

LUPANE EAST BY- ELECTION REPORT

DATES: 29 JULY TO 05 AUGUST 2019



Figure 1 ZHRC monitoring team with the ZEC Chief Elections Officer (in blue cap) at the Lupane East Command Center

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1 Introduction

The Zimbabwe Human Rights Commission (ZHRC) conducted an Election monitoring mission for the Lupane East by-election following a pre-election assessment from the 8th to the 12th of July 2019. A detailed report of this pre-election monitoring mission is attached as **Annex 1**, to this report. The following report therefore covers the period 29 July to 05 August 2019, which can also be described as the "election mode period", with the actual by election day being held on the 3rd of August 2019.

The monitoring of the By-election was conducted as per the Constitutional mandate granted to ZHRC, in terms of Section 243 (1) of the Constitution. More attention was paid to the provisions of paragraphs (b)¹, (c)² and (e)³ of Section 243(1). The information in this report is based on the ZHRC monitoring findings and information gathered through engagement with the general public as well as different stakeholders in the constituency and the Matabeleland North Province at large.

2 Objectives for the Monitoring Mission

- 2.1. To assess the compliance of the electoral environment and processes to human rights standards, relating to electoral processes.
- 2.2. To come up with a report on the findings, highlighting areas of good practice and those that need improvement for future related processes.
- 2.3. To make appropriate recommendations to ZEC, Political parties and other stakeholders that take part in electoral processes.

3 Methodology

In carrying out the election monitoring exercise, ZHRC took the following steps:

3.1. Reference to the Constitution (Amendment (NO.20) Act 2013) and national legislation such as the Electoral Act [Chapter 2:13] that guide on electoral processes in Zimbabwe. The ZHRC focused on human rights related issues.

¹ To promote the protection, development and attainment of human rights and freedoms;

² To monitor, assess and ensure observance of human rights and freedoms;

³ To protect the public against abuse of power and maladministration by State and public and by officers of those institutions;

- 3.2. Follow-up on issues that were raised during the pre-election mission by the different stakeholders;
- 3.3. Discussions with the Zimbabwe Electoral Commission (ZEC) officials⁴; in order to track progress of their preparedness for the elections, any challenges encountered and recommendations for the future, as well as constantly exchanging notes and updates of issues noted.
- 3.4. Discussions with the Zimbabwe Police Services Officials⁵ (Police). These were held in order to get feedback on the prevailing public order in the constituency. ZHRC also sought to seek clarity and/or progress on reported cases that were being handled by the Police.
- 3.5. Interaction with political parties⁶ (candidates, their chief election agents or party representatives). These interactions were aimed at getting feedback on how the aspiring candidates were operating in the constituency, any challenges encountered, their assessment of the complaints mechanisms, as well as to get their recommendations on areas that need improvement in future processes-among other issues. Some of these interactions were telephonic⁷, as the members concerned were either at a faraway location or busy with last minute campaigns.
- 3.6. Interactions with officials from government departments⁸. These interactions aimed to verify some issues that were noted by ZHRC, as well as to get an appreciation on how these departments were involved in electoral processes, either directly or indirectly.

⁴ ZHRC managed to talk to the Chief Elections Officer, the Provincial Elections Officer, the Constituency Elections Officer, Accreditation Officials and Presiding Officers at different polling stations visited.

⁵ ZHRC interacted with the Lupane District Police Officer (Dispol) and the Mat North Provincial Police Officer (Propol) as well as police details manning the polling stations visited by ZHRC.

⁶ ZHRC had a physical interface with ZANU PF, MDC T, NCA,

⁷ Telephonic conversation were held with MDC A, LEAD, NFP, MRP and NAP.

⁸ ZHRC interacted with the following government officials:

⁻ The District Administrator as a courtesy notifying them of the ZHRC presence in the district as well as to seek clarity on some issues that would have been raised by other stakeholders- pertaining to her office, in as far as electoral processes are concerned.

⁻ The District Medical Officer (DMO)- in order to verify the media reports on issuance of medical supplies as a campaign tool.

The department of Social Welfare – in order to seek clarity on issues raised by other stakeholderspertaining their office in relation to elections.

- 3.7. ZHRC had interactions with the general public⁹ just to get their perceptions on the electoral processes, as well gathering their comments on areas of best practices and those that need improvement in the future.
- 3.8. Monitoring media reports related to the Lupane East By-election in print media, television and social media platforms.

4 Limitations

In carrying out the monitoring exercise, ZHRC encountered the following limitations;

- 4.1. <u>Limited human resources</u>- There was only one team comprising of five staff members who were responsible for covering the whole Constituency. This team was also using one vehicle. It was therefore impossible for this one team to cover every part of the Constituency, during the stated period.
- 4.2. <u>Inaccessibility of roads</u>- ZHRC encountered access challenges to some parts of the constituency¹⁰, due to the nature and state of the roads vis-à-vis the type of the vehicle¹¹ that ZHRC was using.
- 4.3. As stated earlier in part 3.5 of this report, ZHRC did not manage to have physical interactions with all contesting parties or their representatives. Some interviews were held telephonically, but all the same important notes were shared. ZHRC failed to get access to the representatives from ZAPU political party, during the reporting period.
- 4.4. <u>Limited post-election monitoring period</u>- The post elections period was very short, and thus the report does not cover much post the pronouncement of electoral results.
- 4.5. <u>Anonymity</u>- There were some witnesses that requested that their identity not be revealed and that they may not be quoted in the ZHRC public report. Thus, some of the information gathered from these witnesses was generalized to protect their identity.

⁹ This category of respondents comprised of people who were identified either individually or in groups, especially around public places such as shopping centers, schools and some along roads in the communities.

¹⁰ Examples of areas that ZHRC faced challenges to access, are that ZHRC struggled to connect between Somgolo and Mafa Primary schools in ward 28. In the same ward ZHRC completely failed to proceed to Mlonyeni primary school due to the sandy nature of the access points.

¹¹ A 4 x4 Toyota Hilux.

5 Findings.

5.1 General prevailing electoral environment

Section 155 (1) of the Constitution provides that elections must be held in a peaceful, free and fair manner, and that they should be free from violence and other electoral malpractices. Information gathered from different respondents during the reporting period highlighted that there was peace and calmness in the constituency. Reports from all the aspiring candidates engaged with, pointed to the fact that there was peace in the constituency. The Police, ZEC, office of the District Administrator as well as the general public also shared the same sentiments.

ZEC shared that during the last Multi-Party Liaison Meeting (MPLM), it recorded positives that included that there had been political maturity in the Constituency, with members of different political parties being able to have meetings in the vicinity of the other, but without any violence taking place¹². Political parties also created a WhatsApp group where they shared information, itinerary and programmes.

However, despite the visible calmness that was prevailing in the constituency, there were some isolated reports of non-physical violations that were stated to be taking place behind the scenes.

5.2 General preparedness for the election

ZHRC noted that there was great preparedness for the election from the different stakeholders, in respect of their various portfolios and mandates. By the 30th of July 2019, the Zimbabwe Republic Police (ZRP) training and deployment of its officials to the polling points was already underway. Also, discussions with the Police leadership in the constituency pointed to the fact that the Police were ready to provide security for the electoral processes as well as maintaining peace and order during the processes. No complaints were raised against the conduct of the Police by other stakeholders, or political parties as well as the public in general. The general feedback received was that, unlike

¹² It was reported that MDC A and ZANU PF held rallies at venues that were closer to each other on a same day, and that the parties were able to carry out their activities separately without interfering with the other. This was interpreted as a sign of political maturity amongst Zimbabweans and that it has to be emulated going forward, in similar processes.

in the past, during this particular By election, the Police were very professional in all their conduct¹³.



Figure 2 Police deployment at the Zwangendaba Command Center Trainings

By the 31st of July 2019, ZEC reported that it had finalized training of polling officials, the Police and political agents. ZHRC also witnessed the transportation of materials and personnel especially to the furthest points on this same day. ZHRC also witnessed that the pilot Voters Roll was displayed¹⁴ on polling stations 48 hours before polling.

During the pre-election monitoring exercise, ZHRC was advised by the District Development Fund (DDF) office, that it was working on opening and repairing access points (roads and bridges) especially to the hard to reach polling points in the constituency. DDF also highlighted that it was working on repairing some boreholes and in some places setting up water containers. Unfortunately, ZHRC did not manage to get feedback from the DDF on the progress of these issues. Nevertheless, through interaction with other stakeholders and community members, ZHRC was advised that some roads had been repaired, for example the one that connects Lupane business center and Gomoza community. As for boreholes, ZEC advised that most of them had dried up, and they resorted to putting up water storage containers at polling stations. ZHRC witnessed

¹³ This feedback was received from some (opposition) contesting candidates and some political parties campaign teams that ZHRC met in the constituency.

¹⁴ This was a pilot voters roll to enable registered voters to inspect and confirm whether their names appear in the voters roll at the correct polling station, before polling day. This was done to reduce number of misdirected voters on the polling day.

the bridge connecting St Lukes and the Zwangendaba Command Center being repaired. ZHRC was advised by personnel that they had been contracted by DDF to do the repairs. However, there were still some places which were difficult to access, especially when using non-4X4 vehicles.



Figure 3:A bridge connecting St Lukes and Zwangendaba Command Center being repaired.

ZHRC also interacted with political parties such as ZANU PF, MDC T, NCA, MRP, LEAD and MDC A which all indicated that they were ready for the election. However, the majority of the political parties indicated that they were limited in terms of resources to fully roll out their campaigns in preparation for the election. Chief amongst the limitations was stated to be fuel and vehicles to cover all parts of the constituency. From ZHRC's assessment and interaction with other stakeholders (which were not political parties), it was evident that some political parties were in worse situation in terms of resources than the others. For example, the campaign team of the NCA party were getting into the constituency using public transport, and they also indicated that they were only able to put up their posters along highways only. The only female candidate the Multi-Party Liaison

¹⁵ The female candidate also stated that due to lack of access to financial resources, most women end up shying away from participating in politics, stating that on its own is enough intimidation. Also she attributed the lack of participation of women in politics to Gender inequality within families and cultural attitudes about gender roles which further subjugate women and serve to limit their representation in public life. She stated that in as much as she had support from her family, the communities and the electorate would not take her seriously because she had nothing to offer (not even enough T-shirts).

meetings because she could not afford the transport fees. She further stated that her preparations for the elections had been very difficult because she was having challenges in getting airtime to make phone calls. She also lamented that even her party (at headquarters level) was not supporting her enough and that when she wanted to communicate with them, she had to go out of her way and use her own personal funds to get airtime. She also stated that she had no smartphone to be able to communicate with others on WhatsApp¹⁶, and that she was being left out on a lot of processes, as a lot of information was being shared on WhatsApp.



Figure 4 ZHRC team interacting with some of the contesting political parties the (i) NCA candidate (in the middle with an orange T shirt),(ii) MDC T candidate and (iii) ZANU PF Provincial and district leadership

5.3 Voter education and the pilot voters roll inspection

Section 239(h) of the Constitution as read with Section 40B of the Electoral Act gives ZEC the mandate to provide voter education to the electorate, and that this may also be done by any other person(s) ¹⁷. During the monitoring mission, the Provincial Elections Officer (PEO) and the District Elections Officer (DEO) stated that during the last MPLM they had received positive feedback to the effect that voter education had been very successful. Political parties and members of the community also confirmed that voter education had

¹⁶ It was stated that there was a WhatsApp group where all the contesting candidates were members, and/or their agents. Information on any challenges encountered in the constituency and meetings was shared on this WhatsApp group.

¹⁷ Sections.40B(1)(b) and 40C.

been conducted in the communities, and that it is during this exercise that the information on inspection of the voters roll two days before elections was disseminated. Of concern however, was the fact that the ward/communities are wide apart with most areas being covered by forest, with homesteads scattered apart from each other. This was stated to have had an effect on the voter educators to be able to reach out to all homesteads/community centers. Therefore, political parties stated that during their campaigns they also conducted voter education to ensure that information reached out to all. ZHRC also came across voter education posters being posted on walls and trees by the Zimbabwe Elections Support Network (ZESN). It was also reported that there had been very minimal participation of civil society organisations in complementing the voter education function of ZEC.

Understanding pilot exercise of inspecting the voter's roll, was limited to most stakeholders, especially the political parties. ZEC stated that the pilot programme aimed at ensuring that the voters know whether they would be voting or not as well as their polling stations on time to avoid cases of redirections/ and turned away on the polling day. ZANU PF alleged that some of people who voted in the previous elections (2018 harmonized elections), were not eligible to vote. ZHRC followed up with ZEC who indicated that this was due to some queries either with the Registrar General or that during the cleaning of the voters roll (at National Level), there would have been some anomalies that will need rectification, thereby limiting some not to vote during the by election.



Figure 5 The electorate inspecting the voters roll a day before the election at Jumbika polling station

Political parties however, especially the ZANU PF and the MDC T, stated that they were not very sure on what the process entailed. The bone of contention was that the displayed voters roll was different from the one that was to be used during polling (the displayed one had no pictures). Another question raised was that if the voter's roll excluded the names of some people who voted in the 2018 harmonized election, could it necessarily mean that the 2018 harmonized elections were not appropriately conducted and could be discredited?

5.4 Freedom of assembly and association (in relation to political activities)

Section 58 of the Constitution provides that citizens have the right to assemble and associate, in line with their choices, and that they may not be compelled to belong to an association or attend gatherings (which are contrary to their choices). ZHRC sought for feedback in relation to this right paying attention on citizens' ability to attend rallies freely, and also the same right being enjoyed by contesting parties especially in conducting their campaigns (without any interference).



Figure 6 A peaceful ZANU PF rally that was conducted at Kenmaur on the 1st of August.

ZHRC noted that to a larger extent, citizens were able to exercise this right. Aspiring candidates such as the ones for the National Constitutional Assembly (NCA), the ZANU PF and the MDC T, indicated that they had not encountered any challenges whilst carrying out their campaigns and meetings. Community members also indicated that they were able to attend political meetings of their choice (though some expressed fear of demonstrating their political affiliation publicly). The police also reported that they had not received any serious cases of violence or interference amongst political parties. The police indicated that they had handled minor cases, which did not meet the essential elements of infringement of freedom of assembly and association. ZEC also indicated that during their meetings with stakeholders, no serious issues of infringement of these rights had been noted.

5.5 Violence and Intimidation

Section 133A paragraph (c) to (e) of the Electoral Act, defines intimidation (among other things) as causing or threatening to cause unlawful damage to a person's property, or withholding or threatening to withhold from a person any assistance or benefit to which that person is legally entitled; or persuading or attempting to persuade another person that it will be possible to discover how one would have cast their vote; as well as illegally doing or threatening to do anything to the disadvantage of a person. Further, Section 155

(1)(d) of the Constitution provides that elections must be held free from violence and other electoral malpractices.

During the monitoring mission, ZHRC noted that in as much as there were no reported cases of physical violence, other forms of violations were however taking place in communities, for example through intimidation. ZHRC received reports that some people were forced to identify themselves with a certain political party, through accepting and wearing the party's regalia. It was reported that such instructions were issued by some traditional leaders. It was further stated that, for the fear of losing out on food aid, people had no other choice but to conform to instructions.

On the polling day, at Daluka polling station, ZHRC through interaction with the electorate to get their comments on the voting process, was informed by one village head that he had organized his community to come at once (as a group) to cast their vote in the morning, and that other village heads had organized in a similar fashion. When the voting process started, ZHRC witnessed the same village head getting in first to vote and he proceeded to sit outside with a notebook at a place convenient enough to see who was going in and out of the polling station. ZHRC however, did not ask for clarity from the village head as to why he was seated at that place and what he was writing down in his note book.

At Lutho polling Station, a similar scenario was noted when the ZHRC interacted with an elderly woman who was on her way to the polling station. The lady stated that some members of her village had already left for voting and that she was late. She was fearful that if other village members finish voting before she arrived, no one would understand why she followed later to vote. ZHRC came across these scenarios after it had been advised by some stakeholders that there were some village heads who were organizing their communities to go and vote as a group and that failure to do so would result in one being denied food aid post elections.

ZHRC also received a report that there had been a death of a village head in ward 11 which was politically motivated. It was reported that the deceased was a member of the ZANU PF party and that the alleged perpetrator was his young brother who was a known supporter of the MDC A. It was stated that the brothers had a dispute of headman ship

amongst themselves, above and beyond having different political affiliations. It was also stated that at a rice distribution meeting, the elder brother (now deceased) made some remarks to the effect that the younger brother did not qualify to benefit from the rice because he belonged to another political party. Informants stated that there was a confrontation during this meeting between these two brothers. A few days later, it was reported that the brothers had another dispute and a fight after partaking alcohol and issues of village headmanship and denying the other rice led to a vicious fight resulting in the elder brother losing his life. However, there seemed to be different versions of the incident. The matter was being handled by the police. ZHRC followed up on the matter with the District Police Officer (Dispol) who referred all questions on this particular matter to the Provincial Police Officer (Propol). The Propol stated that the official position was that the case was not political in nature, rather it was a family dispute of village headman ship. Nevertheless, from the analysis of the different accounts that ZHRC received on this particular case, there is a possibility that in as much as these brothers had their own family disputes, the issue of food distribution may have been the match that lit the fire in addition to the already existing differences between the brothers.

5.6 Partisan distribution of aid

Through media monitoring (social and print), there had been a number of reports on partisan aid distribution in the constituency linked to vote buying and intimidation. Prior to the election, the social media platforms were circulating a letter, purported to have been written by the Ministry of Health and Child Care responding to a request by the ZANU PF Secretary for Commissariat Cde Matemandanda, to be assisted with medical supplies (as a campaign tool for the by election). Again in the media and on the ground, ZHRC received reports of partisan distribution of aid in the Constituency.

In regards to the letter on medical supplies, ZHRC sought audience with the District Medical Officer(DMO) at St Luke's Hospital¹⁸. The DMO stated that he had come across the same letter, through social media platforms. He narrated that the hospital had not

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¹⁸ In the "purported letter", the medical supplies were supposed to be delivered to the St Luke's hospital, which is the largest medical center in the district.

received any instruction from the superiors linked to the communication in the "letter". He further stated that the hospital had not received any medical consignment which was purported to be used a campaign tool. Medical supplies that were at the hospital were stated to be as per their usual request for the day to day running of the station, nothing out of the ordinary had happened.

As for matters relating to partisan food aid distribution, ZHRC engaged with a number of stakeholders at provincial, district and ward levels¹⁹. It was alleged that the ZANU PF party working together with some government departments and/or officials, was using food aid to lure support, and in some instances threatening that food aid will be withdrawn if people do not vote for the party. On the 31st of July ZHRC received a report from some community members that there was a rice distribution programme (for ZANU PF), that was happening at Baker village in the Constituency. ZHRC indeed went to Baker and witnessed the programme taking place and most beneficiaries to this programme were wearing ZANU PF regalia. ZHRC sought for clarity on this programme from the ZANU PF provincial Headquarters, and was advised as follows; "This rice, we are giving it to our campaign teams on the ground. It is not easy for one to just leave their homesteads and get into the field/communities to mobilize for support. So as a party we are trying to just cushion them, and make them work well knowing that their families are provided for as our campaign teams are in the field". These remarks were made by the Party's Provincial Secretary for Administration.

Related to complaints on food aid distribution, ZHRC was also informed that on top of the ongoing grain (food aid) distribution that had been going on in the Province at large, there was rice that was added as well. It was stated that this rice was directed to be distributed to Lupane East. It was highlighted that this rice was deliberately sent through towards polling days. In terms of distribution of some of the food aid programmes, it was reported that the traditional leaders and councilors were leading the processes. One of the

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¹⁹ Some of these stakeholders who gave comments and information in this regards asked for their identities not to be mentioned in the report. Therefore, the narratives on this part will be generalized but trying as much as possible to capture the submissions made by these stakeholders.

stakeholders made the following remarks; "All things being equal, it is the Drought Relief Committees (at ward or village levels), that should lead these processes".

ZHRC however remains concerned about issues of food aid distribution around election times. These allegations have been raised even in other previous by-elections in other constituencies. In this regard ZHRC proposes that to curb abuse of aid, or its manipulation by individuals, or suspicions and mistrust between different stakeholders; any aid programmes need to be briefly suspended once an election date is proclaimed. The proposal is that the aid needs to be distributed in advance to cater for the suspension period, so that the beneficiaries remain cushioned. This will also enable a level playing field for all the aspiring candidates.

5.7 Involvement of Civil servants and traditional leaders in partisan politics

Sections 200²⁰ and 281(2)²¹ of the Constitution provides for the conduct of members of the civil service and Traditional Leaders respectively. During the monitoring mission, ZHRC received reports to the effect that some traditional leaders were influencing the political affiliation of their subjects. Also, some senior members of the civil service were stated to be acting in a partisan manner.

A number of references were made to the Assistant District Administrator (ADA), one Mr Jusa, that he was furthering the interest of the ZANU PF party in his conduct. Some government and non-government stakeholders alleged that he also had a position within the structures of the party. It was reported that at a candidate launch rally by the ZANU PF party in Gomoza, the ADA made some remarks in support of the candidate openly. As ZHRC was paying a visit to the ZANU PF Provincial office, ZHRC also witnessed Mr Jusa dressed in his party regalia and being referred to as "Chief Comrade Jusa", by some members of the party. During the same day ZANU PF held a rally in Kenmaur, and ZHRC witnessed ADA Mr. Jusa attending the rally in party regalia and occupying the high table.

²⁰ S. 200(3)(a-d) encourages members of the Civil Service not to act in a partisan manner, nor to further the interests of any political party or cause; nor to prejudice the lawful interests another political party, nor to violate the fundamental rights and freedoms of people. Subsection (4) states that civil service members must not be office-bearers of any political party.

²¹ S. 281(2) provides that traditional leaders must neither be members of any political party, nor participate in partisan politics, nor act in a partisan manner, nor further the interests of a political party and neither should they violate the human rights and freedoms of persons.

ZHRC appreciates the fact that every citizen in Zimbabwe (including members of the civil service) have their preferred political ideologies. However, ZHRC encourages that in their conduct and during their terms of office, these members should not act in a partisan manner. In the event that one wishes to pursue the political route, ZHRC encourages that they resign from the service.

5.8 ZEC staff welfare issues

The ZHRC received no complaints with regard to staff welfare. However, it was noted that in areas were water was inaccessible, ZEC had provided water through tanks. Polling officers were housed at schools where shelter was quite decent.

5.9 Counting Posting of results

Voting ended at 7pm and counting was done as prescribed by the law. ZEC published the overall results at the Constituency Command Centre, that is, Zwangendaba Primary School within the stipulated time frame prescribed by the law.

6. Conclusion

The ZHRC notes the efforts being undertaken by ZEC in conducting credible and fair elections including introduction of a polling station based pilot voter's roll inspection before election day. Most contesting parties were satisfied with ZEC preparedness to conduct the elections. However, concerns were raised on adequacy of voter education as potential voters and contesting parties felt it was given limited time. The ZHRC also noted the indulgence of civil servants in partisan politics. Participation of civil servants in partisan politics is unconstitutional and the Civil Service Commission need to act accordingly. Partisan distribution of resources was observed to be still rampant in by elections

6 Recommendations

6.1 Ministry of Public Service, Labour and Social Welfare

- 6.1.1. To investigate on the conduct of the Assistant D.A. for Lupane and act accordingly;
- 6.1.2. To ensure that members of the Civil Service refrain from acting in a partisan manner, to further the interests of a political party, to prejudice the lawful interests of any political party and to violate the fundamental rights and freedoms of any person;

- 6.1.3. To ensure that members of the Civil Service are not office bearers of any political party;
- 6.1.4. Food aid programmes need to be briefly suspended/ or assigned exclusively to designated Government Departments and state entities such as the Grain Marketing Board and Department of Social Welfare once an election date is proclaimed to avoid issues of political manipulation during distribution.

6.2 To the Zimbabwe Electoral Commission

- 6.2.1. ZEC should strengthen its voter education programmes to inform the public and relevant stakeholders explaining any programmes being undertaken during any polling period.
- 6.2.2. To ensure that critical development during electoral processes are communicated well on time to all contesting parties and the general public to avoid suspicions and maintain public confidence

6.3 To Political Parties

- 6.3.1. Political Parties should refrain from issuing threats and intimidating potential voters
- 6.3.2. Political parties should endeavor to create structures and policies that are more responsive to enhance the participation of women as candidates.

6.4. To The Chiefs' Council of Zimbabwe

- 6.4.1. To ensure that Traditional leaders refrain from participating in partisan politics as provided for in Section 281(2) of the Constitution e.g. being actively involved in mobilisation of communities for ZANU PF meetings and rallies that are often disguised as monthly village heads meetings.
- 6.4.2. To ensure that traditional leaders refrain from force marching villagers for group voting.

6.5. Parliament of Zimbabwe

6.5.1. To review political funding of political parties in the country as the current Political

Parties Finance Act [2:11] Act disadvantages emerging smaller parties.