

An acceptable election in Zimbabwe: What Lessons from Kenya & the Gokwe-Kabuyuni By-Election?

second the series
on the electoral process in zimbabwe
and first and foremost i had a sincere
apology to all of you
with a big hit at the beginning of this
program
our zoom was just switched off strangely
but our technical team restored things
i hope and appears we have not lost
anybody
from the country we have more people now
are back with us
so thank you very much for your patience
without much to do i'll go back and just
explain the context
and the first in the series
a fortnight ago with dave with the
planet zamcha outlined
the pragmatic as well as one who put it
attendance to this mobile electoral
process
and he flagged
five pillars
which pillars now will be using as we
proceed with
the remainder of the ten
part series
at the end of which we will
hope to have a conference at which will
decide
all of us
nationally regionally internationally
whether
the elections in zimbabwe in july next
year or whenever they're held
will be free fair peaceful and credible
to this first and foremost involved with
themselves
but also to the regional international
community
taking into account

electoral practices good practices
and including the backdrop
of successful
elections in africa
the the zambian one last year
and more recently the kenya one
and we're hoping
to
to look at these five pillars namely
information to see the extent to which
the media
the media field is accessible to all
parties
inclusion
the extent to which
legislation of voters
the limitation has been done properly
insulation
essentially
freedom of speech freedom of movement
and the lack of any intimidation
integrity
namely within which elections are free
fair
credible
and also peaceful and irreversibility
i the extent to which
we don't have
not only a
problem of transition from those
we have lost to those have won but also
the extent to which any jew
legal processes
are done
expeditiously
so
to bring us into the discussion
but i hope to have peter young
he's having problems unless peter peter
is able to say anything
he's in morocco
and he's having difficulty with
connectivity
so we will may have to unless he comes

in soon we will have to begin with
as saying earlier is an academic a
contemporary of mine
but he's now
a governor of kisumu
he won 75 percent of the vote
on the the poll was the 9th of
august
and he's in the
in the raila team
and regrettably
is his boss did not make it
raila odinga
but we also have tawanda chimini
who in the absence of peter and young
might also be able to give us
some background not only to the kenyan
electoral process
but also the angola
tawanda used to be with the election
resource center in zimbabwe
he has been elevated now to the
electoral institute for sustainable
democracy in africa
based in darussalam
and whose responsibility is to monitor
elections across the continent
so he's bringing a lot of experience but
more more relevant to our situation
some kind of a backdrop
of
with respect to kenya and angola
and how that might inform the zimbabwean
process itself and the debate before us
then we have andrew mcconaughey from
jason the zimbabwe electoral
supportive network he's a chair there
and we're pleased to have him
the first time on our platform
andrew
welcome
welcome to tawanda
then we have discussions uh
from the

human rights association
zikamai is a prominent lawyer
social activist
and one of our
eminent
academics
in zimbabwe
last but not least we have solomon
from the
electoral research
resource center in zimbabwe
it's the last discussion in the group
so
let's go to uh peter just last called
peter peter are you with us or not
i hope he joins us subsequently so i
will go to toronto jiminy
to look at
the
the five pillars
in the context of the kenyan elections
and angular elections if you wish
but also to respect to the recent
by-election
which was held in
goku
a few night ago
which was marked by violence
intimidation
and perhaps one could tell us whether
that is therefore
for voting for the election next year
was an odd
incident
especially since those that were held
subsequently
appear to have gone
peacefully
tawanda gemini
thank you dr mandela
and thank you to surprise for the
invitation um
i wasn't expecting to be the first one
to get the ball rolling but i'll give it

my best shirt
so
again looking at
the kenyan election i think part of what
defines the 2022 elections
the most was
probably the fact that this was an
election coming at the backdrop
of a nullification of an election in
kenya in 2017.
we again unprecedented on the continent
with we witnessed
the judiciary actually taking a decision
and indicating that
the quality of elections in kenya in
2017
did not meet the constitutional
provision
and that triggered in it for
a re-run of the election
that being said
it also came on the backdrop of
the main opposition that had appealed
against
the that it appeared for the
nullification of the 2017 election then
deciding not to contest
in the
uh called for a re-run of that election
um so so these are some of the things
from a legislative perspective that
uh created or contributed to the context
in which the kenya 2022 elections were
held
that notwithstanding you'd all recall
probably that part of the context also
involved an attempt
by the president the then president of
kenya
after what was what has been popularly
known as the golden handshake
to
try to bring
disputing parties together particularly

the opposition through what eventually became known as the bbi to the building breaches initiatives and through that initiative there was an attempt to create um an inclusive um approach to addressing things that had been noted as contributing towards um you know divisions within the kenyan society uh it was not a particularly popular initiative there was a lot of resistance to it but nonetheless there was this attempt to try and create an omnibus this came in the form of constitutional changes legislative changes which will try and address what had been concerned particularly in the political terrain in kenya unfortunately this initiative also collapsed in the hands of the judiciary at some point it was then decided that the process of unconstitutional and it was abundant and that being said what i personally found fascinating was that between 2017 and right up to early 2022 all efforts trying to give effect to the recommendations of the constitutional court when it nullified the 2017 elections we parked on the assumption that these changes that the court said said when necessary would be implemented through the failed bpi process so unfortunately there was very limited concrete pursuit of reforms between 2017 and 2022 resulting in the

fact that ahead of the 2022 elections in kenya there were still pieces of legislation that was sitting in parliament which had not been passed so the way issues that should have been addressed from the 2017 elections which had not been addressed and kenya went then to the 2022 elections without these issues having been addressed um so this was part of the context that can be said to have defined the the kenya 2022 elections but added to that which i think is an important element to highlight here stakeholders in kenya appeared to have very massive massive um confidence in the judiciary and and the this is driven by a number of factors the 20 2010 uh constitution the 2011 pieces of legislation around the election process um so so they seem to have been a lot of confidence in the institutions um in the in the judiciary in particular to the extent that ahead of the elections it was very clear that the major contenders were already preparing to go to court notwithstanding the results of this election so this these were part of the issues that formed the context of the 2022 elections for some of us who watch elections it was very clear ahead of these elections that the determination of the outcome regardless of who was going to win would have to be settled in the courts and it wasn't clear whether the stakeholders

would be comfortable with the determination of the of the court but what we have seen now is that there seems to be a very high regard by election stakeholders particularly political parties to the decisions of the courts um uncomfortable as they may be there is a willingness this political will to still respect the decision that is taken by the courts so all these issues in my view from the context of the of the elections in kenya but specific to the pillars um that dr mandaza highlighted in terms of information inclusion insulation integrity and easy flexibility i think there are elements here that um also form the context so in terms of now quickly just go through them and maybe we can have further discussions on this i think in terms of um in fact in terms of information you would find that in kenya they do have a vibrant medium interestingly enough there is a lot of respect by a lot of election stakeholders around the public media so the public media appears to be a better job in kenya than what the private media does and the explanation that has been given to explain this is that the private media uh is owned by the politicians so they tend to be extremely biased in their coverage of election related news but there is an influx of information which is readily accessible when you look at voters making a decision in king

because of the very open space media space that allows for an exchange of information and related to that the state institutions also have a healthy relationship with the stakeholders through the frequent dissemination of information however leading up to the elections particularly on the question of information there were concerns that the election commission the iec was not very forthcoming in terms of its engagement with stakeholders and you know a reflection on this revealed that part of what the iec was worried about and it created some sensitivities was in relation to the fact that they didn't want information to be abused uh they were quite sensitive having run elections that were not in 2017. so they took a contract they're very cautious up to the type of information that they put out but that notwithstanding they did um uh subsequently particularly towards uh the the elections and um in august they did begin to open up then they did share a lot of information um yes there were questions that were coming from stakeholders that required responses and you'd find statements from the iec that will try and clarify this information um so you could say that in terms of that pillar around information there seems to be have been a much healthier exercise of dissemination of information stakeholders including voters but it was not and and this may be something that can be up for debate it was not necessarily better than what was

witnessed in previous elections and like
i've indicated part of the problems
around the question of information
could have particularly coming from the
iebc could have been coming from the
sensitivities arising from having run
nullified elections so they were quite
skeptical about stakeholder attitudes
and responses to the type of information
that they'd be taking out in terms of
inclusion and insulation and all time
just made these two pillars
you'd find that kenya has a history of
conflict election related conflict
politically motivated violence and
because of that they have put up
mechanisms that try
to deal with these issues um
they they they have created institutions
that are specifically related to
building cohesion in the country
which institutions have maintained right
across the election cycle
efforts that are aimed to deliberately
monitor aids speech to deliberately
create platforms where political
electors constantly engage
a rapid response system and they
deployed this ahead of the elections to
ensure that at least
any incidences of violence that could
okay these could be quickly dealt with
one problem that he made was a decision
taken by the court
which limited the capacity of the
election commission
the election commission in terms of the
law has the powers to enforce the court
of conduct
meaning that they can take measures
against offending parties during
elections should there be violations to
the court of conduct but some uh once
they called and taken matters to the

court
indicating that it was unconstitutional
to give the election commission such
powers to take action against violating
stakeholders
and a decision of the court
pretty much nipped
the wings of the iebc in terms of
enforcement
and that did have
a bearing on the
of of inclusion and
what could have arisen and we did not
see much of that but what could have
arisen was that if indeed violence was
to major ahead of and during the 2022
elections the iabc would have very
limited scope to
handle these matters
some of the
mechanisms at the disposal of the abc
included the fact that they could take
action against candidates they could
take action against political parties uh
in some countries we've seen election
commissions that actually stop
campaigning in a specific area or stop
candidates from actually campaigning in
a specific area in some instances they
can take a decision today and say that
elections will have to be postponed
so things like that that are aimed at
detering um you know the the spillover
effects of
election-related conflict resulting in
violence so so there was that issue
unfortunately for kenya while there were
incidences of disturbances that did okay
i heard often during the elections
these were not necessarily
as
extensive as had been witnessed in 2017
to 2007.
so

there was comfortable space for very inclusive participation by citizens there was a healthy um you know participation of voters in terms of uh campaigns there were there was access to campaigns there were complaints that were registered with did happen and so political parties felt that they were being uh limited in terms of using some venues and there was what appeared to be a deliberate booking of all things particularly in the last weekend of the elections by one party which stopped the other party from accessing some venues so they in such instances yes issues of inclusion could have faced some stiff challenges but these were not necessarily extensive to the extent of extent i mean contributing to the election being disputed on the basis of some of these issues of inclusion and insulation but again in terms of insulation um a lot of the things that i got from kenya was that a lot of the insulation around the elections is grounded in the strengthening of institutions so in kenya unlike in a lot of other countries on the continent we do not see for instance election management bodies that are vulnerable to the direction of interested parties in the elections in the conduct of their work so in terms of that there appears to be some level of insulation which is legislated which ensures that there's limited corruption when you look at

some of the key administrative processes of the elections including how the election management body does work so these were some of the issues um relating to inclusion to insulation and the question of the integrity of the iabc and i think for this one dr mandela it may be something that we can pick up in a much broader discussion specifically looking at the determination that has been made by the the courts but that being said these are some of the contextual issues that we're making um ahead of the 2022 elections in kenya uh and um i i just tried here to capture some of the pillars that where my colleague dr zamcha has uh brought forward as a signpost that can be used to assess where we are when we look at the question of zimbabwe but broadly speaking we can comfortably say that kenya does provide very solid lessons but good and bad lessons for a country such as zimbabwe and i think every opportunity must be taken to try through the experiences of kenya and look at what can work for zimbabwe what may not work for zimbabwe and try to allow space for the use of these discussions to actually influence those that have the powers to make decisions to ensure that the elections that zimbabwe faces in 2023 are elections that stay that steer away from the challenges that have been witnessed in the past so just to wind it all off i think more than anything the iebc in kenya

was quite responsive
to the challenges that were witnessed in
2017 at an administrative level and here
we can get into how they
went about preparing pairing ballot
papers how they ensured that there was
inclusion in
the election preparations
which resulted in almost all the content
not raising concerns ahead of these
elections i think those are important
things that we need to highlight
especially when i look
what happens
don't wonder
i wonder
i'm sorry that we have a blink with uh
tawanda something must have gone wrong
with it
either his power or whatever but i
didn't yet largely finish his
presentation
and they made the point very strongly
that uh
their lessons to be learned from kenya
with respect to the
five pillars information inclusion
insulation integrity
and irreversibility
would have asked him to i will get him
back and ask me a few questions
to highlight um the
some of the
lessons that zimbabwe
can learn from the kenya process
so now i had turned to andrew marconi
andrew
uh thank you thank you dr
mandela and thanks for the invitation
for
me to participate in this dialogue
and i'm indebted to tawanda's
broad analysis of the situation in kenya
before elections which were held

in august
at occasion to
be in kenya on a learning mission
and i want to believe that um you know
the lessons that we learned they are
something which we may um you know
embrace in our own
environment in order to improve
you know the manner in which um
elections are held but maybe before i go
into that i might want i might want to
speak about our own local context
particularly taking into cognizance
elections by elections that have taken
place
since march 20
2022
particularly looking at the environment
under which those elections took place
and i want to start perhaps in
august sorry about october last year
just just to have a feel of what was
happening in the environment it is at
this stage when
uh the
former president of the mdc alliance who
is now the president of the
triple c
um started you know you know going into
communities
around the country the rural areas and
each time you visited a province he
would face um challenges he would be
blocked his motorcade will be blocked
and in some instances shots were fired
in this vehicle and
you know and the like and you could see
um you know
supporters of zanu-pf barricading
wearing a xanopf regalia barricading the
roads and there was silence from on the
part of zanu-pf uh you know
regarding those incidences condemning
them or stopping their their

supporters from from doing that
and as we build we were building towards
the
march 26
by-elections um
a lot of violence occurred and outside
perhaps the violence that took place in
and in goku areas and we lost lives
you know before that by-election
ordinarily by-elections do not invite as
much contest given that uh you know you
know they are usually
people usually don't have interest in
by-elections they prefer
the you know
the main elections they harmonize
elections which in their belief could be
life-changing but in this instance we
experienced
um you know
serious violence uh during the
by-election something which had not
occurred before and you know when we
analyze the situation the environment
our feeling is that um this does not
occur well for us as we prepare for 2023
it means that
the environment will be hostile there's
a lot of contestations that will be
there and we may very well experience
the challenges that we experienced
in the 2008
elections post the first election into
the uh run of elections um and of course
you mentioned uh able in your
remarks incidences that also occurred a
a week or so before
the goku kabuyani
by-elections um you know we also
witnessed the violence there we
witnessed um
you know roads being barricaded illegal
roadblocks being
you know erected something which also

was happening in 2008 uh you know we
we saw videos of vehicles being chased
after by
unmarked vehicles which we
attributed to
the ruling zano pf political party
and before that those incidences we also
had we have one
you know
xanopf
supporter in goku sami
who also went public asked people to
even switch on their phones and take
videos uh when he was relating what he
called the information he got from the
executive from from from from the
the top um order of his political party
uh you know you know in which he
threatened the villagers and dedicated
to villagers that when it comes to
election the instruction is that you
don't know
how to write and uh therefore um
ensure that uh
we will you will have uh assisted voters
um um when it comes to elections so
that is a local context and is very
worrying uh you know going into 22. what
is extremely worrying for us is that
there does not appear to be any
condemnation at all
coming from um
government and also coming from zac
itself of these incidences that are
taking place and i want to believe that
it is incumbent upon zeke to bring a
political parties to account when such
violence or intimidation is attributed
to those political parties but we have
not seen that happening um in in in the
country and
when we look at what's happened in in in
goku
in

in this election the previous election
the direction which took place recently
we in our view you know when you look at
the violence that preceded that election
it would not be possible for one to give
a verdict that um that election would
have produced a you know a credible
result

because in two three days before the
elections there's violence all over and
the political party which is
participating in the election is
prevented from having a final rally in
in in in in the area where the
by-election was taking place
so coming to the kenyan situation um
you know

when we
were driving from the airport on the
sixth
there were two
rallies main rallies that were taking
place i think uh odinga
had one rally um in the same city
and and
william bruto and also irani um those
rallies were being you know covered by
all

form of media uh you know i tried to
check um on on the television set and
you know what you know the iranians were
being you know covered evenly and i then
began to say to myself this is
refreshing and because back home
uh you do not see in particular in the
public media

you know a rally
that is covered
you know from
the

the the inception or from the beginning
to to the end uh what you then get from
the public media in our country is
possible to

uh to look at its uh
uh you know
and deploy this technology before the
2023
um elections
um then in terms of also in particular
the transmission of results so again
electronic and what was the
interesting is the fact that um all the
the form 34a's
you know which were being transmitted to
uh i abc
were being being uploaded into a portal
which was accessible by um
everyone so political parties the media
uh and everyone were doing their own
tallies um
you know which goes to show the level of
transparency which ibc you know tried to
to to
uh in calculate in this election in
kenya
one worrying trend which we observed was
on
voter
you know particularly the youthful of
voters
they were
absent in this election and um the
explanation that is given is that
some of them have lost interests in the
elections because they do not seem to
the elections don't seem to change
their lives and each time they vote it
is the politicians that appear to be uh
enraged at the expense of of of the
young people so i think there's a need
both in kenya and zimbabwe for
you know
you know some dialogue around around
this uh voter education has to intensify
to really encourage the youth to again
you know decide to cast
their vote

and in terms of them of the voter population there it was 22 million voters but only over 14 million were able to vote constituting about 65.4 which again is the lowest in as i understand in the history of of of kenya kenyan elections so again it's an area which they ought to address in as much as we also should look into encouragement of our voters to come in their numbers to participate in elections um we had occasion to visit the registrar of political parties i raised this issue because i've seen some votes the polling which is being run by isaac as to whether political parties in zimbabwe should be registered and you know when we were meeting with the registrar in kenya she was clear that the institution is an independent and it is not embedded in uh in abc so as an independent player it is able to independently register and regulate political parties and ensuring that those political parties are there to the guidelines that are set for them to be registered in political parties and sanctioning those political parties that may you know may not be following the the the guidelines that are provided so assuming that as a country we are to move uh towards embracing the registration of political parties in my view it will be critical that the office of the registrar be in independent um office and not really embedded within um you know i uh our exec the equivalent of iebc overly when we look at the way they were

running the elections i believe reading through the previous elections that the conduct of their elections we marked improvement from what was experienced in 2017 so there is an incremental improvement in the elections and you know we hope in our own situation we do not recede we do not go back again to the 2008 elections we should be improving our elections um you know incrementally every other round of elections um i will end there in view of the challenges that we are experiencing technology-wise so that at least some of them you know presenters can also share their views on this topic thank you well andrew we are not we are we have settled the problem now so we can uh but so i have a number of questions to ask of you before you retire and two questions the first is really a comparative analysis of the electoral commissions the kenyan one and the zimbabwe one can you give us a quick assessment in your view terms of composition in terms of uh integrity right of confidence in in those bodies oh thank you for that very important question when i look at the kenyan scenario as well as our own zakiyah

i want to draw parallels firstly in terms of independence of institution an independent elected electoral body must not only be independent it must be seen to be independent in the manner in which it conducts its uh it's work when i look at the kenyan scenario there was a lot at stake in this election remember the outgoing president with these states you know machinery was supporting the you know odinga while his the vice president was left in the court but again the vice president had some level of state machinery um you know there are stories which which which came out in particular in this uh petition of uh some form of uh interference in the process uh you know within a ibc um but you know when you look at how uh abc particularly this chairperson handle those complaints and eventually um you know you know coming out to announce the result you then you know get a sense that um there is some level of you know independence that you see in the manner in which they conduct their their cells themselves and again when you you consider uh the transparency in which they you know you know demonstrated the results um were being applauded into a portal

which
they laid out to the public to uh you
know to to access
to tally and and do all sorts of
analysis of that particular result
um which which which is
a new thing i i don't believe that has
happened in africa before and uh and
uh you know this is a refreshing coming
out of kenya and in my view
that um what what what i ibc did may
actually have saved uh this election uh
given that uh you know when the petition
was now being um
you know head you know
ballot boxes were opened in 43 or so of
the
polling stations to just cross-check
whether what was in the portals um you
know
you know
was what was was also reflected uh with
the with with um the telling which you
know when they opened the ballot
boxes uh you know they they they they
managed to find out but you know when
you look at those
tallies
nothing really changed nothing much
changed a few stray ballots here and
there but in the end what was in the um
the bottom
was almost
similar to what was found in the
in the exercise that the
supreme court
all that that
takes place so when you then you compare
with our situation here when you look at
the composition of
you know our
our exec itself particularly in the last
few months you know the the new
commissioners we do have commissioners

that are coming um you know you know
related to senior xanopf officials one
of them is is is
his daughter to a vice president of
zamopf
i've said in the beginning that
you must not only be independent uh on
paper and in reality but you must be
seen to be independent so once you then
appoint
you know a child of a player a serious
player for that matter
into this independent body
the public would not see that body as
independent
and when i considered the the issue of
transparency
accountability and accessibility our sec
is not
a
you know accountable enough to to stake
orders it does not give out any
information uh when you write to zac
they do not respond and when they
respond
the the information is not adequate
they are less accessible and when it
comes to transparency they have a lot to
learn
so when i look at the two
bodies ezek and ibc
they are in my view
miles apart
one institution appears to be
compromised and the other one is trying
to be an independent institution
thanks but i would two questions uh
follow up the first is
why wasn't the
breach or the rather the the the
division
in the electoral commission of kenya
why did it become significant in the
final in the final analysis

we had four
four four of seven
uh commissioners
dissenting
and working out
and in the
in the in the supreme court judgment no
reference was literal or nothing that
was made to that division
no to the reasons why there had been a
division in the first place
and related to that again is the fact
that
the supreme court in previous
petitions in kenya
annulled or caused a rerun
on on on conditions or for reasons
which would appear trivial
compared
to those that were put before the in the
in the petitions by the raila team
how would you explain those two
anomalous anomaly
thank you uh
it was a very difficult uh question to
deal with uh particularly with the
you know petitioners um being clear that
you know um
the effect that there was that division
in the
cup in in ib iabc
clearly points towards lack of coercion
and ownership of the result of that
particular election considering in
particular the fact that uh
this commission is a seventh member
commission and out of the seven
commissioners four had decided to um you
know withdraw their services so to speak
they decided not to you know to be part
of uh you know
what they called the the
the chariot and the court called it a
rapture between

the two um
uh groupings in the in in in iabc
but however when it came to
the supreme court uh ruling um itself
what
the supreme court
you know it says something about it he
said you know throughout the
announcement of the results um
you know these four were part
of
the announcement in in taking turns um
to to to make summer announcement and it
is only on the last day that they
decided to dissociate themselves from
the previous um
sorry from the other three uh you know
citing the reasons which they they they
they gave which are which are public uh
so the court was not convinced uh in
india when they took into that issue was
not convinced that
the ford were not participating
in the decision-making of
iabc it was very clear that
it is the decision of the ib iabc and
not the
uh chairperson
which which matters so but again when i
had to say that notwithstanding um
fear that um
the
the the so-called rapture was not a
rapture because they had been
participating through and through in
in in the decisions which were being
taken by the commission
in fact the iebc
sorry the supreme court
dealt with that aspect in when they were
dealing with issue number six
whether iabc carried out the
verification and telling uh in
accordance with the constitution that is

why they they made you know the court made reference to the issue of the boardroom rapture and then said that it did not affect the final decision of iebc
it looked as you indicate that um the petition of 2017 uh you know was allowed for the reasons which appeared to be tribal compared to the reasons you know you know the issues that were emerging in this petition uh but you know what i think the court this time around looked at this holistically and i think it also went issue by issue um to i think from issue number one to issue number eight uh dealing independently with all those issues and dismissed all the the petitioners complaints regardless so yeah it's a very difficult um um i think it's fine i think you've done well you've done well with this with regard to this uh ibc i'll be i'm asking tawanda shimini at the end and also the following speaker namely zika mayberry to deal with the legal issues pertaining to the the the shift the uh supreme court rulings in kenya but one more question to you as as assassins in relation to the to the opposition movements in this country with respect to zeke why why does zack and or the the state appear to act with such impunity such as at least four the four commissioners are either related directly or have some linkage uh to to the state state actors

why why why is this and
the rnc
the three c's
the opposition movement the civic groups
in general
why are they merely commenting on this
in passing
why it doesn't make an issue
not to mention the broader point which
you made
that we can no we cannot call zak an
independent body and if we don't have an
independent body what are the
implications for elections next year
thank you um yeah this is a serious
challenge we face um in other countries
um i'm sure this issue they've already
been litigated
up in our porn
but in our country we take our time
i i believe it is also contextual um
given the
the repressive uh
you know system that we are in here
compared to to to to other countries and
in fact um going into uh just just just
digressing and talking about the gunning
situation there was a tweet
from um
one ugandan
during this election where he said
kenyans are wondering why ugandans are
supporting
the you know candidates their candidates
more than they do
uh they don't know
this is
you know our only chance to freely
support
thank you so it appears that you know
when you in other jurisdictions uh you
know people are you know are quick to
approach the court and and deal with
this situation situation like this but

in our situation um there could be several factors that that may have prevented or delaying players from you know addressing these issues illegally one of them being the confidence in our judiciary especially given rulings that have been taking place in the past two or so years particularly you know the the the recall rulings and other relative related matters and again you the the at the moment there is this new this this this this war that is there you know we you know a civil so that organizations do not know where they stand whether you know they'll be able to operate um you know with this pvo amendment so those things may be playing out i don't i don't want to to to to be prescriptive here i merely say to myself why are people not acting and i'm thinking you know such factors may actually be delaying um you know people from um taking up taking up these issues but in other situations again you know even individuals who are affected by these decisions can actually approach the court and seek relief uh i am not aware of the moment of any litigation but i believe that there could be some indication that may have been commenced around around these issues or are being contemplated but i'm not aware you know what but it's it's said that we are not acting it's said that political parties that are affected uh by decisions such as these are not also acting particularly the opposing

political parties who are directly
affected by partisan appointments
thanks andrew segama
can you take up this question
for us
why such
lethargy
or even indifference
in the face of blatant
abuse
of the electoral
laws in this country
especially when it comes to
the status and conduct of zeke
can you come in please come on thank you
thank you very much
yeah um i think they're previous because
i think they've done
they've done justice
um in terms of giving us an insight into
into the kenyan elections
yeah so i will just highlight a few a
few things delta magazine uh response to
your to your question
i think there are a number of issues
that
promote the kind of impunity that you
are speaking about
first i think the issue of uh managing
election related disputes
is very important and i think as the
colleagues who were in kenya if they're
spoken
in kenya
there is
overwhelming people's confidence in the
judiciary
and understanding that the judiciary is
not one political party's political
strategy
but when you then come back to our
country um
it is not like that which is why we then
begin to see the kind of impunity that

we see the audacity
to violate electoral principles with
impunity
it is it comes from the very fact that
there is more evidence that our election
dispute resolution mechanisms
do not have the confidence of the people
and are most likely believed
to make decisions
that
favor at the ruling party
this then comes in in the backdrop
of a context
in which
the government the parliament is passed
amendment bill number two which
generated a lot
of noise around
the renewal
of of the cj of authorities malava stem
him coming back to the bench even
contrary
to what the constitution allowed so you
could see
all
strategies coming out in order to just
keep
that men in office
that
is a total contrast to what what we saw
in kenya here it totally dismantles the
people's confidence that the courts are
going to adjudicate any election dispute
in a way that is fair it then is linked
to the election management body
because
when
the outcome of an election is taken to
court what is really on trial
is the election management body so
that's how it is then linked if if the
composition of the judiciary
looks like it's a political strategy for
one political party it then also then

gives impunity to the election
management body
to say no matter how bad an election
that they are going to run
it looks like the courts are just going
to say
it was okay
if you actually then look at the last
judgment that came
in
island architecture
making itself more visible in other
forms for
for example the the introduction of the
youth service
during i mean the 2018 election it was
just after the military coup and
probably there was no sufficient time to
put together this militia but now they
are introducing the youth service they
have done the consultations which were
interrupted by the youth themselves we
began to see in goku the youth militia
active so while we may not have the
actual military boots on the ground we
have militia that is actually
equally violent if not worse
you know thanks to come i will come back
to you on the same question we shall put
to all the panelists let's move to
solomon now solomon
what are you going to say uh one in
response or reaction to the previous
speakers
uh and in relation to the
topic itself
what lessons did we learn from kenya
where do we stand
in our audit of the process towards
elections in 2023
what is your position solomon
uh okay thank you very much talk and
thank you to all the other panelists
um i think what i would uh probably

start reflecting on is what um from the first speaker uh tawanda uh when he spoke about uh what had transpired in kenya on the basis of um what had been recommended from the 2017 nullified elections so if you look at that um that's what we could tell unfinished reform business and finish the electoral reform business we are exactly in the same situation in zimbabwe as we speak so as we speak we are close to less than 11 months or also before the next ammonized elections uh is yelled and when we look at uh the trajectory where we are going uh as far as making sure that there are enough safeguards around the elections safeguards around citizen participation in the elections including political parties and those that are interested in the elections including what kamae has just said around the attacks on journalists attacks our body kids like um uh the chairperson indramacon it said these are some of the indicators of a bad election to come so it is important for us to then look at um when we then look at kenya we are looking at those things that we are aspiring to be where zimbabwe is not moving uh towards so if we are looking at um probably the issues around uh the voters through in kenya of course it's not a uh a big issue in terms of the physical access to that particular photoshop but in our context our political intellectual context yearns in baboon access and the physical access to that particular document is important because it helps us insulate the election from any other abuse that we think could actually

happen and it's part of the information that we want so when you're looking at the five pillars that we're talking about the voters room is flagged out as a key document that we need to actually have in possession as citizens and stakeholders as political parties spectres in the elections so when we when we are looking at zimbabwe currently as it stands this is a no-go area it's an area that has been closed we have seen some commissioners also even on social media parading that they are trying to caveat laws that will uh ensure that no one would access the voters except for political parties and in the format that the electoral commission wants them to access it so these are some of the issues that we are actually looking at when we are looking at um the kenyan election and our own suburban election and we're not looking at the unfinished business of reforms again we are looking at how do we instill confidence in looking at our young people that are actually excluded from the electoral process uh when we look at um integrity i think uh most of the speakers are touched on the uh the issues of the appointments the issues of the electoral commission are being seen to be an independent institution uh through the appointments through either the actions through either collaborations with uh other stakeholders that are also key in the elections so if you call on the electoral commission either to this particular platform uh almost at seventy percent chance they are not going to show up in this particular platform so what does that then um uh say to the citizens does that build confidence does that i erode the confidence that the

citizens must have in the electoral commission so the integrity in the electoral commission again is problematic i if i'm going to speak on behalf of eras on this platform again i would say we

we are running close to eight months requesting for the voter throw just a voter throw so there are so many other excuses that are coming exclusive after excuse this is problematic for you when you want to measure the integrity of the institution we are looking at the constitutional benchmarks what is the legal framework saying around access to the voters rule and what is the action of the electoral commission does that then point to an institution that is integrity and institution that is accountable to the citizens an institut transparent institution that wants to include everyone in the process so that again becomes uh problematic to us so when we are looking at other stakeholders that are also having a role that they are playing in the elections we are looking at our traditional leaders i think

they have played a key role a one-sided role if i'm going to be open about it once i did rome where it is um not advantage to anyone except one political party that becomes a problem again because the legal framework and the constitution is very clear as to what is supposed to happen in their roles and what they are supposed to do around the elections and political activities and then when you look at um also again the security services you look at this mobile republic police giving access to political parties to contest providing security services to citizens that are attending different

activities of their own political parties this has been also problematic so when we are looking at where we are going it becomes even more problematic if we are having these problems at the world level having these problems at the constituent level how about when these elections are national and um they have uh bigger ever weights are playing the ball so that becomes also again a problem that we are also seeing uh in the election and then um when you're looking at information like um tawanda and uh um uh mr mcconaughey mentioned around uh uh the ibc also providing information being proactive and so on and so on we are seeing our own context where there is a lot of gagging in terms of access to information i think i would relate to one of the commissioners on twitter who actually said they are actually thinking of coming up with laws that will punish those that are actually posting information around the elections on social media and do you think we need to be moving forward yet we are actually going back so when we are looking at 2023 we are not looking at a contest that is much better but we are looking at a contest that is even worse from the previous elections that we have actually experienced in zimbabwe because we need unfettered access to information we need the electoral commission to independently make decisions we need um when you look go back again and look at uh when the commission suspended uh through the state instrument that uh was uh published by the minister of the health suspended the holding of by elections yet in the preceding months just less

than two months they had made a decision to come up with a policy where they were going to conduct elections during uh covert times so when you look at all these other small components you are looking at um the electoral commission that will not be in a position to probably deliver an election that will be considered free fair and credible because when you're looking at free we are looking at other institutions that are also contributing if this is the public police is letting go people that are violating uh rights left right and send them and then those people are also disrupting meetings and so on and so on and then they are being left out to do that then the contest will no longer be free it speaks to the freedoms freedom of movement freedom of assembly freedom of association freedom of information so if we can't get the information that we want then ultimately where we are going would actually be difficult um i will point lastly to the issue of the integrity of the elections when we are comparing zimbabwe to kenya the iebc in kenya allowed i think it was public to go on their twitter and their different social media endos you saw that they allowed media houses to run their own peril vote tabulation um and other stakeholders that were interested in the election to also uh compute and see what was actually coming out this is key in building confidence and trust and in our case you then find that uh it becomes difficult when media houses starts to do that um in previous elections a lot of other people have been arrested for announcing or for

pronouncing what they would have seen at their different polling stations but in kenya we could follow from different media houses but this result would actually be the same so that's the integrity that we want to see in our own elections and i think um we are still a bit far uh to get to that particular point um we have an opportunity but we are so far to get to that particular point uh i think these are my submissions uh joke
solomon you said we have we have the opportunity
what are the opportunities to rectify this
message situation interferes what are the opportunities
do you see the possibility of performance before the elections do you see a possibility of us even approaching the standards that are already set by kenya
by zambia
and indeed by our neighbors in south africa
where there's been little or no dispute after the election
since 1994
uh isn't this a very depressing situation that we are faced with and yet you say there's an opportunity
what are the opportunities for rectifying
the problems okay uh thank you very much
joke for that um question i think where our opportunity lies is where we have all these stakeholders also being interested in pushing uh the agenda for making our elections uh for improving our elections so in 2018
there were different recommendations that were made and it's an opportunity because a lot of other people a lot of

institutions a lot of missions that came into zimbabwe recommended almost similar things almost um on a it could be about voter registration it could be about voter education about political party registration good ballot paper design distribution and so on and so on that inc that

tries to promote access to information the integrity installation of the election and in the visibility of the election that's an opportunity that we actually have

where we might actually be lacking is the political will to push these reforms so if the minister of justice if zeke if there's a proposal in parliament there are proposals in parliament there is a proposal from the zimbabwe electoral commission we still have a door a little that's little door that we can actually push for these reforms uh and implement those and i was having a conversation with a colleague from zambia who was actually saying was here under the commonwealth uh in 2018 and he was saying if you take the same electoral act that you have and the zim constitution that you have and you give it to the electoral commission of zambia we'll still be able to run the election without improving anything but in our case we are trying to insulate every other detail and every other full stop in the coma because we think that there is something that would happen around compliance so we need make compliance with what is already existing that's the first step we need to comply with what is already existing why would you ban a political party meeting why would you disrupt your political battle meeting when the question says everyone has a right to so

let's
let's let's respect those rights that's
the first opportunity because the
constitution is very clear on that so we
need compliance we need to then beef up
the little
areas where we think there are
some loopholes but um generally when
you're looking at the legislative
framework uh we are not that far away
from um uh what is ideal so it is
important that um
the political actors uh shows political
will and can push for this if people
could push for constitutional amendment
number two in such a short space of time
we could push for the same and in
implementation so that's a window of
opportunity again and the different
stakeholders are also interested but uh
we are not seeing the will from the
stakeholders the emb the electoral
commission they were invited to calibra
they invited different platforms and
they don't show up yet we are trying to
build the confidence of that same
institution we are trying to restore the
trust that the citizen must have in this
institution so these things are simple
things that simply require uh key
institutions key individuals to make
decisions and then we are good to go we
would have our elections and then um i
think would have
surpassed uh our own expectation but uh
exit stands without political will
without um the electoral commission also
accepting that are there other players
that they also need to consult
sincerely without necessarily window
dressing
i think we will not be going anywhere
but sincerity is also important in our
elections

thank you very much solomon
well i'm so sorry that we have lost half
of our participants due to the
technicals we had tonight
it's something we have to attend to
but uh
be comforted in the fact that everything
is recorded
there will be a youtube recording
there'll be transcription of these
proceedings
each one of them
and we'll be able to send you a record
of it
you know also look for our website the
surplus website rau website
you will find
these proceedings
as you wish them to be
um we have some minutes for
15-20 years for discussion
uh again i say i will apologize
sincerely for the each issues tonight
which we have now lost at half
and i'm grateful to those of you who
have come back notwithstanding the
problems we had tonight
and i invite you to raise your question
to raise questions raise your hands
comment as you wish
and at the end i will be asking our
panelists
to give their closing remarks
i'm sorry that peter young was not able
to join us
but
here
and i'm glad that all the other
participants
uh tawanda
andrew
zukamai and solomon
have played their part
very adequately

any question comments
hello
memory adobe
our elder faiton anything to say
you and i have been in this game since
1980
in terms of elections
some reflections
tony
very very very
difficult meeting i'm struck by
a
very important contrast
but in 2002
to 2008
kenya and zimbabwe had horrific
elections
and uh
this year and then next year we this
year particularly what we've seen in
kenya is the way they've cured that
problem
and i was struck and thank you very much
for tawanda for pointing out that one of
the really important factors
were there were two factors really one
was that the kenyan electoral commission
made the results available to everybody
so they could keep the process happening
and secondly that the kenyan people have
confidence in the judiciary now
the two factors that are highly absent
here
and are massive for creating the
confidence in elections
and i would hope that uh speaking and
might
focus particularly on those two
particular issues how you cure the
problem and how you
resolve the problem thank you
thank you anybody else
facial
some reflections

in historical perspective
for you on coming
i think could say here i think the main
points that i got
was really that the
two things
the
zimbabwe electoral commission
on the one hand
and the fact that they had an
independent
election
body
which are unrelated to zac
i think they need to be separate bodies
and they need to be selected differently
rather than appointed by the government
is that too late now
to have that faith
in time for the elections
and how do you explain that
i think yeah
how do you explain
the apparent impunity with which
the state is behaving with regard to
elections
the impunity even of the members of the
of zech
each time the chair of zack speaks she
speaks to such arrogance it's incredible
for a body which is supposed to be
independent
you know
my view is very straightforward i think
the
arrogance
is usually a sign of weakness
so we actually have a very weak
government
and we have a very weak system
i think zack
as pointed out
is very weak so when we have two
or three very weak systems

the whole system is weak
whereas in the case of kenya
it looks like
independent of the
now ruling government which is being
replaced
uh making its views clear
the
institutions there were able to look at
the professional
integrity that they represented
rather than obeying the power that was
above them
the profound statement arrogance is
often a
reflection of weakness
thanks faye for that let's go back to
the panelists and
let's let's let's close the session
solomon your last words in terms of
an assessment and audit
of the process toward the 2023 elections
as of now
solomon
they now be coming to zukamai
then andrew and tawanda last but not
least
now thank you dr mandaza um i think uh
we are in a difficult situation
uh which requires um
a lot of
resilience
in terms of those actors that are
pushing either the agenda for reform
uh inclusion uh access to unfit access
to information uh those that are looking
at uh insulating the electoral process
all of the ends must be on the deck i
think uh that could be what i could say
all our ends must be on the deck and um
we must actually prepare uh
for the elections knowing that um
all these other
submissions

are also 50 50 chances that we are likely to have a repeat of a better election because we have had big elections kenya is a bad election in the previous and they've tried to move from that precedence of course there could be still be other pockets where people are not satisfied with this process and this outcome and so on and so on but at least them there is a semblance of cohesion as the people move forward but in our case we look at um uh whatever happens after the election it's um none of anyone's business those that would have won must actually move and uh leave the country no matter the direction which the country is actually taking they don't care so it's important that we look at these reforms these proposals is a way to improve the election and uh to improve the livelihoods of the people and to improve the standards of the uh living for uh all the people so it's important that uh we look at that my reflection on the registration of political parties in the role of probably the independent electoral at the electoral management board in that particular process i think one of the things is that um if the environment is not right even if you propose certain things those things will not work so let's comply first with what we already have and then we then propose these new laws and so on and so on new arrangements so like faith says if we have weak systems then no matter how much how many laws how much how much weight they have will still be at the same position so it is important that um we comply uh we have people that are willing to comply with the law they

don't show the arrogance that we see
in the election management body and then
we move in that direction otherwise
these are my patting words thank you
thanks thanks thanks so much
let's have uh zika mine
your putting shots
yes thank you very much dr mundus
yeah um i think i'm in agreement with
the previous speaker
yeah we are faced with a very serious
situation
where
there is really no political will
to hold a credible election
it looks like it's a matter of ticking
the boxes we're just going to be
performing an election
what needs to be done if we are serious
about an election first we need to
abolish the national youth service
it's going to be a significant dent on
the next election as it was in the
previous elections
amendment bill number two needs to be
cured the one that extended the length
of malawi's term
the pvo bill must be abandoned because
without human rights groups in the
community's violence is going to go off
the roof
the patriotic bill or the amendments to
the criminal law court which the
government has announced needs to be
abandoned
and exec needs not only be independent
but needs to appear also to show that it
is independent those appointments are a
scandal on independent it appears there
are no intention even to pretend that
they are independent if these things are
not cured we just have to forget about
an election it's just a performance
thank my superman for that beautiful

summary
which we take note of
and hope our technicians have recorded
that
it's about the best summary we've had
since we began this series
uh in addition to
some cheers last week last the last
webinar
now move to
andrew marconi
yes um
do we have the ingredients of a free and
fair election
in zimbabwe i would say no
we need
a genuine conversation as a people
we need an all stakeholders platform to
talk about these things to discuss about
what
uh you know electoral reforms are
required of course zesty and other
players have been pushing and pushing
through parliament uh to to to to have a
new model electoral law but so far we
have not seen anything
a new law
that comes into effect six months before
an election will not apply in respect of
that
election so reforms that must be put in
place must be put in place now
we do have a good constitution
we
have assemblies of an electoral law but
our laws and our constitution lack the
spouse
make a life
like a spirit
what what the previous speakers will be
referring
to in their summary so we
must embrace a spirit of respecting our
institutions of respecting our laws

which at the moment is making we may
have a new electoral law coming into
place next year
but without these things resolved
without us leaving
you know
the spirit of constitutionalism the
spirit of respecting those laws we are
heading norway lastly one practical
thing which i believe we can do
is that um
you know
zimbabwe signed
its law
the
the the charter on
governance elections um the african
charter on
democrats elections and governance and
that charter enjoins
um states
to commit to holding free and fair
elections and to that extent
you know it actually
encourages
a you know political parties in a
country to sign
a code of conduct
uh committing
political stakeholders to
to
conducting
genuine elections to eliminate all forms
of violence
and for the stakeholders to accept the
results of the election or challenge
them through exclusively legal systems
so this is an opportunity is not going
to sign
you know
this into um you know we have
domesticated it we have deposited our
instrument and in terms of articles 17
of that charter this is the commitment

uh which countries are
obliged to to to to to to to you know to
make so
i think we should push for this code of
conduct uh and and push that
the political players going to elections
next year sign
this publicly you know committing to
conducting uh you know um elections that
are free and fair and also committing to
accepting the results of that
of that election our end year
thanks very much andrew thank you indeed
very powerful statement
to wonder
thank you dr mendaza and
thank you to the colleagues that have
pretty much
given a very comprehensive summary of
what needs to be done when you look at
zimbabwe but
from original and continental
perspective i think what should be
reinforced
and should have been reinforced from the
word go when you're looking at elections
is the question is the issue that
elections are public processes that
should be conducted for public good
this is the benchmark that is there
originally this is the benchmark that is
there continentally so bodies tasked
with administration of elections must
view elections as such they are not
holding them for themselves they are
holding them for the people so there has
to be very strong elements of
accountability there has to be very
strong elements of being responsive to
the concerns of stakeholders and
secondly i think there is an issue of
compliance with what is already provided
for we have discussed the issue of the
implementation of reforms which is

crucial and my injured forms have to be time-bound

so

getting some reforms being implemented on the eve of the elections without allowing space for them to actually be tested to stay to see their functionality is also an issue

so

the compliance with the provisions of the law um

needs to be emphasized when you look at by-elections we may need to ask stakeholders in zimbabwe whether all the legal provisions have actually been complied with at the setting up of special investigative committees in terms of section 133 of the electoral act we should deal with issues of violence that colleagues have been raising here how far has that been complied with and what has been done because the electrolyte does fight for that

um so the issue of compliance is a crucial element that has to be looked at and pursued thirdly there is the question of oversight and scrutiny of the process the trends that we continue to see on the continent is closure of space around the extent to which election stakeholders can scrutinize the electoral process i think in a lot of countries on the continent people have to start thinking about how they innovatively deal with supervising and scrutinizing electoral processes for purposes of ensuring that they do sufficiently document and use whatever information they collect sufficiently to hold those are conducting this public process meant for public good which are elections um in a manner that allows for improvement in the quality of such

processes so i i think these four
elements for for me when you're looking
at

what

would be an acceptable election look
like are key pro issues that zimbabweans
need to look at that stakeholders in
zimbabwe need to be pursuing at this
early stage in the election process at
the end of the day um

we

are seeing on the continent elections
that appear to be working and what has
worked for those elections is the
willingness and colleagues have
reinforced this the political will to
actually get certain things changed
so a key question that we have to
present particularly to the election
commission is to say what did not work
in 2018

and what have they done
about those things

in 2018

i tend to get the sense that when you
look at by-elections yes they do give a
picture expected in a general
election

but

it's not necessarily always the same
case um so we need to really be very
careful about how we use by-elections as
a benchmark mind you from purely an
operational viewpoint by elections that
conduct are much smaller conducted by
technical teams of election management
bodies so in terms of actual
administration of the processes there's
much more smoother management of those
processes but when you're looking at a
bigger election it's a totally different
ballgame so the argument there is that
we look into buy elections we need to be
able to be going back to the election

management body and saying to them what
is working and what is not working and
the election commission must be willing
to account
to state what they have done about the
very things that have come from
the past i'm not sure if they've been
seeing this happen in the context of
zimbabwe but my encouragement going
forward is that stakeholders need to
present
so that we can configure
a different competition in terms of
attendance
thanks to wonder
really
notwithstanding the numerous problems we
had tonight
uh we should hope uh technology can
resolve
in time for the next one
i want to say that really
the presentations
have been fantastic
rich
by all the four
presenters we're sorry that peter and
yang was not able to but i think
tawanda shimini
and andrew marconi who were
in kenya
helped some extent in in in addressing
some of the issues that we expected
peter and young know what to address for
us
and more important i think we have
enough material
in terms of assessing how far we've gone
and more important in in in provoking
hopefully hopefully
a
greater consciousness
of the
failings and pitfalls

of zek in particular the election
management
body
and i think that's that that is a tall
order
but as solomon said it is an opportunity
for us to do something about it
on that note i want to thank everybody
and while apologizing for the issues and
glitches
tonight
and to say that we will be
making a record of the record of this
meeting
and we have a page in the standard
following each of these webinars
where the summary will be presented
and
thank you so much