

## Contemplating on the Effectiveness of Election Dispute Resolution (Edr) Mechanisms in Mitigating Electoral Disputes and Violence in Zimbabwe. The Case of Bulawayo Metropolitan Province from 2005-2018

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**Abstract:** This study set to explore the effectiveness of the Election Dispute Resolution (EDR) Mechanisms used in Zimbabwe. The study was guided by four objectives; to establish the political players' motivations to engage in electoral malpractices and violence, to describe the Electoral Dispute Resolution (EDR) mechanisms used in Zimbabwe, to assess the effectiveness of the Electoral Dispute Resolution (EDR) mechanisms in mitigating election disputes and violence and to describe how these mechanisms can be enhanced to mitigate electoral disputes and violence. The Literature review was guided by the objectives of the study. The design for this study was qualitative. This was determined by the type of information to be gathered. The data was collected using semi structured interviews. The study findings were that the EDR mechanisms used, mainly the EDR mechanisms, were fairly effective but needed to be reinforced so as to close the current gaps. The fact that the mechanisms are seasonal rather than permanent was found to be one gap that the perpetrators of violence exploited to further their interests. The study also established that the Code of Conduct lacked the sanctioning powers which was a weakness also exploited by the political players. It was the opinion of the participants that if the MPLCs and the Code of Conduct were used together, the results would be positive. On a positive note, the study established that the Electoral Courts were permanent, and they played their role when called upon. However, there were mixed opinions regarding their fairness and timeous adjudication of petitions. This was corroborated by studies from other scholars that Electoral Courts sometimes took long to give their judgements, thus failing the petitioners. The study concluded by recommendations for effectiveness of the EDR mechanisms, the major ones being: 1. Making EDR mechanisms permanent; 2. Combining MPLCs, Code of Conduct and Electoral Courts to complement one another; 3. the adoption of a new Electoral system that creates a 'win-win' situation to all participating political parties; and, 4. The Code of Conduct to have sanctions to regulate political actors' conduct for undisputed elections. Directions for future research were also made in order to help future studies to strengthen the mechanisms.

**Keywords:** Election, dispute, dispute resolution, court, political party.

### INTRODUCTION

Article 21 of the Universal Declaration of Human Rights (1948) provides for political rights, that is, the basis of authority of government and the will of the people should be expressed through periodic and genuine elections. The Southern African Development Community (SADC) (2005) Principles and Guidelines Governing Democratic Elections, define one essential criterion of democratic elections as the holding of elections on a „regular“ basis. The Guidelines, therefore, compel all member states to comply regularly with this requirement and hold elections whenever they are due, Zimbabwe included. Election Management Bodies (EMBs) in the member states are compelled to prepare for and conduct elections in terms of the laws of their countries, the SADC Guidelines (2005), African Union (AU) Declaration on the Principles Governing Democratic Elections in Africa and international best practice. The African Charter on Democracy, Governance and Elections also informs the role member states must observe in order to conduct elections that are universally acceptable. These guidelines aim at “enhancing the transparency and credibility of elections and democratic governance, as well as ensuring the acceptance of election results by all contesting parties” (SADC, 2005:3).

In terms of the SADC Guidelines as spelt out in Article 4.1, there is need by member states to observe, among others, human rights and freedoms of citizens, and creating a conducive environment for free, fair and peaceful elections, as some of the fundamental principles of conducting democratic elections.

The Constitution of Zimbabwe, Section 67(1), provides for political rights for Zimbabwean citizens:

- a) To free, fair and regular elections for any elective public office established in terms of this Constitution or any other law; and
- b) To make political choices freely.

Further provisions for political rights in the Supreme Law of the Land, pursuant to Section 67(2) state: 2. *Subject to this Constitution, every Zimbabwean citizen has the right-*

- a) to form, to join and to participate in the activities of a political party or organisation of their choice;
- b) to campaign freely and peacefully for a political party or cause;
- c) to participate in peaceful political activity; and
- d) to participate individually or collectively, in gathering 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.*

However, despite the provisions of the Supreme Law of the land, the regional and international conventions, Zimbabweans find these right interfered with by the erstwhile political elite. In Zimbabwe, at every election - before, during and after - accusations and counter-accusations of intimidation, corruption and other electoral malpractices have been traded between and among candidates, political parties and their supporters, Civil Society Organisations (CSOs) and the international community, on the lack of transparency, freeness and fairness of the elections. Sometimes these accusations and counter accusations have degenerated into violent contestations. These accusations, intra- and inter - parties, affect the Zimbabwe Electoral Commission (ZEC) as the Electoral Management Body (EMB) constitutionally vested with the powers to conduct elections in Zimbabwe. As observed by Nhenge (2016), the challenges in dealing with electoral violence in Zimbabwe is „politics of the blame game“. This observation is very pertinent as it spurns away the opportunities of helping the country out of the problems it is in. The blame of external forces and agents in the problems facing Zimbabwe makes finding solutions difficult. Also of concern have been the trading of allegations of vote-rigging peddled, mostly against the government, ruling party and the ZEC by opposition political parties. Furthermore, these allegations have far reaching implications and consequences for the acceptability and credibility of election outcomes, the stability and security of the country and the region, as a whole. Nations usually pin their hopes on EMBs to deliver elections that are free, fair and credible, in spite of a plethora of challenges that might be out of the control of the EMB. In response, the ZEC through Parliament has crafted a number of Electoral Dispute Resolution (EDR) mechanisms to try and address these concerns (Electoral Act, Chapter 2:13, Sections 133G, 133H, 134,155, 160B, 160E – K, 161-181).

The historical context of electoral disputes and political violence in Zimbabwe is clearly and chronologically elucidated by Nyere (2016) who cites Ndlovu-Gatsheni (2010: 281 - 295) and Sadomba (2011:229) positing that the politically turbulent and violent episodes are backdated to the First Chimurenga (1896 – 1897); Second Chimurenga (1965 – 1980); Operation Gukurahundi (1983 – 1987); *Hondo Yeminda*

(2000); Operation *Murambatsvina* (2005); Operation *Chipo Chiroorwa* (2007) and Operation *Mavhotera Papi/ Manuqonde* (2008). The SADC Parliamentary Forum Mission Report, titled “Election Observation Mission to the Zimbabwe Harmonised General Elections, 31st July 2013” states that conflict of varying proportions, including physical or violent conflict and intimidation of the electorate and citizens dates back to the early 1980s when the conflict manifested itself into disturbances in the Midlands and Matebeleland Provinces during the years 1982 to 1987 (SADC Parliamentary Forum Mission Report, 2013 p.11). Dzimiri, Runhare, Dzimiri and Mazorodze (2014) concur with some of these observations when they contend that the state has been ravaged by a vicious cycle of violence since 1981. Scarnecchia (2008) predates the advent of violence in Zimbabwe to the 1940s when Africans first challenged the settler regime’s administration. Onslow (2014) posits that the new Government in 1980 did not only inherit the political economy, but also the power of the colonial state: the monopoly of the use of force, and also its security executive and legislative capacity. The author observes:

*“It also inherited well-established and particularly effective organisational structures of surveillance and control, the Central Intelligence Organisation (CIO), and the Special Branch/ Criminal Investigation Department (CID) within the British South Africa Police (reconstituted as the Zimbabwe Republic Police). Furthermore, there was the legacy of the colonial state using asymmetric and disproportionate force when dealing with opposition and dissent” (Onslow, 2014:7).*

Therefore, the scourge of political violence in Zimbabwe is as old as history can recollect – pre-colonial, colonial and post-independence. As Nyere (2016) also supportively argues, violence is not new and alien in post-colonial Zimbabwe as there has not been a decade where the government has not carried out violence on its citizens. Political violence or election-related violence impacts negatively on the citizenry. As Muzondidya and Ndlovu-Gatsheni (2007) aptly argue that although it is difficult to know when the right time to deal with the past is, ignoring the past has the danger of the violence being perpetuated, particularly during election periods. This observation is very pertinent in that the perpetrators of violence who are not sanctioned pose a serious threat of perpetuating violence on

opponents with impunity. The impunity of the perpetrators serves to oil the violence machinery. In view of the foregoing, when the Zimbabwe Electoral Commission (ZEC) was established and given the sole mandate of running its first elections in Zimbabwe in 2005, following the abolition of the four departments which were previously charged with the conduct of elections, namely; the Office of the Registrar General of Elections (RGE), the Elections Directorate (ED), the Delimitation Commission (DC) and the Electoral Supervisory Commission (ESC) (Constitution Amendment No. 17 of 2004), it found the levels of violent conflicts and polarisation in the Zimbabwean political arena already high, reaching a peak in 2008. In the context of what Birch, Daxecker and Hoglund (2020) opine about violence, that even at low levels, it undermines the democratic character of elections by substituting free choice with coercion and deterring participation, upon establishment the ZEC had an immediate task to address violence. To mitigate the disputes generated by elections, the ZEC put in place electoral conflict management and resolution mechanisms, both judiciary and non-judiciary alternative dispute resolution (ADR) mechanisms, such as, the Multiparty Liaison Committees (MPLCs) (Electoral Act, Chapter 2:13; Sections 160A to 160D); established the Electoral Courts to expeditiously deal with election - related disputes (Electoral Act, Chapter 2:13; Sections 161 to 165) and rules governing Media reporting during elections (Electoral Act, Chapter 2:13; Sections 160E - 160K). The Constitution of Zimbabwe Amendment (No. 20), 2013, Section 232, as part of its drive to further curb violence established the following Independent Commissions supporting Democracy, commonly referred to as „Chapter 12 Commissions“ being: Zimbabwe Electoral Commission (ZEC), Zimbabwe Human Rights Commission (ZHRC), Zimbabwe Gender Commission (ZGC), Zimbabwe Media Commission (ZMC) and National Peace and Reconciliation Commission (NP&RC). Of note, however, is that these bodies only coordinate their activities during election time. Petit (2000) argued that challenges around an election should not be perceived as a weakness in the system, but evidence of the strength and openness of the political system. The Electoral Courts mechanisms put in place are evidence of an open electoral system that provides for the adjudication for perceived malpractices.

Moreover, Ploch (2010) cites the Zimbabwe Human Rights NGO Forum (a coalition of 17 human rights groups in Zimbabwe), which reported 300 cases of assault in the pre-election period of the 2005 Parliamentary Elections, which was a significant drop from the 2000 and 2002 election violence reports. In the 2008 Harmonised Elections, the first such elections in the country, the Zimbabwe Human Rights NGO Forum Political Violence Report (2008:2) gave cumulative totals for the period January to December 2008 violence statistics as: 6 politically-motivated rape cases; 107 murders; 137 abductions/ kidnappings; 1913 assault cases; 19 cases of disappearance; 629 cases of displacements; and 2532 cases of violations of freedoms of association and expression. These were only reported cases, meaning that the figures could be higher as some cases could not have reached the Forum's Offices.

The 2013 campaign, poll and post-poll periods were reportedly relatively peaceful, although some minor incidents of intimidation were recorded in different parts of the country. The Zimbabwe Human Rights Commission Report (2018) which monitored several electoral processes, among them the Legislative Amendments, Biometric Voter Registration, Access to Documentation, Campaigns, the media, among others, noted a few challenges along the way. While the 2018 Harmonised Elections campaign and voting periods were generally hailed as violent-free, the post-election period where six (6) people were reportedly killed by the security forces marred the otherwise „peaceful elections“. Also, some pockets of past electoral malpractices were reported, though on a smaller scale. The Zimbabwe Human Rights (ZHRC) 2018 Election Report, reported receiving „a total of 46 complaints from Marange, Bocha, Mutasa, Chipinge, Zaka, Bikita, Gutu, Gokwe, Buhera, Marondera and Glen View on allegations of forced collection of and registration of voter registration slips serial numbers“ (p. 15). The same report also received reports of „hate speeches“ during campaigns in Masvingo, Mashonaland East, Harare and Mashonaland Central Provinces. Intimidation cases were also received in six Constituencies in Mashonaland East and Central Provinces in the same report; so were vote buying reports. These reports and other allegations of electoral malpractices are likely to precipitate to violent contestations if unchecked. The remnants of violence are not yet over and may return sooner rather than later.

This study was motivated by the fact that despite the presence of a number of electoral conflict mitigation strategies and mechanisms, disputes and election-related violence in Zimbabwe continued to escalate, reaching a climax in 2008, where over 200 people were reportedly killed; some 5,000 MDC supporters allegedly tortured and a further 10,000 required medical attention as a result of injuries (Nyere, 2016). Also, despite Zimbabwe being a signatory to a number of international instruments and protocols which obligate the states to observe human rights and freedoms, it has been found wanting on a number of these obligations. Further to the above, the Peace and Security Directorate (PSD), a department of the African Union (AU) and the main gatekeeper of peace on the African continent with a number of institutional structures and mechanisms which have been put in place to contain electoral violence, such as, The Panel of the Wise, the Democracy and Electoral Assistance Unit within the Political Affairs Department of the African Union Commission (AUC), the Africa Peer Review Mechanism, the African Court of Human Rights, the Pan African Parliament, and if necessary, the African Standby Force (Chikwanha & Masungure, 2012).

However, all these structures have not paid rich dividends in containing the scourge of electoral violence in Africa, nor intervened timeously to stop the violence. Although the July 2013 and 2018 elections in Zimbabwe were hailed as generally „peaceful“, „violence-free“ and generally within acceptable levels, the post-election violence and court petitions and public sentiments and pronouncements, to the contrary, echoed by losing candidates, especially, the MDC Party led by Mr. Morgan Tsvangirai in 2013; and later in 2018, by Mr. Nelson Chamisa, could rekindle the violence. This brings to the fore the question of whether the „peacefulness“ levels experienced in 2013 and 2018 will be sustained or there were other factors at play that contributed to the peaceful levels, mainly the Global Political Agreement (GPA) in 2009 to 2013 and the political leadership change in November 2017. As Høglund and Jarstad (2010:2) observe, “If electoral violence is not addressed it can have longstanding consequences for social cohesion and the legitimacy of democracy”. In view of the precarious nature of the political environment, a holistic approach needs to be developed that will create trust in the EMB and also generate positive and sustainable levels of conflict, that will be

acceptable locally, regionally and internationally; as well as contribute to higher voter participation levels. Further, it should be noted that managing election-related violence is important in the long-term as it builds a strong democratic and peaceful society, based on the rule of law, accountability and transparency (ibid). It is, therefore, necessary for electoral violence to be under control for the benefit of broader society at large, as it promotes democracy, peace, cohesion and development in the society.

### **Theoretical framework**

This study was guided and shaped by Lederach’s Conflict Transformation Theory (CT), supported by Ubuntu as the undergirding framework for the analysis of the effectiveness of the EDR mechanisms in peacebuilding that could be employed in Zimbabwe. Using the CT theory will help to conceptualise the role that the EDR mechanisms play in addressing fundamental changes in attitudes and/or behaviour of individuals in conflict and/or the relationship between the two or more disputing parties, as postulated by Dixit (2004). Transformation of the attitudes and mindsets of the disputants is crucial if Zimbabwe is to achieve a peaceful and tranquil electoral environment. The CT theory, pioneered by John Paul Lederach in the late 1980s and advanced by Galtung in 1993 when he developed the Transcend Conflict Transformation Method, seeks to address conflicts in the long term. The involvement of conflicting parties using the long process of locally owned, bottom-up consultations led to successful peacebuilding and reconciliation efforts in northern Somaliland (Paffenholz, 2013: 5).

The CT theory as propounded by Lederach, is premised on the need to build “long-term infrastructure” for peace by supporting the reconciliation potential of society; the need to rebuild destroyed relationships, focusing on reconciliation within society and the strengthening of society’s peacebuilding potential; third party intervention should concentrate on supporting internal actors and coordinating external peace efforts and sensitivity to the local culture and long-term time frame are also necessary (Paffenholz, 2009). The EDR mechanisms used by ZEC include the retributive and restorative justice system mechanisms. The use of Alternative Dispute Resolution (ADR) mechanisms in mitigating conflicts during elections is one way of attempting to support the peacebuilding efforts by ZEC, apart from punishing offenders. The CT theory, as

Lederach (1997) posits, attempts to address issues of peace in a more elaborate, holistic and comprehensive manner, seeks peace which is informed by the principles of human rights, liberty, equality, justice and truth and building stronger communities emerging from a violent conflict. According to Dube and Makwerere (2012), the theory of CT emphasises the need for systemic change in order to alter the social structures, conflict parties and institutions. The proposition addresses short-, medium- and long-term relationships, and goes further to address the underlying causes of the conflict. In his proposition Lederach (1997) advances the building of “long-term infrastructure” by supporting the reconciliation potential of society (Paffenholz, 2009). For lasting peace to prevail in a society there must be reconciliation premised on justice and forgiveness.

Conflict transformation is, therefore, key in the long-term resolution of systemic conflicts in conflict-prone societies. In Zimbabwe CT will go a long way in addressing entrenched polarisation, violence and structural conflict that has become part of the political system since the pre-colonial era, through the 1980s, 1990s, to this date. The involvement of local actors – the elites and communities and society as the main actors, and the external actors providing support makes the process acceptable and respected by the conflicting society. The CT process involves engaging with and transforming the relationships, interests, discourses and, if necessary the very constitution of society that supports the continuation of violent conflict. Fusing CT with Ubuntu is an attempt to create strong synergies and reinforcement of the processes of peacebuilding. Ubuntu, a Nguni concept which is aptly captured by Mbiti (1970) in his expression, „I am, because we are, and since we are, therefore, I am” emphasises on humanity empathy and human dignity. The concept embraces a shared indigenous cultural narrative; a shared collective community ownership of the actions and responsibilities of the members of the community. As noted by Mabovula (2011), Ubuntu philosophy emphasises on sharing, co-responsibility, and promoting good human relations and enhancing human value, trust and dignity. The arguments for fusing the concepts of

CT and Ubuntu in the process of seeking peacebuilding and lasting peace solutions in Zimbabwe is an important milestone for the country’s interest and aspirations to build a united nation. As Mangena (2012:1) observes, “Because of the popularity of the Western philosophy, these normative theories have wholesomely been applied across cultures as standards for human action despite the fact that some of these cultures have different moral requirements”.

### **METHODOLOGICAL PRIMA**

The approach followed in this study is qualitative descriptive research methodology as it enabled the narration and interpretation of nature/extent of electoral conflicts in Zimbabwe and the effectiveness of ADR mechanisms in mitigating electoral conflicts and violence. This approach was appropriate to this study as it enabled to establish the extent and effectiveness of ADR mechanisms through studying the context/setting in which people talk and also the voices of the participants as emotions can be observed through peeped voices to show anger which cannot be heard in quantitative descriptive research methodology, (Creswell, 2014). A total of 23 participants took part in the study. These participants were selected on the basis of their expertise to political environment and electoral systems in Zimbabwe particularly in Matabeleland region. For this study, the study population was drawn from different categories of people who took part in the conflict resolution processes at different levels during elections (Ward, Constituency, Provincial and National levels), as spelt out in the legal framework. The study population of 23 was drawn from the ZEC permanent staff in Bulawayo and Matabeleland North Provinces and the ZEC Seconded staff, the candidates and Independent Commissions staff based in Bulawayo, as well as document analyses. CSOs and FBOs. Other EMB personnel targeted were the ZEC Commissioner who was the Chairperson of the National Multiparty Liaison Committee and the Chief Elections Officer (1) of ZEC. All these people were involved in elections in various capacities, either as members of the MPLCs or Independent Commissions.

**Table 1:** List of sample participants, sampling techniques and data collection tools

| Category of participants       | Sampling technique | Number interviewed/ observed | Data collection tools      |
|--------------------------------|--------------------|------------------------------|----------------------------|
| ZEC (Election Administrators)  | Purposive          | 09                           | Unobtrusive                |
| Political Parties (Candidates) | Purposive          | 05                           | Semi structured interviews |
| Independent Commissions        | Purposive          | 02                           | Semi structured interviews |
| Academia                       | Purposive          | 02                           | Semi structured interviews |
| ZEC CEO                        | Purposive          | 01                           | Semi structured interviews |
| ZEC commissioner               | Purposive          | 01                           | Semi structured interviews |
| ZRP (Law enforcement)          | Purposive          | 01                           | Semi structured interviews |
| CSOs and FBOs                  | Purposive          | 02                           | Semi structured interviews |
| TOTAL                          | ...                | <b>23</b>                    | ....                       |

Source: Primary (26 October 2020)

## RESULTS AND DISCUSSION

This section presents the treatment of the narrative data that was collected from the twenty-one (21) respondents, comprising of the EMB personnel, Political parties, the Academia, CSOs and FBOs and Chapter 12 Commissions" personnel and one Commissioner from the EMB who chaired the National Multi-Party Liaison Committee in the 2018 Harmonised Elections. All the participants voluntarily took part in the study. The collection of data started on the 6th October 2020, running up to the 4th November 2020. Initially, twenty-three (23) interviewees identified from eight (8) organisations were earmarked for the study. However, due to some administrative procedures required, commitments and time-factor constraints, the Interviewers could not afford to interview members of the Zimbabwe Republic Police (ZRP) and the Commissioner from National Peace and Reconciliation Commission (NPRC). Five main themes emerged from the research questions which guided this study.

The Interview Guide had fifteen open-ended questions from five research questions. The interviews were conducted in October to beginning of November 2020. All the interviews were recorded, with a few field notes taken during each interview. On the same day, the recorded interviews were transcribed onto the hardcopies which had the field notes taken earlier on during the interviews to consolidate the field notes. A

week down the line a run-down through the hardcopies and the audios was done and cross-checked for correct capturing of the data on hard copies, in case the electronic copies were affected by the virus. Five distinct themes deriving from the questions and the interview data emerged and these were reviewed, re-grouped and re-arranged, as follows: 1. Timing or stages of disputes; 2. Sources and motivations of disputes; 3. Resolution of the Disputes and sustainability of the EDR Mechanisms; 4. Effectiveness of the EDR mechanisms; and, 5. Proposed EDR strategies to enhance effective resolution of disputes. The data collected from the twenty-one (21) interviewees is presented and analysed starting with the demographic characteristics of the participants, followed by the data from themes and patterns emerging from the objectives and questions of the study and the data that was collected.

### Demographic data of participants

The participants in the interviews were given codes in order to maintain their confidentiality. These codes were also matched to the audio or voice recordings for purposes of editing, reviewing and data analysis and interpretation. Thus the code, PV stood for participant voice recording to match participant to the audio or voice recording. The 21 participants' demographic data is presented on the tables below, according to Gender, Age range, level of education, the organization the participant

represented in the 2018 elections, the position held and the number of EDR meetings attended.

**Table 2: Participants by Gender**

| Male | Female | Total |
|------|--------|-------|
| 17   | 4      | 21    |

Source primary data (2020)

Of the 21 participants interviewed, 17 were male; while only 4 were female. The results indicate uneven gender disparities in the study sample which are reflective of the gender disparities in participation in electoral processes, whether at administration levels or political parties' hierarchy. There are generally more males at the top of the hierarchy, than females, in election administration and the political parties' administration.

**Table 3: Participants by Age**

| 18 – 30 | 31 – 40 | 41 – 50 | 51 – 60 | 61+ | Total |
|---------|---------|---------|---------|-----|-------|
| 0       | 2       | 4       | 11      | 4   | 21    |

Source Primary data (2020)

The majority of the participants, 11 were in the age-group range 51 – 60 years, followed by those between 41 and 50, and the 61 and over age-groups with 4 interviewees, each. The least number were between 31 and 40 years of age with 2. Those in the 18 to 30 years' age group had 0 participants in this study. The type of information required for this study lies with the categories of informants or participants occupying certain levels

in their organizations and in the elections administration, and who had engagements with the EDR processes in 2018 or earlier. As a result, such informants have certain age distribution levels in their organizations. The 41 – 61+ age-groups are, therefore, the most likely to accommodate these individuals, who possess the requisite experiences and competences.

**Table 4: Research Participants by Education Levels**

| Diploma | Bachelors' Degree | Masters' and Above | Total |
|---------|-------------------|--------------------|-------|
| 1       | 6                 | 14                 | 21    |

Source primary data (2020)

The participants' levels of education were mainly in three categories, namely Diplomas (1); Bachelors' degree (6) and Masters' and above (14). The majority of the participants interviewed were mainly in possession of a Masters' Degree, while some were holders of Doctor of Philosophy degrees. From these levels of education, the

researcher assumes that coupled with the participants' experience and level of education, they were enlightened enough to comprehend issues on conflict resolution and discuss from an informed position. One participant was a holder of a Masters' Degree in law and also a legislator, meaning that his contribution was hands-on.

**Table 5: Distribution of the Participants by Organizations Represented**

| EMB | Political Parties | CSOs & FBOs | Academia | Chapter 12 Commissions | Total |
|-----|-------------------|-------------|----------|------------------------|-------|
| 11  | 5                 | 2           | 2        | 1                      | 21    |

Source primary data (2020)

The EMB contributed the largest share of participants because it is the body that is mainly responsible for the administration of the EDR mechanisms as Chairpersons in various capacities. Political parties had the next highest representation because of the number of political parties involved. Despite over 100 political parties taking part in the 2018 elections, only five political parties were identified for this study because of their consistent participation in past elections and the participants were purposively sampled along

similar lines, that is, having featured in past elections and some of them having been elected into the past or current Parliament. Members from new parties were not part of the study because as new players they were perceived not to have the requisite knowledge and experience in EDR mechanisms, hence their contributions in the study could not have added much value. Also, the participants were selected using a list of attendance in MPLC meetings, as well as Nomination Court list.

**Table 6:** Distribution of Participants by Positions held in the 2018 Elections

| Electoral Officer | National MPLC Chairperson | Candidate | Observer | Academia | Total |
|-------------------|---------------------------|-----------|----------|----------|-------|
| 10                | 1                         | 5         | 3        | 2        | 21    |

Source primary data (2020)

The table above represents information generated from participants according to the various capacities they played in the 2018 elections. Electoral Officers contributed the highest representation at 10; while Candidates were next with 5 participants; Observers from the CSOs/FBOs were 3; and members of the Academia. The

least with 1 was the Chairperson of the National Multiparty Liaison Committee (NMPLC). The candidates sampled for the study have participated in the past elections in more-or-less similar positions, hence are assumed to possess certain levels of understanding of issues under investigation.

**Table 7:** Research Participants by Number of Multiparty Liaison Committees (PLC) Meetings Attended

| 0 | 1 – 3 | 4 – 6 | 7 – 9 | 10+ | Total |
|---|-------|-------|-------|-----|-------|
| 2 | 3     | 8     | 3     | 5   | 21    |

Source Primary Data (2020)

The majority of the participants, that is, 8 have participated in between 4 to 6 EDR meetings; 5 sat in more than 10 EDR meetings; while 3 each have sat in 1 to 3 meetings; and 7 to 9 meetings, respectively. 2 did not attend any meetings at all. Of these, one was a participant who was a member of the last Parliament and is also in the current parliament; while the other one was a member of the academia. The candidate, who is a Member of the National Assembly cited a busy schedule due to the party position he held and also that he understood these issues as someone who had a legal background. The member of the academia had a background in research on election and conflict issues in Zimbabwe and also lectures locally and abroad. Both these members were

eloquent in so far as the conduct of these ADR mechanisms were concerned. For the participant who was a candidate his response exposed the weakness of the MPLCs’ lack of binding powers on the political players.

**Timing of the electoral disputes and violence**

This question sought to gain insight into, as well as to understand the electoral disputes and violence cycle in order to plan appropriate mitigatory responses. The responses are tabulated below. It should also be noted that some participants came up with multi responses to the question given their perceptions, hence the total of responses does not tally with the number of participants in the study.

**Table 8:** Tabulation of Responses on timing of electoral disputes and violence

| Participants’ Responses                                     | Tally |
|---|-------|
| After elections/ After counting and announcement of Results | 5     |
| Pre-election period   | 3     |
| Election period, including Campaigns                        | 14    |
| Entire electoral cycle, but picking tempo during campaigns  | 3     |
| Intra-party selection                                       | 3     |

Source Primary data (2020)

When asked when most electoral disputes and violence took place, the pattern of the responses suggested that most disputes occurred during campaign periods, pre-election, election period, post-election and some saying during the entire electoral period. Almost all the participants were in agreement about the timing of the occurrence of disputes and violence, but differed in that some were elaborate as to when the incidents peaked. The responses were then coded to come up with the following: the election period which embraces campaigns, candidate selection, seeking police

clearance and the election poll had 20 responses; throughout the electoral cycle and intensifying towards polling had 3 responses; and after poll, especially after counting and announcement of results had 5.

More so, some stated that the disputes and violence start at intra-party level during candidate selection and escalate to inter-parties during campaigns. This will be at election period. The Zimbabwe Human Rights Commission (ZHRC) 2018 reports that it received seventy-seven (77)



incidents of political violence in the pre-election period and twenty-eight (28) in the post-election period; the majority of the cases were from Manicaland, Mashonaland East and Masvingo Provinces and involved cases of intimidation, vote-buying in the form of partisan food distribution, hate speech and disruption of political campaigns. They were emphatic that intra-party processes were littered with disputes, sometimes turning violent if not well managed. It should be noted that from the electoral cycle approach, there are three phases, namely, the pre-, election and post-election phases. Most participants were not well-versed with the delineation of these phases. The 'Election phase' extends from Presidential proclamation of elections, through the nomination process,

campaigns, voting, up to announcement of results. From what the participants gave they seemed to imply that campaigns were in the pre-election phase, when it is in fact, the election phase. Whether at intra- or inter-party, the disputes and violence extends to all phases.

#### **Motivations for Electoral Disputes and Violence**

This theme covers questions 2 and 3 on the Interview Guide which sought to understand the causes or driving forces behind the political players' engagement in disputes and violence. The responses are tabulated below. It should be noted that each participant came up with multiple responses for a question asked.

**Table 9:** Tabulation of factors motivating electoral disputes and violence

| <b>Responses of the Participants</b>   | <b>Tally</b> |
|--|--------------|
| Political polarization and lack of tolerance for divergent views or ideologies and violence a culture of Zimbabwe since 1980 | 14           |
| Lack of Integrity of the EMB – impartiality and composition of ZEC   | 3            |
| Information and knowledge gap among political players and their followers – No VE  | 4            |
| Electoral System used  | 3            |
| Weaponisation of state resources by those in in power, eg, food aid, money   | 5            |
| Electoral laws/ Legislation – lack of electoral reforms to level the playing field   | 2            |
| Impunity of perpetrators of violence   | 4            |
| Lack of integrity of Candidates and Agents   | 10           |
| Imposition of candidates in political parties  | 2            |
| Pulling down and defacing others' posters  | 7            |
| Political power dynamics (Big Brother Syndrome)  | 5            |
| Media, Police and other State machinery (traditional leaders) fanning violence   | 3            |

*Source: Primary data (2020)*

Questions 2 and 3 were coded under one theme, that is, Motivations for electoral violence and disputes. It is important to understand the main causes of electoral disputes in order that the EDR mechanisms address the causes, rather than perceptions. The interviewees from across the board came up with long lists of motivations for electoral disputes, which later culminated in violence, and according to the participants these were multifaceted. Each interviewee came up with multiple responses of causes or factors which were similar or slightly varied. The various responses were then coded coming up with eleven areas as follows: Political polarisation (Lack of tolerance for and among political players/ culture of violence); lack of integrity of the EMB (ZEC); Lack of integrity of Candidates and Agents; the electoral system used, namely "First-past-the-Post" (Winner-takes-all) is a recipe for serious contestations and conflicts; information and knowledge gaps due to lack of adequate

engagement and voter education (VE) by the ZEC; weaponisation of state resources, especially food and money, to gain political advantage over competitors; impunity of violence perpetrators; the role of the state apparatus – media, traditional leaders and police in fanning violence; imposition of Candidates within political parties; political power dynamics (Big brother syndrome); state of electoral legislation, that is, lack of reforms of the electoral laws so as to level the playing field; and intimidation, pulling down of posters and drunken behavior by agents.

The major underlying causes of disputes and violence, according to most interviewees, was political polarization and political adversity in the Zimbabwean society. Polarization makes political parties fail to agree on any issues just for purposes of posturing and furthering their ideological positions. All other factors stem from the polarized nature of the Zimbabwean politics and society.

The Chief Elections Officer (CEO) of ZEC raised interesting observations on the causes and these need capturing separately, namely: “the broader perspective embedded in the electoral system itself; electoral laws and procedures not aligned and the opposition parties allege the party in government uses state resources to its advantage”. Violence has become, as one interviewee put it, “a culture evolving over the years, since 1980”, and each election time is associated with violence. As a result of violence associated with Zimbabwean elections, society has a negative perception of elections, thus creating apathy in turning up to vote.

The findings from the interview data above are supported by research from various scholars on the motivations of electoral disputes and violence, locally and internationally. The issue of polarization as the underlying factor in electoral disputes and violence is captured in several quarters. For example, Dzimiri, Runhare, Dzimiri and Mazorodze (2014) contend that a culture of violence has always been a part of Zimbabwe’s electoral politics. This tallies well with the findings that electoral violence in Zimbabwe is now a culture. This is also supported by Chikerema and Chakunda (2014) citing Masunungure who posits that the liberation struggle was fraught with intrigues, factionalism, violent purges, assassinations and witch-hunting, intimidation and torture, with perceived enemies summarily dealt with and this nurtured the culture of violence and political instability that obtains in Zimbabwe to this day. Lack of tolerance for alternative political voices has also been one of the driving factors behind violence on opposition political parties. In Zimbabwe, and as was in Italy, lack of tolerance has led to the labelling of other parties and their members as ‘sell-outs’ or ‘traitors’, and the subsequent ‘abuses of legislative and judicial powers to protect ruling party interests’ (Scarnecchia, 2006) and the enacting of draconian laws to deal with dissent. Dzimiri, Runhare, Dzimiri and Mazorodze (2014) cite Taylor’s (1989) identity politics which is premised on shared experiences of colonial subjugation and social exclusion of certain members of the group; and Fearon’s (1999:228) “action identity model” which illustrates that group violence stems from collective identity where members of society or a society shares certain norms, beliefs, desires and habits. Using these two models of identity, it is possible to explain the motivations of electoral violence by political parties. Makumbe (2009)

contends that the instant and widespread support that the MDC was able to attract in a very short space of time so frightened Mugabe and his political party that they realized that the land issue, racism, violence and intimidation were the only effective weapons that could be used against political rivals who Mugabe labelled as “enemies of the state”. This labelling of political opponents as “enemies of the state” rallied strong support for the defense of the state from different groups within ZANU-PF and state agencies.

Chikerema and Chakunda (2014) posit that political violence, institutionalized intimidation, thugocracy, lawlessness, inability to accept defeat, and multivariate conflicts have marked Zimbabwe’s political landscape, promoted resource distribution, ideological contestations, social differentiation along class, political party, gender and ethnic cleavage, clearly have an enormous impact on the prospects for nurturing and consolidation of democratic governance in Zimbabwe. Corrupt competition for political space leads to heightened temperatures and the chances of violence become increased. Even the urban youths have been made to join the queue for survival in the absence of jobs

The issue of the press as perpetuating violence is captured by Chari (2017) who argues that both the state-owned and the privately-owned press in Zimbabwe produce competing discourses about electoral violence, pitting the “national interest” narrative against a “liberal human rights” narrative, respectively. The issue of competing discourses on electoral violence serves to perpetuate violence as the media houses’ polarization gives competing narratives at the expense of citizens’ rights and welfare. The African Union Election Observation Mission (2013, p.15) made a similar observation and thus reported, “. it was observed that both private-owned and State-owned media establishments were evidently politically inclined in their reportage”. The dichotomized reportage has the divisive and polarizing potential on citizens resulting in moral decadence and entrenched polarization politics. As recently as the 2018 Harmonized Elections, the European Union Observer Mission (EU OM) in its report observed that the media landscape was highly polarized and largely dominated by the state-owned or government-controlled. However, on a positive note the report states, “After years of repression, Zimbabwean journalists currently operate in a much freer environment” (EU OM Report

2018:25). The media needs to provide balanced reportage and leave analysis discourses to the readers

A number of other scholars have attributed the deep-rooted Zimbabwean conflict and violence to a number of factors, among them, the 2000 Fast Track Land Reform Programme; the nationalist struggle for independence; pre-colonial conflicts; the exploitative, repressive and violent settler colonialism and the racial and the ethnic question which became politicised during the struggle for independence (Guzura, 2016; Nyere 2016; Scarnecchia, 2006; Dzimiri, Runhare, Dzimiri & Mazorodze, 2014; Machakanja, 2010 and Sithole & Makumbe, 1997). These views support the findings that the causes of electoral violence in Zimbabwe are varied and multifaceted. Matyszak (2014), for example, examined the conduct of the 2013 elections in Zimbabwe and concluded that they were characterized by:

an unsatisfactory legal framework; registration bias; constituency stuffing; a flawed voters’ roll with duplicates and deceased on it; a botched special voting procedure; fraudulent and multi-voting using registration slips; weak indelible ink; denial of aggrieved parties to examine electoral residue; failure to address media bias; results mismanagement evident in arithmetic errors in ZEC’s own published results; use of invalid forms, unaccounted ballot papers; and basic administrative incompetence.

The plethora of accusations and counter-accusations do not augur well for credible elections, hence the losers claim the lack of fairness and freeness of the elections.

**Resolution of electoral disputes and sustainability of the EDR mechanisms**

This theme encompassed questions 4, 5 and 6 on the Interview Guide. Data will be tabulated by these sub-themes for purposes of clarity and value so that no responses are left out.

**Table 10:** How election disputes and violence are resolved

| <b>Participants’ Responses to resolution of disputes and violence</b>                            | <b>Tally</b> |
|--|--------------|
| Disputes are hardly resolved. They are left simmering; they are carried over                     | 3            |
| MPLCs (Conciliation) for non-life threatening situations – engaging stakeholders                 | 17           |
| Voter Education (VE)   | 1            |
| Electoral Code of Conduct  | 1            |
| Electoral Courts   | 3            |
| Report to police – police arrest and sometimes caution perpetrators of minor offences            | 2            |
| ‘Big Brother factor’ to resolve intra-party disputes – ‘ <i>Abadala bathe.</i> ’ (Elders said..) | 1            |

Source primary data (2020)

The question regarding the resolution of election disputes came up with the following responses which were then coded as follows: disputes are hardly resolved; Multiparty Liaison Committees (MPLCs) or conciliation methods; Voter Education as a dispute resolution mechanism was mentioned; Electoral Courts; the Electoral Code of Conduct; reporting to the police; and the Big Brother factor for resolving intra-party disputes – ‘*Abadala bathe.*’ (Elders said ...).

The majority of the interviewees identified the Multiparty Liaison Committees (MPLCs) as the mechanism for handling electoral disputes. However, in addition some also came up with the Electoral Courts and the Code of Conduct as the other mechanisms of dealing with disputes and violence during the election period. These three

mechanisms were easily identified by candidates and permanent ZEC employees because they have been in place for a long time and they interact with them in every election. The MPLCs appeared to be the most popular means of addressing disputes and these are the ones mostly available to members of the EMB and Political parties. The disputes, in particular, violence not resolved and ‘disputes left simmering and are carried over were mentioned by members of the political parties who were candidates in the last elections. The issue of violence has been outstanding, and as one of them stated, “People get arrested and are sent to court. But sometimes it is the victims who are arrested, instead”. This is an indictment for the ZEC and policymakers to address.

**Table 11:** Composition of MPLCs

| <b>Participants’ Responses on the Composition of MPLCs</b>               | <b>Tally</b> |
|--|--------------|
| Civil Society Organisations (CSOs)                                       | 6            |
| Political parties, election agents or Candidates contesting the election | 20           |
| EMB/ ZEC   | 19           |
| Security (Police) – Law enforcement agents                               | 16           |

*Source primary data (2020)*

All interviewees were able to identify membership of the MPLCs, as political parties contesting the election/s, the police and ZEC, although some seemed not very sure of the CSOs, Observers and members of Chapter 12 Commissions. A few identified CSOs as members, but these depended on their exposure. However, there were mixed opinions on the CSOs and observers as members of the MPLCs. According to the law establishing MPLCs, there is no mention of these by name, serve for “any person invited by the representatives of every political party represented in the liaison committee” (Electoral Act, Chapter 2:13, Section 160B, (b)(ii)). In so far as the composition of the MPLC mechanisms was concerned, all the interviewees were able to identify the membership, as political parties contesting the election/s, the police and ZEC.

Moreover, on the composition of MPLCs being adequately balanced, all interviewees agreed that they were balanced as they were, although some felt more members could be added to make them better functional. For example, two District Elections Officers were of the opinion that Residents Association Chairpersons in urban

constituencies and Traditional Leaders in the rural areas could add more value; the Chief Elections Officer of ZEC, while happy with the composition felt a Retired Judge could add value to the MPLCs; and two members of the political parties and one from the FBO suggested addition of members of the clergy to add credibility and trust to the process. One member of the academia proposed CSOs who deal with elections could add value. One from the political party/ academia, while acknowledging the balanced composition, stated, “The structure looks balanced, but those who matter most do not attend, they have no time. So they send juniors, instead”; and a member of the CSO said, “The composition is ok. The issue is, who is listened to more and who is the ‘big brother’”. The composition is, therefore, adequate serve for a few areas needing patch-up.

The sustainability of EDR mechanisms question sought to check if these mechanisms were operational throughout the periods even in the absence of elections and the question elicited the following responses from the participants and these were coded into three categories as follows:

**Table 12:** Sustainability or continuity of the Mechanism

| <b>Participants’ Responses to continuity of the EDR mechanisms</b>  | <b>Tally</b> |
|---|--------------|
| Mechanism are periodic, only activated at election time             | 17           |
| Not aware but I think they are activated at election time           | 2            |
| Only the Electoral Court is continuous, others are seasonal         | 3            |
| The Law does not provide for continuity                             | 1            |
| No knowledge about continuity, but I think they are always in place | 1            |
| Intra-party has own mechanisms which are continuous                 | 1            |

*Source primary data (2020)*

The EDR mechanisms are periodic, that is, there is no continuity and only re-surface at election time came from the majority of the interviewees. Some interviewees showed limited knowledge of the lifespan of these mechanisms. In reality, the MPLCs are temporary or periodic, that is, operating at designated times as regulated at law. Only 3 participants were able to correctly specify that it is only the Electoral courts that operate throughout the electoral cycle, while the others are periodic. The majority of the participants were

focusing on MPLCs and the Electoral Codes of Conduct when responding to this question, hence their responses that they are periodic. Other responses were: ‘There is no law which provides for their continuity; Emphasis is only towards elections after that they are dormant; ZEC is not visible after elections. CSOs fill up the void of engaging citizens in-between elections; The mechanisms dissolve after every election and re-surface in the next; They are temporary and so are their compositions; and Political parties have their

own continuous engagement mechanisms'. Continuous engagement as one participant from the FBOs sector put it, "addresses the issue of trust, the ingredient which ZEC so much lacks". This gap is a challenge for ZEC to close. The need for robust mechanisms to resolve electoral

complaints and other forms of disputes arising out of the electoral processes cannot be overemphasized. Disputes must be resolved effectively as they arise so as to engender confidence in the system.

### Effectiveness of the EDR mechanisms

**Table 13:** Targeted training of MPLC membership before deployment by ZEC

| Participants responses to targeted training before deployment to MPLCs   | Tally |
|--|-------|
| No training. There should be training  | 12    |
| The assumption is all seconded persons have some conflict resolution training; used information gained elsewhere | 2     |
| Just information sharing meetings  | 1     |
| Yes. We held meetings, read out guidelines to the Committees and delegates                                       | 4     |
| Used ny legal knowledge  | 1     |
| We had general training, not training specific to dispute resolution   | 2     |
| Political parties orient their own before they are deployed  | 1     |
| Yes, they were trained   | 3     |
| Did not attend   | 1     |
| Not aware. I am not sure   | 2     |

*Source primary data (2020)*

The responses reflected different understanding of the training for EDR mechanisms. The correct position is that there is no training for the MPLCs for purposes of handling conflict resolution; and in the words of the Chief Elections of ZEC, "There has not been any specific training so far, but it is a process which needs technical know-how. The Committees are working through trial and error, reading the regulations and the code of conduct that spells out the dos and don'ts". Those who claimed training were basing on the reading of regulations and the code of conduct to members before they are deployed. The reading of the regulations provides operational guidelines which the Committees use as the standard measures. One who said he did not attend, said he used his legal knowledge to get things done and had never attended the MPLC meetings despite in his third term as a Legislator.

Follow-up responses on the question of training of committees were: The assumption is that all seconded personnel have some conflict resolution training background from their organisations; We used experience gained at our workplace; we had

general training, nothing specific to resolution of conflicts; political parties orient their own before seconding them to these Committees; CSOs and FBOs have their own trainings for the personnel they deploy; and we have been working through trial and error, reading the regulations and Code of Conduct to the participants. The general responses to this question revealed that there was no training for standardising operations before deployment; as this was buttressed by the ZEC Chief Elections Officer. ZESN (2007), noted that MPLCs are comprised of respected and impartial individuals, and with proper training these structures have the capabilities to address concerns about the electoral process, instead of the courts, which are often expensive, inaccessible or too slow to be able to respond to the immediate concerns of political parties during campaigns. This is a clarion call to the ZEC to start considering training members of the MPLCS before they deploy them for duty.

This sub-theme solicited responses on how the participants perceived the EDR mechanisms mitigated the disputes and violence during election time. The following responses were tabulated:

**Table 14:** Effectiveness of the Mechanisms used

| <b>Participants' responses on the effectiveness of the EDR mechanisms</b> | <b>Tally</b> |
|---|--------------|
| Effective for disputes, not violence                                      | 1            |
| Not effective enough, toothless bulldog – could be effective              | 3            |
| On paper and theory, strategies are effective – but no implementation     | 1            |
| Fear and directives render the mechanisms useless                         | 1            |
| Have the potential to be effective – could be effective                   | 4            |
| Great strides in handling disputes  | 1            |
| Neither effective nor ineffective (kept us going)                         | 1            |
| Fairly effective  | 2            |
| MPLCs are useful but the issue of trust is the major blow                 | 1            |
| Very effective  | 5            |
| Effective   | 9            |

*Source primary data (2020)*

The participants interviewed on the effectiveness of the EDR mechanisms came up with mixed reactions. The responses on being asked “How effective are these mechanisms in addressing disputes?” 14 respondents in all described the mechanisms as effective to very effective. Follow-up questions to the responses drew out the following responses: those who said the mechanisms were effective based their arguments on that they did not have any challenges, complaints, incidents of violence and no arrests made in their constituencies during elections; Peace prevailed and candidates and agents from different political parties were seen discussing and sharing jokes; Those who were in conflict came out satisfied and became part of the solution and respected the agreements reached; One of the respondents from the Zimbabwe Human Rights Commission (ZHRC), said that the mechanisms were “excellent. Infact, it came as a surprise to me

to see such a platform. ZEC took a proactive step to moderate disputes.” He was referring to the MPLCs which he felt brought people from different political backgrounds together, which helped to reduce tensions and suspicions. The ZHRC (2018) reports that it partook in these MPLC dialogue meetings with political parties and independent candidates and used the platform to address and resolve certain reported cases which were prevalent in Provinces and Districts. Effective complaints and appeals mechanisms foster transparency and accountability in the electoral process and create safeguards against arbitrary disregard for electoral laws by the erstwhile administration and ruling elite.

This sub-theme sought to establish the mechanisms which participants thought worked best in conflict mitigation. The data is tabulated below:

**Table 15:** Mechanisms that proved most effective

| <b>Participants' responses on the mechanisms that worked most effectively</b> | <b>Tally</b> |
|---|--------------|
| MPLCs (Conciliation) was the best mechanism                                   | 9            |
| Code of Conduct   | 2            |
| Electoral Courts  | 2            |
| Combination of MPLCs and Code of Conduct doing well                           | 5            |
| MPLCs have the potential – they just need tweaking                            | 1            |
| Police, they need training in effective handling of election-related cases    | 1            |
| None worked well.   | 2            |
| The mechanism need to complement each other for effectiveness                 | 1            |

*Source primary data (2020)*

Question 13 sought responses on the mechanisms that worked most effectively and, again there were mixed reactions. The participants gave divergent views, but most seemed to be of the opinion that the MPLCs worked best; followed by those who saw the combination of MPLCs and Code of Conduct producing the desired effect, the Code of

Conduct and the Electoral Courts shared the third slot. However, 2 participants declared none of the mechanisms worked well. One, an academic cited his belief in “restorative justice as opposed to litigation and principles of Ubuntu, our cultural way resolving conflicts”. The MPLCs and the

Code of Conduct appear to be the favored ADR mechanisms in conflict resolution.

Three schools of thought emerged from the results on this question – those for the retributive route, those for the restorative route and those for both routes to run concurrently. The majority opined that the MPLC or ADR mechanisms which address the stakeholders holistically worked best because they sought to dialogue rather than punish the offenders. The majority of the respondents were for the restorative school of justice, that is, building relationships rather than meting out punishment. They, therefore, stated that MPLCs and the Code of Conduct had positive effects. There was emphasis on dialoguing and engagement between disputants in order to build peace. The use of the ADR mechanisms in conflict resolution helps to build peace and restore relations in the long term and as one participant, a member of the Academia put it, “I am a believer in ‘restorative justice’ and ‘Ubuntu’ as the bases for addressing conflicts”. In conflict resolution and peacebuilding, the ADR mechanisms have been found to bring disputants closer together than the

court system. Using both retributive and restorative processes helps to strike a balance between situations, thus managing disputes and violence, at the same time. The one who advocated for the police was a party candidate who felt that the police in their Constituency worked well and treated everyone above board, irrespective of political party affiliation. One respondent, who is also a Member of Parliament said, “No mechanism that needs special mention. I did not see any”. In the words of the ZEC Chief Elections Officer, “Electoral Courts worked best. Other countries have codes of conducts with sanctions which the aggrieved parties may resort to in the event of infractions. Decisions to remove disputes lies within the perpetrators’ mindsets and intentions”. It is in the mindsets of the perpetrators of violence to continue or to stop what they are doing. This is usually premised by the fair justice system that imposes penalties without fear or favor.

This sub-theme sought to establish challenges encountered by the Committees which hindered the mechanisms to effectively achieve their purpose. The challenges are tabulated below for.

**Table 16:** Unique Challenges encountered

| <b>Participants’ responses to unique challenges encountered</b>   | <b>Tally</b> |
|---|--------------|
| None. All went well   | 10           |
| Failure to abide by and implement agreements reached  | 2            |
| Security dictating what is to be done   | 1            |
| Traditional leaders dismiss whatever has been discussed soon after the meetings as none-event                     | 1            |
| Not taking MPLC meeting seriously   | 1            |
| Violence which is not in the purview of MPLCs   | 3            |
| Not sure as outsiders. We just see happening and think all is smooth  | 1            |
| Poor candidate picture and wrong initials on the ballot paper   | 1            |
| Not really. Political players sometimes want to play to the gallery in the presence of Observers                  | 2            |
| Issue of evidence in electoral[ malpractices, eg, vote buying using food handouts, pulling down/ defacing posters | 3            |
| Pandemonium at the Nomination Court due to overwhelming numbers in 2018   | 1            |
| One where a political party was threatening to withdraw from contesting due to unfair practices                   | 1            |
| Lack of planning on political parties   |              |

*Source primary data (2020)*

The majority of the respondents (11 out of 21) expressed no challenges as everything went smoothly from beginning up to the end. As noted by the 2018 National Chairperson of the MPLC, there were no unique challenges, serve for “Political parties wanting to play to the gallery in the face of the media, Observers and Ambassadors”. To mitigate these stunts, observers were left out of these meetings. This is a result of the polarized electoral environment in Zimbabwe where at every opportunity, mostly opposition

parties, would want to draw the attention of the outside world. Some isolated incidents which were identified as challenges during the interviews were the issue of ‘evidence’ whenever complaints of vote buying and tearing down of posters were raised. As one respondent who was a candidate in 2018 put it, “Vote-buying in the form of food distribution has not been resolved. It is still on-going”. On the same subject, one District Elections Officer (DEO) noted, “The challenge of vote-buying using food handouts was prevalent. MPLCs

deliberated on the issue and reached consensus. As they talk, they find each other and heal along the way". On the issue of evidence, the ZEC Chief Elections Officer (CEO) stated, "The issue of evidence is unique to deal with. Complainants are required to produce evidence of their complaints, and that has proved to be problematic, thus letting perpetrators get away with crime". This issue is

often dealt with at the Electoral Courts and complainants express lack of confidence in the courts.

Question 10 sought responses on whether there were cases referred for prosecution during conflict resolution meetings in 2018 or any other time during MPLC meetings.

**Table 17:** Cases referred for prosecution by MPLCs

| <b>Participants responses on cases reported for prosecution by the MPLCS</b>        | <b>Tally</b> |
|---|--------------|
| None. No cases referred for prosecution   | 15           |
| Don't recall any  | 2            |
| Physical violence referred to police  | 1            |
| Not sure  | 1            |
| Rowdy elements at the meeting were arrested by the police who were part of the MPLC | 1            |
| Some conflicts are superficial – only for purposes of posturing                     | 1            |
| Some were referred  | 2            |

*Source primary data (2020)*

The ADR mechanisms are voluntary mechanisms which seek to foster harmony in the community by getting former enemies to come together and find peace between and among each other. As such, they do not have sanctioning dispositions on violators of regulations, save for violence which they refer to the police for prosecution. The majority of the participants (15 out of 21) stated that they did not refer cases for prosecution. They managed all the cases that came their way. The MPLCs work independently of the courts. The presence of the police in these Committees is to make sure the players work within the prescribed laws. It is a proactive process to ensure that players do not infract laws. As the participants stated, issues of a violent or criminal nature are in the purview of the police and the courts. As the ZEC Chief Elections Officer put it, "MPLCs have not because affected parties individually go to the

police or Electoral Courts. And, some conflicts are superficial, for example, posturing for purposes of furthering own interests, to be heard, known, seen and so on". When political players know that their cases have no merits, they rather take them to the MPLCs than the courts where they will be asked to produce evidence.

#### **Proposed EDR mechanisms for the effective resolution of disputes and violence**

In order to come up with inclusive forward looking strategies in strengthening the current EDR mechanisms, the participants were asked to suggest mechanisms that could be used to strengthen the EDR mechanisms and further reduce incidents of disputes and violence in Zimbabwean elections. The suggestions tabulated below came forward:

**Table 18:** Proposed Mechanisms to Strengthen the current Dispute Resolution Mechanisms

| <b>Participants' Responses to proposed mechanisms to strengthen the current ones</b>  | <b>Tally</b> |
|---|--------------|
| Adopt inclusive electoral systems that promote 'win-win' values, not 'zero-sum'   | 2            |
| Adopt Ubuntu as a cultural way of solving disputes  | 1            |
| Best practice by EMB and its stakeholders – implement rules fairly and firmly   | 3            |
| Adopt digital tools - Early Warning Systems (EWS) to track potential violence areas   | 1            |
| A Code of Conduct with sanctions; encouraging fair play among political players   | 3            |
| Continuous Voter Education at Community level, empowering citizens with accurate information and incorporate social media platforms | 5            |
| Establishing permanent EDR mechanisms such as MPLCs or peace committees to engage citizens continuously                             | 5            |
| EDR mechanisms closely complementing each other – police, PLCs, Chapter 12 Commissions, courts                                      | 2            |
| Train Retired EMB officers and Commissioners to create a pool of arbitrators  | 1            |
| Regulation of public broadcaster on hate language   | 1            |
| Incorporate Code of conduct and peace studies into schools and college curriculums  | 2            |



|  |   |
|--|---|
| None proposed  | 2 |
| Joint campaigns and public debates by political parties to create tolerance to divergent views |   |

Source primary data (2020)

The participants' views were divergent as shown above. Continuous Voter Education, Local Peace Committees operating continuously and developing Codes of Conduct with sanctions were the most preferred strategies for EDR. The other strategies were selected by one participant or two participants each. As observed by the participant from the CSOs, "The code of conduct lacks sanctions. All that is needed is to put sanctions and the code of conduct if implemented will work well. ZEC is not implementing it thoroughly". One District Elections Officer advocated for "Additions to the code of conduct should contain a clause or paragraph to include 'contender' not 'enemy' so as to explain conduct". The code of conduct needs re-definition and strengthening to make it deliver its mandate. Another electoral officer on the code of conduct said, "The code of conduct (should) be made part of our lives, incorporated in the schools' curriculum to inculcate values of respect, tolerance and citizenry". When the children are taught at a young age, they grow up with the correct values. Another proposed conflict resolution and peace studies running up to university level. Another participant, who is a former legislator and now in the academic field suggested that "the system takes away the notion of elections as a platform of creating enmity, and maybe learn from the Switzerland electoral system which is quite fair to all".

Follow up questions on further suggestions for effective mechanisms to resolve electoral conflicts, saw the following suggestions:

*Retired senior EMB/ ZEC officers and Commissioners could be trained as EDR arbitrators; Election resolution courses and the code of conduct should be incorporated into the school, college and university curriculums to inculcate values of tolerance; Social media platforms should be used to continuously engage with citizens; Collaboration with Chapter 12 Commissions, especially the Zimbabwe Human Rights Commission (ZHRC), National Peace and Reconciliation Commission (NPRC) and the Media Commission in order to build synergies for effective resolution of disputes and violence; Incorporation of the Electronic Dashboard in the results management systems; The electoral court should not only deal with procedural matters/ issues, but should also deal with substantive issues*

*in order to reduce violence; Nominators for candidates should be increased and qualifications to include tertiary qualifications and property ownership in order to screen candidates for genuine people's representatives rather than opportunists; ZEC should strive to continually engage political parties/ stakeholders throughout its electoral processes; ZEC should work towards de-polarizing society. They should be free, fair, firm and equitable when dealing with stakeholders; ZEC should deal with issues not people; ZEC should discourage dishonest values and make them punishable; ZEC should incorporate opinion leadership in peacebuilding; The state should strive towards building values of citizenship and acceptance of one another in our diversity; Ubuntu should be pursued as a cultural way of resolving conflicts in addition to other mechanisms; ZEC should strive for best practice in order to eliminate the stigma it is currently tagged with; and ZEC should create Mediation platforms for Victim-Offender conferencing; MPLCs should continuously engage with stakeholders at all levels, the same way the Joint Implementation Committee (JOMIC) engaged up to senior leadership during its tenure;*

The propositions above were put forward to improve on the current EDR mechanisms and they provide a detailed mix from which the policy makers can pick additional propositions to strengthen the current mechanisms. They are from the participants' wide experiences in election conflict resolution and practice. The major proposition was the enactment of laws to establish continuous engagement peace committees that run throughout the electoral cycle. Continuous engagement at all levels, including top political leadership would ensure that conflict resolution takes place at all levels. From the propositions above it became clear that the current mechanisms are a good start but the require strengthening for them to be effective

## CONCLUSION

The study explored and established that the EDR mechanisms used by the ZEC, while they are standard mechanisms used in most countries, are not highly effective due to a number of challenges, namely, that the ADR are discontinuous, on-off and it was not until the 2018 Harmonized Elections, where the law legislated six months

before the elections. Only the Electoral Courts are permanent, that is, they run throughout the electoral cycle, but these tend to be not in favor with the voters, especially from the opposition political parties who perceive them as biased. The existing mechanisms need strengthening in order for them to have effect. For example, the code of conduct lacks sanctions which when incorporated will make them effective. The lack of continuous engagement by MPLCs and voter education were also identified as gaps which needed closing. The study established that electoral violence is prevalent throughout the stages of the electoral cycle, but they peak at the election period, mainly during campaigns and after the announcement of results.

The study also established that the EDR mechanisms used in Zimbabwe are consistent with those used in other countries but differ in application. On the contrary, those of Zimbabwe have several gaps which if addressed might see the level of electoral disputes and violence reduced. The gaps include discontinuity of mechanisms, lack of training of Committees administering the mechanisms leading to inconsistency in applications, lack of sanctions enforcing agreements reached and compulsory attendance by the major stakeholders, namely the candidates. The lack of sanctions for infractions of regulations was also noted as a gap which being exploited by the erstwhile political players. These gaps are exploited by the erstwhile political actors, thus rendering the mechanisms in place ineffective. There were also strong suggestions that these mechanisms be complementary so that the weaknesses of another are covered up by the strength of another; the electoral system be changed for a more accommodative one, creating a 'win-win' for participating political parties, and ZEC to work on de-polarizing society so as to reduce acrimonious behavior towards other players.

## RECOMMENDATIONS

The study established some areas that need remediation, in the short to long term. The participants made the following recommendations for each of the Stakeholders to act upon, namely; That:

### Recommendations for Policy makers

- The ZEC to lobby for the adoption of an inclusive electoral system that creates 'a win-win situation' for all participating political parties. The majoritarian electoral systems are

generally perceived as conflict-ridden, hence the need for systems which are more accommodative to minority political parties.

- The ZEC to develop a Code of Conduct with sanctions to deter wayward conduct and enforce compliance with regulations and agreements made.
- The ZEC to lobby for a permanent Peace Committee, the same manner as the Joint Implementation Committee (JOMIC), to engage citizens, political actors, including the political elite, in order to mitigate electoral disputes and violence.

### Recommendations for the EMB (ZEC)

- The ZEC should engage political parties and stakeholders throughout its electoral processes and work towards de-polarizing society through continuous voter education (VE) at community level in order to empower political parties and electoral players with accurate information and close information gaps.
- The ZEC to adopt complementary approach among the EDR mechanisms used, that is, the MPLCs to work with the Code of Conduct and the EJS, all complementing each other.
- The ZEC should use various platforms, including social media platforms to continuously engage with citizens.
- The ZEC should train MPLCs before they are deployed for duty in order to standardize operations. A manual be developed to assist in the training of Committees.
- The ZEC should invest in Digital tools for early detection of hot spots (Early Warning Systems) so as to proactively deal with conflicts in their formative stages.
- The MPLCs or Local Peace Committees should run continuously and engage with stakeholders at all levels, the same way that the Joint Implementation Committee (JOMIC) engaged up to senior leadership during the GNU. This will help them engage stakeholders outside election-charged environments.
- The ZEC should incorporate new ways of results management and communication, among them the Electronic Dashboard in order to spruce up its image of results manipulation.

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**Source of support:** Nil; **Conflict of interest:** Nil.

**Cite this article as:**

Ncube, I. and Chikohora, E. "Contemplating on the Effectiveness of Election Dispute Resolution (Edr) Mechanisms in Mitigating Electoral Disputes and Violence in Zimbabwe. The Case of Bulawayo Metropolitan Province from 2005-2018." *Sarcouncil Journal of Education and Sociology* 1.1 (2022): pp 40-59