral districts of equal population are required (and the degree to which constituencies can deviate from equality is clearly defined), and additional criteria for the ZEC to take into account, such as physical features and communities of interest, are identified. However, the framework could be improved, particularly with regard to ensuring transparency and public access to all phases of the delimitation process. Identifying a clear path for resolving delimitation disputes would also be an important improvement.<sup>24</sup>

## **Challenges facing the ZEC in upcoming delimitation exercises**

Boundary delimitation is a technically complex and time-consuming process.

standards\_wp\_bndel.pdf.

22 Constitution of Zimbabwe 2013, Article 161 (6).

23 Zimbabwe Election Support Network (ZESN), Citizen Perceptions on Delimitation on Electoral Constituencies and Wards in Zimbabwe, April 2019, page 21, at <http://www.zesn.org.zw/wp-content/uploads/2019/04/ZESN-report-on-citizen-perceptions-on-Delimitation-of-Electoral-boundaries-in-Zimbabwe.pdf>.

24 "An Act of Parliament could be adopted developing and elaborating the legal framework for boundary delimitation, to also include provisions for consultations with political parties and civil society and a complaints and appeals mechanism before the parliamentary approval process. European Union Election Observation Mission Final Report 2018, page 9, at [https://eeas.europa.eu/sites/eeas/files/eu\\_eom\\_zimbabwe\\_2018\\_-\\_final\\_report.pdf](https://eeas.europa.eu/sites/eeas/files/eu_eom_zimbabwe_2018_-_final_report.pdf).

The repeal of Section 37B of the Electoral Act in 2018 means that the President no longer sets the date for the delimitation exercise to commence.<sup>25</sup> While this change aligns with international best practices (the executive should not play a role in the delimitation process), it leaves open the question of what body has the statutory authority to initiate the delimitation of electoral boundaries. As the ZEC is best positioned to determine the time needed to complete the delimitation exercise to ensure that it is not rushed, it is in accordance with international best practices for the ZEC to make that decision.

According to the Constitution, delimitation requires both voter registration and census data.<sup>26</sup> The next census is scheduled for August 2022 and the ZEC is unlikely to acquire the population data from this census

in sufficient time to use it to delimit preliminary electoral boundaries; incorporate comments from the public, the President, and Parliament; and finalize the boundaries at least six months before polling day in 2023.<sup>27</sup> Moreover, the role of the census data in the process is less than clear as deviations from equality are measured using numbers of registered voters.<sup>28</sup> A solution to the dilemma of time constraints and linked population and registration data would be to use the most current voter registration figures in conjunction with the 2012 census data to delimit the electoral district boundaries. This approach would require the ZEC to have an as accurate and up-to-date voters' list as possible for drawing electoral boundaries. If the continuous voter registration process has not been utilized to its fullest, a registration top-up exercise prior to beginning delimitation may be needed.

25 Section 37B (b) of the Electoral Act assigned the President the responsibility of fixing the date on which delimitation was to begin "so as to allow the Commission adequate time" with respect to the Constitutional provision in 161(2) that "If a delimitation of electoral boundaries is completed less than six months before polling day...the boundaries so delimited do not apply to that election."

26 Constitution of Zimbabwe 2013, Section 161 (1) requires the ZEC to conduct a delimitation of the electoral boundaries "as soon as possible after a population census." Article 161 (3) requires an equal number of registered voters across constituencies and Article 161 (4) requires the same for wards.

27 Constitution of Zimbabwe 2013, Article 161 (2).

28 Census enumeration counts and the number of registered voters will not be equivalent—not everyone who is counted in the census is eligible to vote (for example, there are citizenship and age requirements to vote), and not everyone who is eligible to vote actually registers to vote. For example, European Union Election Observation Mission Final Report 2018, page 3, reports "a capture rate of 78.6% of the estimated eligible population, though with lower levels of registration in urban areas..." at [https://eeas.europa.eu/sites/eeas/files/eu\\_eom\\_zimbabwe\\_2018\\_-\\_final\\_report.pdf](https://eeas.europa.eu/sites/eeas/files/eu_eom_zimbabwe_2018_-_final_report.pdf).

## ***Boundary Delimitation – International Best Practice and the Zimbabwe Context***

	<b>International Best Practice</b>	<b>Zimbabwe Context</b>
<b>Boundary Delimitation Authority</b>	Nonpartisan, independent, and professional body	Zimbabwe Electoral Commission (ZEC)
<b>Electoral District Delimited</b>	Varies internationally. Usually described in the electoral law (or the constitution). <sup>1</sup>	Constituency and ward boundaries
<b>Entity Responsible for Resolving Boundary Delimitation Disputes</b>	Resolutions of any delimitation-related disputes must rest with an independent and impartial arbitrator, whether that arbitrator is the boundary authority or the judiciary.	Unclear. However, the Constitution grants the President and Parliament the right to review the preliminary delimitation report and refer concerns back to the ZEC for further consideration.
<b>Interval Between Delimitations</b>	Varies internationally. The majority of countries that delimit electoral districts have established some mandatory time interval within which delimitation must occur. However, there is no standard time period for such time interval. <sup>2</sup>	2013 Constitution requires the ZEC to delimit electoral boundaries every ten years, as soon as possible after the census.

1 Handley, Lisa et al, *Delimitation Equity Project: Resource Guide* (IFES 2006), p. 19 at: [https://www.ifes.org/sites/default/files/delimitations\\_manual\\_full\\_0.pdf](https://www.ifes.org/sites/default/files/delimitations_manual_full_0.pdf)

2 Handley, Lisa et al, *Delimitation Equity Project: Resource Guide* (IFES 2006), p. 26 at: [https://www.ifes.org/sites/default/files/delimitations\\_manual\\_full\\_0.pdf](https://www.ifes.org/sites/default/files/delimitations_manual_full_0.pdf)