



MWENEZI EAST BY-ELECTION

Preliminary Report | 11 April 2017

1.0. Introduction

Mwenezi East Constituency held a by-election to elect a new National Assembly representative on 8 April 2017. The seat fell vacant after the death of Honourable Joshua Moyo of Zimbabwe African National Union Patriotic Front (ZANU PF). A proclamation for the by-election was made according to the Electoral Act and 8 April 2017 was set as the by-election date. Four candidates successfully managed to file their nomination papers, with Mr Kudakwashe Bhasikiti withdrawing before Election Day citing intimidation of his supporters and many other irregularities in the campaign period. A total of 20 220 citizens cast their votes during the one-day plebiscite at 62 polling stations across the eight wards making the constituency. Total registered voters were 47 086 meaning a voter turnout of 41, 9% down from 58, 6% in 2013. Joosbi Omar of ZANU PF secured victory with 18 700 votes while Welcome Masuku of National Constitutional Assembly (NCA) had 482 votes and Turner Nhango of Free Zimbabwe Congress Party (Free-Zim) had 386 votes. The by-election was largely peaceful with isolated cases of intimidation reported. The Zimbabwe Electoral Commission (ZEC) abided by most of the administrative electoral regulations. However irregularities in the electoral boundaries were noted where voter population variances amongst wards were inconsistent to the requirements of the Constitution of Zimbabwe, Section 161(6). The by-election saw attempts by state institutions to implement Section 133J of the Electoral Act by physically and publicly setting up shop on election site.

1.0. Why the by-election?

The Mwenezi East by-election was necessitated by the death of Honourable Joshua Moyo hence was implemented according to Section 159 of the Constitution of Zimbabwe and declared so through Section 39 of the Electoral Act, which mandates the Zimbabwe Electoral Commission (ZEC) to conduct a by-election within 90 days after the vacancy is declared. 8 April 2017 was set by the President as the date of the by-election.

2.0. Methodology: The Consortium approach to Mwenezi East by-election

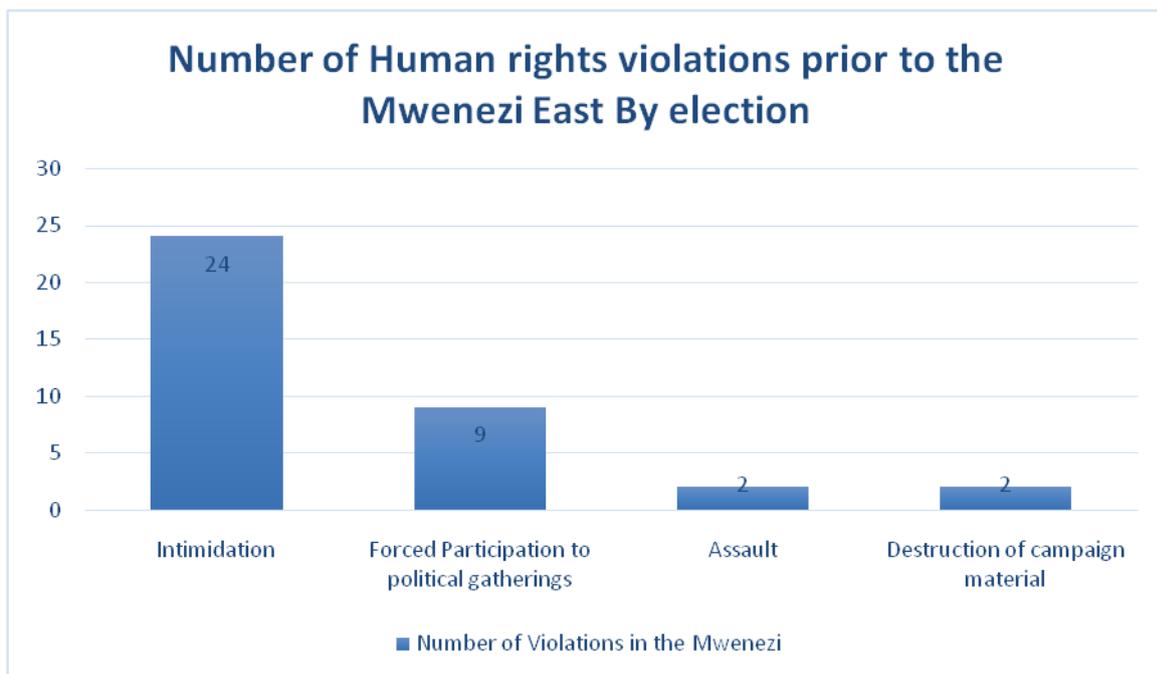
The Rights Heal Elections (RHE) consortium comprising of ZimRights, Heal Zimbabwe and the Election Resource Centre, combined efforts to mobilize citizens, to monitor the political environment and the polling processes during the Mwenezi East by-election. During the campaigning period, the consortium members conducted several peace awareness activities through working together with all candidates to call their supporters to shun violence. The campaigns raised awareness with members of the public on the importance of conducting elections in a peaceful and tolerant manner. Voter education and mobilisation was also conducted targeting specifically the youth. The consortium voter education and mobilisation efforts were however inadequate and thinly spread, they could have more impact if ZEC had played its part by facilitating complimentary work from civic groups. Through the consortium's early warning and response system, resident human rights monitors were deployed to document human rights violations during the election period. A mobile team of monitors was also on the ground ready to respond to violations. The consortium also set up a 24-hour situation room responsible for receiving human rights violations and electoral irregularities and engaging relevant stakeholders. The situation room was also used as an

information dissemination centre for the consortium giving regular updates including via social media and radio to various stakeholders. Furthermore, the by-election became important in gauging electoral preparedness of ZEC ahead of the 2018 general election. The assessment of preparedness is on three frameworks being administration, political environment, and legislative.

3.0. How was the political environment and security situation before and during the by-election?

The political environment before and during the by-election was largely peaceful. Citizens and organisations working in peace building and human rights in particular Heal Zimbabwe Trust (HZN) and the Zimbabwe Human Rights Association (ZIMRIGHTS) reported isolated incidents of intimidation. A total of 37 cases were reported between 1 January and 7 April 2017. 82% of cases reported were of traditional leaders and war veterans threatening people with violence and withdrawal of food aid if they vote for opposition parties. On polling day, one case of intimidation was reported, whereby some villagers were threatened and coerced to ensure the ruling party does not lose the election.

Illustration 1: Mwenezi Violations Pre-election period 1 January to 7 April 2017



Source: Heal Zimbabwe Trust

3.1. Implementation of Section 133 of the Electoral Act

The by-election realised significant steps towards the implementation of Section 133H and J of the Electoral Act. The section mandates the Zimbabwe Human Rights Commission (ZHRC), the Judicial Services Commission (JSC), the Zimbabwe Republic Police (ZRP) and the National Prosecution Authority (NPA) to ensure matters of violence and intimidation are reported,

investigated and submitted for prosecution. Two weeks before the by-election, the ZRP and JSC notified stakeholders that they had allocated officers for delivering on that mandate. The ZHRC has been deploying human rights investigators since the Norton by-election that was held in 2016. On Election Day, ZRP assigned officers to lead investigations while the JSC designated three magistrates to preside over reported disputes. On the ground, monitoring human rights abuses was the ZHRC. The ZHRC followed up on two reports of intimidation before Election Day. First report was that of a woman who was physically assaulted by ZANU PF supporters after she was seen distributing fliers of the NCA political party. The woman allegedly reported to the police and was threatened to withdraw the case. The second report was on one Jerifanos Chakani of Free Congress who was physically assaulted by Stoner Mhango of Zanu PF, nephew to Mhango a contesting candidate. The issue was addressed.

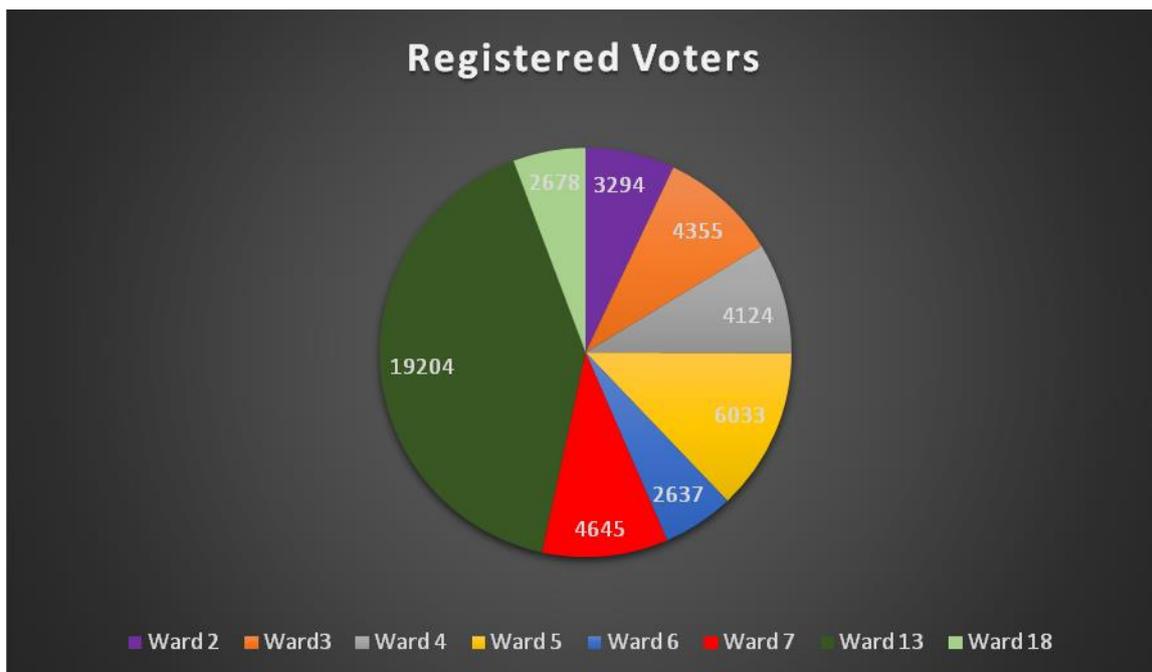
4.0. How was the overall conduct of the Mwenezi East by-election? The Administration of the Election?

Ahead of the by-election, voter registration was conducted by ZEC from 23 February to 01 March 2017. According to ZEC, 28 326 registered voters were on the Main Voters' Roll (one recently compiled by ZEC) and 18 760 registered voters on the Supplementary Voters' Roll (an updated 2013 voters roll). Failure by the government to ensure provision of necessary identity documents to citizens led to disenfranchisement of some prospective voters. This was noted on Election Day whereby some prospective voters were turned away because they had defaced National Identity Cards or attempted to use party identity cards. Voter education in Mwenezi East constituency was conducted by ZEC and commenced in February 2017 in all the eight wards.

In preparation for the by-election, ZEC was able to deliver all the required materials on time to all polling stations. A test run for the materials was conducted by ZEC with some political party candidates witnessing the process. On Election Day, most polling stations were open by 07:00 hours. At most polling stations, the queues were short and by midday there were no queues at all as people were quickly moving in and out of polling stations. At 19:00 hours, all the polling stations had closed and the counting process began. Results were officially announced by ZEC and pasted outside all polling stations.

4.1. The need for delimitation

The case of Ward 13 of Mwenezi East Constituency points to legal challenges associated with delimitation. The ward experienced an increase in population after the relocation of victims of the Tokwe Mukosi dam floods. This meant an unprecedented growth of registered voters to more than 19 000 while other wards have an average of 2 000 voters. While ZEC administratively managed the possible crisis by allocating 33 polling stations, the legal problems need to be addressed. Section 161 (6) of the Constitution of Zimbabwe states that "...no constituency or ward of the local authority concerned may have more than twenty percent more or fewer registered voters than the other such constituencies or wards."



As illustrated in the graph above, Ward 13 has almost half of the total number of registered voters in Mwenezi East constituency.

5.0. What have election observers reported about the credibility of the vote?

The Rights Heal Elections consortium contends that the by-election witnessed significant compliance by ZEC to requirements of electoral regulations or laws. However, some incidences infringing on the freedom of choice, movement and expression of citizens dampened the credibility in the political environment framework although the by-election was largely peaceful. The challenges associated with delimitation also dampen credibility in as far the legislative framework is concerned. The peaceful conduct in as much as it could have been a result of absence of strong contestation amongst political parties since ZANU PF faced weak opposition. Peaceful election awareness efforts by non-state actors including the Rights Heal Elections consortium could have also contributed.

6.0. What were the results?

The voter turnout for the by election was 41, 9%.

Political party	Candidate	No of votes
ZANU PF	Joosbi Omar	18700
NCA	Welcome Masuku	482
Free-Zim	Turner Mhango	386
Rejected votes		652
Total		20 220

7.0. Are there any significant electoral disputes about the results?

There are no significant electoral disputes concerning the results, as all the political parties accepted the outcome of the by-election. However, the consortium continues to monitor the environment for possible post electoral malpractice.

8.0. Going Forward/Lessons Learnt

- Delimitation challenges as some wards and constituencies are increasing population overwhelmingly posing constitutional and administrative challenges.
 - Implementation of Section 133 should be timeous upon proclamation of an election. All responsible institutions must work together in fulfilment of their mandate.
 - Voter education should be comprehensive allowing civil society to play a significant role.
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