

**LUPANE PARLIAMENTARY
BY-ELECTION 2004**

REPORT

15-16 May 2004

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ZIMBABWE ELECTION SUPPORT NETWORK

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1. Executive Summary

This report covers the Lupane parliamentary by-elections. Information on the pre-election period is based on reports that were supplied by the Zimbabwe Election Support Network (ZESN's) long-term monitors who were based in the constituency. The information on the polling period was derived from ZESN's accredited observers who were deployed at all the 60 polling stations. Some of the information is also based on the media reports.

Counting of the votes was conducted on the 17th of May 2004 at Mabhikwa Secondary School and the results were announced on the same day. The Movement for Democratic Change (MDC) lost to ZANU P.F by 883 votes. ZANU P.F's candidate polled 10 069 votes while MDC's had 9 186 votes. Only 19 644 or 40.8% out of a registered 48 134 people voted and there were 389 spoilt papers. A total of 2 108 people were turned away and 1 357 were assisted to vote.

During the campaign period, it was noted that ZANU P.F campaigners (i.e., mostly the youth and war veterans), used kraal heads to gather the people together, such that even on the polling days, the people were supposed to vote according to their villages. ZESN noted with a lot of concern that voters were passing through their village or kraal heads to register or have their names ticked before proceeding to cast their ballot. A large number of voters were also witnessed to have stated that they were illiterate, thus the number of assisted voters was relatively high.

The MDC lost this very important seat in parliament, a seat that has a lot of political implications. What is left is to see how both parties will fare before the 2005 general elections.

2. Background

The Lupane parliamentary seat fell vacant after the death of Mr. David Mpala of the Movement for Democratic Change (MDC) in February 2004. Lupane becomes the third parliamentary by-election this year after Gutu-North and Zengeza. In this election, Mr. Njabuliso Mguni, presented the MDC against ZANU P.F's Mr. Martin Khumalo. The MDC candidate was nominated after beating six other contestants in the party's primary elections. During the Zengeza election the party was accused of imposing the candidate on the people and it will be interesting to see whether the democratic approach will work in its favour.

3. Methodology for gathering information

Information gathered during the pre-election, polling and pre-election period was provided by ZESN accredited observers, secretariat who were in the field during the polling days and in the pre-election period an advance team of the secretariat also made field visits to the constituencies in order to ascertain what is actually happening on the ground. ZESN also had two long-term monitors who are resident in the constituency and they regularly submitted reports. Some of the information has been derived from both the electronic and print media reports from both the private and public media.

4. Legal Framework of the Elections

Elections were held in accordance to the following statutes, The Electoral Act Chapter 2:01 and The Electoral (Amendment) Regulations, 2002(No. 13). The Electoral (Amendment) Regulations (No 130 were made by the Ministry of Justice, Legal and Parliamentary Affairs under Section 157 of The Electoral Act Chapter 2:01 and were promulgated a few days before the Presidential elections. The regulations amended the Electoral Regulations of 1992 published in Statutory Instrument 58 of 1992.

The Regulations define "monitor" as a person accredited as such and according to section 15, whose functions are to:

- a) monitor the conduct of polling at any polling station or counting centre for the purpose of detecting any irregularity and in the conduct of the poll or the counting of votes and
- b) be present at the verification of statements of presiding officers and the counting of votes cast at the election
- c) bring any irregularity or apparent irregularity in the conduct of the poll or the counting of votes to the attention of the presiding officer or constituency registrar and request the appropriate corrective action to redress that irregularity if any,
- d) report on any irregularity or apparent irregularity in the conduct of the poll or the counting of the votes to the Commission and on any corrective measures taken to redress the irregularity.

Whereas the functions of an observer are as follows:

- a) to observe the conduct of polling at the election,
- b) be present at the verification of statements of presiding officers and the counting of votes cast at the election,
- c) bring an irregularity to the attention of a monitor on duty or the Commission.

The differences between the two are therefore glaring in that the monitor is accorded more power to approach the Presiding officer when there is an irregularity or apparent irregularity. The observer comes secondary to the monitor in that if there is an irregularity s/he goes through the monitor or the Commission for redress.

Section 15B(1) of the Regulations specifies that the Electoral Supervisory Commission shall deploy and accredit members of the Public Service as monitors in polling stations. This is against SADC Parliamentary Forum Norms and Standards in as much as they recognise that members of the Public Service should not be part of the public processes such as elections and yet the Presiding Officers, the Polling Officers and the office of the Registrar are all part of the Public Service. This reduces confidence in the electorate in electoral systems.

Section 15C(a-e) gives the Minister of Justice, Legal and Parliamentary Affairs the sole prerogative to invite observers which include:

- a) individuals representing foreign countries or international or regional organisations that have been invited by the Minister responsible for Foreign Affairs,
- b) individuals representing bodies in the region that exercise functions similar to those of the Commission and that have been invited by the Commission to observe any election,
- c) eminent persons from outside of Zimbabwe who have been invited by the Minister of Justice, Legal and Parliamentary Affairs,
- d) individuals representing local organisations,

The Regulations were silent on voter education. The General Laws Amendment, Section 5 specified that the ESC will co-ordinate voter education and that anyone who wished to do the same would apply to the ESC who will then vet the materials intended for such use. Moreover anyone who wished to conduct voter education would have to be locally funded and also they would have to disclose their sources of funding. This provision curtails the process of information dissemination and breaches Section 20 of the Constitution, which guarantees freedom of expression, by guaranteeing "freedom to hold opinions and to receive and impart ideas and information without interference..." The General Laws Amendment were ruled unconstitutional by the Supreme Court. This has meant that voter education can be conducted even though there is no express legislation backing it.

Electoral Management Bodies

The Electoral Supervisory Commission (ESC)

ESC is created by section 61 of the Constitution and is mandated to supervise the registration of voters and regard any bills that have a bearing on elections that may be brought before Parliament. According to Statutory Instrument 41B of 2002 the ESC accredits observers through the Accreditation Committee.

The Ministry of Justice, Legal and Parliamentary Affairs

The Electoral Act and the Regulations stipulate that the Minister invites local and international observers. In Lupane members of the diplomatic mission were accredited and did observe the elections.

The Department of the Registrar General

The Department is responsible for the deployment of polling officers, constituent registrars and for running of the electoral process. The voters' roll preparation and update is the sole preserve of this Department.

The Delimitation Commission

The Delimitation Commission is set up by the President to determine the boundaries of a constituency for a general election. For by-elections the boundaries of the previous elections are normally used until such time as the president appoints another commission. The commission derives its mandate from the Constitution.

Accreditation

The Minister of Justice, Legal and Parliamentary affairs invited interested parties to submit observers' names for accreditation. ZESN submitted 96 names for accreditation and a total of 76 people were accredited. Accreditation dates were set at 6-11 May 2003 at the Electoral Supervisory Commission offices in Harare.

5. Pre-election period

This period began on a relatively quiet note, though marred by a few irregularities here and there. ZESN officials, who made a preliminary visit to the constituencies on the 16th of April 2004, were informed that in Mzola 5 for instance, suspected ZANU P.F cadres who were brought in from as far as Nkayi allegedly attacked a resident on the 14th of April. (*Source: Resident of Mzola 5*). This occurrence was said to have been discussed at a residents' meeting on the 15th of April but the residents took no action as they felt there was nothing they could do about it, neither did they make a report to the police. It was also reported that camps had been set up for these perpetrators of violence in Mzola 5 and Mzola 6 for the purposes of monitoring the activities of the residents. Such an act is definitely intimidatory to the electorate.

ZESN officials also noted that in some places like Sibombo life went on as usual and the people were actually receiving food aid from World Vision and the people stated that they had not observed any politically related violence whatsoever. Another preliminary visit, which was done on the 08th of May 2004, led to the following discoveries: A Kusile Rural District Council vehicle was also being used for campaign purposes; people were seen inside carrying pamphlets whose content could not be verified, but posters of the ZANU P.F candidate were stuck on the body of the car. Another vehicle from the National Library and Documentation Services was being used to show documentaries about how people should vote, about the colonial era and also about the recent Independence gala that was conveniently held in Hwange.

At Mkhombo primary school, there was a base for ZANU P.F youths who, when they spotted the ZESN vehicle stopped it and were interested in knowing ZESN's business in Lupane. These youths were clad in ZANU P.F regalia. Some of them had T-Shirts written 'No To Mass Action'. While in Lupane growth point, some MDC youths were also spotted gathered at a certain house where they supposedly meet before deployment to go and conduct their campaigns.

5.1 Inspection of Voters Roll

As stipulated in Section 18 of the Electoral Act [Chapter 2:01], the voters roll inspection for the constituency of Lupane was set for the 14th of March up to the 03rd of April 2004. There were 41 static

centres and 10 mobile inspection centres listed. These were clearly advertised in all the local state newspapers. The inspection of the voters' roll went on peacefully, as there were no reported cases of incidents.

ZESN's long-term monitor reported that a relatively large number of unregistered voters also got the opportunity to register as voters during this time. Our monitor could not get information about the exact number of people who managed to register at that time. Efforts to procure the voters' roll from the Registrar General's Office were futile. In Dandanda, people were required to produce proof of residence and yet the officials refused to accept stand cards for that purpose. Hence, it was difficult for most residents to produce proof of residence, as Lupane is a rural constituency. Such an act is regarded by ZESN as very provocative as it intimidates the electorate and causes voter apathy. Failure to produce proof of residence means that one can neither register as a voter nor inspect the voters' roll according to the officers who were conducting the inspection and registration in Dandanda growth point.

5.2 Nomination courts and announcement of candidates

The nomination court sat on Wednesday the 14th of April 2004, and the following candidates were duly nominated:

1. Mr. Njabuliso Mguni MDC, and
2. Mr. Martin Khumalo ZANU P.F

There were no reported cases of incidents. The long-term monitor was denied access to the nomination court and only the contestants were allowed to attend, with a few members of their party. This, we must emphasise, is a matter of concern because in the past elections ZESN monitors have been able to monitor the nomination court process without having to go through any accreditation process.

In the 2000 parliamentary elections, there were 46 425 registered voters, while in the 2002 presidential elections, there were 47 607 registered voters. Below is a table showing the results of the 2000 parliamentary and 2002 presidential elections.

Results for the 2000 Parliamentary and 2002 Presidential Elections

	MDC	ZANU P.F	ZAPU
2000 parliamentary election results	14 439	3 300	972
2002 presidential election results	14524	7 778	199

5.3 Campaigning and politically related violence

It has been reported of late that the ruling party ZANU P.F has been doing more campaigns as compared to the opposition party, MDC. For instance, after lodging his papers at the nomination court on the 14th of April, the ZANU P.F candidate, Mr. Martin Khumalo addressed a rally at St. Paul's Mission in Lupane. The fact that there is an intention to build a University in Lupane by the government is another campaign strategy that the ruling party is using to try and win this seat.

On 16 April 2004, a Cabinet Minister, Mr. John Nkomo addressed Lupane villagers in Lupanda where he promised the senior citizens that they would not be forcibly removed from their land, which is a protected Forestry Commission area. Instead, the minister said the government would consider systematically phasing out the settlements by allocating land to the youths wishing to start their homes outside the zone.

By the 21st of April 2004, ZANU P.F had intensified its campaign in Lupane. It is quite unfortunate though that there seems not to be much publicity coming from the papers with regards to the campaigns and the rallies that the opposition party intends to hold.

The Electoral Supervisory Commission, (ESC) must be commended for its efforts aimed at maintaining order during the campaign period. A multiparty liaison Committee, which comprises members from both contesting parties has already been set up in Lupane and both parties are reported to have stated that the campaigning period has been relatively peaceful, though they both agree that members of their youths are at times 'wayward' in their behaviour.

Quite to the contrary, it is sad to note that although the state owned papers report that the campaign period is peaceful, ZESN's long-term monitor has reported the following:

That ZANU P.F has deployed a large number of youths across the constituencies, who are based at most schools in the area, for instance in Mkhombo, Gwamba and Daluka, just to mention a few, and residents are forcefully made to attend campaign meetings. In a counteractive move, MDC has also camped its youths at Lupane Growth Point and are driven out on a daily basis to conduct their campaigns, hence the reported clashes between MDC and ZANU P.F youths.

In Jotsholo, one of the locals alleged that people in that area were told to submit their national identity cards to the headman and alleged that some people had already done so but she did not have the number of those who had done so.

The Standard of 2 May 2004 reported that suspected ZANU PF supporters disrupted MDC rallies in Lupane. According to the article ZANU PF used District Development Fund and Lupane Rural District Council vehicles to ferry people who tried to disrupt an MDC rally. This resulted in people running away from the rally. The policeman who was present could not do anything about it.

In Kusile, the ruling party used the village head to mobilise most households and there was also a the usage of war veterans who were camped in the area during these campaigns. Some of the war veterans were camped at the ZANU P.F Provincial Headquarters in the area. While all this was done, it was said that people had been told that anyone seen attending MDC rallies would be 'dealt with'. Below is a summary of incidents that have been noted so far:

SUMMARY OF INCIDENTS

Incident / Date	Description / Place	Action Taken	Source
Assault 14 April 2004	In Mzola 5, a young man (Name not provided for fear of victimisation), was attacked by supposed ZANU P.F supporters who had been brought in from as far as Nkayi.	A residents' meeting was held and the incident was discussed but no further action was taken	Male resident from Mzola 5. (Name not provided for fear of victimisation)
Political violence 07 th April 2004	Violence occurred between MDC and ZANU P.F war veterans at Lupane Growth Point. No one got seriously injured except for one war veteran (Name provided), who received a few bruises.	None	ZESN long-term monitor.
Attempted Kidnapping 12 th April 2004	An MDC supporter (Name provided) was rescued by a certain individual (Name provided) in Gwamba ward when he was about to be kidnapped by supposed war veterans.	None	ZESN long-term monitor.
Intimidation 18 April 2004	Three war veterans went to the residence of one ZESN long-term monitor and demanded to search his house, accusing him of being an MDC supporter. This was at around 2230hrs. After the search; they demanded to see the identification cards of the monitor, together with those of three other people he stays with. Their names were taken down and they were asked to produce ZANU P.F party cards, which they did not have. They were told to have these cards at the next campaign meeting. After all this, they were told to vote for Martin Khumalo but they were not assaulted. They left the room at around 0045hrs. While doing their search, the war veterans mistakenly dropped their book with a list of people's names, whom ZESN suspects to	None so far	Respective ZESN long-term monitor. (Name withheld).

	<p>have been deployed to the following areas for campaign purposes: Lupane Centre, Siwale, Jotsholo, Daluka, Gomoza and St. Paul. The list has a total of 114 names.</p>		
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6. Political Environment

The political environment was generally calm at the beginning, i.e., soon after the death of the MDC Member of Parliament Mr. David Mpala, though people knew that the constituency was a breeding ground for future violence. ZANU P.F immediately started campaigning for the seat even before the election had been announced. The political temperature has since risen, with the unleashing of war veterans and youths by ZANU P.F and MDC's retaliation through unleashing youths as well. Thus, the political environment, especially when assessed from the electorate's point of view is that of fear, while others are keen to get over and done with this election so that their lives can hopefully return to normal.

8. ZESN Activities

In preparation for the Lupane parliamentary by-elections, ZESN engaged itself in the process of conducting voter education activities targeted at the electorate in all the constituencies in Lupane. This was done through the distribution of 50 000 pamphlets. ZESN has also put long - term monitors on the ground, which are involved in the actual distribution of this material as well as the monitoring of events that are taking place in the area. A total of 62 observers were also trained by ZESN in preparation for the Lupane by-election.

8.1 Material Distribution

ZESN distributed two different types of pamphlets in both Ndebele and English, containing the following information:

- Democracy and its tenants
- The voting process
- Secrecy of the ballot
- Voters' rights
- Political tolerance
- Importance and types of elections
- Voting for members of parliament
- The role of members of parliament
- Qualities of a good member of parliament

Five voter educators were deployed to the field to distribute this material between the 15th of March and the 30th of March 2004. The constituency was divided into five portions in order to achieve this motive. They also employed the use of informal gatherings in educating the electorate.

8.2 Methodology for distributing material

As the political atmosphere was rather tense, our form of material distribution was mainly that of distributing pamphlets without necessarily holding any workshops or meetings. This was done because

of fear for the safety of the voter educators who were put on the ground. Thus, a total of 50 000 pamphlets were distributed in Lupane.

ZESN also took it upon itself to insert some adverts in the local papers encouraging people to go and vote in the Lupane elections.

9. Inspection Centres

There were 51 inspection centres, of which 41 were static and 10 were mobile and these were all used as polling stations. These figures show an unprecedented increase in the number of inspection centres when compared to the ones used in the year 2000, where there were 38 static and 3 mobile centres.

10. Polling Period

10.1 Summary of Polling Stations

There were 46 static polling stations and 14 mobiles, bringing an increase to the number of stations that were initially used as inspection centres. These were advertised in the local papers only a day before the election. There was adequate material at all polling stations but the ballot boxes were sealed with paper on top. On both polling days, ZESN observers noted that there were short queues at almost all the polling stations visited and in some, there were no queues at all.

ZESN noted with concern a disturbing occurrence at most polling stations, where voters were passing through their village or kraal heads to register or have their names ticked before proceeding to cast their ballot. This occurred at Gegema, Kanyandavu, Nzalikwa just to mention a few, and in Mpahlwa, one voter was overheard asking how he was supposed vote in the absence of his village head. At the same polling station, one ZANU P.F agent was also overheard telling a voter that he needed assistance, while the voter insisted that he was literate and could vote without assistance. At Ndimimbili, it occurred that one elderly man was assisted to cast his ballot, but he managed to individually sign for his name after having been assisted to vote.

10.2 Ink Detectors

At all polling stations there were ink detectors which were functioning properly, but ZESN observed that there were uniformed policemen who were manning the ink detectors that were placed outside most polling stations, while the polling agents were manning the ones inside the polling stations.

10.3 Processing of Voters

ZESN observers who were deployed at the polling stations noted that the polling officers were processing voters in a professional manner. An anomaly was noted in Mgijima, a mobile station, where the presiding officer was actually conducting some voter education during the voting process. The presiding officer was advising people to go and register as it was noted that most of them were turned away because they were not registered. Thus, ZESN also noted that there was an abnormally high number of assisted voters during the polling period. In Ndimimbili, for instance, a relatively young lady was heard by ZESN officials proudly telling her peers that she had insisted that she could neither read nor write so that she could be assisted to vote.

10.4 Voters Turned Away

A significant number of voters were turned away either because their names did not appear in the voters roll or they were not from that respective constituency. The youths were turned away mostly because they were not legible voters (Under the age of 18), or they were not registered.

10.5 Observers

ZESN managed to deploy 64 static observers around the polling stations and there were 12 mobile supervisors who were assigned to move from one polling station to another.

11. Polling Officers

Some polling officers undertook their duties in a professional manner, though there were some who refused to provide our accredited observers and supervisors with election updates.

12 Summary of Accredited Observers' Reports

Below are a few examples of what was happening at the various polling stations during the Lupane parliamentary by-election. These reports are based on information, which was submitted to ZESN by its accredited observers who were in the field during the two days of polling.

12.1 Kusile Rural District Council

By midday of the first day polling, the voter turn out was relatively high. There were two groups of people outside the polling station and these were recording names of voters who were going in and coming out of the polling station. There was also a uniformed policeman who was manning the ink detector inside the polling station.

MDC polling agents were complaining that the presiding officer ordered them not to write anything whilst they were inside the polling station, but they should do their writing outside the polling station.

International diplomats who visited the polling station stated that the polling station was too close to the Grain Marketing Board (GMB) and even though they did not witness any food distribution, the mere existence of polling station near GMB raised questions as to whether it was done deliberately or not.

12.2 Sizophile School

Two MDC activists, Demadema Ntini Ncube and Luke Sibanda were abducted from Sizophile Primary School and taken to the village head Morgan Mthunzi, who in turn handed them to ZANU P.F youths at a base in Mathambo where they were beaten up. They were later recovered by the MDC District chairman Roger Mhlophe, who took them to the police, where they were unfortunately arrested for inciting violence towards ZANU P.F youths who had reported the matter earlier.

12.3 Jotsholo

The presiding officer who said that he was not aware that there were going to be observers inside the polling stations denied ZESN observers access into the polling station. The issue was later rectified after the supervisors had spoken to the presiding officer.

12.4 Manganganga

The ZESN observer was at the polling station by 06.30 hrs. Two polling agents at the polling station then informed him that he could only observe from outside. No one had been assisted or turned away from voting at that time.

12.5 Dandanda

The station was visited twice on the first day of polling. At 8.04 a.m., 73 people had cast their votes and 8 had been assisted due to illiteracy. Sixteen others had been turned away because they were not in the voter's roll or they had no proper identification. By 12 noon, 199 people had voted. No incidents of violence or intimidation were reported.

12.6 Mabhonobono

At least 77 voters had cast their vote by 1025hrs. Eight were assisted and 16 were turned away because they were not in the voter's roll or had no proper identification.

12.7 Ngcono

At least 74 people had voted by 1050hrs. on the first day, 5 had been assisted and 15 turned away. There were only 5 people queuing outside at the time. The situation was generally calm at this polling station but ZESN observer Mr. Luke Philip Ngwenya encountered some problems on his way to the polling station the previous day where he was intercepted by about 10 war veterans at Gijima school at around 04.00 a.m. They took his wallet and found his accreditation card after which they accused him of being an American agent. They detained him for more than an hour and released him at 06.45 a.m. and this resulted in him failing to observe the opening of the polling station.

12.8 Kanyandavu

The polling station was visited at 1317hrs on the first day and 18 had cast their vote, of which 29 were assisted due to old age and illiteracy. Twenty two people had been turned away due to lack of proper identification, or their names did not appear in the voter's roll, while others were not from the constituency. Those not from the constituency came all the way from Binga. About 40 to 50 people were on the queue. This was noted to be a busy station and it was noted that it catered for people within a 3km radius.

12.9 Matshakayile

This was a very quiet polling station, few people were seen going to cast their ballots. On the first day of polling only two people had voted and one of them had been assisted. This was at around 0800hrs. No one was turned away and no incidents were reported.

12.10 Gobhi

The situation was calm but the presiding officer referred the ZESN team to the ESC command centre for statistics.

12.11 Nzalikwa

At least 100 people had voted at 1230hrs. on the second day. Four had been assisted due to illiteracy and some were under the age of 18 while others had no proper identification. No incidents were reported.

13. Counting and Announcement of Results

Counting of the votes cast was done at Mabhikwa Secondary School on Monday the 17th of May 2004. It was supposed to start at 8.00am but the process did not begin until 1015hrs. This delay was due to a number of ballot boxes which had not yet been brought to the counting centre.

Verification started at 1030am and it proceeded until 1215hrs. The Constituency Registrar Mr Willard Sayende was forced to call for a one and half hour break since six ballot boxes had still not been transported to the counting centre. These were for Somhlanga, Lupaka, Gobhi, Ndimimbili, Katshana and Tiki polling stations. Verification then restarted at 1345hrs. by that time the ballot box for Katshana polling station had still not been brought to the counting centre. It eventually arrived and verification ended at 1535hrs. The Constituency Registrar announced that 19644 votes had been cast during the two days of polling. Interestingly his figure differed with the one announced by the ESC that announced that 19559 votes had been cast. This resulted in the verification of the figures being done by the ESC and the candidates' representatives. Counting of the votes ended at 1755hrs and the results were as follows:

Lupane Parliamentary By-election Results 2004

Martin Khumalo- ZANU PF	10 069
Njabuliso Mguni- MDC	9186
Total valid votes	19 255
Spoilt votes	389
Total votes cast	19 644
Total Registered voters	48 134
Percentage poll	40.8%

ZESN noted with concern that about 95% of the spoilt ballot papers had actually been left blank by the voters. There were also a few ballot papers that did not have party symbols. One ballot book from Somhlanga polling station had 99 instead of 100 ballot papers. It is expected that the printers of ballot papers should be more meticulous especially with issues as sensitive as elections.

14. Post Election Period

The post election period has been quiet according to ZESN observers' reports. No reports of violence have been received. After the announcement of the poll results those who won were seen celebrating while those who lost accepted defeat and life has returned to 'normal' in Lupane.

15. Media coverage (by MMPZ – ZESN member)

The media, especially those from the government-controlled stable, failed once more to encourage transparency in the conduct of local elections as illustrated by their inability to demand unconditional accountability in the way the authorities prepared for and held the just ended Lupane by-election.

As a result, this compromised the fairness and quality of the news the electorate received, and indeed, the atmosphere under which the poll was held.

For example, all 11 stories the national broadcaster carried on the electoral process were handouts from the Electoral Supervisory Commission (ESC) and merely echoed the commission's sentiments on the poll without question.

Consequently, a thorough examination of the electoral process was ignored. The government media merely gave information on the number of registered voters, election monitors and the location and the total number of polling stations.

Even then, this crucial information was only made available to the electorate on the eve of the election.

The private media did not fare any better in the 13 reports they carried on the elections. These media largely quoted the MDC accusing ZANU PF of intimidating the electorate without corroborating the veracity of the claims.

Neither did they cover the election manifestos of the candidates for the electorate to make informed choices.

Typically, the government-controlled Press carried nine articles campaigning for ZANU PF's candidate while ignoring the campaign activities of the opposition MDC and its candidate. In fact, the opposition and its candidate were either denigrated or blamed for causing violence in Lupane in the four articles in which they were mentioned.

ZBC followed a similar trend in the eight stories it dedicated to ZANU PF's campaign activities. Only Studio 7 aired the activities of the MDC candidate on two occasions but featured none on the ZANU PF candidate.

But while reports in the government media were saturated by either the ESC's one-sided assessments of the poll as generally free and fair or partisan reports on ZANU PF's campaign trails, only the private media queried the environment in which the by-election was being held by raising concerns of alleged violence and intimidation against the MDC by ruling party supporters.

For example SW Radio Africa, which alone carried six stories on the matter, quoted several MDC officials complaining about various electoral irregularities during the poll.

MDC Secretary-General Welshman Ncube told the private radio station (10/5) that the level of intimidation in Lupane was **"very high"** and that local villagers had been threatened with **"the return of the Gukurahundi should they not vote for ZANU-PF"**. MDC spokesperson Paul Themba Nyathi (SW Radio Africa (14/5) echoed Ncube's claims, adding that traditional leaders were also involved in the harassment of opposition supporters.

Studio 7 (15/5) cited three incidents where chiefs were said to have been moving around polling stations wearing ZANU-PF regalia and mobilizing people to vote.

The government media suffocated this apparent abuse of traditional chiefs by ZANU PF to win elections for them. For example, the *Chronicle* (13/5) merely reported Local Government Minister Ignatius Chombo telling 600 Lupane **"traditional leaders... that the government was committed to improving their welfare"** during a campaign rally.

In fact, the *Zimbabwe Independent* (14/5) revealed that government had set aside an **"unbudgeted \$27,5 billion on chiefs' vehicles and other perks"**. The paper viewed this as a **"move calculated to win their support ahead of parliamentary elections currently scheduled for March."**

However, the Council of Chiefs secretary-general Fortune Charumbira defended the move saying the scheme was similar to that for parliamentarians where government provided them with loans to buy vehicles.

The *Chronicle* (13/5) reported without question that chiefs from Silobela and Lower Gweru had ***“pledged to ensure that ZANU PF regains the two parliamentary seats in their areas it lost in 2000 after they were given a prominent role in the selection of candidates”***.

The government media were clearly unwilling to examine these unorthodox electoral campaign tactics and largely ignored the ruling party's intimidation of the Lupane electorate.

And where they were obliged to admit to outbreaks of violence in the constituency, they vaguely referred to them as ***“clashes”***, (Radio Zimbabwe 13/5, 1pm) or ***“skirmishes”*** (Power FM 11/5, 8pm) to obscure the identity of the perpetrators and soften the ugly impact on the conduct of the poll.

Only where the MDC was accused of being responsible for the violence were these media specific (Power FM, 11/5, 8pm, 12/5, 1pm; the *Chronicle*, 12/5; and Radio Zimbabwe, 14/5, 1pm). No due care was made to balance or corroborate these accusations with independent sources.

For example, the *Chronicle* (12/5) reported that a ZANU PF supporter was ***“suddenly attacked”*** and allegedly axed by MDC's ***“weapon wielding activists”*** while putting up campaign posters for the ruling party's candidate. The paper claimed that the campaign had been ***“peaceful until (the) incident”***.

But contrary to this report by the *Chronicle* (and Radio Zimbabwe), *The Tribune* (14/5) quoted the MDC district information secretary David Nyathi giving more context to the circumstances leading to the violence.

He claimed MDC supporters had retaliated after ZANU PF supporters had attacked them while they were putting up their own campaign posters. Nyathi said the police had only arrested MDC activists, including the party's polling agents. He said: ***“There is no justice for us. We cannot complain to the police because ZANU PF supporters will never be arrested.”***

Nyathi's account found corroboration from reports in *The Zimbabwe Independent* and *The Daily Mirror* (13/5). SW Radio Africa (13/5) reported a Lupane magistrate discharging 11 of the arrested MDC activists for lack of evidence.

The Standard (16/5) reported that the police had arrested two other MDC activists who claimed they had been kidnapped and tortured by war veterans but who the police accused of perpetrating violence against ZANU PF supporters.

The two were allegedly arrested when they went to report their ordeal to the police. However, no comment was sought from the police.

16. Analysis

Generally the Lupane election went on peacefully except a few isolated incidences, which were reported during the pre-election period.

This election was very important to both parties because while the ZANU PF party wanted to show that it has finally managed to make inroads into perceived opposition strongholds, the MDC also wanted to prove that it is not a spent force and that ZANU PF's win in Zengeza was a fluke. For ZANU PF winning the election meant that the party would be one seat away from attaining the two-thirds majority in parliament that is required for the amendment of the Constitution. For MDC losing the seat meant an uphill task of keeping the party intact ahead of the 2005 elections. This election left the MDC with 52 seats and ZANU PF with 67 seats. ZANU PF is now left with one seat to obtain the two-thirds majority in parliament. Mathematically ZANU PF has 67 seats plus 30 non-constituency seats making their seats add up to 97. While ZANU Ndonga has one seat plus 97 ZANU PF and MDC's 52 seats giving us a total of 150 seats in parliament as stipulated in the Zimbabwean Constitution.

The high voter turn-out might be attributed to the peaceful environment which prevailed during the two days of polling and also the number of polling stations which was 60 with 46 static polling stations and 14 mobile stations. Unlike in the 2000 parliamentary election there were 33 fixed polling stations and 10 mobile stations for the same constituency.

While others were voting, ZESN observers noticed youths loitering around shopping centres. The voter apathy portrayed by youths in Lupane could point to lack of voter education while the high turn out by elderly people could be as a result of fear instilled into their hearts and minds by traditional leaders and political leaders. In addition those who also needed assistance were the elderly, reasons being illiteracy and visual impairment because of old age.

A major disturbing occurrence, which happened at most polling stations, that voters were passing through their village or kraal head to register or have their names ticked before proceeding to cast their ballot. ZESN strongly deplored this development, which has become a common feature in rural elections, because it is intimidatory in nature and designed to influence voters to cast their ballots for a particular party.

Also the fact that 95% of the spoilt ballots witnessed by our observers who went for counting, were blank, meaning that there were not marked and one can conclude that there was some level of fear amongst the people.

A significant number of voters was turned away during the two days of polling for various reasons including lack of proper identification, names not appearing on the voters' roll while some were under the age of 18. This has become a very disturbing situation in almost every election in Zimbabwe and the situation calls for an extensive voter education campaign.

Since 2000, the MDC has lost the following four parliamentary by-elections, Bikita West, Insiza, Kadoma, Zengeza and Lupane. This leaves the party with 52 seats from the initial 57 seats it won in 2000 and so far there is no official pending parliamentary by-election.

Generally, voting was conducted in a peaceful atmosphere during both days of polling, but there were some isolated cases of clear intimidation as well as harassment of observers by war veterans and senior Zanu PF party members. A ZESN observer was harassed at Mgijima School by 10 war veterans believed to be from Binga, Nkayi and Tsholotsho. They detained him for about 1 hour and 45 minutes, accusing him of being an agent of America.

At almost all the polling stations, our observers also noted with that some police officers were manning ink detectors, this action we felt was very intimidatory to the electorate.

Generally most of the ZESN observers managed to carry out their duties without disturbance and there were no incidences of violence, arrests or harassment towards them.

17. Conclusion and recommendations

Comparing with the Zengeza parliamentary by - election the Lupane election was held under a relatively calm environment. However ZESN makes the following recommendations in order to have elections that can be defined as free and fair:

- We re-emphasize our recommendations for the need for an Independent Electoral Commission mandated to run and manage the whole electoral process for effective co - ordination of the whole process.

- Traditional leaders should be urged to desist from interfering with the voting process and that civic education programmes targeting local leaders such as chiefs and headman be organised.
- We call for electoral reforms in order to improve the electoral framework and environment consistent with international standards.
- We urge the Electoral Supervisory Commission to decentralise the accreditation process and this should be done at least a month before an election.
- We urge ESC, the Ministry of Justice, Legal and Parliamentary Affairs, the Registrar General's Office to ensure that all accredited observers, are allowed to exercise their duties without delays.
- Electoral officials should acquaint themselves with all electoral regulations and respect all accredited officials.
- We propose that polling be reduced from the traditional two days to one day and that polling stations close by dusk.
- Polling stations should be publicised at least a month before the polling day.
- There is need for civic education on the role of major stakeholders such as the police, observers, monitors, and party agents.
- All electoral bodies and NGOs are encouraged to intensify civic/voter education activities in order to reduce the number of assisted voters.
- There's need for democracy and electoral education programmes targeting the youths.