

ZIMBABWE ELECTION SUPPORT NETWORK



*LUPANE EAST,
BUBI and NKAYI
BY_ELECTIONS
REPORT*

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ACKNOWLEDGEMENTS

The Zimbabwe Election Support Network (ZESN) expresses its heartfelt gratitude to the member organisations and volunteers who made the observation of the Lupane East by-election possible.

The ZESN members supported the observer recruitment, training, deployment and debriefing of observers who were deployed to the Polling Stations, Ward Collation Centres, the Constituency Collation Centre and the mobile observation teams. ZESN appreciates the volunteers who demonstrated considerable commitment and effort to observe electoral processes such as the pre-election environment and preparations, nomination court, voter education, voter registration and polling day processes. The By-elections' report was informed by the observations made by these observers.

ZESN observers objectively reported on the processes and conducted themselves professionally throughout the Election Day. Their assessment of the by - elections was informed by the Electoral Laws of Zimbabwe and 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's observation was also guided by the GNDEM's Declaration of Global Principles for Nonpartisan Election Observation and Monitoring by Citizen Organizations, and the Code of Conduct for Nonpartisan Citizen Election Observers.

ACRONYMS

ACHPR	African Charter on Human and Peoples' Rights
AU	African Union
GLAA	General Laws Amendment Act
GNDEM	The Global Network of Domestic Election Monitors
ICCPR	International Covenant on Civil and Political Rights
LEADS	Labourers Economists African Democrats
MDC-A	Movement for Democratic Change Alliance
MDC-T	Movement for Democratic Change T
MRP	Mthwakazi Republic Party
NAP	National Action Party
NCA	National Constitutional Assembly
NPF	National Patriotic Front
UDHR	Universal Declaration of Human Rights
ZANU-PF	Zimbabwe African National Union Patriotic Front
ZAPU	Zimbabwe African Peoples Union
ZEC	Zimbabwe Electoral Commission
ZESN	Zimbabwe Election Support Network

1. EXECUTIVE SUMMARY

On 3 August 2019, the Zimbabwe Electoral Commission (ZEC) conducted a National Assembly by-election in Lupane East Constituency and two Local Authority By-elections for Ward 22 of Bubi Rural District Council (RDC) and Ward 23 of Nkayi RDC. All three by-elections were held to fill vacancies that arose following the deaths of the incumbents.

For the Lupane East by-election, ZESN deployed observers comprehensively. ZESN observers tracked Election Day processes at the 62 polling stations, 14 Ward Collation Centres and the Constituency Collation Centre. In addition, two teams of mobile observers were deployed to serve a dual role of supporting the static observers and observing the political environment outside the respective polling stations. In addition, ZESN deployed three observers to both local authority by-elections (Ward 22 of Bubi Rural District Council (RDC) and Ward 23 of Nkayi RDC).

Ahead of the by-elections, the ZEC conducted voter education for polling from 24 to 28 July 2019. ZEC deployed a team of four voter educators in all the 14 wards in Lupane East and in Bubi and Nkayi as well. ZESN, at the invitation of the ZEC, was able to send a team of voter educators to support the Commission's voter education efforts.

ZEC's registration centres remain open at the Provincial and District centres, affording those who wish to register or transfer the vote to do so. Despite this, the number of voters registered in Lupane East has actually declined by 110 voters owing to the ongoing clean up exercises that enables ZEC to remove deceased persons from the voter register for the Constituency.

ZANU-PF won all the three by-elections, thus the party managed to retain all the seats that had become vacant in Lupane East, Bubi and Nkayi. Although the campaign season was reported to be peaceful, incidents of vote buying were reported throughout the campaign season. The participation of women as electoral contestant remains low. The by-elections held on 3 August were not an exception as each of the three by-elections had only one female candidate. In addition, none of the political parties which contested in the Lupane

East by-election held primary elections. All the electoral contestants were nominated by their respective political parties.

For all the three by-elections, Election Day processes were reported to have been followed in accordance with procedures laid down in the Electoral Law. The polling officials conducted themselves professionally, and party agents signed V11 forms at all the polling stations where ZESN observers were stationed. The number of re-directed and turned away voters was low compared with previous by-elections. This was attributed to the posting of the voters' roll outside the respective polling stations, ahead of Election Day. This allowed voters the opportunity to check their names and polling stations before presenting themselves at their respective polling stations.

Following the observations highlighted in the report, ZESN proffers the following recommendations.

- i. ZEC should be given the mandate for political parties' regulation to enable the Commission to enforce the provisions of the Code of Conduct for Political Parties, Candidates, and Stakeholders. Breaches of the electoral code of conduct such as vote buying can thus be effectively dealt with.
- ii. ZESN implores the Zimbabwe Human Rights Commission and the Police to investigate reports of alleged infringement of rights that were reported during the Lupane East by-election campaign period.
- iii. The ZEC should adopt the displaying of voters' rolls outside polling stations in future elections to facilitate easy identification of voters' correct polling stations.
- iv. To further enhance transparency in the polling processes, ZEC should provide copies of the voters' roll to party agents who are stationed inside the polling station.
- v. ZESN urges political parties to create structures and policies that are more gender responsive to enhance the participation of women as electoral contestants.
- vi. Political parties should invest in the recruitment, training and deployment of their party agents to allow them to comment authoritatively on Election Day processes.

2. BACKGROUND TO THE BY-ELECTIONS

2.1. Introduction

The Zimbabwe Electoral Commission (ZEC) conducted a National Assembly by-election in Lupane East Constituency and Two Local Authority by-elections for Ward 22 of Bubi Rural District Council (RDC) and Ward 23 of Nkayi RDC. All three by elections, were held on 3 August 2019 to fill vacancies that arose following the deaths of the respective incumbents.

2.2. Observation methodology

ZESN conducts its observation efforts in conformity with Zimbabwe's electoral laws, the Declaration of Global Principles for Citizen Election Observation and Monitoring which was launched at the United Nations on 3 April 2012 as well as the Principles for Election Management, Monitoring and Observation in the SADC Region (PEMMO). The findings and recommendations of this election observation are made in reference to the laws of Zimbabwe, the Southern African Development Community (SADC) Principles and Guidelines Governing Democratic Elections as well as other regional and African election standards.

The Zimbabwe Election Support Network deployed comprehensively to the Lupane East by-election. A total of 84 static and mobile observers were deployed to the three by-elections to assess the electoral processes at the respective polling stations and collation centres as well as the political environment around the Constituency and Wards where the by-elections were held. Prior to the Election Day, ZESN deployed Long Term Observers (LTOs) to track electoral and political developments that occurred during the campaign season for the Lupane East by-election. ZESN's observation methodology allowed the Network to measure compliance of the Election Day processes with the Constitution, Electoral Laws as well as regional and international standards. Compliance of electoral contestants to the code of conduct for elections, and electoral preparations by the Commission were also assessed by ZESN's LTOs.

3. LEGAL FRAMEWORK

The Constitution, Electoral Act, Statutory Instruments and Regulations form part of the Legal framework governing the conduct of by-elections in Zimbabwe. 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 require voting in a by-election to be held within 90 days of the vacancy occurring. The Nkayi and Bubi by-elections were held within the prescribed timeframe. However, the Lupane East by-election was held outside the 90 day window.

4. ELECTION ADMINISTRATION AND MANAGEMENT

4.1. Voter Education

Voter education is an important component of the election cycle as it ensures that the electorate understand their rights, political systems, how and where to vote. For an election to be successful and democratic, voters must fully 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.

The ZEC conducted voter education for polling from 24 to 28 July 2019. ZEC deployed a team of four voter educators in all the 14 wards. ZESN, at the invitation of the ZEC, was able to deploy one team of five voter educators to complement the voter education efforts of the Commission. The ZESN team of voter educators covered wards, 10, 11, 18,19,20,21 and 22. The team distributed 1 500 voter education posters, 5 000 flyers and addressed various gatherings. The voter education teams addressed members of the public who were gathered at public spaces such as church gatherings, shopping centres, and even persons gathered at political party rallies including those at the ZANU PF rally held at Cross Gobi Shops and the MDC Alliance rally held at Pupu grounds.

4.2. Voter Registration

The number of persons registered to vote in Lupane East stood at 20,605 persons in 2018. Although the ZEC continues to register people at the Provincial and District Centres, the number of registrants for Lupane East has reduced. This reduction is attributed to the ongoing periodic cleaning exercise that ZEC conducts on the voters' roll that allows for the removal of deceased persons from the roll, and effecting requests for transfer of the vote. The 2019 voters' roll for Lupane East consequently had 20,495 people. Thus the voters' roll that was used in the by-election had 110 less people than the one used during the 2018 harmonised elections¹. The Nkayi and Bubi voters' rolls had 1,497 and 1,792 persons respectively.

5. ELECTION CAMPAIGNS

Election campaigns in Zimbabwe are regulated by a Code of Conduct for Political Parties, Candidates, and other Stakeholders as contained in the Fourth schedule of the Electoral Act. The Fourth schedule guarantees that everyone has the right to freely express their political opinion, campaign and canvass for membership and support from voters.

Although nine political parties contested the Lupane East by-election, it seemed the by-election was a two-horse race between the MDC-Alliance and ZANU-PF candidates, as the campaigns of the two political parties were the most visible throughout the campaign period. ZANU-PF and MDC-Alliance conducted vibrant campaigns in the constituency which included rallies, door to door meetings, and the distribution of campaign posters and flyers. ZESN observers also reported that the other political parties such as National Patriotic Front (NPF), Movement for Democratic Change-Tsvangirai (MDCT), Mthwakazi Republic Party (MRP) held rallies which were addressed by their parties' leadership.

¹ ZESN observers were not able to establish the actual number of persons that had registered after the 2018 harmonized elections for the same constituency.

ZESN observer reports indicated that the contesting political parties utilised the following campaign methods during the campaign season for the Lupane by-election²:

Political Party	Campaign Methods				
	Rallies	Meetings	Door to Door Campaigns	Posters	Flyers
Mthwakazi Republic Party [MRP]	✓		✓	✓	
Labourers Economists African Democrats [LEAD]					
Movement for Democratic Change A [MDC-A]	✓	✓	✓	✓	✓
Movement for Democratic Change T [MDC-T]	✓	✓		✓	
National Action Party [NAP]					
National Constitutional Assembly [NCA]		✓		✓	
National Patriotic Front [NPF]	✓	✓	✓	✓	✓
Zimbabwe African National Union Patriotic Front [ZANU-PF]	✓	✓	✓	✓	✓
Zimbabwe African Peoples Union [ZAPU]	✓	✓	✓		

ZESN observers also noted the following issues that occurred during the campaign season:

5.1. Primary elections or Candidate Selection???

None of the political parties which contested the Lupane East by-election held primary elections. All the electoral contestants were nominated by their respective political parties. ZANU-PF nominated the candidate who received the second highest number of votes during the party's primary elections in 2018 ahead of the harmonised elections. MDC Alliance nominated the same candidate that represented the party in during the 2018 harmonised elections.

5.2. Vote buying and abuse of state resources

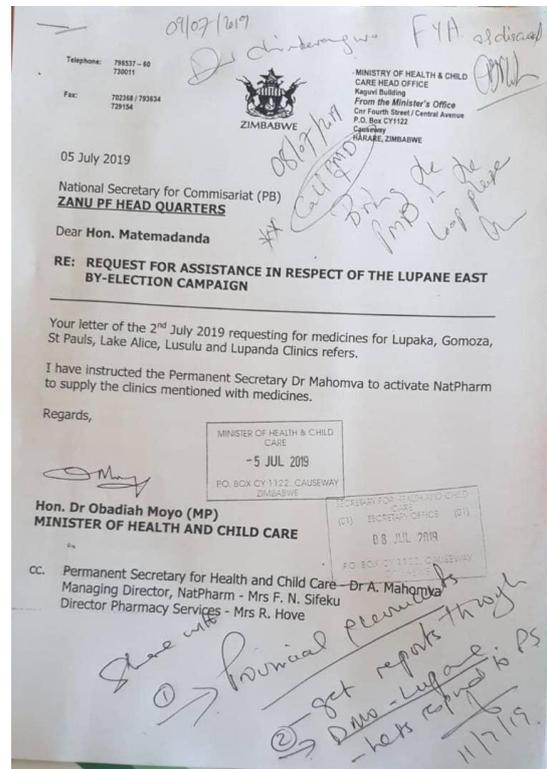
Vote buying is one of the oldest techniques of election fraud carried out in electoral competitions. It violates freedom of choice and erodes the principle of fairness in the

² The table with summary of campaign methods is informed by what ZESN observers managed to witness on their own.

competition by favouring political parties and candidates who have significantly more resources to invest in political campaigns.

During the campaign season for the Lupane East by-election, some incidents of vote buying were reported, including the use of government vehicles to carry food and ferrying people to ruling party rallies using government vehicles from the District Development Fund.

The highest profile case of vote buying was the letter which circulated on the social media platforms where the Minister of Health and Child Care was responding to a request by the ZANU-PF National Secretary for Commissariat for assistance in the party's campaign efforts by ensuring that medicines were supplied to clinics within the Constituency.



Above is the picture of the alleged correspondence between the Minister of Health and ZANU-PF's National Secretary for Commissariat.

6. WOMEN'S PARTICIPATION AND ELECTIONS

Active participation of women, youth, civil society organizations, and people with disabilities, special needs groups and marginalized groups in the electoral process constitutes a critical element for the deepening of democracy and human rights in Zimbabwe. As in past elections, a significant number of women participated in electoral process as voters, election agents, polling officers and citizen observers. However there is a gap when it comes to participation as electoral contestants.

Each of the three by-elections had only one female candidate. This trend of low participation of women in running for elected office is in keeping with past by-elections. Thus whilst the majority of voters were women, the proportion of women seeking political leadership positions is still proportionately very low. Should Zimbabwe ever consider coming up with a Political Parties Act, some of its provisions should include the need to establish thresholds for representation of women even in primary elections for political parties. In addition, appropriate incentives could be added to the provisions of the Political Parties Finance Act to encourage political parties to field more female candidates.

7. ELECTION DAY OBSERVATIONS

7.1. Lupane East National Assembly Election Day Observations

Set up and opening of polling stations

In the Lupane East by-election, 61 polling stations opened on time (by 07:15am) and only one opened between 7.16 am- 8am. All 62 polling stations had essential materials needed for polling such as ballot boxes, correct ballot papers, indelible finger marker, biometric voters' roll with photographs, and an official ZEC stamp for stamping ballot papers. All polling stations were set up so that voters could mark their ballots in secret and were easily accessible to persons with disabilities. In all 62 polling stations, the ballot box was shown to be empty before being sealed for voting to start.

The average number of polling officials was 6 with 3 of them being women. In 18 of the polling stations, the gender of the presiding officer was a woman.

All 62 polling stations had a ZANU PF agent, 59 had an MDC Alliance party agent, 11 had an NCA agent, with other parties having agents in 20 polling stations.

Voting process and procedures

Observers reported that the voting process in the Lupane East National Assembly by-election proceeded well at all polling stations with the relevant procedures followed. In all (62) polling stations:-

- Voters fingers were checked of indelible ink before being permitted to vote
- Voters names were checked against the voters' roll before being permitted to vote
- Ballot papers were stamped with the ZEC stamp before being given to voters
- There were no incidences of intimidation, harassment or violence during voting
- Disabled persons, the elderly and pregnant women were allowed to go to the front of the queue
- No one attempted to disrupt the voting process
- There was no campaigning within 300 meters of the polling station
- There were no unauthorized persons in the polling station

In 32 polling stations, everyone in the queue at 7:00pm was allowed to vote while in 30 polling stations, there was no one in the queue by 7:00pm.

In addition, observers reported that all voters were required to present their national identification documents before voting.

Redirected and turned away voters

A new development noted in this by-election is the posting of the voters' roll outside the polling station. ZESN LTOs reported that voters' rolls had already been displayed outside polling stations by Election Day, thereby assisting voters to confirm their polling stations. This reduces the number of voters redirected on Election Day and also enhances the efficiency of processing voters. This further strengthens the distinction between re-directed and turned away voters. In 28 polling stations there were over five people who were turned and not allowed to vote. Majority of these voters did not have their identification documents or appeared at the wrong polling station for voting.

Assisted Voters

In 52 polling stations, over 5 people (both men and women) were assisted to vote. In 47 of them, the majority assisted were women. In 22 polling stations, the assisted persons had a person of their own choosing, while in 33 polling stations they were assisted by the presiding officer and in 6 of the polling stations by a person of their own choice..

Voter turnout

The voter turnout for the by election was 59% which is lower than the 2018 turnout.

Counting and results collation

In all (62) polling stations;

- There was a ZANU PF agent during counting
- There was an MDC Alliance agent during counting though 59 were present during opening and set up
- The ballot box seals were intact before counting
- No one attempted to influence the polling officers during counting
- No one attempted to disrupt the counting process
- No party agent requested for a recount of the ballot papers

In 13 polling stations, an agent of NCA party was present during counting while in 25 polling stations other party candidates were present. ZESN commends the presence of party agents at polling stations for this by-election as they are important in following and verifying the conduct of the election on behalf of their parties.

Lupane East 2019 by-election Results Table

Name of Candidate	Political Party	ZESN Observer Results	ZEC Constituency Collation Center Results
Dube, Given	MDC-T	363	363
Dube, Mbongeni	ZANU PF	6,369	6,369
Khumalo, Dalumuzi	MDC Alliance	4,505	4,505
Mkandla, Nelson	National Action Party	47	51
Mkhwebu, Gezekile	ZAPU	52	52
Ndlovu, Morgan	Labour Economists & African Democrats Party	18	18
Sibanda, Alice	NCA	27	27
Sibanda, Njabulo	National Patriotic Front	34	39
Tshaba, Andrew	Mthwakazi Republic Party	86	81
Total valid votes Cast		11,501	11,505
Rejected votes		153	155
Total votes cast		11,654	11,660

Source: ZESN Observers Data

The table above reveals that the results obtained from the ZESN observers are in line with the ZEC official announced results. ZANU-PF retained the Lupane East National Assembly seat. In 2018 harmonized elections the party's candidate won the election having garnered 7875 votes as shown in the table below:

CONSTITUENCY	CANDIDATE		PARTY	VOTES
LUPANE EAST	Bhebhe Majoni	M	RPZ	272
	Gumbo Sithembile	F	ZANU-PF	7875
	Khumalo Dalamuzi	M	MDC-Alliance	5791
	Khumalo Kletus	M	ZRDP	215
	Khumalo Mlungisi	M	MRP	269
	Mkandla Nelson Bhekihlalo	M	National Action Partly	151
	Mkwebu Gezekile	M	ZAPU	161
	Mvanya Bright	M	PRC	402
	Ncube Given	M	MDC-T	759
	Ndlovu Morgan	M	ZIPP	104
	Sibanda Njabulo	M	NPF	69
	Tshabalala Bongani	M	ZDU	205

7.2. Bubi Ward 22 and Nkayi Ward 23 Election Day Observations

Bubi Ward 22 and Nkayi Ward 23 Rural District Council By-elections

ZESN observer reports indicated that at all the polling stations where they were present, voting commenced on time, there were sufficient polling materials and due procedures were adhered to. As in the Lupane East National Assembly by-election, ZANU-PF and MDC-A deployed party agents comprehensively throughout the respective Wards. ZESN observers also reported that the political environment on Election Day was peaceful, and that this trend was in keeping with the campaign reports. ZESN relied on reports of observers it deployed to both local authority by-elections.

Bubi By-election Results

Bubi Ward 22		
Name of Candidate	Political Party	Number of votes received
Chile Present	MDC-A	216
Dube Thandazile	ZANU-PF	449
Zodziwa Silvester	LEAD	17
Total valid votes Cast		682
Rejected votes		5
Total votes cast		687

Nkayi By-election Results

Nkayi Ward 23		
Name of Candidate	Political Party	Number of votes received
Moyo Bekezela	MDC A	176
Mpofu Brenda	MDC-T	147
Nyoni Qhubani	ZANU-PF	396
Sibanda Melusi	MRP	16
Total valid votes Cast		735
Rejected votes		4
Total votes cast		739

Results Analysis

ZANU-PF retained both local authority seats. In 2018, ZANU-PF won the Nkayi and Bubi local authority elections having garnered 544 votes and 777 votes respectively. The number of votes received by all contesting political parties has reduced as a result of the lower voter turnouts that are experienced during by-election. Voting trends in the country have always been at their peak during the harmonized elections, hence the need for political parties and all electoral stakeholders to continue supporting voter education efforts on the need to participate in Local Authority elections.

8. RECOMMENDATIONS

Following the observations highlighted in the report ZESN proffers the following recommendations:

- i. ZEC should be given the mandate for political parties' regulation to enable the Commission to enforce the provisions of the Code of Conduct for Political Parties, Candidates, and Stakeholders. Breaches of the electoral code of conduct such as vote buying can thus be effectively dealt with.
- ii. ZESN implores the Zimbabwe Human Rights Commission and the Police to investigate reports of alleged infringement of rights that were reported during the Lupane East by-election campaign period.

- iii. The ZEC should adopt the displaying of voters' rolls outside polling stations in future elections to facilitate easy identification of voters' correct polling stations.
- iv. To further enhance transparency in the polling processes, ZEC should provide copies of the voters' roll to party agents who are stationed inside the polling station.
- v. ZESN urges political parties to create structures and policies that are more gender responsive to enhance the participation of women as electoral contestants.
- vi. Political parties should invest in the recruitment, training and deployment of their party agents to allow them to comment authoritatively on Election Day processes.

9. CONCLUSION

ZESN continues to engage with Government and other electoral stakeholders in pursuit of appropriate political, electoral and legislative reforms that can foster the creation of a more enabling environment for credible elections. ZESN will continue to invest in observation of electoral processes throughout the electoral cycle and will be making evidence-based recommendations at various stages of the cycle.

ANNEX 1: LUPANE EAST BY-ELECTION RESULTS ORGANIZED BY WARD

Below are 14 graphs that illustrate the number of votes received by the different electoral contestants in all the wards.

