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# Zimbabwe Election Support Network



## Post Election Update No. 2

### VOTE RECOUNT IN 23 CONSTITUENCIES

#### INTRODUCTION

The Zimbabwe Election Support Network is an election observation network of local non-governmental organisations whose mission is to enhance a democratic, transparent, free and fair electoral process and environment by coordinating election related activities through member organisations.

In the aftermath of the March 2008 Harmonised Elections, the Zimbabwe Election Commission (ZEC) ordered election recounts in 23 constituencies.

ZEC issued a notice (GN 58A/2008 dated Saturday 12th April) to the effect that it would be recounting votes in respect of 23 constituencies. The notice stated that in terms of section 67A of the Electoral Act that the Commission [ZEC] was of the opinion that reasonable grounds exist for believing that a miscount of votes occurred that would have affected the result of the elections concerned, has ordered that a recount in respect of the Presidential, House of Assembly, Senatorial and local authority elections be undertaken at the constituency centres.

The need for these recounts was attributed to inconsistencies noted between the V11 and V23 forms submitted by election officials to the ZEC national command centre.

The opposition political party, the Movement for Democratic Change (MDC) filed an application with the High Court of Zimbabwe seeking the stoppage of the recounts. This application was however dismissed on the 18<sup>th</sup> of April 2008, a day before the recounts were set to begin. The vote recounts therefore went ahead on Saturday 19<sup>th</sup> April 2008 as scheduled. Candidates, their election agents and accredited observers were invited to be present.

#### THE LAW

The Electoral Laws Amendment Act, 2008 amended Part XIII of the Electoral Act "Preparation for and Voting at poll by inserting a new section 67A which gives candidates and political parties the right to a recount of votes if they can satisfy the Commission that there are reasonable grounds to believe that there was a miscount that affected the result. Even in the absence of a request from candidates and parties, the Commission will have power to order a recount if it considers the votes were miscounted.

The Act provides that "Within forty-eight hours after a constituency elections officer has declared a candidate to be duly elected in terms of section 66(1), any political party or candidate that contested the election in the ward or constituency concerned may request the

Commission to conduct a recount of votes in one or more of the polling stations in the constituency." [Section 67A(1)]

Subsection (2) further provides that a request made by political party or candidate must be in writing, signed by an appropriate representative of the political party or candidate making the request; and must state specifically the number of votes believed to have been miscounted and, if possible, how the miscount may have occurred; as well as how the results of the election have been affected by the alleged miscount.

The Commission may on its own initiative order a recount of votes in any polling stations if it considers there are reasonable grounds for believing that the votes were miscounted and that, if they were, the miscount would have affected the result of the election. [Section 67A(4)]

Further, accredited observers and representatives of candidates and political parties that contested the election shall be entitled to be present at any recount ordered in terms of this section.

## **ISSUES**

Going into the recount, some of the issues of concern were identified by various stakeholders including political parties, civic organisations and the public at large. These included:

- **Grounds for recount**

Information pertaining to the ground upon which the vote recount was ordered has been sketchy as well as conflicting.

On one hand ZANU PF has claimed that its candidates requested the recount citing various irregularities. The question that is then asked is whether these complaints were lodged within the confines of the section 67A of the Electoral Act. In terms of section 67 A (1) and (2) of the Electoral Act, the procedure for recounting of votes on the written request of a candidate for a constituency is that such recount must be done within 48 hours of the declaration of a candidate to be duly elected. ZEC has claimed that such requests were received within the stipulated time period. However no documentary evidence has been provided despite requests for this. Without such evidence, the recounting of votes for Senatorial, House of Assembly and Local Authority seats would be unlawful.

However, in GN 58A/2008, it is apparent that the recount was ordered by ZEC by virtue of its powers in terms of section 67A (4). Even in the event that ZEC argues that it has itself ordered the recounts, the need for certainty and finality of the electoral process would require that this, too, be done within 48 hours of the declarations made to duly elect candidates. Hence by ordering the recount so late after the election, in essence ZEC was out of time.

In respect of the presidential recount, the common view was that as there are no provisions for a presidential recount in the Electoral Act, if ZEC were to follow the practice used for recounts of parliamentary constituencies, a recount could only be ordered after the announcement of the results. Candidates would then have 48 hours within which to request for a recount on the grounds indicated in the Act.

- **Storage and Security of electoral material**

Concern was raised particularly about the storage and security of ballot boxes and electoral material since Election Day. Section 70 of the Electoral Act states that once votes have been counted at polling stations, ballot papers and related documents are placed in sealed packets and delivered to the constituency elections officer. The constituency elections officer stores these in places designated by the Chief Elections Officer. It was therefore important to note the state of the election material when it was opened and whether any allegations of tampering were made.

- **Declaration of Results**

In GN 58A/2008, ZEC stated that after the recount the constituency elections officers would declare the new winners as the case may be. It was therefore apparent that ZEC envisaged that if a different candidate emerged the winner due to any recount, this candidate would be declared duly elected, effectively ousting any winner previously declared.

Nothing in section 67A of the Electoral Act expressly provides for changing the previously declared result of an election in the event that a recount produces a different result from the original count. One interpretation is that this means that only the Electoral Court has jurisdiction to reverse a previously declared winner on the strength of a recount.

The MDC filed an urgent application in the High Court to prevent the declaration of new winners after the recount. This was on the basis that the existing declarations are final in terms of section 66 (4) of the Electoral Act, which states that the declaration of the constituency elections officer shall be final, subject only to a reversal on petition to the Electoral Court. The court however ruled that the matter was not urgent.

## **METHODOLOGY**

ZESN deployed 4 observers, supported by members of the secretariat, to each the 23 constituencies. ZESN also set up a small Communication Centre to coordinate the logistics of the activity, offer support and collate information as it was being gathered on the ground.

The teams of 4 also included accredited ZESN long-term observers based in the constituencies and therefore conversant with the political environment within the constituencies since they have been on the ground since November 2007.

## **ZESN OBSERVERS' TERMS OF REFERENCE**

The mandate of ZESN observers during the recount was as follows:

- Gathering information on the manner in which procedures were followed by ZEC in accordance to the Electoral Law.
- Observing the environment in and outside the counting centres
- Collection of individual polling station results and their tabulation.
- Noting irregularities during the recounts.
- Comparing trends on the basis of previously announced results.

## **OBSERVATION FINDINGS**

### **1. Procedures**

ZEC announced at the counting centres that recounts would be conducted for all polling stations in the affected constituencies and on all the elections, presidential, house of assembly, senate and local government. There was also an announcement to the effect that results of the recounts would be announced at the centres for the local government and house of assembly while those of the presidential and senate elections would only be posted outside and not declared.

The various counting centres used different approaches to the recounts with the most going from one polling station to another recounting all election results while others did one election after the other, from one polling station to another.

At most centres, counting was initially slow, as one team was used to recount all the polling stations. However, in most places this was changed and more teams were allocated to simultaneously work on different polling stations.

The procedure for the recount began with the identification and inspection of ballot boxes and electoral residue (counterfoils etc) for a polling station. This was then followed by verification of numbers of ballot papers and number of voters recorded at the polling station before actually counting the ballots.

ZESN observers reported that the election officials did follow the procedures for the re-count at all centres.

### **2. Access to Process**

Observers were allowed access to the process in accordance with the law. ZESN did not receive any reports of anyone trying to prevent observers from observing the re-count.

Other observers groups present at the recount centres included, SADC, Zimbabwe Lawyers For Human Rights; Law Society of Zimbabwe, Zimbabwe Human Right Association, National Constitutional Assembly, Gweru Residents association, ZCFA, Regional Faith Based, Zimbabwe Catholic Bishops Conference, Zimbabwe Council of Churches etc.

Furthermore polling agents from the contesting political parties, particularly ZANU PF and MDC (Tsvangirai) were present during recounting. There were also no reports of anyone attempting to disrupt counting.

### **3. Environment**

ZESN observers reported that generally the atmosphere at the recounting centre began as a tense one with a lot of disagreements particularly arising from the state of ballot boxes.

While there were no reports of violence inside, outside or near the centres during counting, it was noted that the conduct of some candidates present was calculated to intimidate ZEC officials, observers and other party agents.

The role of the police was also a cause for concern. A heavy unnerving presence of police was observed at most centres. One example is Marange (Mutare West), where there were close to one hundred and fifty police officers present. Such numbers are excessive even taking into account that all police officers present at affected polling stations were required to be present for the recount. In the counting centres, the participation of police officials in interrogating presiding officers on the state of affairs at polling stations on 29 March was also noted.

There were also reports of the presence of members of the Central Intelligence Organisation (CIO) at the recounting centres.

#### **4. Electoral material**

Observers noted that some ballot boxes were open or had some seals and padlocks missing, for example in Mutare West, Zvimba North, and Gutu Central.

In Zvimba North, some protocol registers, where voters with voting slips were recorded together with turned away voters, as well as V11 forms were missing.

The storage of electoral residue such as counterfoils, registers and other material generally left a lot to be desired. At some centres the cardboard boxes in which these were stored were torn and material was strewn all over the place.

It was also noted that ZEC officials refused to disclose the whereabouts and chain of custody of the ballot boxes since the Election Day.

#### **5. Conduct of ZEC officials**

ZESN observers also noted that election officials made every effort to be impartial and non-partisan.

It was also noted that in some places such as Chiredzi North, Mutare West and Masvingo Central, the absence of some polling station officials created problems, where explanations were needed for events, which occurred on Election Day.

In Gutu, where 3 recounts were scheduled, 3 arrests of polling officials were noted on the grounds of failure to fully explain the inconsistencies in their tallies at polling station level. Three polling officials were also arrested in Bikita West, from Domboshava, Bikita Clinic and Chikukutu polling stations.

#### **6. Results**

Despite the inconsistencies noted, at most centres, the candidates and polling agents present agreed with the final vote count. It was noted that the recount only slightly changed the original vote count recorded.

The majority of inconsistencies were attributable to human error. Further, the declaration of ballots previously deemed to be spoilt as valid led to some change in the totals. No changes were made to the overall winners of the various seats in question.

However, in Chiredzi North, ZESN noted with concern that at Ruware polling station, up to 163 votes could not be accounted for. Other stations in the constituency such as Ndari, Mutapurwa and Chikwirire also recorded a total of 21 unaccounted votes.

## RECOMMENDATIONS

ZESN commends the level of understanding and the peace that has prevailed at recount centres during the process and acknowledges that such levels of tolerance, though at times punctuated by verbal confrontations, which is natural whenever competition occurs, is clearest indicator of the capacity of Zimbabweans across the political divide to uphold and respect principles of democracy.

ZESN also acknowledges that while numerous inconsistencies have been exposed throughout the 23 constituencies, the majority of such inconsistencies are largely a result of human error and in some instances, gross negligence of duty. It is clear that ZEC made an attempt to meticulously carry out this process. However, the following issues cast aspersions on the integrity, independence and professionalism,

1. Clear information on the chain of custody of ballot boxes after March 29<sup>th</sup> 2008 would explain the missing seals and locks and damaged boxes observed during the recount.
2. ZEC should explain the closure of its National Command Centre (from 6 April to 1 May 2008) before the announcement of Presidential Results.
3. ZEC was supposed to avail information on what grounds the recounts were ordered. Evidence that political actors lodged complaints on inconsistencies in the noted 23 constituencies since some candidates have claimed to be the complainants was not shown.
4. Details on the printing of ballot papers should be given to stakeholders before an election to buttress the transparency of the whole election process. This would go a long way in easing concerns surrounding possible manipulation in the event of a recount.
5. Lack of clear communication on the causes of delays in announcing the Presidential results a month after the casting of the ballot.

In conclusion, these remain issues needing adequate clarification in order to instil confidence in the manner in which ZEC managed the process. Find below some of the results that ZESN observers managed to capture. Please note that the results recorded were posted outside polling stations.



## RECOUNT RESULTS VERSUS THE ZEC PREVIOUS RESULTS

### MANICALAND PROVINCE

<i>Constituency</i>	<i>Candidate</i>	<i>Party</i>	<i>ZEC Results</i>	<i>Recount Results</i>	<i>Difference +/-</i>
Buhera South	Chinotimba Joseph	ZANU PF	7613	7625	+12
	Nemadziva Naison	MDC Tsvangirai	8833	8925	+125
		<b>% Poll</b>	<b>56,38</b>		
Chimanimani West	Mugabe RG	ZANU PF		6915	
	Tsvangirai M	MDC Tsvangirai		9116	
	Makoni S H	Independent		311	
	Karenyi Lynette	MDC Tsvangirai	8558		
	Munacho Thomas Alvar Mutezo	ZANU PF	7108	Not submitted	
		<b>% Poll</b>	<b>55.97</b>		
Mutare West	Mugabe RG	ZANU PF			
	Tsvangirai M	MDC Tsvangirai		Not submitted	
	Makoni S H	Independent			
	Chikukurudzi Ruth	Independent	536	555	+19
	Mudiwa Shuah	MDC Tsvangirai	7597	7638	+41
	Mushowe Christopher Chindoti	ZANU PF	7577	7587	+10
		<b>% Poll</b>	<b>49.26</b>		
	Makoni S	Independent		337	
	Tsvangirai M	MDC Tsvangirai	7759	7692	-67
	Mugabe R G	ZANU PF	7619	7718	+99

MASHONALAND EAST PROVINCE

<i>Constituency</i>	<i>Candidate</i>	<i>Party</i>	<i>ZEC Results</i>	<i>Recount Results</i>	<i>Difference +/-</i>
Goromonzi West	Nyamupinga Biata Beatrice	ZANU PF	6193	6194	+1
	Makone Ian Muteto	MDC Tsvangirai	5931	5931	0
		<b>% Poll</b>	<b>42.17</b>		
	Mugabe RG	ZANU PF		5658	
	Tsvangirai M	MDC Tsvangirai		6829	
	Makoni S	Independent		455	
	Towungana L	Independent		9	

MASHONALAND WEST PROVINCE

<i>Constituency</i>	<i>Candidate</i>	<i>Party</i>	<i>ZEC Total Votes Cast</i>	<i>Recount Results</i>	<i>Difference +/-</i>
Zvimba North	Mudimu Ernest	MDC Tsvangirai	1711	1714	+3
	Ignatius Chombo	ZANU PF	6784	6933	+155
	Magama Shelton	MDC	944	916	-28
		<b>% Poll</b>	<b>35.60</b>		
	Tsvangirai M	MDC Tsvangirai	2309	2309	0
	Mugabe RG	ZANU PF.	6987	6990	+3
	Makoni S	MDC	362	364	+2
	Towungana	Independent	25	26	+1

MASVINGO PROVINCE

<i>Constituency</i>	<i>Candidate</i>	<i>Party</i>	<i>ZEC Total Votes Cast</i>	<i>Recount Results</i>	<i>Difference +/-</i>
Bikita South	Gumbere Luka	Independent	299	299	0
	Makonya Wilson	ZANU PF	5284	5300	+16
	Varandeni Jani	MDC Tsvangirai	6916	6915	+1
		<b>% Poll</b>	<b>42.18%</b>		
	Makoni S	Independent			
	Mugabe RG	ZANU PF		5050	
	Tsvangirai M	MDC Tsvangirai		7059	
Bikita West	Musakwa Elia	ZANU PF	7029	7042	+13
	Shoko Heya	MDC Tsvangirai	7048	7050	+2
		<b>% Poll</b>	<b>46.52%</b>		
	Mugabe RG	ZANU PF		6137	
	Tsvangirai M	MDC Tsvangirai		7504	
Chiredzi North	Tafamba Onilia	PAFA	336	342	+6
	Ndava Ronald	ZANU PF	18413	18426	+13
	Mutambu John	MDC Tsvangirai	2679	2691	+12
		<b>% Poll</b>	<b>58.03</b>		
	Mugabe RG	ZANU PF		18489	
	Tsvangirai M	MDC Tsvangirai		2711	
	Makoni S H	Independent		537	
	Towungana L	Independent		75	
Gutu Central	Matuke Lovemore	ZANU PF	4767	4771	+4
	Chirume Oliver	MDC Tsvangirai	6398	6407	+9
		<b>% Poll</b>	<b>45.30</b>		

	Mugabe RG	ZANU PF		4059	
	Tsvangirai M	MDC Tsvangirai		6608	
	Makoni S	Independent		356	
Gutu North	Machinya Frank	ZANU PF	4343	4362	+19
	Maramwidze Edmore Hamandishe	MDC Tsvangirai	5045	5038	-7
		<b>% Poll</b>	<b>43.64%</b>		
	Mugabe RG	ZANU PF		3943	
	Tsvangirai M	MDC Tsvangirai		5120	
	Makoni S	Independent		294	
Gutu South	Mahofa Shuvai Ben	ZANU PF	3559	3548	-11
	Muchovo Benaya	MDC	1570	1717	+147
	Mukonoweshuro Eliphas	MDC Tsvangirai	5757	5616	+141
	Marandure Jacob	Independent	334	337	+3
		<b>% Poll</b>	<b>43.33</b>		
	Mugabe RG	ZANU PF		<b>Not displayed</b>	
	Makoni S	MDC			
	Tsvangirai M	MDC Tsvangirai			
	Magogo Andrew	Independent	327	334	+7
	Mhere Edmond	ZANU PF	4790	4791	+1
Masvingo Central	Mukwazhe Munodei Kisinoti	ZDP	289	293	+4
	Chitando Jeffereson	MDC Tsvangirai	4905	4908	+3
	Mutume Mike	UPP	250	252	+2
		<b>% Poll</b>	<b>41.72</b>		
	Makoni S	Independent			
	Mugabe RG	ZANU PF	4309	4320	+11
	Tsvangirai M	MDC Tsvangirai	5685	5686	+1
Masvingo West	Mbudzi Kudzai Sevias	Independent	917	917	0
	Mbetu Jabulani	ZANU PF	4122	4122	0

	Maradza Tachiona	MDC Tsvangirai	4513	4513	0
	Shava Jephias	UPP	136		
		<b>% Poll</b>	<b>43.66</b>		
	Makoni S	Independent			
	Mugabe RG	ZANU PF		<b>Not displayed</b>	
	Tsvangirai M	MDC Tsvangirai			
Zaka West	Chekero Moses	PAFA	347	346	-1
	Muzenda Wellington	Independent	307	316	+9
	Makonese Faith Ruvimbo	ZANU PF	4030	4037	+7
	Dumbu Festus	MDC Tsvangirai	4734	4729	-5
		<b>% Poll</b>	<b>42.97</b>		
		PAFA			
	Makoni S	Independent		265	
	Mugabe RG	ZANU PF		3931	
	Tsvangirai M	MDC Tsvangirai		5047	

MIDLANDS PROVINCE

<i>Constituency</i>	<i>Candidate</i>	<i>Party</i>	<i>ZEC Total Votes Cast</i>	<i>Recount Results</i>	<i>Difference +/-</i>
Gokwe-Kabuyuni	Chikomba Leonard	ZANU PF	7156	7219	+63
	Muguti Costin	MDC Tsvangirai	7234	7605	+371
		<b>% Poll</b>	<b>49.86</b>		
	Mugabe RG	ZANU PF		7018	
	Tsvangirai M	MDC Tsvangirai		7475	
	Makoni S	Independent		320	
	Towungana L	Independent		101	
Zhombe	Ncube Daniel Mackenzie	ZANU PF	5122	5123	+1
	Nyathi John Edson	MDC	2289		
	Tazviona Rodger	MDC Tsvangirai	5445	5446	+1
		<b>% Poll</b>	<b>40.55</b>		
	Mugabe R	ZANU PF		4940	
	Makoni S	Independent		1185	
	Tsvangirai M	MDC Tsvangirai		6699	
Silobela	Chidhakwa Givemore	Independent	527	531	+4
	Ndebele Thomas Themba	Independent	935	930	-5
	Sibanda Charles	MDC	679	677	-2
	Sibanda Godwin	MDC	642	618	-24
	Sululu Anadi	MDC Tsvangirai	4624	4653	+29
	Tapfuma Douglas	ZANU PF	4137	4322	+185
		<b>% Poll</b>	<b>40%</b>		
	Makoni S	Independent		1316	
	Tsvangirai M	MDC Tsvangirai		6104	
	Mugabe RG	ZANU PF		4372	
Mberengwa East	Hlongwane Makhosini	ZANU PF	7292	8924	+1632

	Shumba Tandiwe	MDC	616	999	+383
	Shumba Tariro	MDC Tsvangirai	1251	1478	+227
		<b>% Poll</b>	<b>42.04%</b>		
	Mugabe RG	ZANU PF		8630	
	Makoni S	Independent		1005	
	Tsvangirai M	MDC Tsvangirai		1921	
Mberengwa West	Gumbo Joram Macdonald	ZANU PF	5508	5596	+88
	Dube Gwatipedza	MDC Tsvangirai	2912	2239	-673
	Silape Calvin Trust	Independent	315	622	+307
		<b>Poll%</b>	<b>39.27%</b>		
	Mugabe RG	ZANU PF		5355	
	Tsvangirai M	MDC Tsvangirai		2547	
	Makoni S	Independent		508	
	Towungana L	Independent		117	
Mberengwa North	Mangena Jabulani	ZANU PF	9722	No submitted	
	Hove Mfandaizda	MDC Tsvangirai	2352		
		<b>% Poll</b>	<b>46.85</b>		
	Mugabe RG	ZANU PF			
	Tsvangirai M	MDC Tsvangirai		Not submitted	
	Makoni S. H.	Independent			
Mberengwa South	Hove Mugeza	MDC Tsvangirai	1309	1308	-1
	Mlilo Sam	MDC	885	665	-220
	Shirichena Ellina	ZANU PF	8291	8291	0
		<b>% Poll</b>	<b>37.36%</b>		
	Tsvangirai M	MDC Tsvangirai		1921	
	Makoni S	MDC		1005	
	Mugabe RG	ZANU PF		8630	

**MATEBELELAND**

<i>Constituency</i>	<i>Candidate</i>	<i>Party</i>	<i>ZEC Total Votes Cast</i>	<i>Recount Results</i>	<i>Difference +/-</i>
Lupane East	Ndlovu Girls	ZANU PF	3368	3364	-4
	Mguni Njabuliso	MDC	5424	5421	-3
	Mhlanga Kenneth K.	MDC Tsvangirai	1352	1360	+4
		<b>% Poll</b>			
	Mugabe RG	ZANU PF		3146	
	Makoni S	Independent		4456	
	Tsvangirai M	MDC Tsvangirai		2428	
	Towungana L	Independent		161	
Bulilima East	Ndlovu Mathius	ZANU PF	3104	3086	-18
	Mpofu Norman	MDC	3180	3180	0
	Ndlovu Themba	MDC Tsvangirai	2181	2207	+28
		<b>% Poll</b>			
	Tsvangirai M	MDC Tsvangirai		2886	
	Makoni S	Independent		2783	
	Mugabe R G	ZANU PF		2739	
	Towungana L.	Independent		124	

**PROMOTING DEMOCRATIC ELECTIONS IN ZIMBABWE**

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