



ANALYSIS OF THE CONSTITUTIONAL AMENDMENT (No. 3) BILL, 2026

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BACKGROUND

During the First Post-Cabinet Meeting and subsequent Press Briefing held on 10 February 2026, Cabinet considered and approved the Constitutional Amendment (No. 3) Bill, 2026, among other matters. This development must be understood within the broader political context in which it emerged. At its 21st National People's Conference held in October 2024, ZANU-Pf adopted Resolution Number 1, which unanimously called for amendments to the Constitution to extend the presidential term of office beyond 2028 and directed that the necessary legal processes be initiated to give effect to that resolution. Following Cabinet's approval, Constitutional Amendment Bill No. 3 of 2026 was gazetted on 16 February 2026 and formally commenced the constitutional amendment process.

Constitutional Amendment (No. 3) Bill, 2026:

The Bill is presented as part of an ongoing constitutional evolution that preserves the core values of the 2013 Constitution while refining governance frameworks. It further highlights alignment with contemporary African constitutional standards regarded as effective, resilient,

and progressive. According to the memorandum, the Bill seeks to effect reforms aimed at reinforcing constitutional governance and strengthening democratic institutions in Zimbabwe. It emphasises the clarification of institutional mandates and the streamlining of constitutional structures to enhance efficiency and stability.

To achieve these objectives, the Bill proposes a series of substantive constitutional amendments including, introducing a parliamentary process for electing the President; extending the presidential and parliamentary term of office from five to seven years; revising qualifications for the Attorney-General; presidentially appointed members of the Senate; restructuring electoral administration through a separate delimitation commission and transferring voter registration functions to the Registrar-General; altering judicial appointment procedures; refining the constitutional role of the Defence Forces; consolidating gender equality oversight under the Zimbabwe Human Rights Commission; repealing the principles to be observed by traditional leaders; and amending the provisions relating to the National Peace and Reconciliation Commission.

Collectively, the proponents these proposed amendments argue that they are meant to recalibrate institutional arrangements, redefine governance structures, and place an increased focus on institutional efficiency, political inclusivity, and long-term national stability.

Principles of Constitutionalism and Democratic Accountability

The supremacy of the Constitution is a foundational principle of constitutional democracy, establishing that the Constitution is the highest law of the land and that all state organs, institutions, and public officials are bound by it. As such, no law, policy, or action may contravene its provisions, and any exercise of power inconsistent with the Constitution is invalid. Section 3 of the 2013 Constitution reinforces this supremacy by embedding key values such as the separation of powers, transparency, accountability, and responsiveness. These principles collectively ensure that governance is conducted within constitutional limits, safeguarding the rule of law and the sovereignty of the people.

Foundational principles of constitutionalism reflected in comparative jurisprudence from other jurisdictions affirm that elected bodies cannot unilaterally alter the architecture of a constitution in a manner that entrenches or prolongs their own authority or mandate. Where a

constitutional amendment implicates the people’s electoral mandate, democratic legitimacy requires clear popular endorsement, typically through a referendum, rather than parliamentary procedure.

It must be noted that the phenomenon of “election toxicity” arises primarily from disputed and contested elections, where political tensions, violence, and polarisation undermine national cohesion. As such, the appropriate response to such challenges lies not in amending the Constitution to concentrate power, but in implementing comprehensive electoral reforms, strengthening institutions, and ensuring adherence to constitutional norms, as well as regional and international standards. Transparent, credible, and accountable electoral processes are essential to addressing the root causes of electoral disputes and fostering public trust, peace, and stability within the democratic framework of the country.

The Clauses are analysed in full below:

CLAUSE AND SUMMARY OF PROVISION	COMMENT
<p>CLAUSE 1 Sets out the Bill's Short Title</p>	<p>No issues arise.</p>
<p>CLAUSE 2 Clause 2 inserts a new section 43A which transfers from the Zimbabwe Electoral Commission (ZEC) the functions of voter registration, the compilation and maintenance of the voters’ roll, and transferring these responsibilities to the Registrar-General.</p>	<p>Comment: Under this amendment, the function of voter registration is transferred from the ZEC to the Registrar-General’s Office. As a result, the compilation, custody, and maintenance of the voters’ roll will now be the responsibility of the Registrar-General. During the constitutional making process under the 2013 Constitution, consultations with citizens called for an independent and credible electoral system following disputed elections. As a result, the Constitution vested voter registration and the compilation and maintenance of the voters’ roll in the ZEC rather than the Registrar-General. This shift was intended to insulate the voters’ roll from executive control and enhance transparency in electoral administration in Zimbabwe.</p>

The proposed amendments weaken electoral independence and risk eroding public trust in the electoral system. Specifically, while efficiency is outlined as the justification, voter registration and the custody of the voters' roll are not merely technical or administrative functions, but are central to the integrity and credibility of elections. The Registrar-General operates under the executive arm of government and does not enjoy constitutional independence. Consequently, this amendment transfers a core electoral function from an independent constitutional commission to an office under executive control. In any case, Section 239 of the Constitution clearly outlines the functions entrusted to the ZEC, underscoring their critical importance, as such, they cannot be delegated.

Vesting control of the voters' roll in an executive office creates a real risk of politicisation of voter registration, weakens institutional independence, and creates a great risk of manipulation of the electoral process. These concerns are heightened by Zimbabwe's long standing disputes over the transparency, accuracy, and accessibility of the voters' roll, which have repeatedly undermined public confidence in the country's elections. ZEC would be forced to depend on externally generated data it cannot independently verify.

Additionally, the Registrar General's Office currently faces significant administrative and financial constraints that have hindered its ability to efficiently fulfill its core duties, including the issuance of identity documents. Given these existing challenges, it is unrealistic to expect the office to take on the function of voter registration for the entire country.

Article 17 of the SADC Principles and Guidelines Governing Democratic Elections requires that voter registration processes be credible, transparent, and managed in a manner that promotes public confidence. Similarly, Article 25 of the ICCPR guarantees the right to participate in public affairs through genuine elections, which presupposes an impartial voter registration system.

Recommendation/s:

- Retain voter registration and the management of the voters' roll within the ZEC, in line with Section 239 of the Constitution, to safeguard institutional independence, transparency, and public confidence in electoral administration.

CLAUSE 3

This amendment repeals section 92 of the Constitution and substitutes it with a new section 92 which establishes a parliamentary method for selecting the president. The provision specifies that a candidate must secure a majority of votes and if no one secures a majority of votes, a run-off election will be held.

The new section 92 outlines that the election must take place in a joint sitting of the Senate and the National Assembly after every general election or whenever necessary to fill a vacancy in the office of President.

The process is overseen by the Zimbabwe Electoral Commission to ensure it is conducted properly.

The procedure for the election shall be in accordance with Standing Rules and Orders of Parliament.

In section 92(8), the amendment prohibits Parliament from passing any laws or enactments that introduce substantive policy changes during the period between a vacancy in the office of the President and the election of a new President by Parliament.

Comment :

The repeal of section 92 of the Constitution replaces the current system of direct presidential election with a parliamentary process for electing the President. The existing constitutional framework is premised on the President deriving a direct mandate from the electorate. Under the proposed model, the President would be elected by Members of Parliament rather than directly through the citizenry, in a process overseen by the ZEC.

While presented as a measure to enhance stability and accountability, this clause substantially weakens direct democratic participation in Zimbabwe and alters the balance of power between citizens and the executive. Article 21(3) of the Universal Declaration of Human Rights (1948) (UDHR) provides that *“the will of the people shall be the basis of the authority of government; this shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.”* As such, this amendment places Zimbabwe at risk of non-compliance with its constitutional standards, regional and international democratic norms which protect universal adult suffrage (including, Article 25 of the ICCPR; Article 13 of the African Charter; Articles 2, 3 and 4 of the ACDEG; and the SADC Principles and Guidelines Governing Democratic Elections).

The requirement of a "majority vote" and "run-off election" in clause 2 concentrates decisive power in members of parliament. This outcome would be inconsistent with the founding values and principles set out in section 3 of the Constitution of Zimbabwe.

By requiring that the election take place at a joint sitting of both Houses after a general election or whenever a vacancy arises, the provision effectively transfers the authority to determine presidential succession from the electorate to Parliament and indefinitely. This amendment risks undermining the principle of popular sovereignty that underpins the 2013 Constitution. Moreover, there is also a practical risk of constitutional uncertainty. Parliament may be adjourned, dissolved, or otherwise unable to convene a joint sitting within the prescribed timeframe, and quorum requirements may not be met. In such circumstances, the failure to constitute a joint sitting within a month could precipitate a constitutional crisis and create a vacuum in the exercise of executive authority. Such a vacuum is particularly concerning given that certain constitutional powers and responsibilities are vested exclusively in the President.

Key tension lies in clause 3 (within the memorandum) that claims that the process is overseen by the ZEC and that these measures are to ensure amongst other things "judicial oversight". ZEC is an independent electoral management body established under section 238 of the Constitution; it administers and supervises elections but is not a judicial organ. Judicial oversight properly belongs to the courts, which review legality and constitutionality. As such, while ZEC is properly mandated to administer and supervise elections, its role does not constitute "judicial oversight".

The reliance on Standing Rules and Orders of Parliament places a democratic process within a framework that can be easily amended by a parliamentary majority, undermining constitutional safeguards. In any case, these rules are internal procedural guidelines meant to govern parliamentary proceedings and are subordinate to the Constitution. Constitutional guarantees cannot be ensured merely through Standing Rules and Orders.

Section 92(8) serves to restrict parliament's legislative authority between the occurrence of a presidential vacancy and the election of a new President. This temporary freeze on legislative action could potentially delay urgent reforms as no major legislative initiatives can be enacted during this period.

Recommendation/s:

- Abandon the proposed amendment to Section 92 and retain direct presidential election by universal adult suffrage to protect popular sovereignty, constitutional supremacy, and compliance with regional and international democratic standards.

CLAUSE 4,9,10

Amends the current five-year term with a seven-year term as provided in sections 95, 143 and 158 of the Constitution, to “eliminate election mode toxicity,” reduce the frequency of elections, allow sufficient time for long-term national project implementation, and promote political and economic stability.

The clause inserts a new subsection (2a) which outlines “Notwithstanding section 328(7), subsection (2)(b) shall apply to the continuation in office of the president.

Comment :

This clause extends the current five-year term of office to a seven year term by amending; the term of office of the President and Vice-Presidents (section 95), the duration and dissolution of Parliament (section 143), and the timing of elections (section 158), under the guise of eliminating “election mode toxicity,” reducing the frequency of elections, allowing sufficient time for long-term national project implementation, and promoting political and economic stability.

According to section 328(1), a term limit provision is defined as, “**a provision of this Constitution which limits the length of time that a person may hold or occupy a public office.**”

Currently, section 95(2) of the Constitution provides for the term of office of a president and vice president and limits it to five years, and this runs concurrently with the life of Parliament. Under the Zimbabwean constitution, this provision may be amended provided that a two-thirds majority is obtained in both houses of Parliament (the National Assembly and Senate). However, amendments to term limit provisions whose effect is to extend the length of time that a person may hold or occupy any public office cannot benefit the incumbent. In order for the incumbent to benefit, section 328(7) ought to be amended and that amendment must be subjected to a referendum by virtue of section 328(9) which provides that “**This section may be amended only by following the procedures set out in subsections (3),(4), (5) and (6), as if this section were contained in Chapter 4.**”. As such the effect of the proposed amendment through the insertion, “*Notwithstanding section 328(7), subsection (2) (b) shall apply to the continuation in office of the president.*” is an amendment to section 328(7) that should be put to a referendum.

In this case, the insertion of the new subsection “**Notwithstanding section 328(7), subsection (2)(b) shall apply to the continuation in office of the President**” appears designed to circumvent the safeguards in section 328(7) which expressly prohibits amendments to term limit provisions to directly benefit the incumbent. This maneuver undermines the constitutional protection intended to prevent self-serving extensions of power and effectively nullifies the check that ensures popular approval for changes affecting term limits. By allowing Parliament to amend the Constitution in a way that benefits the sitting President, the amendment opens the door to potential indefinite extensions of tenure, eroding the principles of popular sovereignty and democratic accountability.¹ In this context, section 328(7) and 328(9) loses its protective function as the new insertion directly contradicts its purpose and weakens the constitutional framework designed to limit arbitrary extensions of executive power in Zimbabwe.

The effect of such an amendment to section 328(7) requires a referendum as provided for in s 328(9).

Under the basic structure doctrine, certain foundational features of a constitution, such as equality, separation of powers, and democratic governance cannot be diluted, even through parliamentary amendment. Specifically, section 328(7) is grounded in the principle of equality, ensuring that no individual can unilaterally extend their hold on public office beyond what is permitted by the Constitution. Altering the term limit, particularly to benefit the incumbent, undermines this principle and goes against the basic structure doctrine by creating unequal access to power to the benefit of the incumbent. The principles of this notion were earlier cemented in *Eric Taurai Matinenga & Others v The President of the Republic of Zimbabwe & Anor (CCZ 14/21)*, where the court emphasised that certain foundational features of the Constitution such as “separation of powers”, “limitations on term extensions”, and protection of “democratic governance”, cannot be altered in a manner that undermines their essential purpose.

¹ Eric Taurai Matinenga & Others v The President of the Republic of Zimbabwe & Anor (CCZ 14/21).

	<p>This amendment concentrates political authority in a single administration. Regional and international standards, including Article 25 of the ICCPR and Articles 2 and 3 of the African Charter on Democracy, Elections and Governance, emphasise the importance of regular elections and meaningful citizen participation. Extending the term in this way undermines these principles by reducing the frequency of elections and limiting opportunities for citizens to participate in public affairs.² While the proposed terms may support policy continuity and project implementation, they do so at the expense of democratic and public oversight, weakening accountability of elected officials.</p> <p>Globally, a 4 to 5-year term is the standard for both executive and legislative offices. Some countries, such as Mexico, have longer terms of six years (presidential term), but these are single, non-renewable terms designed to uphold democratic principles through term limits and regular electoral cycles. In Zimbabwe, however, the combination of a parliamentary election process for the President and a seven-year term limit creates the potential for abuse, as it could be used to bypass fixed-term safeguards and allow extensions that favor the incumbent. Allowing such amendments would set a dangerous precedent, enabling Parliament to arbitrarily alter the term of office of at will.</p> <p>Moreover, the United Nations Secretary General has previously pointed out that, <i>“under certain circumstances, the removal of or a change in the term limits can undermine the confidence necessary for the political system to function well. The potential for amendments to a legal framework to undermine confidence is greater when they are introduced without following the prescribed process, if they are undertaken shortly before an election or if the process is not based on broad national consensus.”</i>³</p> <p>Recommendation/s:</p> <ul style="list-style-type: none"> • This amendment undermines constitutionalism and entrenched provisions, representing a retrogressive departure from the principles of the 2013 Constitution. Any change of this nature should adhere to due process. Consequently, it must be subjected to a national referendum before enactment.
<p>CLAUSE 5</p> <p>The clause proposes the deletion of the word “first” before “Vice President.” pursuant to constitutional amendment No.2</p>	<p>Comment:</p> <p>This clause seeks to delete the word “first” before “Vice President,” following its repeal in Constitutional Amendment Number 2. Previously, the Constitution distinguished between a First Vice President and a Second Vice President, creating a hierarchical order. Additionally, in the event of presidential vacancy, there is no defined ranking regarding presidential succession between the two vice-presidents.</p>

² UN HRC, General Comment No. 25 : The right to participate in public affairs, voting rights and the right of equal access to public service (Article 25), para 6, para 7 <https://digitallibrary.un.org/record/221930?ln=en&v=pdf>

³ Report of the UN Secretary General, “Strengthening the role of the United Nations in enhancing the effectiveness of the principle of periodic and genuine elections and the promotion of democratization”, available at https://digitallibrary.un.org/record/1302192/files/A_72_260-EN.pdf

CLAUSE 6

This clause stipulates that the provisions of section 92 shall take effect if the President-elect passes away, resigns or is removed from Office.

Comment:

This clause provides that the provisions of section 92 will be triggered in the event that the President-elect dies, resigns, or is removed from office.

See comments in Clause 3.

Recommendation/s:

- A succession plan should be clearly defined and transparent, ensuring continuity of leadership at all times. It must provide unambiguous procedures to prevent any power vacuum, safeguard institutional stability, and uphold public confidence in governance.

CLAUSE 7

This clause removes the words "High Court" and replaces them with "Supreme Court" since the Attorney General must be qualified for appointment as a judge of the Supreme Court.

Comment:

This amendment removes the word "high court" in section 114(3) of the Constitution and replaces it with "Supreme Court" subsequently increasing the threshold of the office bearer.

CLAUSE 8

This provision amends section 120 of the Constitution on the "composition of Senate" and allows the president to appoint 10 senators, raising the total number to 90. The stated objectives are to broaden technical expertise within Parliament, strengthen parliamentary oversight, expand the pool of potential Ministers, enhance public confidence in legislative institutions, and contribute to the reduction of political and social divisions.

Comment:

This provision empowers the President to appoint ten Senators, increasing the total membership of the Senate from eighty to ninety.

This provision grants the President unilateral authority to appoint Senators at his or her discretion, significantly increasing executive influence within the legislature. In doing so, it risks undermining representative democracy, weakening parliamentary independence, and diluting accountability within the Parliament of Zimbabwe. If these amendments are enacted, the ruling party would hold the precise number of Senate votes required for a two-thirds majority, effectively giving it the capacity to pass constitutional amendments without broader public participation.

In practice, the provision appears to contradict its stated objectives of "enhancing public confidence" and "reducing political and social divisions", as it vests the power to appoint 10 Senators, solely in the President. The claim that these appointees will be chosen for their "professional skills and other competencies" is problematic, because it provides no objective criteria, independent oversight, or mechanisms to ensure that a merit-based selection is adhered to. The latter leaves appointments effectively at the President's discretion. Additionally, these Senators are directly accountable to the President rather than the electorate. In any case, this amendment increases the number of unelected representatives, despite the Constitution already allowing the President to appoint seven executive appointments from outside Parliament under section 104(3).

In any case, the already large size of the Senate is further expanded, raising concerns about imposing a significant financial burden on the public and fiscal implications of such an amendment. There is no justification or necessity for such an amendment.

Recommendation/s:

- This amendment should be wholly disregarded. It concentrates power in the executive, undermines democracy, and imposes unnecessary fiscal burdens.

CLAUSE 11,12,13

The provision in clause 11 provides for the creation of the Zimbabwe Electoral Delimitation Commission. It addresses the concerns about ZEC's dual role in drawing electoral boundaries and promotes good governance and institutional integrity

Clause 12 deletes the "Zimbabwe Electoral Commission" and substitutes it with the "Zimbabwe Electoral Delimitation Commission", as the function for delimitation of boundaries is now within the ambit of the Zimbabwe Delimitation Commission.

Clause 13, deletes the "Zimbabwe Electoral Commission" and substitutes it with the "Zimbabwe Electoral Delimitation Commission" wherever it appears in the section, as the function for delimitation of boundaries is now within the ambit of the Zimbabwe Delimitation Commission.

Comment:

Clause 11 inserts a new section 159A which establishes the "Zimbabwe Electoral Delimitation Commission (ZEDC)", transferring the responsibility for delimiting electoral boundaries from the Zimbabwe Electoral Commission (ZEC) to the new body. It addresses the concerns previously stemming from ZEC's dual role.

With regard to the constitution of the ZEDC, while the President is required to consult the JSC, the power to appoint the Commission's Chairperson rests with the President. This places the executive branch at the center of defining electoral boundaries in Zimbabwe. The latter raises serious concerns about potential executive influence over a fundamental aspect of elections and the broader integrity of the electoral process in Zimbabwe. It remains unclear what procedure the President will follow to appoint the other four members of the ZEDC.

The appointment of a sitting or former Supreme Court judge as chairperson of the ZEDC risks blurring the separation of powers, as judges are meant to be independent adjudicators of the courts and not electoral administration. The provision's reference to a "former" judge is vague, potentially allowing a retired or even dismissed judge whose expertise may be outdated or disconnected from current affairs and developments to be appointed, undermining both the effectiveness and credibility of the ZEDC.

Additionally, it is concerning that for a process as complex and technically demanding as nationwide electoral delimitation, the ZEDC is to rely on the appointment of only one member with expertise in demography or cartography. Moreover, where the ZEDC is not unanimous regarding any matter, the chairperson who is appointed by the President holds the casting vote, concentrating decisive power in an individual closely tied to the executive in an electoral process.

Pursuant to Clause 11, the amendments to section 160 of the Constitution in clause 12 delete "Zimbabwe Electoral Commission" and substitute it with "Zimbabwe Electoral Delimitation Commission".

Similarly, building on clauses 11 and 12, amendments to section 161 of the Constitution in clause 13 replaces all remaining references to the "Zimbabwe Electoral Commission" with the "Zimbabwe Electoral Delimitation Commission" throughout the relevant sections.

Additionally, the clause amends s161(2) noting the change in timelines through the deletion of "six months" and substitution with "eighteen months". Consequently, if electoral boundaries are finalised less than "eight months" before polling day, those new boundaries cannot be applied in the general election. Instead, the election must proceed using the previously existing boundaries.

Moreover, the creation of a permanent commission is unnecessary and imposes an additional financial burden, as electoral delimitation occurs only once every ten years.

Recommendation/s:

- Key electoral functions, including the delimitation of boundaries, should remain within the ZEC as an independent constitutional body to safeguard institutional coherence, independence, and public confidence in the electoral process.

<p>CLAUSE 14</p> <p>This clause amends section 167 of the Constitution to make passages for matters on a point of law and public importance to be heard by the Constitutional Court.</p>	<p>Comment:</p> <p>This clause amends section 167 of the Constitution by extending the jurisdiction of the Constitutional Court to hear matters that raise an arguable point of law of general public importance. This amendment makes passage for the Constitutional court to entertain cases outside of a constitutional basis.</p>
<p>CLAUSE 15</p> <p>Clause 15 amends section 180(2) of the Constitution on the appointment of judges by the insertion of "and all other judges" after the words "High Court".</p> <p>It further repeals sections 180(3), 4, (4a), and (5) of the Constitution (and substitutes it with the appointment of Judges after consulting the Judicial Service Commission).</p>	<p>Comment:</p> <p>The amendment to section 180 (2) through the insertion of "and all other judges" after "high court" means that the provision now expressly caters to all judicial officials and not just high court judges. Effectively, it extends the president's authority to appoint judges in all other courts. This amendment is problematic in that it broadens the executive's involvement in all judicial appointments.</p> <p>The amendments further repeal section 180(3), 4, (4a), and (5) which are critical provisions regulating the appointment and tenure of judges in Zimbabwe. While clause 15 of the Bill states that judges are to be appointed by the President "after consulting the Judicial Service Commission", the Bill's substantive provisions do not specify this nor clarify the scope of the consultations. With the repeal of the original sections which detailed the role of the JSC and procedural safeguards, it is left to the President alone to exercise his discretion in the appointment process.</p> <p>The repeal of sections 180(3), (4), (4a), and (5) of the Constitution of Zimbabwe, which currently provide for a transparent and merit based process of appointing judges through public advertisement and interviews conducted by the JSC is concerning. As a result, there will be no requirement for public interviews, the advertisement of judicial vacancies, or for the President to appoint judges from a list of nominees submitted by the JSC, even if consultation with the Commission occurs. The President would merely be required to consult the JSC, without being bound by its recommendations. Moreover, the nature, scope, and standard of the required consultation are not clearly defined, leaving uncertainty as to what the process entails and whether it would be meaningful or merely procedural.</p> <p>If these provisions sail through, the competence and impartiality of judges appointed to the judiciary cannot be sufficiently safeguarded or guaranteed. The removal of structured nomination procedures and public scrutiny weakens assurances that appointments will be based on objective criteria. These amendments risk concentrating excessive appointment power in the President, with limited checks and balances in this process.</p> <p>The broad discretion granted to the President in judicial appointments raises concerns about potential abuse of office and erosion of the separation of powers. The UN Basic Principles on the Independence of the Judiciary require that judicial appointments be based on objective criteria and protected from improper influence. The UN Special Rapporteur on the Independence of Judges and Lawyers has similarly stressed that appointment processes must be insulated from executive control.⁴ In this regard, expanding presidential discretion while diminishing the</p>

⁴ A/HRC/38/38 - Report of the Special Rapporteur on the independence of judges and lawyers, available at,

	<p>role of the JSC risks undermining both the independence and perceived impartiality of the judiciary.</p> <p>ZLHR reiterates that several regional and international guidelines, including the Lilongwe Principles (2018) and the Commonwealth (Latimer House) Principles, emphasise that judicial appointments must be transparent, merit-based, and promote public confidence. These standards stress that judges should be independent, impartial, competent, and selected through processes that advance equality of opportunity, address historic discrimination, and consider gender equity, ensuring that the judiciary upholds the rule of law and justice effectively.⁵ In order to uphold the rule of law and dispense justice, the judiciary must be ‘independent, impartial, honest and competent’.</p> <p>Recommendation/s:</p> <ul style="list-style-type: none"> • Retain the existing procedures set out in sections 180(3), (4), (4a), and (5) of the Constitution governing the transparent and merit based appointment of judges.
<p>CLAUSE 16</p> <p>This clause amends section 212 of the Constitution by replacing the phrase “and to uphold this Constitution” with “in accordance with the Constitution” in describing the functions of the Defence Forces.</p> <p>The stated objective is to align this section with sections 213 and 214, which provide for the deployment of Defence Forces in Zimbabwe and political accountability for it.</p>	<p>Comment:</p> <p>The amendment will delete the phrase "<i>and to uphold this Constitution</i>" and substitute it with "<i>in accordance with the Constitution</i>".</p>

<https://www.ohchr.org/en/documents/thematic-reports/ahrc3838-report-special-rapporteur-independence-judges-and-lawyers>

⁵ Zimbabwe Lawyers for Human Rights, “Analysis of the Constitution of Zimbabwe Amendment (No. 2) BILL, 2019”.

CLAUSE 17

This clause repeals sections 239(c) to (e) of the Constitution, removing from the Zimbabwe Electoral Commission (ZEC) the functions of voter registration, the compilation and maintenance of the voters' roll, and transferring these responsibilities to the Registrar-General.

The clause also repeals section 239(f) and transfers it to the Zimbabwe Electoral Delimitation Commission.

The substantive provisions of the Bill also repeal section 239(i) which outlines ZEC's role to accredit observers of elections and referendums.

Comment:

Under this amendment, the function of voter registration is transferred from the ZEC to the Registrar-General's Office. As a result, the compilation, custody, and maintenance of the voters' roll will now be the responsibility of the Registrar-General.

The proposed amendments weaken electoral independence and risk eroding public trust in the electoral system. Specifically, while efficiency is outlined as the justification, voter registration and the custody of the voters' roll are not merely technical or administrative functions, but are central to the integrity and credibility of elections.

The Registrar-General operates under the Ministry of Home Affairs and Cultural Heritage placing it firmly within the executive branch and lacking constitutional independence. Consequently, this amendment transfers a core electoral function from an independent constitutional commission to an office under executive control. In any case, Section 239 of the Constitution clearly outlines the functions entrusted to the ZEC, underscoring their critical importance, as such, these cannot be delegated.

Vesting control of the voters' roll in an executive office creates a real risk of politicisation of voter registration, weakens institutional independence, and creates a great risk of manipulation of the electoral process. These concerns are heightened by Zimbabwe's long standing disputes over the transparency, accuracy, and accessibility of the voters' roll, which have repeatedly undermined public confidence in the country's elections.

Additionally, the Registrar General's Office currently faces significant administrative and financial constraints that have hindered its ability to efficiently fulfill its core duties, including the issuance of identity documents. Given these existing challenges, it is unrealistic to expect the office to take on the function of voter registration for the entire country.

Article 17 of the SADC Principles and Guidelines Governing Democratic Elections requires that voter registration processes be credible, transparent, and managed in a manner that promotes public confidence. Similarly, Article 25 of the ICCPR guarantees the right to participate in public affairs through genuine elections, which presupposes an impartial voter registration system administered through a designated independent electoral commission.

The substantive provisions of Clause 17 which provide for the repeal of paragraph 239(i), which currently empowers the ZEC to accredit election observers for elections and referendums carry significant implications for electoral transparency and oversight in Zimbabwe. It is unclear whether ZEC's role and functions will be transferred to another institution, body, or individual. In any case, without this provision, there is no statutory mechanism for the formal accreditation of election observers, raising concerns that both elections and referendums could proceed without independent monitoring, undermining public confidence in the integrity and fairness of the electoral process in the country.

Recommendation/s:

- All core electoral functions, including the delimitation of boundaries, should remain within the ZEC as the constitutionally established and independent body mandated to manage elections.
- Rather than creating parallel institutions, reforms should focus on strengthening ZEC's operational capacity, financial autonomy, and institutional independence.

CLAUSE 18

This amendment repeals Part 4 of Chapter 12 of the Constitution, which establishes the Zimbabwe Gender Commission, and transfers its functions and responsibilities to the Zimbabwe Human Rights Commission.

Comment:

This amendment will repeal Part 4 of Chapter 12 of the Constitution, which currently establishes the Zimbabwe Gender Commission (ZGC). Consequently, the amendment will transfer all functions and responsibilities of the ZGC to the Zimbabwe Human Rights Commission (ZHRC). This change effectively abolishes a specialised, independent gender commission and absorbs its mandate within a broader human rights institution.

This amendment must be assessed against the national values and principles in section 3(1) (g), which recognise gender equality as a foundational constitutional value. It undermines section 17, which obliges the State to promote full gender balance in all spheres of Zimbabwean society.

Crucially, it carries serious implications for the effective protection and promotion of women’s rights in Zimbabwe. Section 246 of the Constitution assigns the ZGC the mandate to monitor and advance gender equality, ensuring the constitutional rights of women, including participation, protection from discrimination, and empowerment. The ZGC, as a specialised institution, currently focuses exclusively on these issues. This consolidation risks diluting focus on gender specific issues, which may be overshadowed within a wider human rights agenda. Additionally, given the existing underfunding and extensive workload faced by the ZHRC in addressing broader human rights concerns, it is unlikely to effectively discharge the ZGC’s specialised mandate.

Zimbabwe is a state party to the Maputo Protocol, which obliges states to establish mechanisms to promote gender equality and protect women’s rights. The abolition of the ZGC undermines this commitment. Similarly, as a party to CEDAW without reservations, Zimbabwe is required to create effective institutions to monitor, promote, and enforce women’s rights, a mandate that is weakened by the proposed amendment.

Recommendation/s:

- Retain the Zimbabwe Gender Commission as an independent constitutional body to ensure focused oversight, monitoring, and advancement of gender equality.
- Strengthen the ZGC’s capacity by providing adequate funding and institutional support. This would reinforce Zimbabwe’s obligations under both regional and international law, while ensuring effective promotion and protection of gender equality.

CLAUSE 19

Section 243 of the Constitution, which outlines the functions of the Zimbabwe Human Rights Commission, is amended to explicitly include gender equality. Subsection (1) (c) now requires the ZHRC to address issues concerning gender equality and ensure it is upheld as provided in the Constitution.

Comment:

The amendment expands the ZHRC’s mandate to formally include issues concerning gender equality previously handled by the ZGC.

See comments in Clause 18.

<p>CLAUSE 20</p> <p>This clause removes the requirement for the President to appoint the Prosecutor-General on the advice of the Judicial Service Commission.</p>	<p>Comment:</p> <p>This clause removes the requirement for the President to appoint the Prosecutor-General based on the advice of the JSC. While the current arrangement may be less than ideal, the proposed amendment is far more concerning, creating a potential conflict of interest by allowing the President to appoint the Prosecutor-General unilaterally, without independent oversight or input from the Commission. Since the Prosecutor-General is responsible for investigating and prosecuting matters on behalf of the state, including cases that may implicate the executive, this amendment raises serious concerns about the independence and impartiality of the office. The Prosecutor General may be motivated or influenced to act according to the directives of the President who appointed them.</p> <p>Recommendation/s:</p> <ul style="list-style-type: none"> • Reinstate public interviews to ensure merit-based appointments, enhance transparency, and promote meaningful public participation in the selection of senior public service officials.
<p>CLAUSE 21</p> <p>This clause repeals section 281(2) under principles to be observed by traditional leaders.</p>	<p>Comment:</p> <p>The Bill proposes the repeal of Section 281(2), which currently prohibits traditional leaders from being members of political parties and engaging in partisan politics. Section 281(2) sets out principles governing the conduct, duties, and responsibilities of traditional leaders within their communities and in their interactions with the state. Under the Bill, traditional leaders' code of conduct will now be provided for in an Act of Parliament.</p> <p>Traditional leaders hold significant influence within their communities, especially in dispute resolution and community mobilisation. Additionally, they occupy positions of authority over individuals with diverse political affiliations. Permitting their participation in partisan politics may create serious conflicts of interest and expose communities to political pressure or bias. This amendment risks eroding public trust in the neutrality of traditional leaders. As such, repealing a constitutional provision that regulates their conduct therefore raises concerns about accountability and checks and balances, and may foster division and polarisation that undermine democratic principles.</p> <p>In addition, transferring the regulation of their conduct from the Constitution to ordinary legislation weakens the level of protection currently afforded. Constitutional safeguards are more firmly entrenched and more difficult to amend than ordinary laws such as an Act of Parliament. Moreover, until such legislation is enacted, there is a risk of a regulatory gap, leaving the conduct of traditional leaders unchecked.</p> <p>Recommendation/s:</p> <ul style="list-style-type: none"> • Retain section 281(2) in the Constitution to preserve clear safeguards governing the conduct of traditional leaders. This ensures their political neutrality, protects communities from partisan influence, and upholds accountability, checks, and balances essential to democratic governance.

CLAUSE 22

This clause repeals Part 6 of Chapter 12 of the Constitution on the National Peace and Reconciliation Commission.

Comment:

This clause repeals Part 6 of Chapter 12 of the Constitution, which established the National Peace and Reconciliation Commission (NPRC). The NPRC was originally created to promote national healing, peacebuilding, and reconciliation in Zimbabwe, particularly in response to historical political violence and societal divisions. Its mandate includes investigating human rights violations, facilitating dialogue, and fostering social cohesion.

Although the tenure of the NPRC is deemed to have concluded, repealing this constitutional provision effectively dismantles the institutional framework dedicated to addressing past injustices and mitigating conflict, potentially leaving a gap in mechanisms for national reconciliation and accountability. Without the NPRC, opportunities for structured dialogue, peacebuilding, and redress for victims of political violence may be severely curtailed, raising concerns about the government's commitment to transitional justice and long-term stability.

Repealing this constitutional provision would dismantle the institutional framework established to address past injustices and manage conflict, leaving a gap in mechanisms for national reconciliation and accountability in Zimbabwe. Without the NPRC, opportunities for structured dialogue, peacebuilding, and redress for victims of political violence would be severely limited. The NPRC is essential in establishing the government's commitment to transitional justice and pursuit for justice in the country following years of violence, contested elections and past injustices, many of which remain unresolved.

Recommendation/s:

- Retain and strengthen the National Peace and Reconciliation Commission as a permanent constitutional body, removing any arbitrary limitations on its tenure. This would ensure continuous mechanisms for addressing past injustices, promoting national healing, and safeguarding transitional justice and long-term stability in Zimbabwe.

Disclaimer: This analysis is based on ZLHR's interpretation of the proposed amendments.

