

ZIMBABWE ELECTION SUPPORT NETWORK (ZESN)



*Report on 5
March 2016,
Mhondoro-
Mubaira
Parliamentary By-
election*

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ACKNOWLEDGEMENTS

The Zimbabwe Election Support Network (ZESN) is grateful and indebted to the member organisations and volunteers who made observation of the Mhondoro Mubaira by-election possible. This includes ZESN Provincial Taskforce members who assisted in recruitment and pre-planning processes. Without their support this would have been a difficult task.

ZESN is indebted to volunteers who observed electoral processes, voter registration and Election Day processes, dedicating considerable time and effort. ZESN observers also objectively reported on the processes. Without their effort this and other reports by ZESN on the elections would not have been possible.

ZESN commends the Zimbabwe Electoral Commission (ZEC) whose cooperation is indispensable to our successful election observation.

ZESN also commends citizens of Zimbabwe for voting in a relatively peaceful environment during these by-elections.

ACRONYMS

ACHPR	African Charter on Human and Peoples' Rights
AU	African Union
FFP	Freedom Front Party
GNDEM	The Global Network of Domestic Election Monitors
ICCPR	International Covenant on Civil and Political Rights
MMPZ	Media Monitoring Project of Zimbabwe
MPLCs	Multi-party Liaison Committees
UDHR	Universal Declaration of Human Rights
ZANU-PF	Zimbabwe African National Union-Patriotic
ZEC	Zimbabwe Electoral Commission
ZESN	Zimbabwe Election Support Network
ZHRC	Zimbabwe Human Rights Commission

1. EXECUTIVE SUMMARY

On 5 March 2016, The Zimbabwe Electoral Commission (ZEC) conducted a National Assembly by-election in Mhondoro-Mubaira Constituency. The by-election was necessitated by the fact that ZANU-PF invoked section 129 (1) (k) of the Constitution which states that a Member of Parliament's (MP) seat becomes vacant when the MP ceases to belong to the political party of which he or she was a member when elected to Parliament and the political party concerned, by written notice to the Speaker of Parliament, or the President of the Senate, as the case may be, informs parliament of the same.

Following the invitation of ZEC, the Zimbabwe Election Support Network (ZESN) deployed 15 observers for the by-election based at all the Ward and Constituency Collation Centres. Two mobile teams were also deployed.

Zimbabwe's Electoral Legal framework generally, provides a basis for the conduct of credible elections, also in line with the country's regional and international commitments. Notwithstanding this, there remains a need for electoral and political reforms as the prevailing polarised political environment and culture of intimidation has a negative impact on the professional conduct and management of elections by electoral and related state institutions. Piecemeal approach to electoral reform persists and alignment of electoral laws to the Constitution remains incomplete. Electoral contestants' intolerance of opposing political views, during the pre-electoral and electoral period continues to make the playing field uneven. The situation is compounded by the fact that Multi-party Liaison Committees (MPLCs) are not permanent despite the fact that MPLCs can make a huge contribution to the resolution of election related disputes in the pre-polling, polling and post polling electoral phases.

The pre-electoral environment was relatively calm and peaceful. However actions that constituted vote buying were observed chiefly in the form of partisan food distribution¹ by Zimbabwe African National Union-Patriotic (ZANU-PF). Media coverage of the by-elections was inadequate and unbalanced. All the media articles regarding the by-election were mostly limited to the process and outcome of ZANU-PF primary elections.

On Election Day, all the polling stations where ZESN observed successfully completed opening and setup procedures on time and voting proceeded smoothly at all polling stations. Counting was reported to have taken place according to procedure and results were displayed outside the polling stations. At all the ward and constituency collation Centres where ZESN observed, all election agents agreed that the process had gone well and signed the V11 form, albeit election agents were from ZANU-PF party only, which was one of the two political parties that were contesting the by-election. ZANU-PF deployed two election agents at every polling station as provided by the electoral law; however the Freedom Front Party failed to deploy election agents at polling stations, ward collation and constituency collation centres.

¹ During the ZEC Accredited voter education ZESN volunteers observed numerous food distribution activities in the Constituency. Several village heads mobilized communities to collect food at various food distribution points. The source of the food remains unclear however it was clear that officials from only ZANU-PF and no other party were actively involved in the distribution process.

The by-election was poorly contested. ZESN is not aware of any campaign rallies or meetings that the FFP held during the campaign period. It appears that FFP campaigns were only limited to putting up posters throughout the Constituency, most of which were defaced by suspected ZANU-PF supporters, a development which demonstrates the existence of a culture of intolerance to opposing political viewpoints, by some supporters of the ruling party. According to the Zimbabwe Broadcasting Authority; ZEC officials last heard of the party's candidate Rodwell Nyanganya on nomination day². This media report is consistent with feedback that ZESN received from members of the public which ZESN observers interacted with before polling day.

Polling station based voter registration was conducted throughout the constituency, in accordance with the law; however the ZEC continues to create two separate voters' rolls. The main roll consists of the voters who presented themselves at the registration centres while the supplementary roll contains all the names of individuals who were on the 2013 voter's roll for the same constituency, but who did not participate in the voter registration exercise for this by-election.

Recommendations:

- i. ZESN recommends that ZEC comes up with a more comprehensive voter registration methodology that ensures that all eligible voters are captured by the new polling station based voter registration system.
- ii. ZEC should consider piloting the Biometric Voter Registration (BVR) in future by-elections as it prepares to introduce the system in 2018, the adoption of BVR will go a long way in enhancing transparency and integrity of the voter registration processes in Zimbabwe.
- iii. ZEC should devise voter education programmes that lure the youth to fully participate in electoral processes as the level of participation of youths in electoral processes remains low.
- iv. Political parties must ensure that they train and deploy election agents to all polling stations to enable them to comment authoritatively on the electoral processes in Zimbabwe.

The recommendations above can only be fulfilled when there is adequate political will and commitment by the political actors in Government.

² <http://www.zbc.co.zw/index.php/news-categories/local-news/66211-thousands-vote-in-mhondoro-mubaira>

2. INTRODUCTION

2.1. The By-election

The Mhondoro-Mubaira national assembly seat was declared vacant by the Speaker of Parliament, after ZANU-PF invoked section 129 of the Constitution which provides for the tenure of the seat of Parliament. Specifically section 129(1) (k) provides that the seat of a MP becomes vacant “if the Member has ceased to belong to the political party of which he or she was a member when elected to Parliament and the political party concerned, by written notice to the Speaker of Parliament, or the President of the Senate, as the case may be, has ceased to belong to it.” Thus the Mhondoro-Mubaira parliamentary seat fell vacant following the expulsion from ZANU PF and subsequent recall from parliament of Mr Sylvester Nguni.

2.2. The Observer Group

Zimbabwe Election Support Network was formed in 2000 and is a coalition of 31 non-governmental organisations. The major focus of the Network is to promote democratic processes in general and free and fair elections in particular. ZESN is the secretariat of the Southern Africa Development Community Election Support Network (SADC-ESN) and is a member of The Global Network of Domestic Election Monitors (GNDEM).

Following the invitation of the Zimbabwe Electoral Commission (ZEC), ZESN deployed observers to the 5 March 2016 National Assembly by-election. ZESN relied on reports from its volunteers who observed the pre-electoral period and 15 observers who observed the Election Day processes.

ZESN is independent in its findings and conclusions. ZESN election observation methodology is guided by the Constitution of Zimbabwe and Electoral Laws of the Country. ZESN’s assessment of the election is also informed by a number of regional and international conventions and declarations which Zimbabwe is signatory to such as the SADC Principles and Guidelines Governing Democratic Elections, the African Charter on Human and Peoples' Rights (ACHPR), the International Covenant on Civil and Political Rights (ICCPR) and the Universal Declaration of Human Rights (UDHR).

ZESN is also guided by the GNDEM’s Declaration of Global Principles for Nonpartisan Election Observation and Monitoring by Citizen Organizations, Code of Conduct for Nonpartisan Citizen Election Observers.

3. LEGAL FRAMEWORK

3.1. Legal framework for the by-election

The Constitution, Electoral Act, Statutory Instruments and Regulations form part of the Legal framework governing the conduct of by-elections. The Legal framework requires that set polling dates comply with both section 158(3) and 159 of the Constitution, and section 39 of the Electoral Act, both of which require voting in a by-election to be completed within 90 days of the vacancy occurring. The Mhondoro-Mubaira by-election was held within the prescribed 90-day deadline.

4. ELECTION ADMINISTRATION

4.1. Administration of the Elections:

Section 239 of the Constitution gives the Zimbabwe Electoral Commission, the mandate to conduct and supervise elections and election related activities. However the capacity to deliver this mandate is negatively affected by the inability of Government to avail adequate resources timeously. Despite the perennial funding challenges that ZEC faces the Commission continues to make commendable efforts to enfranchise voters. ZEC largely completed administrative and logistical preparations on time for the by-election; in particular distribution of election materials to polling stations was on schedule.

4.2. Voter Education

In every election, voter and civic education are necessary to ensure that all constituents—men and women alike—understand their rights, political systems, contesting parties messages, and how and where to vote. For an election to be successful and democratic, voters must understand their rights and responsibilities, and must be sufficiently knowledgeable and well informed to cast ballots that are legally valid and to participate meaningfully in the voting process.³

ZESN was accredited by ZEC to conduct voter education for the by-election. ZESN's contribution included printing and distribution of voter education materials (over 1800 pamphlets and 500 posters) and well as offering 3 voter educators to complement ZEC's own team which comprised of over 40 voter educators. ZESN notes that voter education is a resource intense exercise that ZEC has been unable to effectively deliver, and on a continuous basis, largely due to funding constraints. Conducting voter education close to the dates of an election is not ideal because voter educators from ZEC and accredited CSO are forced to compete with political parties for attention of the voter.

³ Civic and Voter education: <http://www.un.org/womenwatch/osagi/wps/publication/Chapter5.htm>

ZESN's observations are that there is need to for additional resources for the Commission to enable the deployments of an optimum team of ZEC voter educators. Through its interactions with ZEC officials who conducted voter education for the Mhondoro-Mubaira by-election, ZESN established that ZEC was only able to deploy four voter educators per ward. The ideal according to the officers would have been to deploy two voter educators per each polling area.

Both ZEC and Civil Society Organisations (CSOs) operating in Zimbabwe continue to implement programing under considerable financial constraints, hence the need for close collaboration between the ZEC and CSOs that seek to support the formulation of innovative voter education programs that can better leverage on the limited funding.

Voter education content and messaging should be broadened and not just focus on the mechanics of voting but should be about enhancing knowledge, changing values, attitudes, behaviours and demystifying and allaying fears associated with elections and voting. The curriculum used for voter education should also be responsive to emerging needs and knowledge gaps such as the legal provisions for assisted voters, and the role of traditional leaders. The information should be packaged in a way that appeals to the different categories of voters, including

4.3. Voter Registration and inspection of the voters' roll

Effective voter registration is an important means of ensuring that the right to vote is protected. Voter registration is one means of promoting inclusive voting processes, while at the same time safeguarding against ineligible people. Section 155 (2) (a) provides for the government to take all measures and ensure that all eligible citizens, that is to say the citizens qualified under the Fourth Schedule, are registered as voters.

The Zimbabwe Electoral Commission (ZEC) conducted voter registration and inspection of the voter's roll in accordance with the law. At the end of the exercise 20407 had registered. As has become the norm ZEC created a supplementary voters' roll to accommodate that category of voters whose names were contained in the 2013 voters roll but were unable to register during the 2016 exercise. The supplementary voters' roll contained 16225. ZESN continues to urge the ZEC to ensure that only one accurate and complete voters' roll is compiled and used in by-election and general elections.

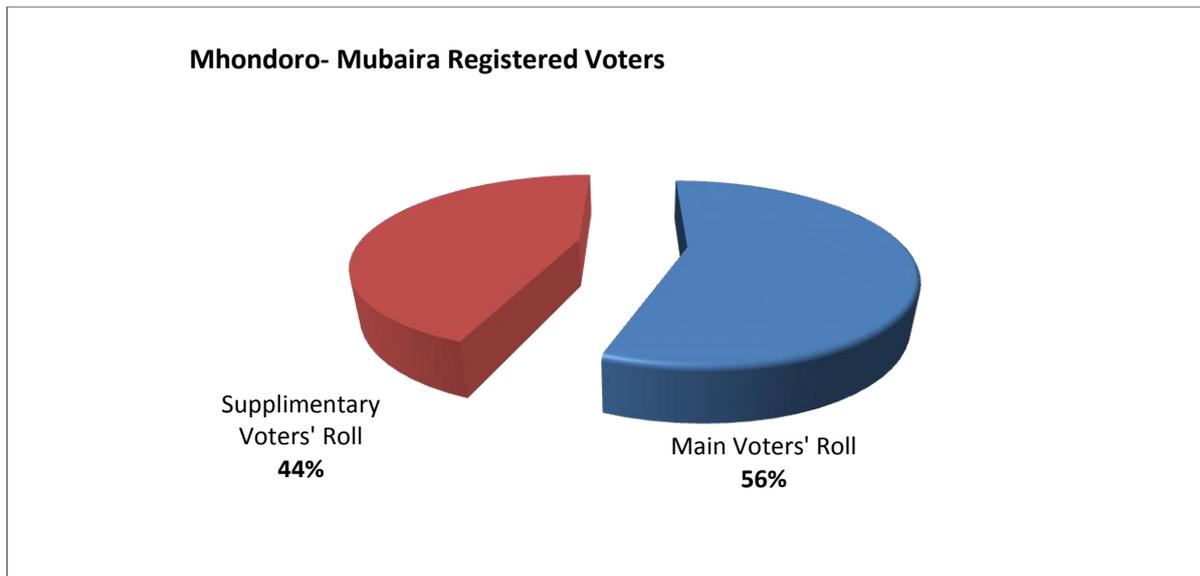


Figure 1: Comparison of Mhondoro-Mubaira Registered Voters

A cursory glance of the two rolls that were used by ZEC during the by-election reveals that a close to half of those who were eligible to cast their vote in the by-election were drawn from the supplementary voters' roll. This demonstrates the need enhanced voter education to motivate those citizens that are eligible to register to present themselves at their respective registration centres whenever registration is being undertaken. ZESN realises though, that the effectiveness of voter education efforts by both ZEC and CSOs accredited to deliver the same will only increase when the political environment allows for genuine and credible political contestation.

5. ELECTION CAMPAIGNS

The Fourth schedule of the Electoral Act contains a code of conduct for political parties that when respected, helps create an enabling environment for the conduct of free and fair elections and a climate of tolerance in which electioneering activities takes place without fear or coercion, intimidation or reprisals.

The fourth schedule of the electoral act also requires all political parties and candidates to publicly state that everyone has the right—

- (i) to freely express their political beliefs and opinions;
- (ii) to freely challenge and debate the political beliefs and opinions of others;
- (iii) to freely canvass freely for membership and support from voters;
- (iv) to freely attend public meetings convened.

Although the pre-electoral period was largely calm and peaceful, ZESN observers noted that a significant number of FFP posters were defaced. This phenomenon was witnessed throughout the Constituency. ZANU-PF posters were the only ones that remained. This phenomenon demonstrates the absence of tolerance of opposing political viewpoints by

suspected supporters of the ruling party, even in a by-election devoid of genuine and credible contestation such as the Mhondoro-Mubaira By-election.

6. MEDIA AND ELECTIONS

Media freedom is fundamental in promoting the political and civil and political rights and liberties enshrined in the Constitution of Zimbabwe. The media plays a complex role in electoral process, providing information to voters and a platform to political parties and candidates while serving a watchdog function. There was very little coverage of this by-election by mainstream media; however the limited coverage was unbalanced and skewed in favour of ZANU-PF. The media coverage was also limited to mostly, the results of the ZANU-PF primary elections and the result of the by-elections.

7. GENDER EQUALITY AND HUMAN RIGHTS

7.1. Gender Equality and Special Needs Groups

Active participation of women, youth, civil society organisations and marginalised groups in the electoral process constitutes a critical element for the deepening of democracy and human rights in Zimbabwe. ZESN observed that a significant number of women participated in electoral process as voters, election agents, polling officers and citizen observers. While ZEC consistently gathers statistics on sex and age of voters at all the polling stations, this information however is not being shared with other electoral stakeholders. ZESN urges the ZEC to avail statistics that would help stakeholders deepen their understanding of women and men's participation in electoral processes.

8. ELECTION DAY OBSERVATIONS

Opening and voting Procedures

At all polling stations where ZESN observed opening, observers reported that opening procedures were followed and conducted on time with adequate polling personnel and voting materials. According to reports by our observers they were an average of six polling officials at each polling station. ZESN observers reported that important voting procedures such as checking of names in the voters' roll, marking of fingers with indelible ink and ensuring that voters cast their ballots in secret were followed.

Official Secrecy Act

Political Parties' Agents

In most polling stations where ZESN observers were deployed we observed that only ZANU PF had agents inside the polling station. Political parties contesting the by-election were allowed to have one agent inside the polling station and to have an additional agent stationed within the vicinity of the polling station. The failure by Freedom Front party to field election agents, at polling stations, ward collating centres and even at the constituency

collating centre, is regrettable given the importance of having party representatives in polling stations to assess whether the by-election was held in conformity to local, regional and international standards and best practice.

Police presence

ZESN observers noted a heavy presence of police officers inside and outside of polling stations especially at the ward collation centres with an average of six police officers per polling station. While ZESN appreciates the need for to secure electoral processes, the Network is of the view that the number of Police Officers providing security at polling stations needs to be commensurate with the existing level of threat to the process to ensure optimum use of resources.

Counting

Counting procedures were done in line with the provisions of the law with political party agents confirming by signing the V11 forms at the end of the counting process in line with the requirements of the law. The election results were posted outside all polling stations where ZESN observed.

Turnout

ZESN observer reports show that the turnout was generally low especially for the youth in Mhondoro-Mubaira. Only 42% of eligible voters turned up to cast their vote on Election Day. This trend of low participation in electoral processes is consistent with trends observed during previous by-elections held in 2014 and 2015. It would appear from the comments received from member of public that voters are more concerned with investing their time in activities that have an immediate impact on their livelihoods than participating in elections.

9. BY-ELECTION RESULTS

Below is a matrix and graph illustrating the by-election results:

MHONDORO-MUBAIRA NATIONAL ASSEMBLY CONSTITUENCY 05 MARCH 2016 BY-ELECTION SUMMARY RESULTS							
	WARD NUMBER	Gangarahwe George (ZANU PF)	Nyanganya Rodwell (Freedom Front)	Total Votes Rejected	Ballot Papers Unaccounted for	Total Votes Cast	Total Valid Votes Cast
	WARD 1	1,596	183	69	0	1,848	1,779
	WARD 4	1,914	298	87	0	2,299	2,212
	WARD 5	887	85	24	0	996	972
	WARD 6	327	30	12	0	369	357
	WARD 7	1,181	43	40	0	1,264	1,224
	WARD 8	2,570	89	73	0	2,732	2,659
	WARD 9	1,588	82	39	0	1,709	1,670
	WARD 10	2,300	161	79	0	2,540	2,461
	WARD 27	1,044	62	33	0	1,139	1,106
Totals		13,934	1,056	468	0	15,458	14,990

Source: <http://www.zec.gov.zw/election-notice-board/election-results/2016-03-08-07-56-24>

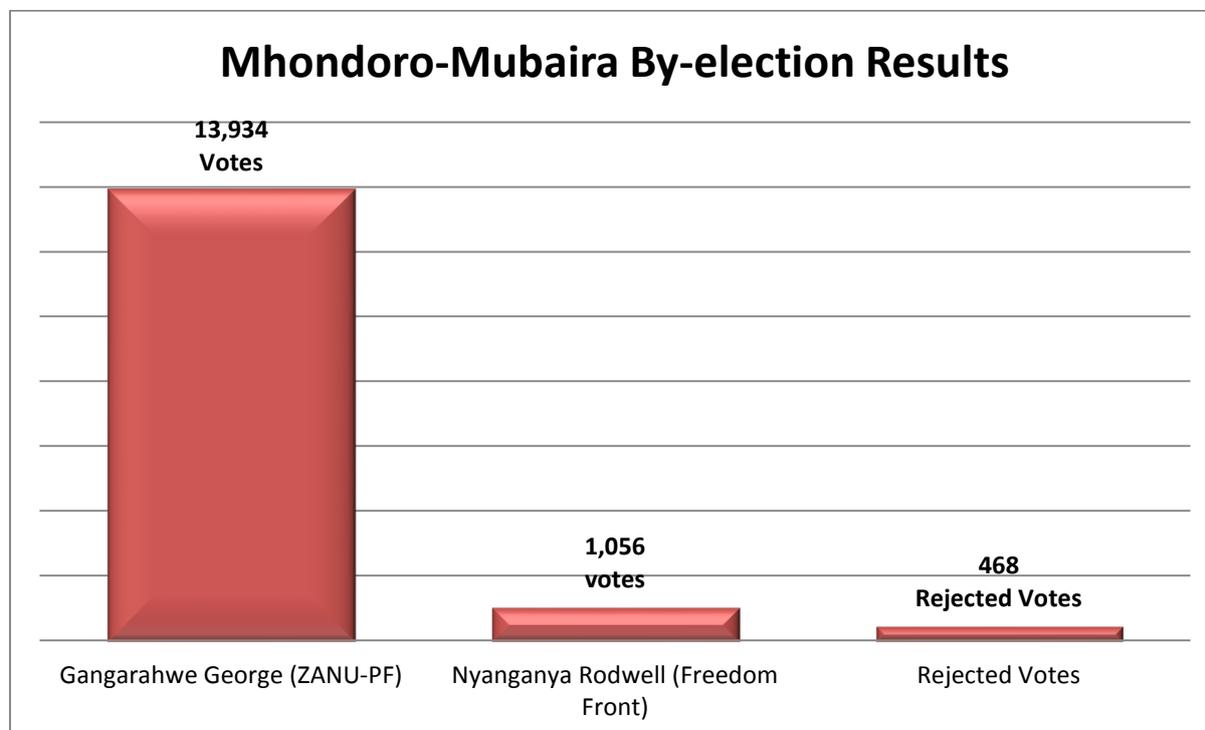


Figure 2: Mhondoro-Mubaira By-election Results

10. CONCLUSION AND RECOMMENDATIONS :

- i. ZESN recommends that ZEC comes up with a more comprehensive voter registration methodology that ensures that all eligible voters are captured by the new polling station based voter registration system.
- ii. ZEC should consider piloting the biometric voter registration (BVR) in future by-elections as it prepares to introduce the system in 2018, the adoption of BVR will go a long way in enhancing transparency and integrity of the voter registration processes in Zimbabwe.
- iii. ZEC should devise voter education programmes that lure the youth to fully participate in electoral processes as the level of participation of youths in electoral processes remains low.
- iv. Political parties must ensure that they train and deploy election agents to all polling stations to enable them to comment authoritatively on the electoral processes in Zimbabwe.

ZESN is cognizant of the fact that the recommendations above can only be fulfilled when there is adequate political will and commitment by the political actors in Government. ZESN reiterates that electoral reforms remain a priority in promoting credible elections. ZESN implores political parties, government and parliament to support efforts to speed up the harmonisation of the Electoral Laws to the Constitution and the need for political will to fully implement the electoral provisions as Zimbabwe prepares for the 2018 elections. Furthermore ZESN urges government to avail adequate and timely funding for ZEC to enable the Commission to adequately prepare for the 2018 harmonised elections, especially the development, testing and implementation of an appropriate voter registration methodology that responds to deficiencies that have been observed in the previous and current voter registration system.