

We are not Sleep-Walking Zombies

“Governing without the people’s mandate”



**BRIEFING PAPER ON THE 2008 PRESIDENTIAL ELECTIONS
IN ZIMBABWE**

JANUARY 2007

1.0 Preamble

Since its inception in August 2001, the Crisis in Zimbabwe Coalition has become one of the critical voices within the civic movement in Zimbabwe's trajectories of democratic governance and political accountability. This paper is one in a series, produced periodically by the Coalition focusing on important issues related to the national question and progress being made towards the resolution of the national governance and legitimacy crisis.

Apart from setting the platform for national dialogue on ZANU PF's bid to postpone the 2008 presidential elections, this paper also seeks to raise alarm on the injustices associated with this bid. **Section 1** briefly deals with the genesis of the Zimbabwean crisis, **Section II** focuses on the postponement of the 2008 elections vis-a vis the dictates of the SADC Guidelines governing democratic elections. Lastly **Section III** focuses on the role of various stakeholders, e.g. political parties, CSOs, the academia, the church, media and diplomatic community etc in aborting ZANU PF's bid to cheat Zimbabweans.

2.0 Background

The socio-economic and political crisis in Zimbabwe has intensified in the past eight years. The crisis deepened following Zimbabwe's suspension and subsequent withdrawal from the Commonwealth in December 2003 largely because of continued human rights abuses and what appeared to be a deliberate violation of the Harare principles with regard to the conditions of the 2002 disputed presidential election.

The democratic governance deficit identified by the Commonwealth Troika led by Presidents Thabo Mbeki, Olusegun Obasanjo and Prime Minister John Howard of South Africa, Nigeria and Australia respectively remain largely unresolved as Zimbabwe approaches another crucial election in 2008, which the ZANU PF-led government has expressed an intention to postpone. The ZANU PF conference held in December 2006 recommended to its Central Committee for both presidential and parliamentary elections to be postponed to 2010 contrary to the provisions of the constitutional provisions and without a referendum to get the views of Zimbabweans.

In particular, the electoral environment remains largely uneven. Further the government of Zimbabwe has reneged on promises it made to President Thabo Mbeki of South Africa regarding the progressive review of Apartheid-style legislation such as AIPPA and POSA and its commitment to introducing democratic governance. Repressive laws remain in place in the form of the Criminal Law Reform and Codification Act, Presidential Powers Temporary Measures Act, the Public Order and Security Act and the Access to Information and Protection of Privacy Act, to mention but a few. The infrastructure of violence – especially the green bombers - is still intact. Although the youth militia has been demobilized to give an impression of peace and tranquility prevailing in the country, their presence within communities is enough intimidation to the people.

Despite some minor and cosmetic changes which the ZANU PF politburo has introduced such as the Zimbabwe Electoral Commission (ZEC) that is supposed to independently administer elections, the electoral laws remain heavily weighted/tilted in favour of the incumbent. The electoral processes and institutions continue to be militarized or Zanunized.¹

3.0 SADC Guidelines on Democratic Elections Vs the 2008 presidential elections in Zimbabwe

The latest overtures by the ruling ZANU-PF party to synchronize presidential and parliamentary elections must be analyzed within the context of the democratic deficit stalling national progress and the deeply entrenched culture of long incumbency and the recycling of incompetent national leaders in Zimbabwe.

The announcement by the ZANU-PF leadership that the ruling party is synchronizing presidential and parliamentary polls is meant to prolong the term of office of President Robert Mugabe by a further two years. Whilst holding elections simultaneously reduces costs, it must be noted that the attempt by ZANU PF is meant to deny the electorate a chance to elect a new president in 2008.

Tinkering with the constitution and the electoral law without introducing fundamental changes in the administration of elections is undemocratic. Whilst the idea of

¹*Zanunisation” refers to a process whereby state institutions are staffed exclusively by ZANU PF members and sympathizers.*

synchronizing presidential and parliamentary goes far in reducing logistical costs, the Crisis in Zimbabwe Coalition makes the observation that it is none other than the ZANU-PF government that disregarded the people's submissions to the Chidyausiku-led Constitutional Commission (CC) in 2000 leading to the rejection of the draft constitutional document.

Cosmetic changes being introduced in the administration of elections is clear evidence of the urgent need for a comprehensive new, democratic and people-driven constitution for Zimbabwe. In as far as electoral administration is concerned, a new democratic and people-driven constitution will among other things address the following core issues:

- ♦ ***Define when and under what circumstances should presidential, parliamentary and local government elections be run?*** One of the core tenets of democracy is that the electorate must be allowed to freely participate in elections to choose their representatives and to do so periodically. Thriving democracies hold elections timeously and do not seek to cheat the electorate by postponing the holding of elections or appointing commissions to run local government, as the case in Zimbabwe.
- ♦ ***Defining the terms in office and code of conduct of the elected-***In their submissions to the Constitutional Commission (CC) in 1999, the people rejected the Executive presidency because of an unlimited term of office, immunity to prosecution or impeachment and the imperial powers vested in the presidency. A new democratic, people-driven constitution will ensure that no one, including the president is above the law. Democratic constitutions limit discretionary authority, among other ways, by establishing judicial independence, affirming the public service's organizational integrity, and specifying presidential term limits **(Alence, 2004)**.
- ♦ ***Allowing democratic political contestation-***Over the years the ZANU- PF presidential candidate, President Mugabe has had an unfair advantage over other presidential aspirants by refusing to relinquish his post and enter into elections on equal terms as other political contestants. In a normal democracy, the incumbent relinquishes power and does not use public resources for his bid for re-election, as is the case in Zimbabwe.

In the view of the Coalition there are three levels of inter-related electoral reforms urgently needed in Zimbabwe before any election is held. These reforms include,

1. Reforms to Zimbabwe's Electoral system

Zimbabwe inherited a winner-take-all system from the British at independence in 1980. Any attempt to transform and democratise Zimbabwe must entail a change from this system to a proportional representation system or a mixture of the two systems. There is currently no proposal to fundamentally move away from the British political thought, aforementioned. For all the government of Zimbabwe's vilification of the British Prime Minister Tony Blair, it is surprising that the same government continues to hold on to the undemocratic winner-take-all system inherited from Tony Blair's fore bearers. This system does not promote equitable representation of the broadest spectrum of the country's political thought. It must and should have been abandoned for good at independence.

The winner-take-all system is primarily responsible for sustaining Stone Age politics of violence and vengeance. It is – in the opinion of the Coalition, the manufacturing base for political xenophobia.

2.0 Reforms to the Administration of Elections

Irrespective of the electoral system in place, an election must still be administered in a transparent and accountable manner. The administrative aspects of elections cover issues to do with the number of polling stations, the type of ballot boxes to be used, location of polling stations, administration of queries pertaining to the polling processes and voter registration and monitoring of the printing and distribution of ballot material.

Reforms to the administration of elections are, in a normal society – key to ensuring a transparent electoral process. However, changing how an iniquitous system is administered does not alter either the electoral system or the context within which elections are run. Such reforms simply make the administration of elections efficient in terms of time and other resources. To the extent that electioneering should be an efficient process, such reforms merit qualified support.

3.0 Reforms to the political environment

An election is enacted within a specific social, political and economic environment. It follows then that if the environment attendant to an election is unfavorable to the exercise of free choice, it makes no difference how regularly elections are held and how efficiently they are administered. Elections held in a repressive environment replete with intimidation and organized violence simply become regular self-legitimizing rituals by authoritarian regimes. Such elections do not serve the interests of democracy, the country or the people.

Repressive and unduly restrictive laws and practices will defeat even the most democratic of electoral systems and most efficient administrative processes. The environment has the effect of a terminal disease in a well-nourished body. In our view it is imperative that changes to the entire electoral system and processes be the result of an inclusive national dialogue, which is embedded in a democratic constitution.

It is with this understanding that we proceed to critique electoral environment in Zimbabwe. Ahead of the June 2000 Parliamentary elections, the Mass Public Opinion Institute (MPOI) produced a pre-election survey, which predicted that the Movement for Democratic Change would win 75 seats out of the 120 elected seats in parliament.

Unprecedented violence and intimidation characterized the 2000 parliamentary election. Zimbabwe Lawyers for Human Rights (ZHLR) and the Zimbabwe NGO Human Rights Forum produced reports, which indicated that voters had been subjected to assaults, abduction, arson, rape and other forms of terror. These reports indicated that in the run up to the 2000 elections, 81 people were killed in incidents of political violence and several thousands of people were subjected to inhumane and degrading treatment. The then nine-month old MDC obtained 57 seats; Zanu Ndonga retained its one seat in Chipinge South and the 37-year old Zanu PF barely managed slender 62 seats.

The late director of MPOI, Professor Masipula Sithole accounted for the deficit in the predicted seats as a result of “the margin of terror as opposed to the margin of error”, on MPOI's part.

Since the 2000 Parliamentary elections Zimbabwe endured several by-elections and presidential and parliamentary elections in 2002 and 2005 respectively. The Senate elections held in November 2005 were equally controversial. Violence, coercion and gross violation of human rights have characterized elections in Zimbabwe.

Investigations by human rights groups indicate that more than 88 percent of these human rights abuses can be attributed to groups sympathetic to the establishment. Scores of women have been raped and some infected with the deadly HIV/Aids virus. Many perceived opponents of the government have been maimed, some sustaining lifetime disabilities. Several reports produced by the Zimbabwe Human Rights NGO Forum confirm that there has been organized violence facilitated and or sponsored by the state through direct action or glaring omission.

The manipulation of the media and the judiciary has also been legendary and unprecedented. In some cases justice has been deliberately denied to 'perceived' opponents of the government through inordinate delays. A case in point is the MDC election petitions which have since been left to gather dust at the High Court and the tenure of parliament for which they were meant has since lapsed. One has seen a political maxim in operation that says **"democracy for our friends and dictatorship for our enemies."**

The two most influential factors in all these elections as noted above have been the "margin of terror" and the unevenness of the political playing field. The political playing field is uneven due to the constitutional architecture of Zimbabwe. Zimbabwe's constitution facilitates the exercise of arbitrary power rather than its limitation. The powers vested in the President and the Minister of Justice, Legal and Parliamentary Affairs are wide, arbitrary discretionary powers that are inimical to the democratic processes.

According to Jonathan Moyo, in his book, *Voting for Democracy: Electoral Politics in Zimbabwe* (1992), the Constitution of Zimbabwe vests in the President 'imperial powers'. These 'imperial powers' are a factor when the President- their repository- is an interested party in the contest for power. The power of the President to legislate in emergency and electoral issues essentially means that he is a judge in his own cause, described by some as domestic imperialism. For instance, Section 158 of the Electoral Act says that the President can legislate on elections at any stage of the

election process and it is this law that has been used in the past elections to alter the polling days.

These excessive powers were used against the rights of citizens to disenfranchise the electorate ahead of the 2002 presidential elections. ZANU PF is not content with all these electoral malpractice and now wants to postpone the 2008 election without the consent of Zimbabweans and contrary to the spirit and provisions of the SADC Guidelines and Principles governing the conduct of democratic elections in the sub-region.

4.0 The SADC Guidelines and Electoral Standards in Zimbabwe

The SADC Principles and Guidelines Governing Democratic Elections Article 2.1.4 calls upon member states to have “regular intervals for elections as provided for by the respective National Constitutions”.

Furthermore Article 2; 1:1 states that a democratic election should have full citizen participation in political processes. Even if President Robert Mugabe and Zanu PF amend the constitution to facilitate postponement through parliament, the lack of citizens’ participation through a referendum remains an affront to the SADC Principles and Guidelines governing democratic elections.

As a State Party to the 2004 SADC Guidelines, Zimbabwe is expected to place in place legislation and set up administrative mechanisms that are transparent, accountable and enhance people's participatory rights. It is therefore incumbent upon civic society organisations, opposition political formations and the general citizens of Zimbabwe to make sure that President Mugabe's government abides by its national, regional and international obligations in safeguarding the suffrage rights of the citizenry.

5.0 Role of Stakeholders

The Church in Zimbabwe is currently fractured with two groups pursuing uncoordinated programmes to resolve the crisis in Zimbabwe. The Christian Alliance is one of the groups that are working with the broader civic society movement under the Save Zimbabwe Campaign to bring about democratic rule in the country. On the other hand, the Evangelical Fellowship of Zimbabwe (EFZ), the Zimbabwe Catholic Bishop" Conference, (CZBC) and the Zimbabwe Council of Churches (ZCC) recently

presented to President Mugabe a document they called *The Zimbabwe We Want* in which they called for constitutional reforms among other things as a way of dealing with the crisis. A unified church can assist to address the current maneuvers to postpone the elections by speaking with one voice. What needs to be done is to come up with an agreed strategy among the Christian denominations in order to confront the root causes of the crisis.

Civil society organisations and opposition political parties have converged under The Save Zimbabwe Campaign in order to address the twin problems of governance and legitimacy. It is the view of the Coalition that the Save Zimbabwe platform should be used to mobilize Zimbabweans, the region and the international community to force the ZANU PF regime to abandon its repressive style of administering the country and to increase pressure on government to hold elections in 2008.

Repressive laws such as the Access to Information and Protection of Privacy Act (AIPPA) and the Public Order and Security Act (POSA) should also be defied and repealed before the holding of the 2008 elections.

The civics and their opposition allies should launch an advocacy campaign among the African and European diplomats in Zimbabwe to inform them about the need to influence ZANU PF to change its destructive policies.

Wayforward

There is urgent need for the civic movement in Zimbabwe to reject the One-Party State agenda/ideology that the ruling Zanu PF party has harbored since 1980 when the country attained independence. To safeguard the gains of independence, there are various strategies of democratic peaceful resistance that the people in their various collectives/sectors or as a broad united front can embark on to force Zanu PF to embrace democratic ideals. The postponement of the presidential elections to 2010 constitutes an electoral fraud. It is therefore incumbent upon the State, CSOs, the opposition, the church, business community, women, students, the youths and academia to stand up and speak the truth and speak on behalf of the downtrodden.

Whilst national dialogue is one of the most sure ways of ending a national crisis of this magnitude, earlier attempts to bring all stakeholders into dialogue in Zimbabwe

have collapsed solely because of cheap and populist politics, practised largely by the ruling party. Given this political impasse, there is need for the civic movement to rally the people behind the total rejection of the postponement of next year's elections.

In this regard, the Coalition proposes the following programmes to stop ZANU PF from cheating the public by postponing the 2008 elections;

- ◆ To mobilize Zimbabweans to engage in democratic civil disobedience programmes calling for elections in 2008.
- ◆ Undertake regional and international advocacy work to pressure President Mugabe to abandon his dictatorial policies and allow democratic processes to prevail in Zimbabwe.
- ◆ Mass mobilization rallies, galas, music concerts etc.
- ◆ To popularize the urgent need for civic and opposition forces to unite and focus their energies and programmes to the defiance campaign against the postponement of the elections.