



'President Mugabe not off the hook', Civil society says



Another sham election in the offing



YOUTH AGENDA

TRUST: Constitutional Court ruling: A ploy to rig elections

'President Mugabe not off the hook', Civil society says

THE Constitutional Court of Zimbabwe in Harare on Thursday, July 4, unanimously maintained previous ruling in *Jealous Mbwire vs. The President and others* that the harmonized elections should be held on the 31st of July, 2013. Crisis in Zimbabwe Coalition (CiZC) says defaulters of the Global Political Agreement (GPA) are not yet off the hook.

The nine judges sitting as a constitutional court dismissed the urgent cases for postponement to implement pending reforms brought by five applicants. Reasons of the constitutional court ruling are yet to be given and there was no mention of pending reforms by the Con-court bench.

Canvassed by the Crisis Report on whether the ruling by the Constitutional Court meant that President Robert Mugabe was off the hook in terms of the political reforms recommended at the SADC Summit in Maputo, CiZC Regional Advocacy and Information coordinator, Joy Mabenge, said:

"Certainly, not because the message from SADC was quite clear that we must implement reforms before the elections, so if they go off the hook and we go for elections it is a disputed election and

it means we are in an election mood for quite some time. In fact, this is not going to logically conclude the Global Political Agreement.

"So President Mugabe is not off the hook yet, in fact what the Supreme Court has done flies in the face of the mediation process that has been done by SADC and by extension by the AU.

"I don't think it is Zimbabwe's intention to isolate itself from the AU and SADC. In fact, it will be suicidal for anyone to attempt to do that," said Mabenge.

Delivering the anticipated ruling before a full house at the Supreme Court around 5pm on Thursday, July 4, Chief Justice Godfrey Chidyausiku said:

"The applications should be, and are hereby dismissed without order of costs. For the avoidance of doubt elections will proceed on the 31st of July 2013 in terms of the proclamation by the President of Zimbabwe in compliance with the order issued by this court as CCZ1/2013. Reasons are to follow."

The court on May 31 ruled in favour of *Jealous Mbwire* of the low profile, little known and inactive Centre for Elections and Democracy in Southern Africa

(CEDSA), "obligating" President Robert Mugabe to proclaim date for elections to be held by July 31.



Joy Mabenge

After President Mugabe invoked the Presidential Powers (Temporary Measures) Act to amend the Electoral Act and proclaim elections for July 31 as gazetted through Statutory Instruments 85 of 2013 and 86 of 2013, the court was approached by five applicants who called for nullification of the date on reasons that it brewed a sham election, leading to joint hearing on Thursday, July 4.

Justice and Legal Affairs Minister Patrick Chinamasa in his affidavit said he agreed with the date though he had been "whipped" by SADC, following a Summit

of the bloc in the coastal Mozambican capital Maputo on June 15 which urged the parties to the Global Political Agreement (GPA) as government, to approach the court for an extension to implement reforms necessary for credible, free and fair elections.

SADC had prior to the Summit been pressured by a coalition of five main opposition parties, MDC-T, MDC-N, Mavambo/Khusile/Dawn, ZAPU and Zanu-Ndonga, and Zimbabwe and international civil society organizations who wrote petitions urging the bloc to guarantee “free, fair and credible elections in Zimbabwe”.



Civil Society organizations maintained soon after the Summit and at the Launch of the “Feya Feya” Campaign on Thursday, June 27 in Bulawayo their stand-point of principle, saying the issue was not about the date of the election but the pending critical reforms.

State media hate speech partisan reporting and security sector bias towards Zanu-PF were some of the concerns raised by civil society organizations which they said were against the Constitution, SADC Principles and guidelines Governing Democratic Elections and African Charter on democracy, elections and governance.

Prime Minister Morgan Tsvangirai and Minister of Industry and Commerce, Prof. Welshman Ncube, represented by Advocate Lewis Uriri and Advocate Thabani Mpofu respectively tried to persuade the Constitutional Court that the move to amend the Electoral Act, and proclamation of elections by President Mugabe without consulting other principals as provided for by the GPA which stipulates that executive powers are shared was unconstitutional.

Two citizens Nixon Nyikadzino and Maria Phiri who had also filed for extension complained that the July 31 date infringed on their basic rights.

However the court upheld its earlier ruling, meaning the July date stands.

Chief Justice Chidyausiku said the reasons for the ruling will follow, keeping the applicants guessing. The bench also refused to hear Prime Minister Tsvangirai’s lawyer Uriri’s argument that the Presidential Powers (Temporary Measures) Act was unconstitutional.

Neither did the court pronounce whether the laws made by decree were not illegal.

Chief Justice Chidyausiku maintained elections should have been held by June 29, calling that omission “the mother of all illegalities”.

In persuading the court to uphold the Presidential decree of June 13, Mawarire’s lawyer said the court could not pay attention to a “club of politicians” in reference to SADC, purporting that it could open floodgates to decisions of a similar nature in the future from the AU, or UN.

Uriri said there was nothing sinister about the PM seeking support from SADC as his authority and that of the President were in terms of an agreement brokered and guaranteed by SADC, which Zimbabwe was supposed to honour as a party to the SADC treaty.

Meanwhile, the Attorney General and Zimbabwe Elections Commission (ZEC) who had been cited as the fifth and sixth respondents promised to abide by the ruling of the constitutional court, claiming they were neutral.

Another sham election in the offing

PROSPECTS of a “free, fair and credible election” have significantly narrowed since the Constitutional Court ruling on May 31 ordering elections before July 31 and the subsequent use of Presidential Powers (Temporary Measures) Act to amend the Electoral Act and proclaim elections for July 31, according to Prime Minister Morgan Tsvangirai.

The Premier, flanked by political leaders, Dr. Simba Makoni, president of Mavambo/Khusile/Dawn, and Reketayi Semwayo, chairman of Zanu-Ndonga held a briefing with leaders of civil society, business and the church on Friday, July 5, in Harare.



Prime Minister Morgan Tsvangirai.

Hon. Tsvangirai emphasized that the ruling of the Constitutional Court on Thursday, July 4, to uphold the July 31 election date had made matters worse but was not the big issue in prohibiting a “free, fair and credible” election.

“For me, it has always been about the conditions and not the date,” he said.

Rt. Hon. Tsvangirai entrenched the position that the national crisis taking shape towards the crucial elections was not a result of the timing of elections but a clear absence of compliance with the Constitution.

He further stated that there was total disregard of Guidelines and Principles Governing Democratic Elections of, and specific pre-election recommendations by guarantors of the Zimbabwean transition, Southern African Development Community (SADC) and the African Union (AU).

“There is general peace, but what I want to tell you is that underlining that peace there is serious undermining of the people’s mandate,” the PM said, adding that Zimbabweans are keen on restoration of political legitimacy in the country.

“They associate an election with resolutions of their own plight,” said the PM, in reference to ordinary Zimbabweans Dr. Makoni said had suffered for too long.

Hon. Tsvangirai – despite the provisions of the Constitution that the media should be non-partisan – said the State media had been given a directive by Zanu-PF to cover all its rallies live, which could be an escalation of media bias and blatant departure from best practices.

Dr. Makoni, implored Zimbabweans to move “out of small paddocks” of political and civic affiliations toward “consensus of the broadest leaders of the people” from business, the church, civil society and politicians as the matters at hand were of national concern.

The Crisis in Zimbabwe Coalition is a broad based civil society network of over 72 active members comprising churches, women’s groups, social movements, residents associations, labour unions, human rights lawyers, and health professionals. It was formed in August of 2001 to focus on democracy, human rights, good governance and sustainable development issues – working locally, regionally and internationally.

Finance Minister Tendai Biti said the country had no money for elections despite the elections being close; complaining of interference from the Justice and Legal Affairs Minister Hon. Patrick Chinamasa.

Chinamasa despite blocking the envisaged United Nations (UN) assistance in funding the elections mocked the SADC resolutions for a court application to extend the election preparation period.

Hon. Biti indicated that the 70 000 members of the police force who had been registered for special voting were beyond the number of the entire police service itself, and no guarantees had been put in place to ensure that they would not vote again on July 31.

Hon. Biti said a provision prohibiting double voting had been scrapped by Presidential decree under Statutory Instrument 85 of 2013 through initiation by Hon. Chinamasa.



FEYA FEYA

CONCERT
Sat, 6 July 2013, 9AM

ZENZEZA 2 SHOPPING CENTRE CHITUNGWIZA

ZENZEZA 2 SHOPPING CENTRE CHITUNGWIZA

GUSPY Warrior
Dadza D
Syndicate
Jiggaz
Magesh

Asambeni Asambeni
....cause Tisu Anhu Acho
and together we will Win
Against Violent Elections.



The Crisis in Zimbabwe Coalition is a broad based civil society network of over 72 active members comprising churches, women's groups, social movements, residents associations, labour unions, human rights lawyers, and health professionals. It was formed in August of 2001 to focus on democracy, human rights, good governance and sustainable development issues – working locally, regionally and internationally.

YOUTH AGENDA TRUST: Constitutional Court ruling: A ploy to rig elections

Youth Agenda Trust received the Constitutional Court ruling on the holding of elections on July 31 with shock and disgust and views it as one that is masked by a sinister political agenda and a serious assault on the rights of all Zimbabweans by denying them an opportunity for a credible, free and fair election.

The ruling only serves to show that the country's judiciary is not independent but one that is swayed by the whims and caprices of selfish politicians who want to ambush Zimbabweans into a sham election motivated by selfish political interests.

The court verdict has confirmed widely held beliefs that the country's judiciary is being held at ransom by power hungry individuals in Zanu PF who are not interested in a credible and transparent election but a hurried election that does not give the people an opportunity to unmask electoral fraud designed to steal the elections.

YAT insists that the Thursday, June 4, 2013 court judgment will go down in the history of the country as a black moment that marks the death of constitutional democracy in the country.

As YAT, we maintain that it is not possible for the country to hold free and fair elections on the 31st of July mainly because of the following issues:

- 1) Chaotic voter registration exercise: The voter registration has been deliberately designed to deny bona-fide citizens of this country their right to vote. The voter registration process has been one that has been marred by poor administration and is custom made to frustrate potential registrants. The time that has also been allocated to register is not enough as most people have either failed to cope with the long and winding queues and or have not had time to visit the centres in the short period due to other competing interests.
- 2) Poor voter education: Despite the fact that elections are only three and a half weeks away, there has been no serious attempt by the Zimbabwe Electoral Commission to educate Zimbabweans on the impending plebiscite and their right to vote. As YAT we feel that the information blackout by ZEC has been deliberate and meant to keep unsuspecting citizens in the dark.
- 3) Shambolic voters roll: The country's voters roll which is maintained by the registrar general remains the biggest fraud in the electoral history of the country. It is public knowledge that the country's voters' roll is a back-up of the death entry register where the dead are abused into manipulating election results. It is also in the public domain that the voters roll is being used to mask electoral fraud with a lot of people confirming that their names are being deliberately deleted from the list and replaced with imaginary characters. In short, the voters roll is not credible.
- 4) Political reforms: Among the key reforms outlined in the Global Political Agreement (GPA) are the security sector and media reforms. YAT notes with disappointment that the Zanu PF side of government has continued to shield the security sector from undergoing democratic transformation. Service chiefs who are civil servants continue to undermine other principals to the Global Political Agreement other than President Robert Mugabe by reiterating that they will not cede power to anyone who is not from Zanu PF. We maintain that all individuals in the security sector remain

answerable to civilian authority and anyone who acts contrary to the dictates of the people is not fit for public office. We therefore feel that unless there is security sector realignment, there will be no free and fair elections to talk about. We also note with dismay the unprofessional conduct of state media which has failed to reform and has continued on a warpath with other political parties that are not Zanu PF. We particularly refer to the biased media coverage in all news bulletins carried by ZBC and uncouth articles that are being published in the Herald, Chronicle and the Sunday Mail. We feel that until there is fair media coverage in the state media, there is no credible election that we can talk about.

5) Violence and Intimidation: We also note with disgust violence and intimidation that is being perpetrated mostly in rural communities by youth militia and state agents who are openly campaigning for Zanu PF. We feel that the use of force and intimidation is a serious issue that threatens the holding of free and fair elections. Until and unless there is peace and tranquility in the country, we cannot talk of free and fair elections.

6) Manipulation of state resources by Zanu PF: We have noted that Zanu PF continues to monopolise state resources by using them to further its interests. We saw the party using officials from the Zimbabwe Republic Police to conduct its primary elections. We maintain that as long as we have a partisan security service and the manipulation of state resources for political gain, we cannot talk about free and fair elections.

It is because of the reasons mentioned above that makes us believe that we are not ready to hold a credible election. A free and fair election will remain a pipe dream unless these issues are addressed. As Youth Agenda Trust, we demand that:

1) The Zimbabwe Electoral Commission and the Registrar General's office conduct a thorough and inclusive voter registration exercise which will enable all Zimbabweans to register to vote and participate in the forthcoming elections.

2) That the Zimbabwe Electoral Commission conducts a thorough nationwide voter education and also allow civic organisations to conduct voter education so that the forthcoming elections are not held under the cover of darkness but are free and open to the public.

3) That the registrar of voters allow for the public audit of the voters roll and ensure that people have access to the document before elections are held. We call upon principals to the Inclusive Government to see to it that the voters roll indeed represent the true picture of the country's electorate.

4) That all service chiefs should submit to principals of the inclusive government without prejudice and that they should be prepared to respect the will of the people after the July 31 elections. We also demand that all security forces should conduct themselves in line with their constitutional duties.

5) An end to violence and intimidation and that the Zimbabwe Republic Police should arrest all perpetrators of violence without fear or favour.

6) State entities to account for all resources entrusted to them by the people and stop associating themselves with political parties. We call upon all state actors to leave politics to politicians and concentrate on serving the people.

-By Youth Agenda Trust