



Zimbabwe Election Support Network (ZESN)

REPORT ON THE ZAKA EAST BY-ELECTION



21 September 2019

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Executive Summary

The Zimbabwe Election Support Network (ZESN) observed the Zaka East National Assembly and Insiza Rural District Council (RDC) Ward 15 Local Authority by-elections conducted by the Zimbabwe Electoral Commission (ZEC) on 21 September 2019. Both by-elections were necessitated by the death of office ZANU-PF bearers who won the seats in the 2018 harmonised elections.

ZESN deployed Long Term Observers (LTOs) to observe and report from the pre to the post elections period. Short Term Observers were deployed to observe at selected polling stations on Election Day in Zaka and Insiza, and around the Constituency in Zaka.

In the pre-elections period, reports of intimidation were received from both by-election areas. There were also cases of the partisan mobilisation of voters by traditional leaders, particularly in Zaka, and threats of exclusion from government aid benefits for those who would not vote for ZANU-PF in both Zaka and Insiza. The threats, together with forced attendance of rallies, violated the constitutionally guaranteed freedoms of association and assembly. Suspicions of vote buying were raised by the promise to drill boreholes in Zaka on the eve of the by-election. Campaigns for ZANU-PF and the MDC Alliance were the most prominent in both cases. In Zaka, concerns of the abuse of State resources were raised when a ZANU-PF candidate was driven in a government vehicle after a rally. Damning remarks were made of some candidates who contested in Insiza.

ZEC conducted Voter Education (VE) in both areas and ZESN complemented ZEC's efforts in Zaka. In Zaka, four candidates contested in the by-election while there were five in Insiza. All Election Day polling procedures were adhered to at polling stations where ZESN had observers. However, some polling stations were not easily accessible to People with Disabilities (PWDs). There were cases where traditional leaders served as election agents for ZANU-PF in violation of the non-partisanship principle that governs them. Consistent with earlier observations by ZESN in past by-elections, turnout was low in both by-election, more so in the Insiza Local Authority by-election. The numbers of assisted voters were low and the relatively lower numbers of turned away voters could be attributed to the displaying of the voters' roll outside polling stations ahead of the Election Day. A case was reported where an MDC Alliance party agent was assaulted by a ZANU-PF agent.

ZANU-PF retained the Zaka East National Assembly seat with its candidate obtaining 7119 votes. For the Insiza by-election, an independent candidate, Juta Shepard, won with 287 votes.

Based on the observations, ZESN makes the following recommendations:

- i. Political parties should desist from all forms of vote buying that unfairly tilt the electoral playing field;

- ii. Political parties should shun all forms of intimidation and allow people to freely associate and assemble;
- iii. Political parties should deliberately emphasise the importance of, and mobilise their supporters to participate in, National Assembly and Local Authority by-elections;
- iv. CSOs should embark on CVE that emphasises the importance of, and encourage the electorate to participate in, by-elections; and
- v. Traditional leaders should desist from engaging in partisan politics in violation of the constitutional provisions for the non-partisanship of the institution of traditional leadership.

1. About the Zimbabwe Election Support Network

The Zimbabwe Election Support Network (ZESN) was formed in the year 2000 and is currently a coalition of 36 Civil Society Organizations (CSOs). 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 Electoral Support Network of Southern Africa (ESN-SA) and is a member of the Global Network of Domestic Election Monitors (GNDEM).

2. Introduction

The ZEC conducted two by-elections; one National Assembly and the other Local Authority, on 21 September 2019. ZESN deployed observers to observe both the Zaka East Constituency National Assembly by-election and the Insiza RDC Ward 15 Local Authority by-election. The pre-elections environment was peaceful but marred by intimidation and other malpractices. The Election Day was largely peaceful and procedures were duly followed where ZESN had observers. The Zaka East by-election was won by a ZANU-PF candidate while the Insiza by-election was won by an independent candidate.

3. Background to the By-elections

The Zaka East by-election was necessitated by the death of a ZANU-PF Member of Parliament, Caston Ringisai Gumbwanda, on 25 June 2019. Gumbwanda won the seat in the National Assembly election held in the 2018 harmonised elections. Similarly, the Insiza RDC Ward 15 by-election was held following the death of ZANU-PF councillor, Theminkosi Ngwenya, in July. The ZEC gave notice of the Insiza by-election in accordance with Section 121A2 of the Electoral Act [Chapter 2:13].

4. Observation Methodology

To observe the by-elections, ZESN deployed Long Term Observers, Short Term Observers (STOs), and mobile observers. LTOs reported from the pre-elections through to the immediate post-elections period. In Zaka, 13 observers were deployed to observe at selected polling stations, at all Ward Collation Centres, at the Constituency Collation Centre, and the environment around the Constituency. ZESN deployed four observers to observe at three of the six polling stations in Insiza RDC Ward 15 and at the Ward Collation Centre.

ZESN election observation methodology is guided by election-related provisions in the Constitution of Zimbabwe and Electoral Laws of the country. In addition, ZESN's assessment of elections is also guided 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). The Network is also guided by the

GNDEM’s Declaration of Global Principles for Nonpartisan Election Observation and Monitoring by Citizen Organisations, Code of Conduct for Nonpartisan Citizen Election Observers.

5. Political Parties’ Internal Candidate Selection Processes and Outcomes

ZESN got reports of two political parties, ZANU-PF and the NCA that held party primary elections to select candidates who contested in the Zaka East by-election. The contesting ZANU-PF candidate beat nine others who contested in his party’s primary elections while the NCA candidate beat four other candidates (three males and two females) in his own party. The MDC Alliance candidate was selected through consensus as the party did not hold primary elections.

6. Nomination Processes and Outcomes

The Nomination Court and polling days for the Zaka East National Assembly by-election were fixed through Statutory Instrument 151A/2019 by Presidential Proclamation 5/2019. In line with Sections 158 (3) and 159 of the Constitution, and Section 39 of the Electoral Act, the Nomination Court sat on August 9, 2019 at the Masvingo Magistrates Court to receive nominations of candidates for the Zaka East by-election. Four candidates were successfully nominated. Table 1 below shows the names of candidates who contested in the Zaka East by-election and the political parties they represented. All the candidates were male.

Table 1: Nominated candidates who contested in the Zaka East by-election and their respective political parties

No.	Name of Candidate	Party	Sex
1.	Derick Charamba Gudzameso	MDC Alliance	M
2.	Clemence Chiduwa	ZANU-PF	M
3.	Lazarus Mubango	Free Zimbabwe Congress	M
4.	Clemence Chavarika	NCA	M

For Ward 15 of Insiza RDC, the Nomination Court sat on Wednesday 21 August 2019, in line with Section 125(4) (b) of the Electoral Act, to receive nominations of candidates for election as councillor. The Court sat at the offices of the Chief Executive Officer, Insiza RDC, at Filabusi Business Centre. Table 2 below shows the names of candidates who contested in the Insiza by-election and the political parties they represented. Out of the five candidates, only one was female.

Table 2: Nominated candidates who contested in the Insiza RDC Ward 15 by-election and their respective political parties

No.	Name of Candidate	Party	Sex
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1.	Bertha Jambwa	NPF	F
2.	Shepherd Juta	Independent	M
3.	Zenzo Moyo	ZANU-PF	M
4.	Reymond Mugadza	MDC Alliance	M
5.	Ndumiso Ndlovu	Independent	M

Notice was given by the ZEC in terms of Section 126 (2) of the Electoral Act [Chapter 2:13] to that effect that Zimiso Sibanda, who was initially nominated as an independent candidate for the Insiza by-election, later withdrew his candidature.

7. Voters' Registration and Voter Education Processes

According to ZEC, Zaka East Constituency had a total of 15934 registered voters for the National Assembly by-election. The voters' rolls used in the by-elections were polling station-based; each of the 38 polling stations had names of voters registered to vote specifically at that polling station.

In both cases, the ZEC conducted Voter Education (VE) from 10 to 14 September 2019. Complementing the Commission's efforts in Zaka, ZESN conducted a CBOs training on 12 August aimed at equipping Community Based Organisations, CSOs, Faith Based Organisations, and Social Emerging Groups with knowledge on voter registration, the electoral cycle, community mobilisation and facilitation skills, sharing on the importance of citizen electoral education process, and conducting VE for the by-election.

Further, at the invitation of ZEC, ZESN conducted VE for polling in the Constituency from 13 to 15 September, 2019 with volunteers seconded from its member organisations, namely the Media Monitors, Zimbabwe Civil Education Trust, Progressive Teachers' Union of Zimbabwe, and Women's Coalition of Zimbabwe. The team targeted political party rallies, community meetings, church gatherings, and the general public at public places such as shopping centres and community gardens. During the voter mobilization exercise, 4000 flyers were distributed and the VE team reached out to approximately 1000 males and 2000 females in Wards 2, 26, 30, and 31. Due to funding constraints, ZESN could not conduct VE in Insiza.



ZESN Voter Educators in addressing different groups in Zaka East

8. Pre-election Environment and Campaigns

ZESN LTOs reported on the pre-election environment and campaigns by political parties.

(i) Intimidation

Though the pre-election political environment in Zaka East was reported to be free and conducive for political campaigns, it was fraught with threats of unspecified action by ZANU-PF supporters should the party lose the by-election. Intimidation was also reported in Insiza. Intimidation is prohibited in terms of Section 5 of the Code of Conduct for Political Parties and Candidates, and Other Stakeholders which provides that, “No political party or any of its members or supporters, and no candidate, any of his or her supporters and no stakeholders may— (b) intimidate, or incite or encourage the intimidation, of anyone on account of his or her political opinions or membership or support of a political party; or act in a way that may provoke violence or intimidation; (c) use violence or threats or illegal pressure to force a voter to refrain from voting or to vote for a candidate or political party against his or her will.”

(ii) Partisan conduct of traditional leaders and infringement of fundamental freedoms

While freedom of association for all is guaranteed by the Constitution, traditional leaders are bound by the same Constitution not to support for any political party or cause. In terms of Section 281, (2) *Traditional leaders must not – (a) be members of any political party or in any way participate in partisan politics, (b) act in a partisan manner, and (c) further the interests of any political party or cause.* In violation of these provisions, ZESN received reports that some headmen would call for meetings with their subjects and hand over to the ZANU-PF leadership to address those that would have gathered. In Ward 32 of Zaka East, a village head convened a meeting at his homestead at which he openly exhorted ZANU-PF supporters to embark on door to door campaigns for the party. In Ward 20 in Zaka, a headman threatened that anyone who would not attend a ZANU-PF meeting convened at Cheshanga Business Centre would be excluded from the social welfare programme benefits. The meeting subsequently recorded a high turnout. Threats of the withholding of food aid, in particular maize and rice, were also reported in Insiza for those who would attend MDC Alliance rallies or vote for the MDC Alliance candidate. Such threats violate the fundamental freedom of assembly guaranteed in Section 58 of the Constitution of Zimbabwe.

Some incidents were reported in Zaka that potentially had the effect to infringe on voters' fundamental right and freedom of association protected under Section 58 of the Constitution of Zimbabwe. For instance, in Ward 31 ZANU-PF supporters reportedly remarked "*Vhotera musangano unodyisa, nyangwe ukavhotera mumwe musangano hautonge* (vote for the party that offers something to put on the table, even if you vote for a different party it will not rule)." The statement, which could infringe voters' freedom of association, has to be understood in a context where food aid is given out on a partisan basis to the exclusion of those who do not support the ruling party.

(iii) Vibrancy of campaigns

ZANU-PF and the MDC Alliance held rallies addressed by senior party officials, meetings, and door to door campaigns as part of their by-election campaigns in Zaka East. By contrast, campaigns by Free Zimbabwe Congress and the NCA were low key, with only posters of the candidates seen around the Constituency and no rallies or meetings were observed. The same was observed in Insiza where campaigns by ZANU-PF and the MDC Alliance were more prominent. Posters of candidates for the two political parties were the most visible around the Ward.

(iv) Abuse of State resources

ZESN received reports that the ZANU-PF candidate was driven in a government vehicle by the Provincial Education Officer after a campaign rally held in Insiza. In some cases, meetings were organised under the pretext of being government-related programmes that would later be strategically used by ZANU-PF. For instance, a Social Welfare aid distribution announcement was made in Zaka with the date and venue specified. But when

people gathered intending to receive the aid, no aid distribution took place at the event where, instead, ZANU-PF officials took the opportunity to address the gathered people.

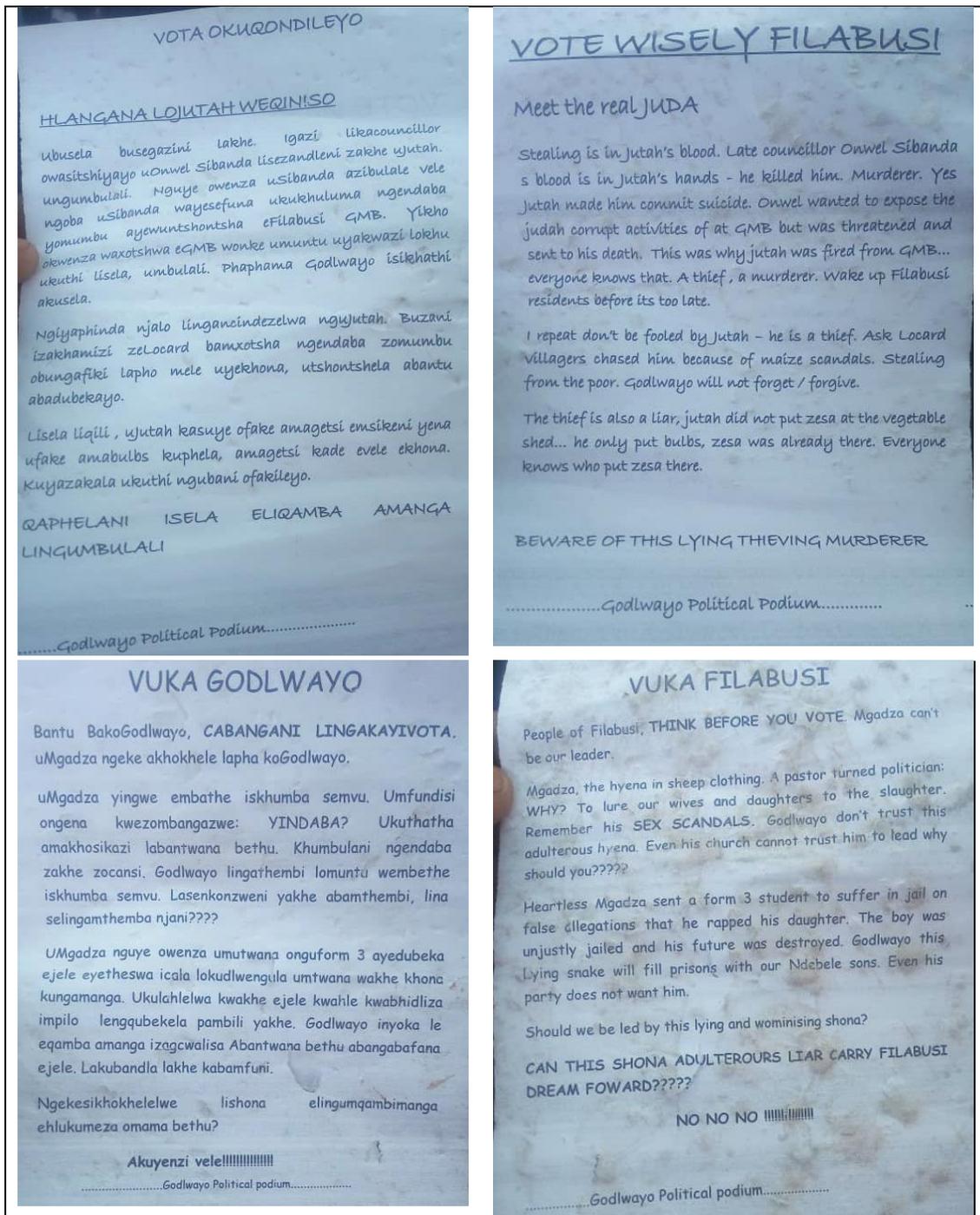
(v) Vote buying

There were also cases where the drilling of boreholes was promised. This raised suspicions of calculated vote buying efforts especially as concerns have been raised lately about the timing of the drilling of boreholes in areas where there were by-elections. For instance, the drilling of a borehole started on by-election day at Masara Business Centre in Mutasa RDC Ward 10. ZESN also expressed concerns over the timing of the drilling of boreholes by the District Development Fund in Glen View on the eve of the 7 September 2019 by-election. ZANU-PF officiated at these boreholes that it would mention in its campaigns and DDF trucks carrying borehole rigs were observed moving in convoys of vehicles that had ZANU-PF supporters on board in their full party regalia heading for the borehole drilling sites. The picture on the right side shows a site in Zaka East that was marked for the drilling of a borehole promised ahead of the Election Day.



A site identified where a borehole was promised to be drilled in Ward 20 ahead of the Zaka East by-election

Some of the candidates in the Insiza by-election were victims of serious allegations expressed in material obtained by ZESN. The pictures below show the damning allegations.



Pictures of material with damning allegations about some candidates who contested in the Insiza by-election.

9. Election Day Observations

ZESN STOs stationed at selected polling stations in both by-election areas, and roving around the Constituency in Zaka, reported on Election Day observations.

(i) Opening and setup

ZESN observers reported that polling stations were opened on time for both by-elections. Further, all the essential materials required for polling were reported to be available at the time of opening and set up and opening procedures were duly followed. However, some polling stations were reported not to be easily accessible to People with Disabilities (PWDs).

(ii) Political party agents

At all polling stations where ZESN had observers in Zaka, ZANU-PF and the MDC Alliance deployed election agents comprehensively. The NCA and Free Zimbabwe Congress did not have agents at all these polling stations. ZESN received a report of a ZANU-PF party agent who assaulted an MDC Alliance agent for allegedly taking a photo of ZANU-PF vehicles that were ferrying redirected party supporters to other polling stations in Zaka.

(iii) Electoral malpractices

In Zaka East, a village head turned up to vote at Machiva polling station in Ward 32 clothed in ZANU-PF regalia. He removed the ZANU-PF cap and put on a jacket to conceal the ZANU-PF t-shirt upon being instructed to do so by a ZEC official at the polling station. However, after casting his vote, he went out and sat at the gate of the school where the polling station was located, within the vicinity of the polling station, in ZANU-PF regalia. This is against the provisions of the Code of Conduct for Political Parties, candidates, and Other Stakeholders. In Ward 25 of Zaka East Constituency, a headman served as a ZANU-PF election agent at Vhurumuku Primary School.

Putting on party regalia on election day is prohibited in terms of the Code of Conduct for Political Parties, Candidates, and Other Stakeholders, Schedule 4 (1) (d) of the Electoral Act which stipulates that “No political party or candidate may, from midnight twenty-four hours before polling day in any election or referendum until polling stations are closed on that day—campaign or display campaign material within 300 metres of a polling station or counting centre.” While ZESN commends ZEC for taking action, the Commission could have done more, possibly by turning the voter away for turning up at a polling station displaying a party’s campaign material on Election Day. Both cases are also in violation of the constitutional requirement for the non-partisanship of traditional leaders that forbids them to further the interests or cause of any political party

(iv) Assisted voters

The number of assisted voters in the by-elections was relatively low. In some instances however, some high numbers of assisted voters were recorded. For example, at Zibwowa Primary School in Zaka East out of the 252 people who voted 47 people had been assisted to vote as at 6.00 pm. At Chitedzana Sub Office polling station in Zaka, more than 30 people had been assisted to vote by end of polling. ZESN observers reported that most of the voters were assisted to vote on account of illiteracy and old age. The numbers of assisted voters were also low in Insiza, perhaps because of the turnout that was also low.

(v) Redirected voters

Though there continued to be cases where voters were redirected, the numbers were lower than those observed in previous elections. This is possibly attributable to the displaying of the voters' roll outside polling stations by ZEC allowing voters to check their names ahead of the by-elections.

(vi) Voter turnout

Consistent with observations made in preceding by-elections, voter turnout was low in both by-elections. For Zaka East, using the 15934¹ total number of registered voters provided by ZEC, the 8868 total votes cast would result in a 56% voter turnout. This turnout would be lower than that recorded for the same Constituency in the harmonised elections. Similarly, for Insiza, a total of 641 total votes cast the by-election out of 2852 registered voters gives a very low turnout of 22%.

(vii) By-election results

ZANU-PF won, retaining the seat, in the Zaka East Constituency National Assembly by-election while an independent candidate, Juta Shepard, won the Insiza RDC Ward 15 by-election. Table 3 below shows the by-election and the 2018 harmonised elections National Assembly results for Zaka East Constituency.

Table 3: Zaka East Constituency By-election and the 2018 harmonised elections National Assembly results

2019 by-election				2018 harmonised elections			
Candidate	Sex	Party	Votes	Candidate	Sex	Party	Votes
Clemence Chiduwa	M	ZANU-PF	7119	Gumbwanda Katson Ringisai	M	ZANU-PF	8855
Derick Charamba Gudzameso	M	MDC Alliance	1518	Gumbi James	M	MDC Alliance	3804
Lazarus Mubango	M	Free Zim Congress	63	Chavarika Clemence	M	NCA	280
Clemence Chavarika	M	NCA	83	Ngirivani Tavengwa	M	PRC	165
				Nyuni Patrick	M	ZIPP	77
Valid votes cast	8783			Valid votes cast	13181		
Rejected votes	85						
Total votes cast	8868						

¹ This figure is the same as that on the 2018 harmonised elections voters' roll for the same Constituency

Voter population	15934		Voter population	15934	
Percentage poll	56%				

Table 4 below shows the by-election and 2018 harmonised elections results for Insiza RDC Ward 15

Table 4: By-election and 2018 harmonised elections results for Insiza RDC Ward 15

2019 by-election				2018 harmonised elections			
Candidate	Sex	Party	Votes	Candidate	Sex	Party	Votes
Zenzo Moyo	M	ZANU-PF	163	Ngwenya Thembinkosi	M	ZANU-PF	1298
Ronald Mugadza	M	MDC Alliance	86	Sibanda Bhekimpilo	M	MDC Alliance	670
Shepard Juta	M	Independent	287	Siyakhangelana Sithabile	F	PRC	33
Ndumiso Ndlovu	M	Independent	89	Sithole Admire	M	MUP	39
Bertha Jambwa	F	NPF	14	Sibanda Somandla	F	NPF	224
Valid votes cast	639			Valid votes cast	2264		
Votes Rejected	2			Votes Rejected	29		
Total Votes Cast	641			Total Votes Cast	2293		
Voter Population	2852			Voter Population	2893		
Percentage Poll	22%			Percentage Poll	79.26%		

(viii) Analysis of by-election results

ZANU-PF retained the Zaka East National Assembly seat with its candidate obtaining 7119 votes. In the by-election, the party got 1736 less votes than it got during the harmonised elections in the same Constituency. The MDC Alliance got 2286 less votes than it had in the National Assembly election in the 2018 harmonised elections. In 2018, the MDC Alliance lost to ZANU-PF by a margin of 5051 votes and, in the by-election, the margin widened by 550 more votes. The total valid votes cast decreased by a significant 4398 between the harmonised elections and the by-election in Zaka East Constituency.

For the Insiza RDC Ward 15 by-election, an independent candidate, Juta Shepard, won with 287 votes. While in 2018 a total of 2264 valid votes were cast, only 639 valid votes were cast in the by-election – a difference of 1625 votes. Juta beat the second leading candidate

of ZANU-PF by 124 votes in the by-election. ZANU-PF's votes in the Ward decreased by 1135 between the 2018 harmonised elections and the by-election while the MDC Alliance votes decreased by 584.

10. Conclusion

ZESN is concerned with the conduct of traditional leaders who openly supported ZANU-PF, mobilising voters to support the party and even acting as party agents. The Network is also worried about the low voter turnout observed in by-elections, particularly for local authorities.

11. Recommendations

Based on observations detailed in this report, ZESN makes the following recommendations:

- Political parties should desist from all forms of vote buying that unfairly tilt the electoral playing field;
- Political parties should shun all forms of intimidation and allow people to freely associate and assemble;
- Traditional leaders should desist from engaging in partisan politics in violation of the constitutional provisions for the non-partisanship of the institution of traditional leadership;
- Political parties should not compel support by politicising, withholding or threatening to withhold, government aid;
- CSOs should embark on Civic and Voter Education that emphasises the importance of, and encourage the electorate to participate in, by-elections;
- Political parties deliberately should emphasise the importance of, and mobilise their supporters to participate in, National Assembly and Local Authority by-elections.