

ZIMBABWE HUMAN RIGHTS NGO FORUM

Of Stuffed Ballots and Empty Stomachs

Reviewing Zimbabwe's 2005 Parliamentary Election and Post- Election Period

A report by the Zimbabwe Human Rights Non-
Governmental Organisations Forum

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The Zimbabwe Human Rights NGO Forum (also known as the “Human Rights Forum”) is a coalition comprising 17 member organisations. It has been in existence since January 1998 when non-governmental organisations working in the field of human rights came together to provide legal and psycho-social assistance to the victims of the Food Riots of January 1998.

The Human Rights Forum has now expanded its objectives to assist victims of organised violence, using the following definition:

“organised violence” means the interhuman infliction of significant avoidable pain and suffering by an organised group according to a declared or implied strategy and/or system of ideas and attitudes. It comprises any violent action which is unacceptable by general human standards, and relates to the victims’ mental and physical well being.

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Zimbabwe Women Lawyers Association (ZWLA)

The Human Rights Forum can be contacted through any member organisation or the following personnel:

The Executive Director, P.O Box 9077,
Harare – email: admin@hrforum.co.zw

The Research Unit, P.O Box 9077,
Harare – email: research@hrforum.co.zw
Telephone: 263 – 4- 250511/ 772860
Fax: 263 –4 250494

The International Liaison Office, Development House, 56 –64 Leonard Street London EC2A
4JX Email: IntlO@hrforumzim.com

Telephone: +44 (0) 20 –7065 0945

Website: www.hrforumzim.com

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Executive Summary

That Zimbabwe's ruling party, ZANU-PF was able to win the March 2005 Parliamentary Election, despite the massive economic decline under its governance, seems to defy logic and invites an investigation as to whether the election was fair, whether people were able to cast their vote freely over the voting period, and whether the announced results accurately reflected the vote. The first issue of "fairness" was largely canvassed in the Human Rights NGO Forum's report on the pre-election period, which found that the pre-election conditions were not conducive to a free and fair election. In examining the other issues, it is necessary to look at the electoral process and to analyze the polling figures for any indication of rigging. A common thread that runs through all the various pieces of legislation that establish and regulate the electoral process in Zimbabwe, is that those responsible for its implementation and supervision are almost all either selected by government or subject to government interference and influence. In the 2005 election this was manifested by the presence in the electoral process of military personnel, or personnel with a military background, with, in addition, a significant influence being exerted by a partisan police force. The result was that in many instances procedures were flouted entirely and with impunity. When procedures were followed, they were often implemented in a partisan or anomalous manner. This led to opportunities for rigging the vote and a suspicious electorate. However, an analysis of voting figures by polling station suggests that if there was any stuffing of ballot boxes, it was not significant enough to affect the result. More people turned out to vote for ZANU-PF than the MDC. The reason for this is to be found in the pre-electoral conditions. In drought prone Zimbabwe, the threat to withhold famine relief is a powerful weapon. Rather than employing the macro and endemic intimidation that characterized the previous two elections, ZANU-PF intimidated at the micro level. Having increased the power of traditional leaders by giving them influence in the distribution of food and land and having secured their sympathies through largesse, these leaders were deployed to ensure that villagers voted and voted favourably. The voter turn out in the rural areas was significantly higher than in urban areas. This strategy was combined with a relentless campaign to portray the opposition and its supporters as responsible for Zimbabwe's economic decline and as enemies of the State. The opposition had little opportunity to counteract this. Following the election period, the threats made prior to the election were implemented. Food aid was withheld. People suspected of voting for the opposition were assaulted and driven from their villages.

INTRODUCTION

In March, 2005 the Zimbabwe Human Rights NGO Forum published a report reviewing the pre-election period in Zimbabwe. That report outlined the conditions prior to the March 31st 2005 election and how those conditions rendered a truly democratic election impossible. It is not intended in this report to repeat the observations made there, except where it is necessary to do so for the sake of clarity. However, that report should be read in conjunction with this one, as many of the facts presented there will be of relevance. This report will consider the actual period of voting and the first one hundred days thereafter.

ZANU(PF)'s stated aim was to command a two-thirds majority in the House,¹ and to do so through an election that would have regional, if not international, legitimacy. While the ruling ZANU(PF) party had retained power following the 2000 Parliamentary Elections and 2002 Presidential Elections, the endemic and systemic violence that accompanied those elections undermined any claim to legitimacy. The result was extensive international isolation and difficulties for regional leaders, caught between their support for Zimbabwe's President Robert Mugabe and international condemnation. Democratic legitimacy following the 2005 elections was thus not only a key objective of Mugabe's regime, it was a regional strategy. It is probable that this is why the *SADC Principles and Guidelines for Democratic Elections*, agreed upon at a summit in Mauritius in August 2004, were drawn up as and when they were. If Mugabe gave a passing nod to these principles, the SADC community would have a basis upon which to grant the elections a clean bill of health. Mugabe facilitated this stratagem by repealing and replacing the Electoral Act.² Several provisions of the new Act provided paid lip service to democratic principles and these provisions were eagerly seized upon by regional leaders.³ Yet, as will be seen below, a more sincere analysis of its provisions reveals it to be less than benign. ZANU(PF) achieved its second objective, an effective two-third majority, with an 8-seat margin.⁴ Such a comprehensive victory seems to defy logic, given that the elections were conducted at a time of deep economic malaise and concomitant severe privation for large sections of the electorate. Having said this, it should be noted that the large majority in Parliament does not stem entirely from the election. Of the 120 contested seats ZANU(PF) won

1 The majority required to amend the Constitution.

2 Chapter 2:01 was replaced by Chapter 2:13.

3 See for example section 3 of the Act "General Principles of Democratic Elections" which borrows from the Guidelines.

4 ZANU(PF) does not have a two-thirds majority of elected seats. However, since the Presidential appointees (see immediately below in the text) can be relied upon to vote for ZANU(PF), a two-thirds majority is virtually guaranteed for ZANU(PF).

78 seats, the opposition 41 seats, and one of the 17 independent candidates, one seat.⁵ The comfortable margin obtained by ZANU(PF) arises from Mugabe's power to directly and indirectly appoint another 30 members to the 150-seat House. Nonetheless the number of contested seats won by ZANU(PF) is far greater than its record and the results of its governance would suggest should be the case. As a consequence, the moment the results were announced, the opposition declared that the election had been neither free nor fair and that the results had been rigged. The opposition immediately seized upon the fact that the final tally of ZANU(PF) and MDC votes in many⁶ constituencies was far larger than the number of people that the Zimbabwe Electoral Commission (ZEC) had indicated had voted in those constituencies. The inflated figures seemed to indicate stuffed ballots. ZEC's subsequent explanations for this discrepancy were unconvincing. It should have been a simple matter for ZEC to dispel suspicion. It had merely to publish the returns for each polling station in the disputed constituencies, and indeed it was called upon to do so. This it has steadfastly refused to do, even in the face of a Court Application to compel it to release this information. Similarly, the MDC should have been able to prove its allegations in the same way, using the returns of its election agents. It has failed to do so and has sought to rely on ZEC's own figures.

This report analyses the allegations of rigging in relation to the voting process and whether the process was free and fair. Three issues are of concern: whether the process was fair, whether people were able to cast their vote freely over the voting period, and whether the announced results accurately reflected the vote.

A. WHETHER THE PROCESS WAS FAIR

The militarisation of key public institutions in Zimbabwe has been noted elsewhere.⁷ As President, Robert Mugabe has the power to appoint persons to numerous commissions and to head various public bodies. Over the last 7 years he has chosen to appoint former army and security personnel to these positions. This is what has happened in respect of the bodies overseeing the electoral process.

5 If the system were one of proportional representation rather than "first past the post system" the MDC would have gained 48 seats.

6 See Table C at the end of this document.

7 See Kubatana archive "Mugabe Steps Up Militarisation of State Institutions" - *Zim-Online* – 9 May 2005.

Electoral Authorities

Democratic elections require that an independent body supervise the voting process. Contrary to this requirement, ZANU(PF) has ensured that it retains control over the process from start to finish. There are three different bodies overseeing the voting process, often empowered to perform overlapping tasks.

1. The Delimitation Committee

The gerrymandering of constituencies was noted in the earlier report.⁸ However, a few points need to be re-stated here. Justice George Chiweshe headed the Delimitation Commission. Chiweshe, who joined the bench in 2001 following the purge of “reactionary judges”⁹, is a former judge advocate responsible for military tribunals in the Zimbabwe National Army (ZNA) and a veteran of the liberation struggle. One of the other two Commissioners was Job Whabira, a former permanent secretary in the Ministry of Defence. In 1998 he refused to obey High Court rulings to release *Standard* newspaper journalists who had been arrested illegally and tortured by the military for writing a story about an alleged coup attempt. In delimiting the constituencies, these commissioners carved up the opposition stronghold of Kuwadzana. The Commission then redrew the urban constituency of Harare South so that it extended to encompass persons who had been settled by the Government on adjacent rural land. The same situation pertained to Manyame Constituency that diluted MDC votes by extending the Constituency out of the urban areas to include the rural settlement of Whitecliff, established by the Government to house ZANU(PF) supporting war veterans. The MDC was nonetheless expected to win in these constituencies as they contained predominantly urban voters.¹⁰ In fact they lost both.

2. The Electoral Supervisory Commission (ESC)

In terms of the Constitution, the Electoral Supervisory Commission is responsible for the conduct of the elections.¹¹ Although formally this Commission is not subject to the direction or control of any person,¹² the President has clear control over its composition.¹³ Unsurprisingly, this Commission is composed of exclusively ZANU(PF) supporters.¹⁴ The ESC has the power to do the following:

8 See p 1.

9 See generally on this Karla Saller *The Judicial Institution in Zimbabwe* UCT/Silber Ink 2004.

10 It is generally recognised that urban voters form the core of the MDC support base.

11 Section 61(1).

12 Section 61(6).

13 Section 61(1) The President appoints the Chairperson, and two other persons after “consultation with” the Speaker of the House, and two other persons after “consultation with” the Judicial Services Commission, a body which itself is dominated by Presidential appointees - Section 90(1) of the Constitution.

14 Mr. Theophilus Gambe, (Chair) Joyce Kazembe, Erica Ndewere-Mususa, and Mr. Tendayi Mberi.

- to supervise the registration of voters and conduct of elections;
- to appoint monitors;
- to establish and chair an Observers' Accreditation Committee for accrediting observers to observe elections;
- to invite persons representing bodies in the SADC region which exercise similar functions
- to observe Zimbabwean elections; and
- to write and submit a report to the President or Minister of Justice, Legal and Parliamentary Affairs, as the case may be, soon after an election.

Despite the fact that the voters' roll is unsatisfactory and a key source of contention, the ESC did nothing to rectify the problem, leaving the Registrar-General, a self proclaimed and staunch ZANU(PF) supporter, to his own devices in this regard. In fact, apart from its role in accrediting observers and appointing monitors, the ESC did very little, leaving the bulk of the work to the Zimbabwe Electoral Commission. It did, however, add to the confusion between its role and that of the Zimbabwe Electoral Commission (ZEC) by appointing a Chief Elections Officer to carry out its mandate. ZEC also appoints a Chief Elections Officer. The ESC appointed a former army brigadier, Kennedy Zimondi, to this post.

3. Zimbabwe Electoral Commission (ZEC)

In tandem with the Electoral Supervisory Commission, section 3 of the Zimbabwe Electoral Commission Act established the Zimbabwe Electoral Commission. The Commission should have been established by way of Constitutional amendment, and this body should have replaced the ESC. However, this path was closed to the Government as, prior to the election, the ruling party lacked the necessary two-thirds majority required for Constitutional amendments and the main opposition party would not have supported such an amendment.¹⁵ The Government's motive in establishing an Electoral Commission in addition to the ESC, seems to have been to provide some basis upon which those sympathetic to it could claim that it had complied with the requirements of the SADC Guidelines.¹⁶ The Guidelines stipulate that an independent body be established to conduct elections and, given Mugabe's power over its composition, the ESC most obviously does not meet this requirement. The establishment of the ZEC was thus merely a sop to regional leaders. The South African President, Thabo Mbeki,

¹⁵ On the ground that the ruling party had no intention of establishing a truly independent Electoral Commission.

¹⁶ See above at p 1.

thus dutifully stated that Zimbabwe now had an independent body to supervise the electoral process in the form of ZEC.¹⁷ The assertion demanded some wilful obtuseness on his part.¹⁸

The ZEC consists of a Chair and four other Commissioners. The President appoints the Chair after consultation with the Judicial Services Commission,¹⁹ while the four other Commissioners are also appointed by the President from a list of seven nominees submitted by a Parliamentary Committee dominated by ZANU(PF) members. Not surprisingly, its five members were almost all ZANU(PF) stalwarts. In keeping with the militarisation referred to earlier, Justice George Chiweshe was appointed to chair the Commission.²⁰ The functions of the ZEC are as follows:

- to prepare and conduct elections;
- to employ a chief elections officer and other persons to carry out the work of the Commission;
- to direct and control the registration of voters by the Registrar-General of Voters;
- to compile the voters' roll;
- to ensure the proper custody and maintenance of voters' roll and registers;
- to design, print and distribute ballot papers, approve the form and procurement of ballot boxes and to establish polling stations;
- to conduct and authorize others to conduct voter education; and
- to oversee the work of the Delimitation Commission.

Given that one of its functions is to oversee the work of the Delimitation Commission, it was entirely inappropriate that Justice George Chiweshe, who chaired the Delimitation Commission, was also appointed to chair the ZEC.

A comparison of these functions with those of the ESC reveals a duplication of roles between the two bodies. In practice ZEC was left to carry out these duties, rather than the ESC. Given

17 *"I don't know what is said about what has happened in Zimbabwe that is in violation of the SADC protocol, because as far as I know, things like an independent electoral commission, things like access to the public media, things like the absence of violence and intimidation -- those matters have been addressed."* Mbeki quoted by EISA at <http://www.eisa.org.za/WEP/zim2005int.htm>

18 A clear example of ZEC's obeisance to Mugabe arose in the circumstances surrounding former parliamentarian Roy Bennett's application to the Electoral Court. That Court had correctly ruled that Bennett could stand as a candidate notwithstanding the fact that he was then imprisoned for contempt of parliament (see "Political Persecution in Zimbabwe: The Case of Roy Bennett" *Zimbabwe Human Rights Bulletin* Issue 11 Jan –June 2004). Mugabe, who has taken a personal interest in neutralising Bennett's influence, described the ruling as an "act of madness". ZEC took the hint and filed an appeal against the ruling. By filing this appeal, ZEC displayed that it was a partisan body which would align itself with the ruling party's position.

19 The JSC is itself stacked with presidential appointees.

20 The full composition of ZEC was Judge George Chiweshe (Chair), Mrs. Sarah Kachingwe, Mrs. Vivian Ncube, Prof. George Kahari, Rev. Jonathan Siyachitema almost all of whom had shown fealty to ZANU(PF) in the past.

that ZEC was appointed less than two months before the election, it was impossible for it to carry out its work effectively. Voter registration was already completed²¹ and little time was left for ZEC to conduct voter education or to authorize others to carry out this important task.

A key figure in the election process is the Chief Elections Officer. All other personnel administering the actual voting process are subject to his supervision. He also plays a pivotal roll in postal voting. The Chief Elections Officer is appointed by ZEC²². All election personnel are ultimately answerable to ZEC²³ but under the immediate authority of the Chief Elections Officer. The ZEC Act does not stipulate the qualifications for these personnel. However, section 17 of the Electoral Act provides that, at the request of ZEC, the Chairpersons of the Service Commissions must second such persons in the employment of the State to be constituency elections officers, deputy constituency elections officers, assistant constituency elections officers and polling officers as may be necessary to perform the functions of ZEC during an election. ZEC does not appear to be obliged to make such a request, but dutifully did so for purposes of the March 31st elections. Accordingly, the Chairpersons of the Service Commissions selected all key personnel in the voting process. The “Service Commissions” are the Defence Forces Service Commission, the Police Service Commission, the Prison Service Commission and the Public Service Commission. The Chairpersons of all these Commissions and their members are Presidential appointees.²⁴ In this way loyalty to the ruling party of all the administrative personnel for the elections was assured. Although section 4(2) of the ZEC Act states that ZEC must not be subject to the direction or control of any person or authority, the Minister of Justice, Legal and Parliamentary Affairs, has considerable power over the Commission, including the power to scrutinize its proceedings, call meetings of ZEC and veto the dismissal of the Chief Elections Officer by ZEC.²⁵

The partisan manner in which ZEC would work in practice was graphically indicated one week prior to the poll. Justice Chiweshe was asked what he intended to do about the notorious inaccuracy of the voters roll. Compiled by self-proclaimed ZANU(PF) supporter Registrar-General Tobaiwa Mudede, the roll contains the names of many people who have died and numerous duplications, lists people who ought not to be registered and omits many who ought to be. Chiweshe’s response was that the opposition had not indicated what could be done about

21 Technically, voter registration ended on the 4/02/05 though the Registrar General quietly continued the process in ZANU(PF) strongholds, later claiming that those registered after the cut off date would not be allowed to vote - see *ZESN Report on Zimbabwe’s 2005 General Election* .

22 In terms of section 7 of the ZEC Act.

23 Section 17(2) of the Electoral Act.

24 Sections 74, 94, 97 and 100 of the Constitution of Zimbabwe.

25 Section 7.

the roll or how it could be properly audited.²⁶ The best that can be said of this statement is that it is disingenuous. Since the roll is computerized, the obvious method of conducting an audit is by computer analysis. The MDC's failed legal action to get the Registrar-General to release the roll in electronic form was well publicized, and as a judge, Chiweshe could not possibly have been unaware of this. The new Electoral Act only makes reference to a printed copy of the roll.²⁷ The lack of access by opposition parties to an electronic copy of the roll obviously obstructs the carrying out of an audit of the roll by them.

Postal Votes

While the Zimbabwean Government was steadfast in its refusal to allow postal votes for Zimbabweans "in the Diaspora", estimated to number well over two million,²⁸ it retained the provisions allowing postal votes for those in the "disciplined forces". Indeed, procedural rules were relaxed slightly to ensure that members of the disciplined forces cast postal votes.²⁹ The new Electoral Act seems to have been drafted with this in mind. When it became apparent that many in the police and defence forces had cast postal votes well in advance of the election, the opposition reacted with suspicion and immediately complained about the process, some citing a lack of transparency and the fact that no one had observed the process.³⁰ Few consulted the Electoral Act to see what the process ought to have been. Given the suspicion that arose, it is worth examining the process in some detail.

Voting by post is dealt with in Part XIV of the Electoral Act. Of importance for these purposes is how these provisions apply to the disciplined forces – any branch of the defence forces and the police.³¹ The Act allows any member of the disciplined forces who believes that he or she will be on duty at the time of polling, or out of his or her constituency, to cast a postal vote. The spouses of such persons are also entitled to cast postal votes. Most importantly, the new Electoral Act introduces a provision that allows members of the disciplined forces to apply to the Chief Elections Officer for postal votes through their Commanding Officers. The applications must be made 10 days before polling.³² They must be signed by the applicant in front of a "competent witness" who is satisfied as to the signatory's identity and must be accompanied by a voter registration certificate or proof of identity. The competent witness is also required to sign the application and must be satisfied as to the applicant's identity. The

26 *The Herald* 24/03/05.

27 Most probably, deliberately - see Section 24.

28 *Zimbabwe's ZANU-PF Overturns "One Man, One Vote" Diaspora to Participate in Mock Election* Sokwanele Report : 26 March 2005

29 See immediately below.

30 *Zimbabwe Financial Gazette* 24/03/05.

31 See definition of "disciplined force" in s 4 of Electoral Act.

32 The previous Act stipulated noon the day before polling.

Chief Elections Officer, on receipt of these applications, numbers them consecutively and holds them available for inspection by the public until the declaration of the results of the poll. If satisfied that the application has been made in due form, the Chief Election Officer returns a ballot paper, not to the applicant, but to the Commanding Officer. The ballot paper is accompanied by the form of declaration of identity, an envelope addressed to the Constituency Elections Officer and a smaller envelope marked “Ballot Paper Envelope” bearing the number of the ballot paper. Presumably the address of the Constituency Elections Officer is intended to be that for the constituency in which the applicant is registered, but this seems to rely upon the good faith and efficiency of the Chief Election Officer. All these documents are placed in an envelope addressed to the applicant.

The applicant then casts his or her vote in the following way. He or she shows the documents sent to him by the Chief Election Officer to a competent witness and, if the witness is satisfied as to the voter’s identity, they both sign the declaration of identity. The voter then marks the ballot paper in the presence of the witness “but without disclosing how he or she has voted” and places it into the ballot paper envelope and seals it. The outside of the ballot paper envelope bears the number of the ballot paper within. The ballot paper envelope is placed into the covering envelope bearing the Constituency Elections Officer’s address together with the declaration of identity. Then the sealed envelope is handed back to the Commanding Officer for onward transmission to the Constituency Elections Officer. If a person with any disability or an illiterate person require assistance in marking his or her vote, the competent witness may mark the vote on his or her behalf and must include a statement of this fact in the covering envelope.

The Constituency Elections Officer places all returned covering envelopes into a sealed postal ballot box, which candidates should have been given an opportunity to see as empty before sealing. The Constituency Election Officer may continue to receive postal ballots until the close of the polls. Thereafter, and before the time for the counting of the votes, the covering envelopes for each are opened and, if the declaration of identity is in order and the if ballot paper number matches that on the ballot envelope,³³ the ballot is placed in a ballot box. The box is later opened in the presence of the candidates, their chief election agent, monitors and observers at the same time as the collation and tally of the returns from the polling stations. The Constituency Elections Officer completes form V24, the pro forma for which appears in Electoral Regulations S.I. 21 of 2005. The form provides an entry for the serial numbers of the ballot papers sent to postal voters and an entry for the serial numbers of postal votes received.

33 Thus ensuring that the ballot paper has not been switched – though there is no safeguard that both have not been switched.

Persons observing voting process

1. Election Agents

The Act allows each candidate to appoint a chief election agent³⁴ who in turn may appoint so many election agents “as may be prescribed”.³⁵ Presumably the prescribed number should not be less than the number of polling stations. The remuneration and conduct of these agents is prescribed and proscribed in order to prevent bribery or undue influence taking place.³⁶ Not less than three days prior to voting, candidates are required to provide the Constituency Elections Officer with a list of election agents and addresses and to publish the list in a paper circulating in their constituency. The process has facilitated the intimidation of election agents in the past as they are easily identified and located.

2. Monitors

The ESC’s power to appoint monitors is limited. The new Electoral Act provides, in section 13(2), that monitors must be drawn from the public service, thus rendering them subject to government control in, and possible retribution following, the performance of an important part of the electoral process. The functions of monitors are set out in section 13(1) of the Electoral Act. They are:

- a) to monitor the conduct of the polling and counting of the votes at any polling station or the collating of the votes at any constituency centre for the purpose of detecting any irregularity in the conduct of the poll or the counting or collating of the votes;
- b) to be present at the counting or collating of votes cast at the election and the verification of polling-station returns by Presiding Officers;
- c) to bring any irregularity or apparent irregularity in the conduct of the poll or the counting or collating of the votes to the attention of the Presiding Officer or Constituency Elections Officer and request that appropriate corrective action to redress that irregularity, if any, be taken; and
- d) to report on any irregularity or apparent irregularity in the conduct of the poll or the counting or collating of the votes to the Electoral Supervisory Commission and the Zimbabwe Electoral Commission and on any corrective measures taken to redress the irregularity by the Presiding Officer or Constituency Elections Officer.

In terms of section 13(4) these duties are the exclusive preserve of ESC appointed monitors.

34 Section 94.

35 Section 95.

36 For example sections 96, 97, 98, 99 & 100.

3. Observers

In addition to the monitors, the Electoral Act provides for Election Observers. The function of Observers is to observe the conduct of the polling at the election, to be present at the counting or collating of votes cast at the election and the verification of polling-station returns by Presiding Officers and to bring any irregularity or apparent irregularity in the conduct of the poll or the counting or collating of the votes to the attention of the monitor on duty or the ESC³⁷.

The process of appointing Observers is subject to a double-checking mechanism, under the control of the Government, to ensure that only Observers acceptable to the Government are appointed. Specific Ministries are allocated the power of issuing invitations to Observers. The Minister of Foreign Affairs may invite individuals representing foreign countries or international or regional organisations and “eminent persons”. The Minister of Justice, Legal and Parliamentary Affairs may invite individuals representing local organisations or “eminent persons” from within Zimbabwe and the ESC may invite individuals representing bodies in the region that exercise functions similar to those of the ESC.³⁸ Should any of these ministries have slipped up and invited “unsuitable” people the process is re-checked by the Accreditation Committee that comprises:

- a) the chairperson or vice-chairperson of the ESC, who chairs the Committee;
- b) one person nominated by the Office of the President and Cabinet;
- c) one person nominated by the Justice Minister³⁹;
- d) one person nominated by the Foreign Affairs Minister;
- e) one person nominated by the Information Minister.

Clearly, the selection and appointment of Observers remains firmly in the hands of the ZANU(PF) Government. Accordingly, only those persons or bodies who can be trusted by ZANU(PF) to report favourably on the election passed through this process. Bodies which had previously been accredited as Observers in past elections and which had commented unfavourably on them were excluded – most notably the SADC Parliamentary Forum and the Electoral Institute of Southern Africa.⁴⁰

37 Section 14(1).

38 Section 14(5).

39 The Minister in the Act refers to the Minister of Justice, Legal and Parliamentary Affairs.

40 In attempting to justify Zimbabwe’s exclusion of these obviously suitable bodies SAPA reported on the 11th March 2005 that the SA foreign affairs department said it wished to place on record that the SADC Parliamentary Forum was not an official structure of the SADC. “*The SADC Parliamentary Forum therefore has no locus standi (legal standing) in terms of official SADC structures,*” said spokesman Ronnie Mamoepa. “*As far as the government is concerned, Zimbabwe has invited the national parliaments of SADC member states, which will allow for report backs to sovereign national parliaments post (after) the elections. On the other hand, the SADC Parliamentary Forum would have no fora to report*

4. Journalists

The printed media in Zimbabwe falls under the shadow of the draconian Access to Information and Privacy Act⁴¹, one of the key provisions of which is that all persons wishing to practice journalism in Zimbabwe must either be registered or accredited by the Media Information Commission. This Commission consists entirely of persons known to be sympathetic to ZANU(PF). Foreign journalists wishing to be accredited for the 2005 elections discovered that a serving Zimbabwe army major had been seconded to vet them. Major Anyway (*sic*) Mutambudzi, operating from the first floor of President Robert Mugabe's Munhumutapa Building offices, carried out the process assisted by three other soldiers.⁴²

Summary of Institutions and Personnel

This then was the stage and personnel for the March 31st election. Voters who had been placed on the roll (perhaps) by the Registrar-General (a ZANU(PF) stalwart) were set to vote in constituencies delimited by a Commission (staffed by ZANU(PF) stalwarts) at polling stations administered by persons (seconded by ZANU(PF) stalwarts) who would hand the results to Constituency Election Officers (seconded by ZANU(PF) stalwarts), working under the authority of the Chief Elections Officer appointed by a Commission (headed by a ZANU(PF) stalwart). In the event, many of these stalwarts were serving or former military personnel or serving members of the intelligence services. Postal votes were cast under the auspices of voters' Commanding Officers and transmitted to the aforementioned Constituency Election Officers. All this was to be done under the watchful eye of monitors drawn from public service, Observers invited and accredited mostly by Government ministers or Government appointees and journalists accredited by the Government or Government appointees who could have their accreditation withdrawn at any time. This entire process was supervised by the Presidential appointees and ZANU(PF) stalwarts who comprise the ESC and ZEC respectively. The Zimbabwe Electoral Commission Act and Electoral Act thus create a situation where it is possible that the only actors in this process unfettered by ZANU(PF) might be the candidates and their election agents.

back on its findings to." Also excluded were the Congress of South African Trade Unions (COSATU); the South African Council of Churches (SACC) and a SADC Delegation of Lawyers tasked with assessing the Electoral Act.

41 Chapter 10:27.

42 See http://www.zimbabwesituation.com/mar11a_2005.html#link1.

Voting Mechanics

The list of polling stations was published 13 days before polling day, a day later than the 14 days required by the Electoral Act.⁴³ The published details of the polling stations conflicted with the information announced by the chairman of ZEC. Chiweshe announced that there would be 8 235 polling stations. The list indicated that there were 8 137 stations.⁴⁴ Either figure was more than double that for the previous election. This was appropriate as polling under the new procedure allowed for voting over one day only. This is a healthy change in that it allowed less time for the final figures to be massaged. The downside was that the opposition's resources were severely stretched in trying to place election agents at all polling stations. More numerous polling stations also meant that less people would vote at each station and, particularly in rural areas, this laid the way open to easier identification of those voting and the possible application of intimidation to vote along certain lines.

Other, in the main salutary, changes were made to the voting procedure which differed from previous elections. Translucent ballot boxes were used, transparent enough to see if any votes had been placed in the ballot box, but opaque enough to prevent the ballots themselves from being read. However, there were reports of people being intimidated by being told that their votes would not be secret as it would be possible to see how people were voting when they inserted their ballot papers into these new boxes.

Two practices which may be seen as facilitating ballot box stuffing were abandoned, that is, mobile polling stations and centralised vote counting. Vote counting was done at individual polling stations. Counting at individual polling stations was supposed to prevent stuffing of boxes in transit to the central counting station. However, unless all the safeguards were in place, such as presence of observers and of election agents when counting took place, there was still a danger of manipulation of results at individual stations. This danger was particularly acute in remote rural areas. A new system of queuing according to surnames A-L, M and N-Z was used to speed up the process.⁴⁵ A final change was the introduction of visible, ostensibly indelible, ink into which voters dipped their hands as an indication that they had voted.⁴⁶ Most Constituencies had between 30 and 80 polling stations. Generally, the rural areas had a greater number of polling stations than the urban. This was not unreasonable considering that the rural population is more widely dispersed and would need to travel greater distances, often by foot, to reach a polling station.

43 Section 51.

44 This was announced at a briefing of local and international observers on 23 March 2005.

45 A disproportionate number of names in Zimbabwe start with "M".

46 "Ostensibly" because it appear that the ink could in fact be removed with a modicum of effort.

B. THE VOTING PROCESS IN PRACTICE

General observations

The process of casting and counting the votes should be designed to prevent the possibility of fraud or rigging. It is crucial that the prescribed processes be followed scrupulously so that both the candidates and the electorate are convinced that the final count accurately reflects the will of the people. A failure to follow procedure in any one place taints the entire process. Given that persons sympathetic to ZANU(PF) comprised the bulk of those administering the process, it is unsurprising that it was carried out in a partisan manner. Procedures were flouted and opposition candidates and their agents' rights were denied or delayed in many instances. In fact, although statutorily in immediate charge of each polling station, the Presiding Officers clearly deferred to police officers who had been assigned to each polling station and who continuously received instructions by radio.⁴⁷

Location of Polling Stations

The location of polling stations is at the discretion of the Constituency Elections Officer.⁴⁸ However, other Government officials unlawfully usurped this function. Numerous polling stations were located in non-neutral areas and more obviously suitable sites were ignored. These non-neutral areas included the homesteads of rural headmen and chiefs,⁴⁹ and resettlement areas inhabited by ZANU(PF) militants who had rendered the areas no-go areas for the MDC during the campaigning period. Some of these unsuitable sites are listed in Table A at the end of this report.

Often polling stations were placed in remote and sparsely populated areas. In some instances booms and gates controlled access to the polling stations and, in passing through these, voters were subjected to "scrutiny" by ZANU(PF) supporters,⁵⁰ who sometimes demanded the voters' National ID numbers before allowing them to proceed. Complaints made in this regard were ignored. The list of polling stations was published by ZEC on a national basis rather than by the Constituency Elections Officer as required.

47 See <http://www.sokwanele.com/elections.html>.

48 Section 51 of the Electoral Act.

49 On the role of chiefs and headmen, see below.

50 See MDC Election Petition for Harare South para 14.

Observation by Polling Agents, Observers and Journalists

As indicated earlier, the candidate and his or her election agent were the only persons in the electoral process who could be considered to be entirely independent of governmental influence. It was therefore vital that these people were granted all their procedural rights before one could regard the vote as fair with any confidence. This was not done.

The Constituency Elections Officer should have appointed Presiding Officers and polling officers.⁵¹ This function seems to have been usurped by ZEC⁵² who appointed partisan personnel, as the following sample indicates.

PRESIDING OFFICER		RELATION/DESIGNATION
Bhekinkosi Langa	Gcbayi School	Candidate's Brother
Casting Chimedze	Inyozane Pry School	ZANU(PF) Official
Reason Zhou	Scooter B/centre	Brother to constituency registrar
Morren Nkomo	Bolo Pry School	Assistant DA and Partisan
Ephraim Mudumba	Artherstone	ZANU(PF) Official
Maria Ndumba	Nyamine School	ZANU(PF) Official
Majority Mnkandla	Mkwabeni Pry School	ZANU(PF) Official
Dedani Moyo	Tshunguyani School	ZANU(PF) Official
Orpha Moyo	Lubuze Sec School	ZANU(PF) Official
Luke Nkomo	Sukasihambe Pry School	ZANU(PF) Official
Never Nkomo	Gumbalo Sec School	ZANU(PF) Official
Joyce Manombe	Msithi Pry School	ZANU(PF) Official
Dorcas Moyo	Mleja Hall	ZANU(PF) Official
Luke Sibanda	Mpalawani Homestead	ZANU(PF) Official
Ben Mthembo Dube	Gwamanyanga Homestead	ZANU(PF) Official

MDC candidates in several constituencies reported that at numerous polling stations their election agents were denied access to the polling station until around 11.00 a.m. by these officers. Some Polling Officers demanded that MDC election agents produce proof that the election agent's name had been published in a paper as required,⁵³ even though this proof is not a legal requirement.⁵⁴ The Constituency Elections Officer should advise the Polling Officers of the identity of authorized election agents. Even when some MDC election agents had taken the

51 Section 52(2).

52 This allegation was made by all MDC candidates who challenged the results in their constituencies. See for example paragraph 11 of Paul Themba Nyathi's Election Petition.

53 See above in the section on polling agents.

precaution of bringing a photocopy of the relevant page of the newspaper advertising their appointment as an election agent, they were still turned away after being told that the original was required. Accordingly, MDC election agents were unable to observe the sealing of the ballot boxes, observe that they were empty at the commencement of polling and that no stuffing took place. In contrast ZANU(PF) election agents, whose names had not in fact been published as required,⁵⁵ were granted access without any ado.

Observation of the process did not proceed smoothly for Observers and journalists either. Many Observers' Government-issued accreditation cards referred to the earlier repealed Electoral Act [*Chapter 2:01*]. On this basis some were excluded from polling stations, and one Observer was placed under arrest and detained for being in possession of a "fraudulent" accreditation card.

Observers accredited under the Zimbabwe Election Support Network (ZESN) were unable to observe the vital initial stages the sealing of ballot boxes and early polling as officials had barred them from entering the polling stations to which they had been deployed. Entry was only gained after the dispatch of lawyers to these polling stations.⁵⁶ Similarly, several ZESN Observers were denied access to polling stations in the remoter rural polling stations for the counting process by the Presiding Officer. One official advised an Observer that he "had observed enough" and should now leave. When one Observer in Zvishavane refused to accept this treatment he was arrested and detained.⁵⁷

Journalists were to learn that having passed through the accreditation process was no guarantee that they could carry out their work without hindrance. A Swedish journalist who had been duly accredited by the Media and Information Commission was picked up for questioning by the police the day before polling, but released after questioning. The day after the poll he was arrested by immigration officials, and, after being held by them without access to his lawyer, deported on the same day.⁵⁸

Voting

Most reports indicate that voting proceeded in a peaceful and orderly way. With an average of 50 to 900 votes cast at each polling station,⁵⁹ congestion was minimal, any congestion that

54 See the Election Petitions filed by MDC candidates challenging the results in Gwanda, Insiza, Gweru Rural, Gokwe, Harare South, Manyame, Gutu South, Chimanimani, Goromonzi, Marondera East, Mutasa South, Mutasa North and Nyanga.

55 Advertisements indicating the names of ZANU(PF) polling agents were only published 1 or 2 days before polling instead of the statutory 3 days.

56 ZLHR Report on the 2005 Parliamentary Elections p 46.

57 ZLHR Report p 47.

58 ZLHR Report p 20.

59 In rare instances voters exceeded 1000 or more at a single polling station.

occurred being in the first few hours of polling. However, in some instances local knowledge would have been required to properly observe what was happening at the polling stations.

a. Traditional Leaders

Village headmen and traditional leaders played a crucial role on behalf of ZANU(PF) in the rural areas. Government had granted them a 150% salary increase and a generous allowance for the purchase of vehicles a few months before the elections.⁶⁰ Traditional leaders were reported as using various pressures to ensure that people registered as voters in their areas.⁶¹ In numerous constituencies the traditional leaders threatened that people who voted for the MDC would be expelled from the area or would be denied food aid. In many instances, village headmen ensured that people voted by “accompanying them” to the polling stations. Some positioned themselves at the polling stations and recorded the names of villagers voting. In other instances, known ZANU(PF) activists recorded the names of people coming to vote. Accordingly several of the reforms introduced – a large number of polling stations, and the division of the ballot boxes into three alphabetical groups, and counting at polling stations – was a double-edged sword. With a small number of voters at each polling station, voters may have felt that the secrecy of the vote was compromised. Traditional leaders had a strong presence during the voting process. Some were reported as taking up positions near polling stations, some were alleged to be actually standing at the entrances to the polling station. Others were appointed as election agents for ZANU(PF). Many took down the names of people arriving at the polling stations and openly told them for whom to vote.⁶²

b. Assisted Voting

The Electoral Act makes provision for assisted voting for illiterate or disabled persons. The assistance is provided by the Presiding Officer, in the presence of a monitor and police officer.⁶³ Such persons cannot be assisted by friends or relatives. There were several reports of people being pressurized into requesting assistance even when they clearly did not require such help. For example, the candidate for Chimanimani Constituency reported that at one polling station 330 out of 426 voters were marked as requiring assistance, a highly improbable proportion.⁶⁴

60 MDC Report on the 2005 Parliamentary Elections.

61 ZESN Report p 22.

62 This complaint is raised in almost all of the 13 Election Petitions.

63 Sections 59 and 60 of the Electoral Act.

64 See Election Petition of Heather Bennett para 37.

c. Voters Turned Away and Spoiled Ballots.

Most accredited observers noted with concern the high numbers of voters who were turned away by polling officials. It appears that some 10 percent of voters were turned away nationally. The main reasons provided were as follows:

- Registration documents were illegible or passports had expired;
- Names did not appear on the voters' roll as the constituency boundaries had changed and they now fell under different constituencies;
- Zimbabwean citizenship was in question;
- Names simply did not appear on the voters' roll even though the persons concerned were duly registered voters.

Inadequate voter education is obviously partly responsible for this situation. Furthermore, those who were in the wrong constituency should have been given information of where they should go to vote by a polling officer. They were not. The democratic process is undermined when so many people who wish to vote cannot do so. In a few constituencies, for instance, Makoni East and Mutasa South, both won by ZANU(PF), the differences between the number of votes cast for each party was less than the number of people turned away. In addition to the 10% of voters turned away about 2.3% of ballots were spoiled.

Accordingly a significant number of people who presented themselves at polling stations were unable to exercise their democratic rights. Table B at the end of this report indicates the number of spoiled papers by province.

C. COUNTING THE VOTE

Polling stations officially closed at 7.00 pm.⁶⁵ The Regulations merely provide in section 8(1) that the time to commence counting is determined by the Presiding Officer. However, this must be read with section 62 of the Act, which requires counting to commence as soon as the procedure for sealing the ballot boxes is complete. Immediately after the close of the poll, the Presiding Officer is required to close and seal the aperture in the ballot box, affix his or her seal thereto and permit any such candidates and election agents to affix their signatures or thumb-prints upon the Presiding Officer's seal or to affix their seals to the aperture of the ballot box.⁶⁶

65 Section 53(1) specifies the hours of polling. This may be adjusted by the Constituency Elections officer, provided that the polling station is open for 12 hours.

66 Section 61 of the Electoral Act.

This process should take no more than 30 minutes and may be observed by the candidate or his or her election agent. The procedure then to be followed is set out in the Electoral Regulations. The ballot boxes are opened and the ballots handed to the counting officers. Any spoilt papers are first set aside and the total number of votes cast at the polling station ascertained.⁶⁷ The ballots are then counted by one counting officer and recounted by another. The Presiding Officer then completes the polling station return, accounting for all ballot papers used and unused, indicating the number of spoilt ballots and entering the number of votes cast for each candidate. Each candidate or his or her election agent should be shown the completed polling-station return and invited to sign it. During this process the prescribed number of monitors and observers, and the candidate and one of his or her election agents may be present but no others.⁶⁸

In view of what actually happened on the day, the next steps in the procedure are controversial. The Presiding Officer is required to *personally transmit*⁶⁹ to the Constituency Elections Officer the polling-station return⁷⁰ and immediately *after arranging* for the polling-station return to be transmitted, the Presiding Officer must affix a copy of the polling-station return on the outside of the polling station so that it is visible to the public. It is unfortunate that the legislation is so badly phrased. The italicised words above give rise to some ambiguity. Does “personally transmit” mean that the Presiding Officer must physically take the actual returns to the Constituency Elections Officer, or could he or she, for example, personally transmit the result by fax? If, as seems likely, the legislation intends that the Presiding Officer physically takes the return to the Constituency Elections Officer, what then is to be made of the phrase “after arranging for the polling station return to be transmitted”? The tense could imply that the affixing of the return to the outside of the polling station only takes place after the return has actually been taken to the Constituency Elections Officer. However, the tense is more likely to infer that the affixing takes place before the return is actually transmitted. But then the problem as to what is meant by “after arranging for the polling station return to be transmitted” arises once more. What arrangements are being referred to? Starting his or her car? Furthermore, until the results are affixed to the polling station, no person may communicate to any person outside the place where the votes are being counted *any information relating to the results of the count* or to the number of votes given to any particular candidate at that polling station. Again, it is

67 Section 8(3).

68 Section 62 .

69 Provision is made for a polling officer to do so if the presiding officer is incapacitated.

70 Section 64(1) of the Act.

unclear whether any information relating to the results of the count includes the number of people who have voted, rather than the result.

These provisions were contravened in several ways. It appears that the police officers present at the polling stations were under instructions to radio through voting numbers throughout the day including a final figure shortly after 7.00 p.m. when polling closed. They also radioed through the result of the count as soon as it was known.⁷¹ The results appear to have been conveyed in this manner to a body called the National Elections Logistics Command Centre of which the Commissioner of Police⁷² and the Registrar-General were a part. Several elections agents were either not invited to sign the return or not shown the return at all. Then, at many polling stations, the return was not posted outside. Instead, all present at the count (apart from the police) were locked into the polling station and held incommunicado after being compelled to surrender their cell phones, while the Presiding Officer set off to transmit the return to the Constituency Elections Officer. The results were not then posted at the polling station until the Presiding Officers had handed the results to the Constituency Elections Officer. However, in some instances the results were not posted at all, or were posted inside the polling station rather than on the outside. Posting the electoral votes at the polling station immediately after voting is an internationally recognised means to limit the possibility of the Constituency Elections Officer receiving forged or altered results.

More egregiously, at some polling stations orders were given to the Presiding Officers by police radio not to commence counting the vote, or to stop the counting in progress until further instructions were given. In at least one instance that instruction came as late as 2.00 a.m. the following morning. As a result, despite the fact that each polling station rarely had more than 1000 votes to count, and generally less than 500, with polling having closed at 7.00 p.m. on Thursday 31st March the final tally for the country was still not known by late on Friday 1st March.

A second major and well-publicised anomaly arose from the announcement of voting statistics by the State controlled media. Between midnight and 1.00 a.m. on 1 April 2005 the Chief Elections Officer announced the number of people who had voted in constituencies in 6 of the 10 provinces. He indicated that the figures represented the situation at 7.30 p.m. and that the figures for the constituencies in the remaining provinces would be announced later. The figures for 72 constituencies were released, when the announcements abruptly ended without explanation. When the final results were announced, the total number of apparent votes for

71 See for example the Affidavit of Claudius Marimo para 19.

72 The Commissioner of Police is a self-professed ZANU(PF) supporter.

almost all the candidates significantly exceeded the total number of votes cast as announced earlier. In a few constituencies the total figure announced was significantly lower than the previously announced figure. A full break down of the discrepancies appears in Table C at the end of this report.

It also appears that several candidates were prevented from seeing the polling station returns when the aggregate was calculated by the Constituency Elections Officer. Furthermore, instead of immediately announcing the winner in the prescribed form, in some instances the Constituency Elections Officer sent the results to ZEC to announce.⁷³

Not surprisingly, this set of circumstances led the opposition to immediately charge that the election had been rigged. Certainly, there were enough facts to support the suspicion. The early refusal to allow some election agents into polling stations, the administration of the electoral process from top to bottom by ZANU(PF) sympathisers, the supervisory role of the police in the voting process, the strange halt of the counting process, the failure to show some election agents the returns, the failure to post the returns at the polling stations timeously or at all, the filtering of the results through the National Elections Logistic Committee, and the discrepancy in the figures initially released by ZEC and the final tally were highly suspicious to an already deeply distrustful electorate. Matters were compounded when ZEC failed to provide any plausible explanation for the discrepancies in its figures and refused to release a detailed breakdown of the voting by polling station.

Some felt that the peculiar increase in the number of voters above the initially announced ZEC figures was clear evidence of stuffing and the manipulation of the count by the National Elections Logistics Committee. It was feared that stuffing had taken place early in the day when election agents had been excluded from the polling stations, during the period after polling when the count was halted⁷⁴ or that thousands of postal votes had been distributed to chosen constituencies in a manner which would secure victory for ZANU(PF). These allegations need some analysis. Unfortunately, in order to do a comprehensive analysis one requires access to the polling station returns throughout the country. ZEC has, without justification, refused to publish these results. The figures for each polling station provided by the MDC's election agents are in almost all instances incomplete. It seems that the large number of polling stations overstretched the MDC's capacity in this regard. The MDC had difficulty appointing sufficient suitable personnel. Often the polling stations were attended by

⁷³ See Election Petition of Heather Bennett para 31.

⁷⁴ See Election Petition of Eliphaz Mukonoweshuro para 77 &78.

election agents who were inadequately prepared or did not perform their task diligently. Some, inspired by pecuniary concerns withheld statistics, demanding an increase in their stipend. Others felt overwhelmed by the predominance of ZANU(PF) sympathisers, police and government officials and did not assert themselves effectively enough to enable them to carry out their observations properly. However, there is sufficient information to examine what happened in a few select constituencies.

The MDC expected to win in both Chimanimani and Manyame Constituencies. They lost both: in Chimanimani by about 4 500 votes and in Manyame by just over 7 000 votes. Accordingly, if the MDC's allegations of stuffing are true, this is the very least number of votes which would have had to have been fraudulently introduced into the count to affect the result. By way of example, using the case of Manyame, this would mean that 700 votes would have had to have been fraudulently introduced at 10 polling stations, or 350 at 20 polling stations or 175 at 40 polling stations. If stuffing took place at 10 or even 20 polling stations, this would be reflected in an inordinate number of votes cast at those stations, and, relative to other stations, a disproportionate number of votes at these stations for ZANU(PF). It is extremely unlikely that stuffing took place at 40 polling stations without being observed by an election agent and that all the personnel at so many stations would have remained silent about such a process. Similarly, if stuffing took place during the time that counting was suspended a large number of seals would have to have been effectively broken and replaced. These scenarios seem unlikely. This leaves stuffing of a few ballot boxes with a large number, or a judicious allocation, of the postal votes or both.

The ZESN report has subjected the figures at some polling stations to analysis. Using incomplete MDC election agents returns, those analysing the figures have taken an average percentage of ZANU(PF) voters for known polling stations in a constituency, projected these or extrapolated missing figures for the unknown stations and then compared them to the official result. Any discrepancy between the projected or extrapolated figures of more than 5% is deemed suspect. Unfortunately, this kind of analysis assumes a homogeneous electorate within in a particular constituency. In fact, particularly in the case of Manyame, due to the gerrymandering of constituencies, there is an incomplete community of interests. Pockets of ZANU(PF) supporters, particularly around military bases and resettled land allocated to ZANU(PF) supporters are islands in predominantly MDC territory. Countrywide ZANU(PF) supporters turned out to vote in greater numbers than MDC supporters.⁷⁵ Manyame lies in

75 For example, in the ZANU(PF) stronghold of Mashonaland Central Province the voter turn out was 57% compared with 32% and 42% for the MDC strongholds of Bulawayo and Harare respectively (figures taken from the Media Monitoring Project Zimbabwe's table of figures constructed from ZEC's figures 4/04/05).

Mashonaland West Province where the average turn out was 48% of registered voters. The turn out in Manyame, at 59%, was much higher than the provincial average, but not unusual in areas where ZANU(PF) has its strongest support. For example, Mashonaland Central recorded an average of 57%, which would have been even higher but for the 40% in the constituency of Mazoe West. Accordingly, little can be deduced from a few cases of some polling stations showing a sudden increase of voters and a large percentage of ZANU(PF) votes at these polling stations. There are instances where the same occurred with the increases being attributable to large numbers of MDC voters polling at a particular station.⁷⁶ There would have to be 10 – 20 polling stations falling into this category, or even fewer with a much higher number of ballots before it could be said that stuffing was very likely to have occurred. This is not the case. In fact where MDC election agents' returns could be compared with the final official result for the constituency, the figures have, in the main, matched.⁷⁷

Other factors also militate against stuffing having occurred in this way. Firstly, it should be noted that the discrepancies in the ZEC figures did not always show an increase in the total number of votes cast. In several instances there were large deficits. For example, in Zvimba Constituency the final tally was over 7 000 votes *less* than that originally announced by ZEC. Removing votes, and ensuring that those removed are MDC votes would have been very difficult to accomplish. It is more likely that the initial ZEC figures were based on those communicated by radio or cell phone – both of which are of notoriously poor quality and often providing barely audible means of communication in Zimbabwe. The figures could well have been inaccurately recorded or incomplete. ZEC's failure to explain what happened probably stems from the fact that this would expose their close collaboration with Government and the police rather than through any chicanery. Furthermore, if the ballots were stuffed, not during the initial absence of some election agents during the early polling period but during the suspension of counting, this would require that seals on numerous ballot boxes would have had to be broken. There is no evidence of this. The National Elections Logistic Committee was more likely to have been established to receive advance warning of a negative outcome from ZANU(PF)'s perspective and to initiate reactive measures, rather than as a body to manipulate the count at this stage.

This then leaves the question of whether thousands of postal votes were “judiciously” allocated to “needy” constituencies. In fact, only just over 7 000 postal votes were applied for, and many

76 For example, Sunningdale District Community Hall recorded 1 996 votes cast, an unusually large number, with 1413 cast for the MDC and 573 for ZANU(PF) (figures supplied by Zimbabwe Citizens Support Group).

77 The conclusion was reached after analysing figures supplied by Zimbabwe Citizens Support Group. It is not possible to include a break down of polling station voting figures in this report.

less cast. In the absence of ZEC figures it is not known how many postal votes were cast for each constituency, but most MDC candidates reported no more than 60 postal votes being added to the final tally. The number of postal votes cast was insufficient to affect the result. Furthermore, although not required by statute, the Chief Elections Officer's register of applicants for a postal vote indicated the constituency in which they were entitled to vote. This would have made a fraudulent allocation of postal votes to constituencies where they did not belong extremely easy to detect. Reports were received at several polling stations of polling officers adding votes to the ballots boxes at the close of voting, informing those present that these were postal votes received. Since postal votes should be received and dealt with by the Constituency Elections Officer only, these reports are suggestive of blatant stuffing. However, the numbers of votes involved was too small to affect the outcome. Accordingly, it appears that ZEC's figures do, in the main, reflect ballots cast.

As indicated at the outset, that ZANU(PF) should be able to win an election when the majority of voters are under the axe of its poor governance seems to defy logic. Turkeys do not vote for Christmas. However, the MDC does not appear to have lost the election due to a rigged ballot. The reasons need to be sought elsewhere. The fact that the MDC is only challenging the results in 14 constituencies, and that these 14 election petitions do not present any clear evidence of rigging, but rather general procedural complaints, indicates that the MDC itself accepts this fact. Even if most of the contested seats were handed to the MDC by the Electoral Court, it would not change the fact that more people voted for ZANU(PF), on the 31st March 2005 than voted for the MDC.

D. WHY ZANU(PF) WON

The election was not, as it should have been, a contest between two political parties. The battle was really a contest between the ruling elite and the governed. The distinction between the State and ZANU(PF) has virtually disappeared. ZANU(PF) was able to mobilise all the resources of the State, human and financial, administrative and coercive, to support its campaign. The electoral authorities made no effort to proscribe or limit abuses of this nature. This was not only a huge and unfair advantage in itself, but enabled ZANU(PF) to present itself as being the sole party with the power to deliver, and personified this in the powerful figure of Mugabe himself. In a context where a large proportion of the electorate is held hostage to governmental food handouts many voters, particularly those in the rural areas, find it expedient to vote not for the party they want to win, but for the party that they think will win.

A show of fealty is a matter of basic survival. In short, a gun was held to the head of the electorate and it was made clear that it was a ZANU(PF) finger on the trigger. In this context, the MDC's complaint about the absence of a level electoral playing field, the early suggestions of a boycott of the elections and eventual participation "under protest" were clear signs to the electorate that the MDC did not regard itself as the government in waiting, and thus the party which would provide. Furthermore, the party's vacillation about whether or not to participate in the elections had the effect of de-motivating many potential supporters.

ZANU(PF)'S anti-Blair campaign, linked to the land confiscations, although crude, nonetheless appears to have found a resonance among many Zimbabweans who readily accept that colonialism is to blame for many of the country's woes. This campaign, though often little more than overtly xenophobic and anti-white racist propaganda, was fairly effective. The MDC was demonized as an enemy of the State rather than allowed to present itself as legitimate democratic opposition. The closure of democratic space, outlined in the earlier election report, left the MDC few opportunities to combat this vilification.

In the next section, the fulfilment of ZANU(PF)'s election "promises", that is, the withdrawal of food hand-outs to, and violence against, perceived opposition supporters are examined.

E. POST- ELECTION RETRIBUTION

General overview

As indicated in the previous sections, before the 31 March elections there were numerous reports of ruling party officials (including some newly elected MPs) and traditional leaders making threats of reprisals against people who voted for the MDC. The intimidation included threats of physical violence, threats that people would not receive food aid and threats to expel people from their villages.

Since the election there have been reports from all around the country that these threats have been put into effect. Ruling party supporters have physically attacked people to punish them for supporting or allegedly supporting the opposition. In early April 2005 the MDC accused the ruling party of mounting a nation-wide campaign of violent reprisals against its supporters and alleged that scores of its supporters had been injured as a result of reprisal attacks or had their homes destroyed, with some having had their homes burnt down.⁷⁸ The MDC Secretary General, Welshman Ncube, said, "ZANU(PF) have begun systematically hunting down people

78 Zimbabwe *Independent* 8 April 2005.

who voted for us and our election agents. The attacks started on the Sunday after the last result was announced. People have fled. Others are missing and no one knows what has happened to them.”⁷⁹ The spokesman for the MDC said reprisals were most intensive in rural areas where the MDC had made inroads into ZANU(PF) strongholds.⁸⁰

Apart from reports emanating from the MDC, a number of non-governmental organizations, such as the Zimbabwe Human Rights NGO Forum (NGO Forum), the Zimbabwe Peace Project (ZPP) and the Zimbabwe Lawyers for Human Rights (ZLHR), have reported various incidents of this description. On 5 May 2005 the ZLHR issued a public statement in which it said that it was “deeply concerned by the retributions by ZANU(PF) on MDC supporters going on around the country. It seems from the incidents reported so far that the ZANU(PF) supporters have the support of the government machinery”.

The April Report of the NGO Forum contains this statement:

“The month of April was awash with political violations of human rights including 2 murders. The violations are linked to post election retribution that was occurring throughout the country. Fifty-five displacements were recorded in the month, which exceeded the total number of displacements recorded from January to March viz 21. This contributed to the number of Internally Displaced Persons (IDPs) in Zimbabwe. Throughout the country and particularly in Mashonaland Central Province, people were being chased away from their homes for being either MDC activists or for having been election observers or MDC polling agents. A number of people who reported to the police claimed that they were told, in essence, that it was better for them to leave their place of residence because the police could not help them.”

The NGO Forum provides this table of incidents reported to it from January to April 2005:

	January	February	March	April	Total
Assault	17	54	259	59	389
Abduction/kidnapping	2	3	6	2	13
Attempted murder	0	0	0	0	0
Death threats	1	0	1	3	5
Disappearance	0	0	0	0	0
Displacement	17	1	3	55	76
Freedom of expression/ association/ movement	31	57	268	112	468

⁷⁹ Report of Institute for War and Peace Reporting 8 April 2005.

⁸⁰ Zimbabwe *Standard* 8 May 2005.

Murder	0	0	1	2	3
Political discrimination/ victimisation/ intimidation	31	49	128	113	321
Property related	0	0	0	18	18
Rape	0	0	0	4	4
School closure	0	0	0	0	0
Torture	1	5	1	16	23
Unlawful arrest	8	63	86	16	173
Unlawful detention	8	63	57	15	143

In mid-May the police, supported by the army, embarked on the now notorious “Operation Murambatsvina”⁸¹ campaign to “clean up” urban centres by demolishing shacks and structures that housed large numbers of poor people and stalls and markets of traders within the informal sector. Many view this action against the urban poor as yet another reprisal operation to punish the urban population for voting for the opposition. In this campaign a large people have been arrested and it is estimated that over 500 000 have been displaced.⁸²

Alleged murders

There are several reports of murders, which appear to fall within the reprisal campaign.

1. The April report of the NGO Forum gives details of a report made to it about the murder of an MDC activist in Hurungwe East on 28 April 2005. The victim had been arrested on allegations that he had burnt houses belonging to ZANU(PF) supporters. He was detained at a police station for a few days and then released. On 27 April 2005 he was on his way to Kariba when he was allegedly abducted at a bus stop by a group of war veterans and ZANU(PF) youths who took him to a house. He was allegedly assaulted overnight and then the following morning he was reportedly murdered using sticks. A report was made to Karoi Police Station. Two men were arrested in connection with the murder and these men are now out on bail.
2. At the beginning of May an opposition supporter was abducted and murdered in Hurungwe East Constituency during a retribution campaign against the opposition. A few days before his death, MDC member Moffat Ibrahim was first summoned to attend a village court hearing by the headman in Ward Six of Hurungwe district. Headman Mupanedengu,

81 A ChiShona word meaning “drive out the trash” which has been loosely translated by government as “Operation Restore Order”.

82 The Zimbabwe Human Rights NGO Forum has published a separate report on this operation. The number of people displaced is hard to estimate and is constantly increasing as the “operation” is ongoing.

allegedly told Ibrahim that he was no longer welcome in the area because he belonged to the MDC and had voted for the opposition party in the March 31 election. Before Ibrahim could flee his village to the neighbouring Karoi town, where dozens of other MDC supporters have fled since the retribution campaign began a week after the election, he was waylaid and kidnapped by 16 ZANU(PF) militants who murdered him in cold blood. “He had alerted the police that his life was in danger at the time he was summoned to the village court,” a local MDC leader said. A police inspector Khumalo at Karoi police station, which oversees Hurungwe, confirmed the murder of Ibrahim. He said no one had by yesterday been arrested over the murder but said investigations into the matter were still in progress. Hurungwe East Constituency falls under Mashonaland West Province. Haurovi, who was also the MDC’s candidate in the constituency in election, said he was struggling to provide for dozens of families living at his house in Karoi town after they were forced by ZANU(PF) militants to flee their homes.⁸³

Incidents allegedly involving ZANU(PF) MPs

1. According to the Zimbabwe Peace Project, almost immediately after the election, teachers and clergymen in Makoni East were targeted by ZANU(PF) supporters who accused them of having drummed up support for the MDC in the run up to the poll. ZANU(PF) youths and war veterans, allegedly at the behest of the constituency’s new MP, Shadreck Chipanga, embarked on a retribution campaign aimed at weeding out perceived MDC supporters, especially in areas like Nyabadza, Ndingi, Gambe, Zuze, Rugoyi and Gandanzara. Polling stations in these areas revealed considerable support for the MDC. In the Rugoyi-Chemusango villages war veterans, at the instigation of Chief Basil Rugoyi, threatened teachers and the local Roman Catholic Church priest based at St. Kilian’s Mission, with expulsion after accusing them of having increased the MDC’s support base in the area. Counting at the polling station there revealed considerable support for the MDC. Some teachers at Nyarwizi and Dope Secondary schools were reportedly told by local war veterans and ZANU(PF) youths not to return to work at the reopening of the school for the next term. This, the war veterans allegedly said, was as a result of the teachers having clandestinely supported the MDC in its campaigns.⁸⁴
2. The MDC allege that ZANU(PF) winning candidate for Insiza and Transport Deputy Minister, Andrew Langa, led reprisals in Matabeleland South. The MDC said Langa attacked its supporters at a business centre in Filabusi on the Sunday after the elections. It

83 *Zimonline* 2 May 2005 and *Zimbabwe Standard* 8 May 2005

84 Zimbabwe Peace Project (ZPP) Report dated 8 April 2005

said he fired gunshots in the air during the incident. One MDC supporter was so seriously injured in the assaults that he had to be hospitalised. Several others were also injured. A number of buildings were also damaged in these attacks. A police officer tried to control the situation. This officer arrested several ZANU(PF) youths and took them to the Filabusi police station but they were later released by member-in-charge. The member-in-charge then ordered the arrest of the victims.⁸⁵

3. ZANU(PF) candidate for Gokwe, Leonard Chikomba, allegedly led a group of ZANU(PF) supporters who went about assaulting people in Chief Simuchembu's area. A pregnant female MDC supporter was attacked at a business centre in the area and as a result of the attack aborted a two-month pregnancy. The police have made some arrests in connection with this attack.⁸⁶
4. In April, Transport Minister Christopher Mushowe allegedly led a campaign to get his political rival and MDC candidate for Mutare West, Gabriel Chiwara, dismissed from the National Railways. Chiwara, who lost to Mushowe in the election, works as an artisan in the NRZ which falls under Mushowe's Ministry. This alleged campaign also targeted other NRZ workers perceived to be supporters of the MDC.⁸⁷

Other alleged incidents of violence

The NGO Forum's April 2005 Report includes a large number of incidents of allegations of political violence perpetrated by ZANU(PF) members on supporters or suspected supporters of the MDC. Some of these reports follow:

The incidents below all took place in early April, 2005.

1. In Harare North an MDC activist met a group of ZANU-PF youths. The youths said that they were unsure of her allegiance and wanted to know exactly what she was doing and why she was not attending party meetings on a regular basis. One of the youths blindfolded the victim with ZANU-PF regalia and assaulted her beneath both feet and on her palms. The beatings lasted for about 20 minutes. Three buckets of water were poured onto her. She has had to relocate in fear of further victimization.
2. In Mufakose a victim tried to defend his wife against an attack by a ZANU-PF member. He was caught by youths, blind-folded and assaulted all over the body. He sustained a fractured right hand as a result. He managed to escape and reported the matter to the Marimba Police

85 Zimbabwe *Independent* 8 April 2005

86 Zimbabwe *Independent* 8 April 2005

87 SW Radio report 7 April 2005

Station, which referred the case to the Law and Order Section. The ZANU-PF member was reportedly arrested and taken into police custody.

3. In Goromonzi a ZANU-PF Councillor and other ZANU-PF activists known to the victim accosted him for wearing an MDC t-shirt. They took away his money, his t-shirt and his identity card. On his way home he was followed by these people who assaulted him with sticks, a slasher, fists, booted feet and stones for about an hour. He was taken to the police station where he was made to pay an admission of guilt fine. It is alleged that the police officer at the police station also joined the ZANU-PF supporters in the assault.
4. In Murehwa North six ZANU-PF youths and the Youth Chairman for the area came to a victim's home and confronted the victim as to why he was an MDC activist. He was allegedly assaulted with booted feet, fists and open hands. The youths also threatened the whole family and threatened that they would burn down their houses. The victim has since moved his family to his in-laws' home.
5. In Murehwa South the victim was assaulted by ZANU(PF) supporters at his home on the accusation that he was an MDC member. The perpetrators used sticks, open fists and booted feet to assault him. The victim and his family have had to relocate from the area.

The next series of incident occurred in mid April 2005:

1. In Mbare, a victim was assaulted by a Chipangano⁸⁸ and ZANU-PF member known to him. He was kicked twice in the chest, slapped once on the face and punched. He fell down on the road hitting his head against the tarmac and losing consciousness for some few minutes. This happened while a police officer was watching, but no action was taken. The perpetrator threatened him saying that he would continue punishing MDC supporters since the international election observers had left the country.
2. Also in Mbare, a victim was assaulted at his house by ZANU-PF supporters who accused him of mobilizing support for the MDC in Mbare for the Parliamentary elections. He has had to relocate in fear of further victimization.
3. In Mufakose some ZANU-PF youths told a victim that they had been watching him and his colleagues going to MDC rallies and wearing MDC regalia. The victim was slapped in the face and when he tried to defend himself, some youths surrounded him. One of them assaulted him with a log on the right shoulder and he fell. One youth tried to assault the victim on the head but he covered his head with his hands resulting in injuries to his right

88 Chipangano is a group of ZANU-PF activists who are reported to be victimizing opposition supporters in Mbare.

hand. Other youths joined in assaulting him in the face and stomach with booted feet and took some of his property. The victim reported the case to the police.

Further incidents of violence reported elsewhere include the following:

1. In early April ZANU(PF) youths and war veterans kidnapped the son of the MDC parliamentary candidate for Mazowe together with a number of other people. The son was severely beaten up and left for dead close to his family's shop. He had to be hospitalised.⁸⁹
2. In April ZANU(PF) was allegedly using youths located in special camps in the Midlands to beat up MDC supporters, apparently in retribution. Two MDC supporters celebrating the MDC's parliamentary victory were allegedly assaulted by 7 unidentified ZANU(PF) supporters wearing t-shirts emblazoned with a picture of the losing ZANU(PF) candidate for the constituency.⁹⁰
3. In May, an MDC supporter in Murehwa South, who worked as an election agent at Karumazondo Primary School, was severely assaulted by a group of four ZANU(PF) functionaries at a tuckshop he operates.⁹¹

The Counselling Services Unit (CSU), a registered health institution, which is based in Harare and renders medical assistance to victims of violence, has dealt with numerous cases in which MDC supporters reported that they have been assaulted by ruling party supporters prior to or in the aftermath of the March 2005 elections. Many of the alleged assaults prior to the elections were upon MDC election agents – a direct consequence of the electoral legislation which requires the names and addresses of election agents to be published in local newspapers. Apart from taking statements from these persons, the victims were all given medical examinations by CSU. In the majority of these cases, the assaults were perpetrated by ZANU(PF) youths. The cases reported occurred both in urban and rural areas. A few typical examples of reprisals against MDC supporters after the elections are the following allegations by the victims.

1. On 3 April 2005 at a village in Mount Darwin three ZANU(PF) youths went to the victim's home. They told her their previous suspicions that she was a MDC supporter had been confirmed by her appointment as an MDC election agent. The youths proceeded to beat the victim all over her body with booted feet and fists and completed the assault by pouring some unknown liquid irritant into her eyes.
2. This victim avers that on 2 April 2005, on leaving a nightclub, he was confronted by about 8 people accusing him of being an MDC supporter. He was beaten with a baton across the

89 SW Radio report 7 April 2005.

90 ZPP 13 April 2005.

91 Zimbabwe *Standard* 8 May 2005.

face and an irritant powder was then applied to his face. He was then handcuffed, dragged to a dark corner near a community hall where a military truck was parked. Here four uniformed soldiers assaulted him with handcuffs, batons, iron bar, open hands and fists. He was kicked with booted feet all over and was later taken to a cabin where ZANU(PF) supporters were stationed and left there until released in the early hours of the morning.

3. On 3 April 2005 at a business centre in Gokwe, another victim of reprisals claims he was with friends drinking beer at a shopping area when he saw a lorry and two Mazda vehicles coming towards them. The vehicles were full of people who were singing. They disembarked, approached the victim and told him that this was the day they would kill all MDC people. The victim claims he never answered back but one of the persons allegedly took a small bench, on which he had been seated and struck the victim on the head with it. The victim was also struck with the bench over the left eye, in the head, hand and on the back. Others beat the victim with sticks. The victim then fell down and was trampled on with booted feet. The victim claims he does not know what happened thereafter as he fainted and only gained consciousness while on the way to the hospital. The victim went to Zhombe Clinic where he claims he was refused treatment because he is an MDC member.
4. In this instance the victim's husband was an election agent for the MDC. Prior to the election ZANU(PF) supporters had been trying to find her husband and were clearly intent on assaulting him. On a previous occasion they had approached her to find out his whereabouts, had assaulted her, told her that she must leave her husband and they would find her a husband who was a ZANU(PF) supporter. On 20 April 2005 three trucks arrived at her home with people who were celebrating the winning of a parliamentary seat. The victim never took any precautions as she presumed that, with the elections over, her husband was no longer a threat to them. However, three of people left the trucks and assaulted her. The victim was slapped in the face with such force that she fell. She does not recall what happened thereafter, but believes she was unconscious for about half an hour following the assault.
5. On 29 April 2005, in Zengeza 3, another victim was in company of other MDC activists when they were surrounded by about 100 singing ZANU(PF) supporters who started throwing stones at them. The MDC activists were all wearing their party regalia. When the victim tried to run away she was hit with stones on her chest, thighs and legs. She tripped, fell and was booted on the back. She eventually managed to stand up and run away.
6. On 8 April 2005, another victim claims he went to Maringa Shopping Centre in Buhera South to buy maize. As he was waiting for his turn, two men pointed at the victim and

shouted that he was an MDC member and that maize should not be sold to him. It is alleged that one of the people who was there then approached the victim and asked him what his business was, to which the victim replied that he only wanted to buy maize. Someone then shouted out that others near the victim were also MDC supporters. ZANU(PF) youths at the maize distribution centre then started to assault these people. The youths surrounded the victim and, as he tried to run away, he tripped and fell. The youths then trampled on the victim. The youths dispersed after onlookers eventually intervened fearing the attackers would kill the victim.

7. A then pregnant victim claims that in Murehwa on 23 April 2005, while at home, she heard someone calling her by her name and when she went out to check on the visitor, she saw about 9 men. They assaulted her with sticks accusing her of being Tsvangirai's (the MDC leader) prostitute. She tried to escape but as she ran away she fell and she was kicked all over the body. She miscarried 4 days later.

Evictions and expulsions

In its April Report the NGO Forum carried details of some 53 people being forced to leave their homes because they were MDC supporters. Such reports were received from all around the country including Bindura, Chegutu, Chikomba, Chinhoyi, Guruve, Lupane, Mount Darwin, Rushinga and Uzumba Maramba Pfungwe. Two typical reports received by the NGO Forum are these:

1. At the beginning of April the victim was forced out of Bindura for being an MDC activist. He had to relocate to Harare while another victim was allegedly forced to close down his business in Madziva. He also says he had to flee his home because of threats of violence issued against him for being an MDC activist.
2. In mid April a man was evicted from his home in Muzarabani while another man was assaulted by ZANU-PF activists because they support the MDC and also because they were MDC election agents in the parliamentary elections. They were allegedly ordered to go and live in Harare "because that is where MDC people live". They had to relocate with their families.

Similar reports documented by other agencies include these:

1. In April 2005 more than thirty families were allegedly evicted from three farms in Hurungwe East, in the course of a witch hunt by ZANU(PF) party supporters to sniff out people who had actively campaigned for the MDC during the elections. The evictions were allegedly spearheaded by a person known as Machinga, a ZANU(PF) activist, with the

support of local councillors. The constituency was won by ZANU(PF)'s Reuben Marumahoko in the elections.

2. In Mount Darwin North, several MDC election agents had to be relocated in April after ZANU(PF) supporters, bent on violence, were heard to be searching for them. Headman Gandari was harassed at a meeting on April 23 2005 at Kumundati Village by ruling party supporters wanting to know why there were so many MDC activists in his area. The cases in Mt. Darwin North have been reported to the police at Karanda Police Station, but no arrests have been made.⁹²
3. In April 2005, it was reported that dozens of opposition supporters from Chipinge town fled their homes in fear of their lives as war veterans and ruling ZANU(PF) militants intensified retribution against opposition supporters. Some of the families said they had fled after receiving death threats from ZANU(PF) militants. It was also alleged that some members of the police in Chipinge were actively assisting the ruling party militants in persecuting people suspected of having voted for the MDC. MDC provincial vice-chairman, Prosper Mutseyami, said ZANU(PF) leaders were moving around Chipinge, a stronghold of the opposition party, urging their militant supporters to weed out opposition sympathisers. He said the activities of the local ZANU(PF) in Chipinge had been brought to the attention of the police who had not taken any preventative steps or other action. Mutseyami said: "In rural Chipinge, traditional leaders, ZANU(PF) supporters and the police are actively involved in the evictions. In Chipinge urban, ZANU(PF) leaders urged militia groups to weed out MDC sympathizers". A senior clergyman in Mutare, whose church has offered sanctuary to displaced MDC supporters in the city, also said families had told him of widespread victimisation of opposition supporters in the small town. "We are helping about 12 families from Chipinge who fled their homes after the elections. But we are doing it clandestinely because we too will be targeted for helping these people", said the church pastor, insisting that his name and that of his church not be mentioned for fear of reprisals.⁹³
4. In mid-May 2005 ZANU(PF) youths allegedly besieged two schools in Chihota, Marondera District, and expelled 9 teachers from the area, accusing them of backing the MDC. Eight of the teachers who fled from the schools said they would not return to the schools as their lives were in danger. The Ministry of Education, Sport and Culture's Mashonaland East provincial education director, Vinah Kimbini, confirmed that the teachers had been ordered

92 *The Zimbabwean* 10 April 2005.

93 *Zim Online* 30 April 2005.

to leave Mbonje primary and secondary schools. “The teachers were chased away by ZANU(PF) people from Mahusekwa. The matter was not reported to the police. Eight of the teachers have since asked for redeployment saying they no longer feel safe. They have since been redeployed to other schools in Murehwa, Seke and Marondera”, said Kimbini. This is not the first time that teachers have been barred from carrying out their duties in Mashonaland East. Two days before the 31 March poll about 1 000 teachers from schools around Harare were ordered to leave Mudzi where they had been deployed to help with the running of the elections. The teachers were accused of being MDC sympathisers.⁹⁴

5. In May 2005 groups of ZANU(PF) female supporters and youths reportedly threatened known and perceived MDC supporters with illegal expulsion from their homes. It is alleged that the women, who had been holding meetings daily in Nyamhuka 2 residential area, had intensified retribution campaigns against known or perceived MDC supporters.⁹⁵

Traditional leaders exacting reprisals

The ZLHR⁹⁶ indicated in a statement in May 2005 that overzealous Chiefs and Headmen in rural Zimbabwe have proved to be “the chief drivers of the retribution machinery.” The organization reports one such incident involving Headman Samaringa of Hauna Mutare who has routinely held kangaroo tribunals at his homestead in order to try to eliminate MDC opposition membership from his area. “In a recent incident on 1 May 2005, the headman summoned fifteen MDC supporters to his homestead to answer on their MDC membership. Other MDC members were barred from attending this ‘trial’ and two police details were also present”. Evidence of these procedures has been captured on camera.

Property damage

Various reports of property damage have been received.

1. In April 2005 an MDC election agent at Sanya Primary School in Shamva and his wife, Patience Maungire, who was an election agent at Soma Resettlement area, had their tuckshop looted of goods worth millions of dollars.⁹⁷
2. In April 2005 a thatched house belonging to an MDC supporter was burnt down by two named attackers. The two were arrested in connection with this incident after a report was

94 *Daily Mirror* 17 May 2005.

95 ZPP 14 May 2005.

96 ZLHR 5 May 2005

97 *The Zimbabwean* 10 April 2005

made to Madziva police, but were freed after their bail was paid, allegedly by ZANU(PF) MP, Nicholas Goche.⁹⁸

3. In May 2005, in Guruve North MDC youth chairman for Ward 6 in Guruve North, Alfred Chideme, had his property removed from his house and dumped at his father's home by a group of ZANU(PF) youths allegedly on the instructions of a ZANU(PF) councillor. When Chideme initially reported the incident at Mahuwe Police Station, the officer who heard the case said there was nothing they could do to help as the officer responsible for such cases had left the station. A second report was made to police but no arrests have been made. Chideme has since fled the area following threats by the youths, said the MDC.⁹⁹

Other MDC reports¹⁰⁰:

The MDC has also filed the following reports:

1. In Karoi, Mashonaland West, ZANU(PF) militants have threatened to intensify attacks against MDC members.
2. At least 10 villagers from Kazangarare rural area have sought refuge in the small town after fleeing ZANU(PF) militia attacks.
3. In Gwanda, Matabeleland South, 45 MDC supporters were beaten up and told they would no longer be allowed to buy maize from the GMB.
4. Six MDC supporters have taken refuge at the MDC's provincial head-quarters in Mutare after fleeing their homes in Makoni East on account of ZANU(PF) violence.

Denying food aid to suspected opposition supporters

The 2004-2005 harvest fell far short of what is needed to feed the Zimbabwean population in 2005. This has necessitated the mounting of a massive food aid programme. The state run Grain Marketing Board (GMB) distributes this food aid using personnel and structures with ZANU(PF) loyalties. In keeping with the militarisation of key institutions mentioned earlier, the head of the GMB is Samuel Muvuti, a former army colonel.

Following the election there have been numerous reports of food aid being withheld from people suspected of having voted for the opposition as a retributive measure. In these reports it is alleged that in many places war veterans and youth militia have taken over the allocation of

98 *The Zimbabwean* 10 April 2005

99 *Zimbabwe Standard* 8 May 2005

100 As reported in the *Zimbabwe Independent* 8 April 2005

food aid at the Grain Marketing Depots. Some of these reports include the following, which are taken from *Zimonline*¹⁰¹:

1. At Watsomba rural business centre in the eastern Manicaland province, reporters said they heard war veterans tell all known MDC supporters to leave a queue of people waiting to buy maize saying they would not be allowed to purchase the staple food because they voted for the opposition party. “We know all the MDC supporters here so don’t bother standing in the queue because we will flush you out. Some of you are buying ZANU(PF) cards to get food but you voted for the MDC. There will be no grain for you”, one of the war veterans said to villagers who had gathered at the depot to buy maize. A senior official at the depot later explained how the war veterans and youth militias had taken over distribution of maize soon after the March election. Villagers from Manicaland and other parts of the country such as Mashonaland West province and the southern Matabeleland region interviewed by reporters this week, said they were being prevented from buying maize from the GMB if suspected of having voted for the MDC. “Those being denied food are mostly people who were known to be MDC supporters or those like myself who were campaigning for MDC candidates in the last election”, a villager from Hurungwe West constituency in Mashonaland West province said.
2. In Bulawayo in Matabeleland, Catholic Archbishop Pius Ncube said he has received reports from the church community that ruling party cadres had taken over food distribution from Government workers. Ncube said: “Starving women with children on their backs came to me crying because they had been denied food on the basis that they were MDC supporters. Before the election, it was food for votes and now the same food is being used as retribution against those who sympathise with the opposition. Now it is clear why Mugabe doesn’t want food donors here. He wants to use food to reward his supporters and starve to death opposition members. Anyone in his right senses would not refuse to have his people fed especially when he can’t feed them himself”.
3. In Gwanda, it is alleged that Deputy Foreign Minister and ruling ZANU(PF) Member of Parliament for Gwanda constituency, Abednico Ncube, ordered traditional leaders in the area to compile lists of people who voted for the opposition in the March 2005 election so they can be barred from receiving food aid. It is alleged that the Minister vowed to prevent the Grain Marketing Board, which provides cheaper priced maize to hungry villagers, from distributing the key staple in the targeted areas until headmen and their subjects say who among them voted for the opposition. It is further alleged that ZANU(PF) officials deployed

101 *Zimonline* 13 and 18 April 2005.

in the constituency during the March poll as election officials were able to record specific wards and villages where the ruling party lost to the MDC and supplied the statistics to Ncube. The MDC said it had reported Ncube's alleged threats to starve the opposition party's supporters to the police.

The Zimbabwe Peace Project¹⁰² has also reported that ZANU(PF) councillors in Mberengwa have allegedly stepped up retribution and victimisation campaigns against the MDC using food distribution programmes. Committees headed by coordinators and set up by local councillors a week before the March 31st elections have organised the distribution of maize which reports say, is discriminatory in nature. It is said villagers who refused to "register" to vote for the ruling party before the elections were being denied access to maize.

Conclusion

Although many of these reports do not come from non-partisan sources, the allegations of violence and denial of food aid are remarkably consistent with the reports of threats made prior to the elections, outlined earlier in this report. This consistency lends credibility to all allegations of this nature made prior to, and after, the elections. It also supports the hypothesis advanced in this report that ZANU(PF) won the election in a manner which was neither free nor fair, not due to stuffed ballot boxes, but by creating a captive electorate dependent upon the favours of the ruling party and one which was starved of information, free choice and food.

102 ZPP Report 13 April 2005

TABLE A

Constituency	Name of Polling Station
1. Chimanimani	Saweronber Homestead
2. Chipinge North	Chief Mapungwana Homestead
3. Chipinge North	Chief Gwenzi Homestead
4. Rushinga	Chief Makuni (Mukazika Village)
5. Seke	Muza Store
6. Mudzi West	Tizova Homestead
7. Chiredzi North	Favershah Lot 3 Homestead
8. Gwanda	Highway Homestead
9. Insiza	Mpalawani Homestead
10. Insiza	Gwamanyanga Homestead
11. Insiza	Albany Homestead (Tent)
12. Chirumanzu	Mahamara Homestead
13. Zhombe	Bonstead Homestead
14. Harare South	Airport Compound Store
15. Guruve South	Gangarahwe Village
16. Mazowe West	Ballinety Farm
17. Mt Darwin South	Gwetera Village
18. Muzarabani	Kingston Deveril Resettlement
19. Rushinga	Wara Village
20. Rushinga	Chinaka Village
21. Zvimba South	Mhandu Village
22. Zvimba South	Mwanga Resettlement
23. Masvingo Central	4 Brigade Headquarters
24. Hwange East	Mwemba Chiefs Hall
25. Bubi-Umguza	Molo Forestry (Wejiwa Homestead)

TABLE B¹⁰³**The Spoiled Papers by Province**

Province	Number of constituencies	Average number of spoiled papers per constituency	Total number of spoiled papers in province
Harare	18	187.5	3 375
Bulawayo	7	118.2	828
Midlands	16	502.2	8 036
Mashonaland West	13	579.3	7 532
Matabeleland South	7	645.5	4 519
Masvingo	14	666.6	9 333
Matabeleland North	7	658.8	4 612
Manicaland	15	442.9	6 644
Mashonaland East	13	691.3	8 988
Mashonaland Central	10	656.0	6 560
TOTALS:			
Provinces: 10	Constituencies = 120	Average spoiled per province = 514.8	Total Spoiled = 60 427
National Average of spoilt paper per constituency = 495.1			

103 Supplied by Zimbabwe Lawyers For Human Rights - Report on the March 2005 Parliamentary Elections.

TABLE C¹⁰⁴

<i>Province</i>	<i>Total announced people who voted by 19:30hrs</i>	<i>Total announced results</i>	<i>Discrepancy (+ reflects votes added; - reflects votes missing)</i>	<i>Candidate elected</i>
Manicaland				
Buhera North	16595	27874	+11279	ZPF
Buhera South	25447	30518	+5071	ZPF
Chimanimani	23896	27642	+3746	ZPF
Chipinge North	23951	28176	+4225	ZPF
Chipinge South	29479	30704	+1225	ZPF
Makoni East	20464	17340	-3124	ZPF
Makoni North	14068	25878	+11810	ZPF
Makoni West	18365	22793	+4428	ZPF
Mutare Central	18619	18653	+34	MDC
Mutare North	18384	18896	+512	MDC
Mutare South	14054	19772	+5718	ZPF
Mutare West	18584	20896	+2312	ZPF
Mutasa North	10936	17204	+6268	ZPF
Mutasa South	15733	19573	+3840	ZPF
Nyanga	13996	22729	+8733	ZPF
	282471	348648	66177	
Harare				
Budiriro	21388	22085	+697	MDC
Chitungwiza	20378	20585	+207	MDC
Dzivaresekwa	16975	16897	-78	MDC
Glen Norah	18860	19602	+742	MDC
Glen View	17931	18461	+530	MDC
Harare Central	14722	15501	+779	MDC
Harare East	13132	13719	+587	MDC
Harare North	15633	16570	+937	MDC
Harare South	22 403	22261	-142	ZPF
Hatfield	21326	21459	+133	MDC
Highfield	15970	17130	+1160	MDC
Kambuzuma	22564	23227	+663	MDC
Kuwadzana	19153	19226	+73	MDC
Mbare	25545	25336	-209	MDC
Mufakose	16875	17079	+204	MDC
St Marys	21052	21281	+229	MDC
Tafara/Mabvuku	15784	20024	+4240	MDC
Zengeza	21017	21136	+119	MDC
	340708	351579	10871	

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Mash West				
Chegututu	19763	25374	+5611	ZPF
Chinhoyi	16589	15558	-1031	ZPF
Hurungwe East	22533	26553	+4020	ZPF
Hurungwe West	24519	25861	+1342	ZPF
Kadoma	16983	19071	+2088	MDC
Kariba	16676	24142	+7466	ZPF
Makonde	20720	22250	+1530	ZPF
Manyame	14812	24303	+9491	ZPF
Mhondoro	15305	18434	+3129	ZPF
Ngezi	19731	19769	+38	ZPF
Sanyati	18480	22250	+3770	ZPF
Zvimba North	28905	21647	-7258	ZPF
Zvimba South	15790	21032	+5242	ZPF
	250806	286244	35438	
Bulawayo				
Byo East	12635	13489	+854	MDC
Byo South	15864	15981	+117	MDC
Lobengula/Magwegwe	15570	15630	+60	MDC
Makokoba	15344	15838	+494	MDC
Nkulumane	15174	15742	+568	MDC
Pelandaba/Mpopoma	15047	15113	+66	MDC
Pumula/Luveve	17625	17723	+98	MDC
	107259	109516	2257	
Mat South				
Beitbridge	36821	21968	-14853	ZPF
Bulilima	13581	17958	+4377	MDC
Gwanda	23288	24584	+1296	ZPF
Insiza	20220	22099	+1879	ZPF
Magwegwe	16709	16414	-295	MDC
Matobo	17882	20257	+2375	MDC
Umzingwane	10477	22627	+12150	MDC
	138978	145907	6929	
Mash East				
Chikomba	18401	26050	+7649	ZPF
Goromonzi	15611	26123	+10512	ZPF
Wedza	23698	26664	+2966	ZPF
Marondera East	25193	29929	+4736	ZPF
Marondera West	19417	21252	+1835	ZPF
Mudzi East	12499	22420	+9921	ZPF
Mudzi West	10998	22796	+11798	ZPF
Murehwa North	17606	22353	+4747	ZPF
Murehwa South	18519	24463	+5944	ZPF
Mutoko North	10721	20652	+9931	ZPF

Mutoko South	15863	23481	+7618	ZPF
Seke	11344	24873	+13529	ZPF
UMP	Not provided	35634		ZPF
Total (excl UMP)	291851	291056	-795	