

# ZIMBABWE ELECTION SUPPORT NETWORK (ZESN)



*Report on the  
Epworth,  
Marondera  
Central and  
Mbire, 19  
September, 2015  
National  
Assembly By-  
elections*

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## **ACKNOWLEDGEMENTS**

ZESN would like to express its profound gratitude to the Board, member organisations and volunteers who made observation of the Epworth, Marondera Central and Mbire by-elections possible. The ZESN Board and members were prompt in responding to matters that required their attention and key in the recruitment and pre-planning processes. Without their support, the election observation mission would not have succeeded. ZESN is indebted to volunteers who observed electoral processes, voter registration and election-day processes, dedicating considerable time and effort. ZESN commends observers for objectively reporting on the pre-polling and post polling processes.

ZESN commends the Zimbabwe Electoral Commission (ZEC) whose cooperation is indispensable to our successful election observation. The professional conduct of their polling officers is commendable. ZESN also applauds citizens of Zimbabwe for voting in a peaceful environment during this by-election.

## ACRONYMS

ACHPR	African Charter on Human and Peoples' Rights
AU	African Union
GNDEM	The Global Network of Domestic Election Monitors
ICCPR	International Covenant on Civil and Political Rights
JSC	Judicial Services Commission
MDC-T	Movement for Democratic Change -Tsvangirai
MPLCs	Multi-Party Liaison Committees
NCA	National Constitutional Assembly
UDHR	Universal Declaration of Human Rights
PEMMO	Principles for Election Management, Monitoring and Observation in the SADC Region
ZANU-PF	Zimbabwe African National Union-Patriotic Front
ZEC	Zimbabwe Electoral Commission
ZESN	Zimbabwe Election Support Network
ZHRC	Zimbabwe Human Rights Commission

## 1. EXECUTIVE SUMMARY

On 19 September 2015, the Zimbabwe Election Support Network (ZESN), at the invitation of the Zimbabwe Electoral Commission (ZEC), observed parliamentary by-elections in Epworth, Marondera Central and Mbire constituencies.

The seats fell vacant following the death on 9 June, 2015 of the ZANU-PF incumbent for Epworth constituency, Ambassador Amos Midzi; and the expulsion from ZANU-PF and subsequent recalling from Parliament of Ray Kaukonde and David Butau, former Members of Parliament for Marondera Central and Mbire respectively.

ZESN deployed 62 observers comprising static (polling station-based observers), constituency and mobile observers to measure compliance with regards to the Constitution and electoral laws as well as to identify gaps in the electoral processes to enable informed advocacy interventions for electoral reforms. Media monitoring on reports of campaigns and other key electoral processes was done in the pre-election period in order to enrich the overall observation of the by-elections.

The political environment remains heavily polarised with the culture of intimidation and threats to the electorate repeatedly being observed in some of the constituencies. ZESN notes that such practices have had a negative impact on electoral processes in Zimbabwe and reinforce calls for the need for comprehensive electoral and political reforms to ensure a level playing field for all electoral contestants

The pre-electoral environment, though devoid of overt violent altercations, was marred by reports of voter intimidation in Marondera Central where representatives of one of the contesting political party were allegedly recording the serial numbers at the back of registration slips during voter registration in a bid to intimidate voters and influence their voting preferences. ZESN observers and interlocutors reported that in Mbire opposition political parties' campaign posters were defaced.

ZESN collaborated with ZEC in conducting voter education for voter registration, voter education for inspection and polling in Marondera Central in view of the polling station-based voting that the Commission piloted in the constituency. ZESN also conducted voter education in Mbire and Epworth constituencies.

ZESN observed the voter registration process in Marondera Central and Epworth constituencies. This gave the network an opportunity to assess the efficacy of the ZEC methodologies for implementing the polling station based voting system in Marondera Central as well as enable the network first-hand experience which will inform future advocacy on areas of improvement. Of concern was the observation of voters being led to register in blocks by ward secretaries of ZANU-PF in Marondera Central. This exercise not only compromised the right of the voters, but also served to instil fear among those citizens intending to participate in the by-election.

At every polling station where ZESN observed, opening and setup procedures were successfully completed on time. Observers reported that all polling stations had all the

required voting materials such as ballot boxes, ballot papers, ZEC official stamp, indelible ink and the voters' roll at the time of opening. All polling stations covered by ZESN observers had adequate polling personnel with an average of six per polling station. ZESN observer reports show that the process was generally peaceful and smooth with no major incidents reported.

At all polling stations where ZESN observed closing of polls and counting, the processes took place according to procedures and results were displayed outside the polling stations. At all the ward collation centres and the constituency collation centre where ZESN observed, all party agents signed the V11 form thus agreeing that the process had been conducted well.

ZESN therefore makes the following recommendations in order to improve future electoral processes:

Recommendations:

- ZESN calls upon ZEC to investigate reports of alleged intimidation in Marondera Central and the destruction of opposition campaign posters in Mbire to ensure that the right to freely choose representatives is respected and political parties adhere to the code of conduct.
- ZEC must put in place clear measures for the reporting and resolution of conflicts and claims of intimidation and the Commission should publicise and enforce the Political Parties' Code of Conduct.
- The government should speed up the alignment of election related laws with the Constitution as well as implement electoral reforms, in particular the creation of a conducive electoral environment that guarantees the respect and enjoyment of universal suffrage and fundamental freedoms.
- ZEC should incorporate lessons from the Marondera Central polling station-based voter registration pilot exercise as a way of improving the system for future elections and to consider the adoption of new ICTs such as the inclusion of biometrics in voter registration and new ICTs in results management and transmission.
- The government must ensure that it ratifies, domesticates and implements the African Charter on Democracy, Elections and Good Governance ahead of the 2018 elections. Ratification of these key instruments will advance democracy and democratic practices in Zimbabwe.
- There is need for continued collaboration by ZEC with key electoral stakeholders such as civil society in conducting comprehensive voter education in order to enhance voters understanding of key electoral processes and requirements.

## **1. INTRODUCTION**

The Zimbabwe Election Support Network (ZESN) was formed in 2000 and is a network of 31 non-governmental organisations. The major focus of the Network is to promote democratic processes in general, as well as 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).

Following the invitation by the Zimbabwe Electoral Commission (ZEC), ZESN deployed observers to Epworth, Marondera Central and Mbire, on 19 September, 2015 for National Assembly by-elections.

The network makes use of its membership and short-term observers in observing the pre-electoral period and the Election Day processes. Reports from observers form the basis of election reports and other advocacy initiatives for electoral reforms.

ZESN is non-partisan and independent in its approach to election observation. ZESN election observation missions are guided by the Constitution of Zimbabwe, Electoral Laws of the country and a number of regional and international standards and principles, 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 conducts its observation efforts in conformity with the SADC Principles and Guidelines Governing Democratic Elections, 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 organisation 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.

## **2. BACKGROUND**

By-elections in Zimbabwe are held in terms of Section 158 (3) of the Constitution and Section 39 (2) of the Electoral Act. Accordingly, President Robert Mugabe called for by-elections to fill the National Assembly Constituency vacancies in Epworth, Marondera Central and Mbire. Statutory Instruments 73/2015 and 80A/2015 proclaimed 19 September, 2015 as the date for by-elections in Marondera Central, Mbire and Epworth respectively.

The by-elections held on 19 September, 2015 bring the total number of National Assembly by-elections held this year to 22. The following by-elections have been held this year:

	<b>Constituency</b>	<b>Date</b>	<b>Winning Party</b>
1.	Chirumhanzu Zibagwe	27 March, 2015	ZANU-PF
2.	Mt Darwin West	27 March, 2015	ZANU-PF
3.	Hwedza North	15 May, 2015	ZANU-PF
4.	Dzivarasekwa,	10 June, 2015	ZANU-PF
5.	Glen View South,	10 June, 2015	ZANU-PF
6.	Harare East	10 June, 2015	ZANU-PF
7.	Highfield West	10 June, 2015	ZANU-PF
8.	Kambuzuma	10 June, 2015	ZANU-PF
9.	Kuwadzana	10 June, 2015	ZANU-PF
10.	Lobengula	10 June, 2015	ZANU-PF
11.	Luveve	10 June, 2015	ZANU-PF
12.	Makokoba	10 June, 2015	ZANU-PF
13.	Pelandaba-Mpopoma	10 June, 2015	ZANU-PF
14.	Pumula	10 June, 2015	ZANU-PF
15.	Headlands	10 June, 2015	ZANU-PF
16.	Dangamvura/Chikanga	10 June, 2015	ZANU-PF
17.	Tsholotsho North	10 June, 2015	ZANU-PF
18.	Hurungwe West	10 June, 2015	ZANU-PF
19.	Mbizo	10 June, 2015	ZANU-PF
20.	Mwenezi	No by-election	ZANU-PF
21.	Epworth	15 September, 2015	ZANU-PF
22.	Marondera Central	15 September, 2015	ZANU-PF
23.	Mbire	15 September, 2015	ZANU-PF



### 3. LEGAL FRAMEWORK

#### 3.1. Legal framework for the by-election

The Legal Framework regarding the conduct of by-elections is derived from the Constitution of Zimbabwe and the Electoral Act {Chapter 2:13} as amended. The by-elections for Marondera and Mbire Constituencies came into effect by **operation** of Section 129 (k) of the Constitution which states that the seat for a National Assembly Constituency becomes vacant if the member elected to that seat ceases to represent the party under whose ticket they were elected. Both Members of Parliament elected to fill the seats in the 2013 general elections were dismissed from the ruling ZANU-PF party thus necessitating the by election.

The by-election for Epworth was called for and held because of slightly different reasons from the two Constituencies mentioned above. The vacancy in the Epworth seat was occasioned by the death of the incumbent Member of Parliament, Ambassador Amos Midzi. Section 39 (1) of the Electoral Act states that a vacancy in the membership of the House of Assembly which exists other than by dissolution of Parliament, shall be notified to the President and the ZEC in writing by the Speaker of the House of Assembly, as soon as possible after the Speaker becomes aware of it.

In accordance with section 39(2) of the Electoral Act, the President proclaimed the nomination and polling dates for the three by-elections. The timing for by-elections is controlled by section 158 (3) of the Constitution which states that polling for by-elections must take place within 90 days after the vacancy occurred. All three by-elections were therefore held within a timeframe set by the Constitution.

#### 4. Nomination Processes

Provisions of the Electoral Act were followed during the nomination processes for the by-elections. In terms of Section 46 (17) (c) of the Electoral Act, which states that if at the close of nomination court, more than one person has been duly nominated for an election for a constituency, a poll shall take place in accordance with this Part and Part XIII<sup>1</sup> of the Electoral Act. Accordingly, the Nomination Courts for the Marondera Central and Mbire by-elections were held on 20 July, 2015 at the Marondera Magistrates' Court and the Bindura Magistrates' Courts respectively. The Nomination Court for Epworth Constituency sat on the 12 August, 2015 at the Harare Magistrates' Court, Rotten Row. At the close of the nomination courts, the following had successfully filed their nomination papers for the three by-elections:

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<sup>1</sup> Part XIII refers to preparation for and voting at poll

<b>Epworth Constituency</b>		
<b>Party Name</b>	<b>Candidate</b>	<b>Sex</b>
Independent	Daniel Foya	M
ZANU-PF	Zalerah Hazvineyi Makari	F
Transform Zimbabwe	Tsikirai Muchena	M

<b>Mbire Constituency</b>		
<b>Party Name</b>	<b>Candidate</b>	<b>Sex</b>
Transform Zimbabwe	Kudzanai Gondo	F
NCA	Njabulo Sibanda	M
ZANU-PF	Douglas Karoro	M

<b>Marondera Central Constituency</b>		
<b>Party Name</b>	<b>Candidate</b>	<b>Sex</b>
ZANU-PF	Lawrence Katsiru	M
NCA	Wadzanai Mabika	F
Transform Zimbabwe	Solomon Makaza	M
Freedom Front Party	Kingdom Nyika	M

## **5. ELECTION ADMINISTRATION**

### **5.1. Administration of the Elections**

Section 239 of the Constitution gives ZEC, the mandate to conduct and supervise elections and election-related activities. However, as in previous elections and by-elections the capacity to deliver this mandate continues to be negatively affected by the inability of Government to avail adequate resources timeously. Despite the continued resource constraints, ZEC managed to complete the administrative and logistical preparations on time for the by-elections such as the distribution of vital election materials and personnel in all three constituencies.

### **5.2. Voter Education**

Voter Education is prescribed by law in Section 239 of the Constitution which gives ZEC the primary mandate of conducting and supervising voter education. Part IXA of the Electoral Act (sections 40A to 40F) allows organisations other than ZEC to conduct Voter Education subject to the following restrictions; (a) Organisations can only engage in voter education at the invitation of the Commission. (b) Organisations are required to print and use information that is provided for by the Commission. Section 40D in particular outlines the time frames during which voter education is to be conducted by authorised persons, which is no later than a week after the proclamation of an election.

Voter education in all three Constituencies was conducted in three distinct phases namely; (a) pre-nomination Voter Education, (b) Voter Education for Registration and (c) pre-polling

voter education. ZESN was able to provide Educators in all three Constituencies for the pre-nomination phase of the exercise. However, ZESN focused on Marondera Central Constituency for the Registration phase of Voter Education since the model of registration earmarked for the constituency was being rolled out for the first time. Voter registration was polling station specific and Marondera was used as a pilot in assessing the feasibility of implementing polling station based voter registration and polling station based voting.

Organisations invited by ZEC to conduct voter education were required to provide four voter educators per ward. For pre-polling voter education, ZESN deployed educators that worked in collaboration with ZEC, in Marondera and Epworth. The methodology used throughout the entire period of voter education was mainly door to door visits, distribution of information, education and communication (IEC) materials and addressing community gatherings at churches, halls, and community meetings and at shopping centres or growth points.

As mentioned above, ZESN directed most of its resources towards the voter education process in Marondera Central. ZEC scheduled voter education for nomination in Marondera constituency from 13– 19 July 2015. At the invitation by ZEC, ZESN deployed a mobile team of four voter educators to complement the work of the much larger ZEC team. The ZESN team interacted with over 9,000 people throughout the 12 wards in Marondera Central. Voter education for registration was carried out from 22 July to the 1 August, 2015. During this period educators from both ZESN and the ZEC encouraged residents to go and register their names at the 31 static centres that had been established in the wards by the ZEC or and to look out for mobile registration teams that were roving from household – household in all the 12 wards.

## **6. VOTER REGISTRATION**

### **6.1. Voter Registration and inspection of the voters' rolls**

Section 155 (2) (a) of the Constitution provides for government to take all measures to ensure that all eligible citizens, that is to say the citizens qualified under the Fourth Schedule<sup>2</sup> of the same document, are registered as voters.

ZEC conducted voter registration and voters' roll inspection concurrently in Marondera Central Constituency from the 6 July to 1 August, 2015. It must be noted that the registration exercise was negatively affected by funding constraints because ZEC was only able to open more static registration centres and deploy mobile teams in the wards from the 22 July to 1 August, 2015. Prior to that, there were only two registration centres catering for 12 wards.

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<sup>2</sup> The Fourth Schedule of the Constitution contains qualifications and disqualifications for registration as a voter. A person is disqualified on grounds of mental disorder, if they are incapable of managing their own affairs or has been convicted of an electoral offence.

Voter registration in Epworth and Mbire was ward-based whilst registration in Marondera was polling station based. The basis for this new form of voter registration is the Electoral Amendment Act, Number 3 of 2012 which, in section 42(1) obliges ZEC to carry out registration on a polling station specific basis. The operation of this section is suspended until such time as ZEC announces the date of its commencement. The calling by ZEC to conduct this pilot project is therefore a pre-cursor to such an announcement in the future. In accordance with its mandate under section 5(d)(iii) of the Electoral Act which obligates the Commission to keep the public informed about the location and boundaries of polling stations, ZEC announced that the registration centres opened in the wards would be the polling stations used for the 19 September, 2015 poll. The Commission also indicated that the demarcation of polling stations was done in such a manner as to have a threshold of between 800 to 1 500 registered voters per polling station. ZEC, through press releases, encouraged residents of Marondera Central to come out and register anew sighting the fact that this was an attempt by the Commission to create a polling station- based voters' roll for the Constituency.

The dates set for the registration and inspection were in accordance with Section 26A of the Electoral Act which stipulates that the 12<sup>th</sup> day after nomination day is the last day for lodging a claim for registration on or transfer of registration to a voters' roll for the purpose of voting in a pending election. Voters' roll inspection was therefore conducted in accordance with the Law. Voters were able to inspect the voters' roll in the 31 inspection centres located throughout the constituencies.

ZESN volunteers who reside in Marondera Central reported that there were 'block registrations' taking place, where some residents were being forced to register in blocks by a certain ward secretary belonging to ZANU-PF. This was happening in the Chitepo area (Ward 4, Tatonga Street). This was tantamount to electoral malpractice and ZESN recommends that ZEC should investigate this matter thoroughly.

## **6.2. Provision of the Voters' Roll**

According to Section 21 (1) of the Electoral Act, the Commission shall within a reasonable period of time provide any person who requests the voters' roll, and who pays the prescribed fee, with a copy of any ward or constituency voters' roll, either in printed or in electronic form as the person may request. The Electoral Law also provides for the provision of the voters' roll upon payment of a prescribed fee to every political party that intends to contest the election, and to any accredited observer who requests it, one copy of every voters' roll to be used in the election, either in printed or in electronic form as the party or observer may request. The provision of the voters' roll to stakeholders has been an issue of contention, raising questions on its integrity and credibility. The 2013 electronic version of the voters' roll has not been given to stakeholders as the Registrar- General's office has been faced with alleged technical problems of replicating the roll. However, for these by-elections, the Commission made available copies of the constituency rolls to all the contesting candidates who requested.

However, ZESN remains concerned that for the Marondera Central by-election, ZEC compiled two separate voters' rolls. The intention of the Commission to use two voters' rolls

was made clear on the 14 July, 2015 when the deputy chairperson of the Commission said that if a voter presented themselves at a polling station and that person had not registered during the pilot registration period, ZEC would refer to the 2013 voters' roll to check whether they were previously registered and direct that person, based on their address, to the specific polling station where that person should vote. ZESN commends the Commission for putting in place mechanisms to ensure that potential voters who did not participate in the pilot voter registration exercise were still able to vote if their name was in the 2013 voters roll. ZESN, however, reiterates its call for the Commission to ensure that, by the date of the by-election or general elections, voters' roll to be used complies with accepted voter registration principles. ZESN urges the Commission to ensure that a single, consolidated, complete and accurate voters' roll for each Constituency is available in reasonable time before the election date.

### **6.3 Analysis of the Marondera Central Voters' Rolls**

ZESN noted the use of two voters' rolls in the Marondera Central by-election i.e. the polling station based voters' rolls and a supplementary roll based on the previous ward based voters' rolls. The Main Register for Marondera Central had 18,624 registered voters of whom 10,858 voters were female representing 58.30% of the total number of voters and 7,766 males who are 41.70% of the total number of registered voters. The Supplementary register for Marondera Central however had 18,956 registered voters of whom 9,338 were female representing 49.26% of the total registered voters the remaining 9,618 voters are male who represent 50.74% of the total number of voters registered.

### **Emerging issues from the two Voters' Rolls**

ZESN noted that there are **7,554** unchanged records in the main voters' roll and **19,334** records which were in the 2013 register and not in the main voters' roll which can be attributed to out-migration, deceased voters or a general lack of interest in electoral processes. New registrants in the main voters' roll which were not in the 2013 voters' roll stand at **11,070**. In the supplementary voters' roll there are **19,229** voters who were in the 2013 voters' roll and not in the Main polling station-based voters' rolls. A comparison between the 2013 harmonised elections voters' roll and the Merged (*Main + Supplementary* rolls) it is evident that there was an increase of registered voters from **31,340** in 2013 to **38,825** in 2015. There is a significant number of typographical errors, numerical data in names and invalid names in the voters' rolls that ZESN analysed revealing that there wasn't adequate quality control and validation process of the rolls.

## **7. ELECTION CAMPAIGNS**

The continued elections boycott by the MDC formations means that ZANU-PF was the only contesting party which is currently benefiting from funding for political parties from Treasury as provided for in Section 3 (3) of the Political Parties Finances Act[Chapter 2:11]. This contributed to the creation of an uneven playing field as other parties could not compete on an equal footing resulting in the by-elections being poorly contested as contesting parties were not able to mount effective election campaigns.

The need to review the current system of regulating party finances cannot be over emphasised. There is need for sustained discussion among electoral stakeholders on the appropriate mechanisms for political party financing that can help new entrants in politics to establish themselves. The new system should require appropriate disclosure, limits on expenditure and effective monitoring of party campaign finances. Democracy only thrives when the playing field, for political actors and political parties, is level and when elections are genuinely contested. Such a discussion is timely and relevant in light of the numerous challenges that independent candidates and smaller political parties continue to face when they try to participate in political processes.

Election campaigns began with primaries elections being conducted by ZANU-PF in all three constituencies. In Epworth a total of 13 aspiring candidates contested the primaries, with 11 and 10 contesting in Marondera Central and Mbire respectively.

ZESN observed that campaigns for the NCA, Freedom Front, Transform Zimbabwe and independent candidates were affected by limited resources, whereas ZANU-PF campaigns were robust owing to the party and candidates' access to significantly larger amounts of resources. For instance in Epworth ZANU-PF campaign posters overshadowed those of other political parties.

Reports from ZESN observers showed that although the environment was generally peaceful, there were incidents of intimidation in Marondera Central and destruction of campaign posters of opposition political parties in Mbire constituency. Such behaviour of political intolerance is in contravention of the Section 6 (c) of the Fourth Schedule of the Electoral Act which prohibits political parties, their members and supporters from damaging or defacing property, including posters, of another party or candidate.

## **8. GENDER AND ELECTIONS**

Zimbabwe is signatory to a number of declarations aimed at increasing women's participation in top decision making positions and the Constitution affirms women's equal participation. The active participation of women in critical processes such as elections is vital in the strengthening of democracy and human rights in Zimbabwe.

Of the candidates who successfully filed their nomination papers and contested in the by-elections there were three women and seven men, signifying a 30% percent representation of women in the by-elections. However, of the three contesting female candidates only one was elected Member of Parliament for Epworth Constituency.

ZESN observed that ZEC made compilations of data on voters that is disaggregated by age and gender and urges the Commission to share this information with relevant stakeholders including political parties and civil society to enhance focus of programming in the promotion of women and youth's participation in electoral processes.

ZESN notes that the women's participation in elections continues to be hampered by a number of factors such as the fear of violence, intimidation, financial challenges in their bid to launch political campaigns as well as a number of inhibiting cultural systems.

## **9. ELECTION PETITIONS**

Electoral petitions are part of the electoral justice landscape in Zimbabwe. The Electoral Court was established in terms of Electoral Act Chapter 2:13, 161 (as amended), and has exclusive jurisdiction to hear appeals, applications and petitions in terms of this Act; and to review any decision of ZEC or any other person made or purporting to have been made under this Act. The Court's mandate covers a wide range of potential cases, from voter registration disputes to election petitions by unsuccessful candidates.

The Judicial Service Commission (JSC) in February 2015 announced the appointment of four High Court judges (Justices Chinembiri Bhunu, Tendai Uchena, Andrew Mutema and Martin Makonese) as judges of the Electoral Court. The appointments were for the six-month period from 16 February until 15 August 2015. ZESN, however, notes that the Electoral Court Judges have been sitting unconstitutionally because section 183 of the Constitution does not permit the appointment of Judges to sit on more than one court.

In addition, there is need to regularise the potential conflict of interest that may arise if the Chairperson of ZEC remains the Secretary of the Judicial Services Commission.

In Zimbabwe there are a number of institutions that play significant roles in facilitating the effectiveness of our electoral justice system. The institutions include, but are not limited to, ZEC, The Zimbabwe Human Rights Commission (ZHRC), Electoral Courts and the Zimbabwe Republic Police (ZRP). During the 19 September, 2015 by-elections these institutions played a very minimum role with the exception of the police which provided security for the elections.

## **10. ELECTION DAY OBSERVATIONS**

The Network deployed 62 short term observers for the by-election comprising static observers based at some of the ward and constituency collation centres as well as teams of mobile observers in all three constituencies. ZESN's observers adhere to a strict code of conduct and carry out their duties in conformity to the Electoral Laws of Zimbabwe and regional and international principles and guidelines such as the African Union Charter on Democracy and Governance.

### **Opening and voting and counting procedures**

Everywhere ZESN observed polling stations opened on time with adequate polling personnel and voting materials. According to reports by our observers, there was an average of six polling officials at each polling station, three of whom were women. 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 clearly followed. Counting procedures were conducted in accordance with the law and ZESN observer reports show that this was confirmed by political party agents who signed the V11 forms at the end of the process. Results of the polls were posted outside all polling stations where ZESN observed.

### **Polling station based voting**

ZEC piloted the polling station-based voting system in Marondera Central as the Commission prepares to introduce the system for the impending 2018 harmonised elections. ZESN observer reports noted the use of two voters' rolls namely the polling station-based voters' rolls and a supplementary roll based on the previous ward based voters' rolls in the constituency. The use of the two voters' rolls resulted in some electoral stakeholders questioning ZEC's preparedness for the polling station based voting system and ability to implement the system on a macro level. ZESN notes that international best practice encourages the use of a single voters' roll in order to enhance stakeholder confidence.

### **Voter Intimidation**

ZESN received reports of voter intimidation in Marondera Central where political party representatives were allegedly recording the serial numbers at the back of registration slips during voter registration in a bid to intimidate voters and influence their voting preferences. ZESN notes with worry the continued reports of intimidation in elections in Zimbabwe as such actions have implications on how free people are to vote and subsequently the freeness and fairness of the election. There were also reports of the destruction of election campaign posters of opposition parties in Mbire constituency.

### **Assisted voters**

ZESN observer reports continue to note significant numbers of assisted voters in isolated polling stations. Worrying reports of assisted voters were received from Makuvatsine Primary School, where a total of 91 people had been assisted to vote by late afternoon.

### **Data disaggregation**

ZESN continues to observe the compilation of disaggregated data by age and gender and commends ZEC for collecting such crucial data that can inform voter education programmes and other electoral processes.

### **Information dissemination**

ZESN observers reported that there was lack of uniformity in how ZEC officials were dealing with observers with some reportedly refusing to provide basic information requested by the observers while others were willing to provide the same information. There is need for ZEC to standardise the operations of the Presiding Officers so that their conduct is uniform at all polling stations.

### **Role of the Police**

At all polling stations ZESN observed heavy police presence inside and outside the stations. Observers' reports showed that some of the police officers were overbearing in their collection of information and were actively involved in assisting voters. ZESN notes that the polling stations may intimidate voters. The active involvement of the police goes against international best norms and standards where the role of the police is limited to maintaining law and order

### **Political party agents**



Despite provisions for all contesting political parties and candidates to deploy agents some political parties and independent candidates failed to deploy agents at all polling stations. In about 98% of polling stations in Marondera Central, only ZANU-PF was represented. Political parties and candidates must ensure that they deploy agents at all polling stations to ensure that their assessments of electoral processes are informed by their own observations.

### ZEC Resourcing

ZESN notes the funding constraints that continue to hinder the effective and efficient implementation of electoral processes by ZEC. We observed that some of the logistical arrangements require attention, for instance in some of the polling stations ZEC officials were using candles for lighting.

### People with disabilities

Section 51 (1a) of the Electoral Act says that every polling station shall be located in a place that is easily accessible to the public including persons with physical disabilities. ZESN observers' reports showed that everywhere that the network deployed, polling stations were easily accessible to people living with disabilities.

## 11. BY-ELECTION RESULTS

The graph below shows the results of the 2015 Epworth by-election.

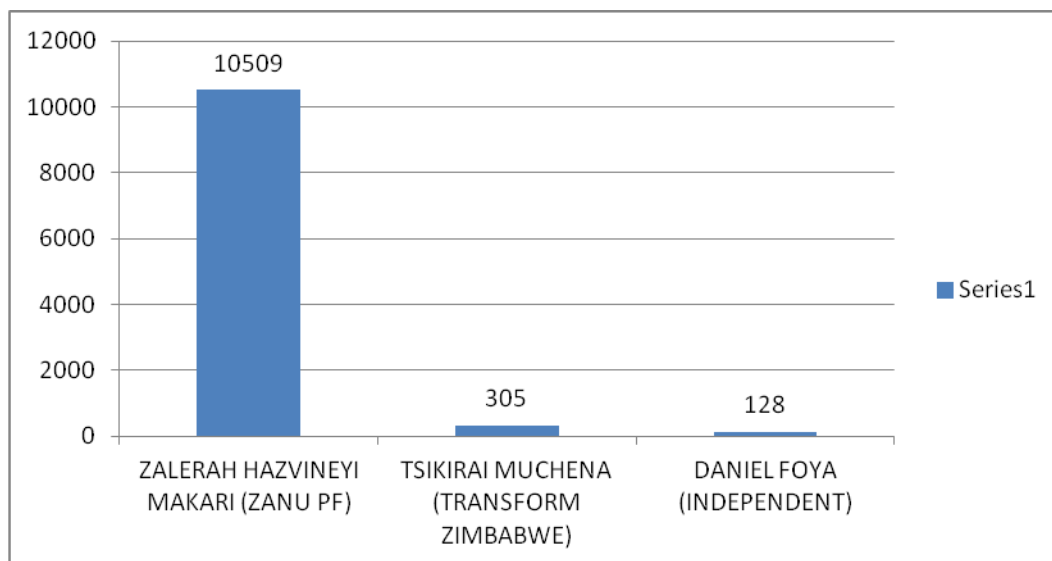


Figure 1: Epworth By-election results

The graph below shows the results of the 2015 Marondera Central by-election.

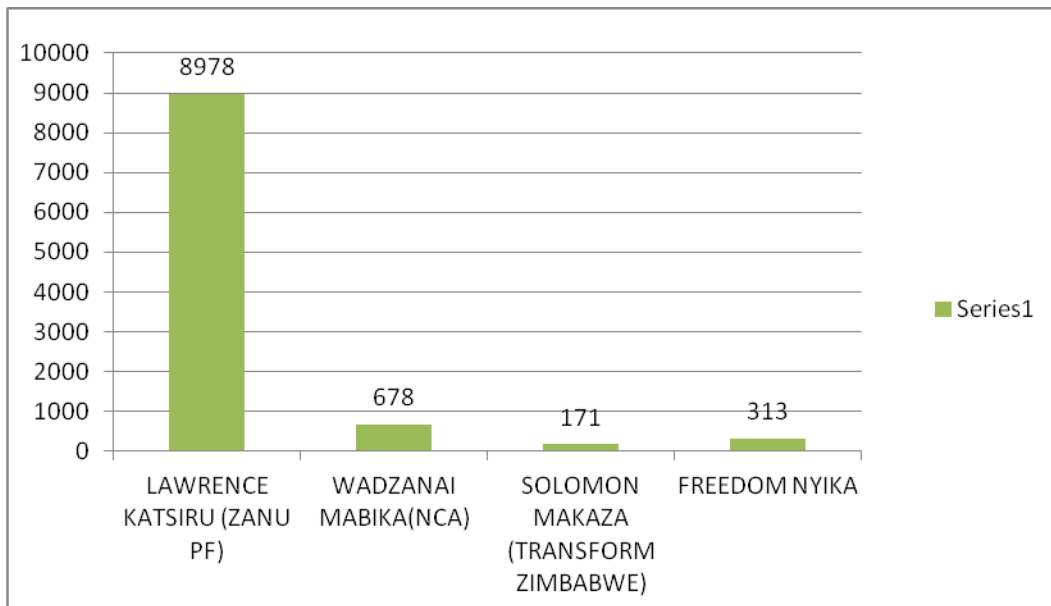


Figure 2: Marondera Central By-election results

The graph below shows the results of the 2015 Mbire by-election.

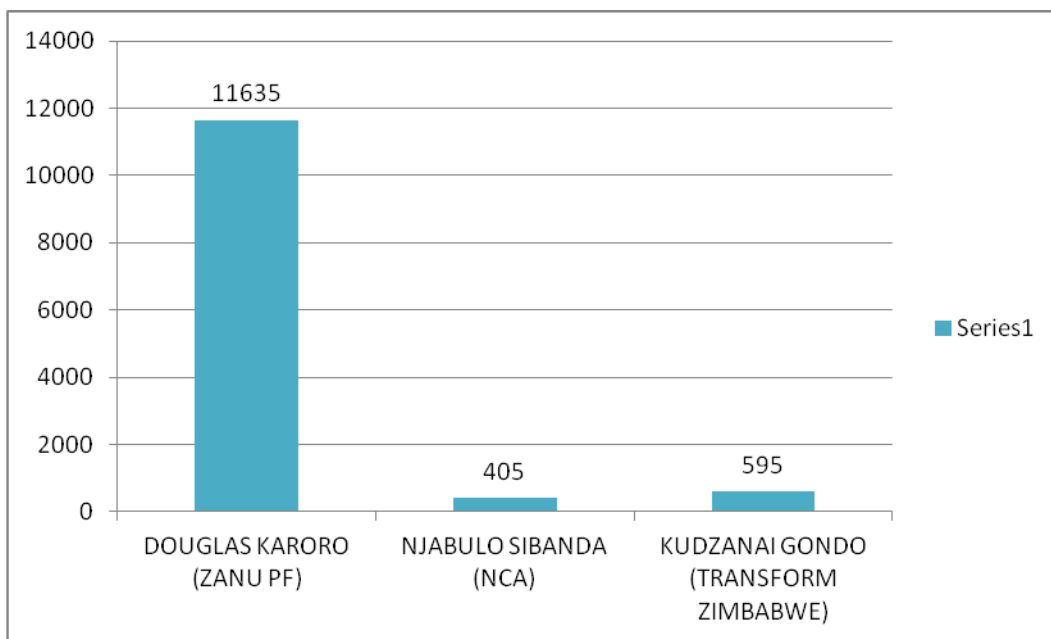


Figure 3: Mbire By-election results

**Comments on the Results:**

- ZANU-PF retained all three Constituency seats.
- The by-elections were poorly contested as the country’s largest opposition party the MDC-T continues to boycott by-elections citing the need for electoral reforms.
- In Epworth the votes received by the ZANU-PF candidates decreased by **4,949** as compared to the 2013 results. In 2013 the total votes cast was **25,814** compared to **11,160** on September 19, 2015.

- In Mbire constituency the winning ZANU-PF candidate in 2013 received **20,037** as compared to the **11,635** received in the by-election signifying a **42%** decrease.
- In Marondera Central constituency there were significant reductions in votes received between the top two candidates, in 2013 the top two received a combined total of **17,270** votes as compared to **9,656** for the 2015 by-elections
- This decrease in voter turnout can largely be attributed to the fact that by-elections seem to generate less interest among the voting populace in comparison to general elections.

## **RECOMMENDATIONS**

ZESN makes the following recommendations in order to improve future electoral processes:

- ZESN calls upon ZEC to investigate reports of alleged intimidation in Marondera Central and the destruction of opposition campaign posters in Mbire to ensure that the right to freely choose representatives is respected and political parties adhere to the code of conduct.
- ZEC must put in place clear measures for the reporting and resolution of conflicts and claims of intimidation and the Commission should publicise and enforce the political parties' code of conduct.
- In addition, the organisation reiterates its calls for the government to speed up alignment of election-related laws with the Constitution as well as implement electoral reforms in particular the creation of a conducive electoral environment that guarantees the respect and enjoyment of universal suffrage and fundamental freedoms.
- We urge the ZEC to incorporate lessons from the Marondera Central polling station based voter registration pilot exercise in the deployment of future voter registration models and to consider the adoption of new ICTs such as inclusion of biometrics in voter registration and new ICTs in results management and transmission.
- The government must ensure that it ratifies, domesticates and implements the African Charter on Democracy, Elections and Good Governance ahead of the 2018 elections. Ratification of these key instruments will advance democracy and democratic practice in Zimbabwe
- ZESN reinforces the need for continued collaboration by ZEC with key electoral stakeholders such as civil society in conducting comprehensive voter education in order to enhance voters understanding of key electoral processes and requirements
- Government must actively participate, together with non-governmental organisations, in electoral education to promote women's electoral participation and gender equality.
- The government must ensure that the pending legislative reforms are implemented in order to ensure that ZEC is fully capacitated to carry out their mandate.

## **12. CONCLUSION**

ZESN continues to note the recurring gaps and inadequacies in the legal framework of elections. The Network therefore reiterates that electoral reforms continue to be 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.