



Justice Minister wants to 'lose' the con-court case



OF SADC RESOLUTIONS, THE ZIMBABWEAN ELECTION AND AN INFATUATION WITH



Election Funding - 'No amount of money can aid the failure to secure it in time' - ERC

Justice Minister wants to 'lose' the con-court case

JUSTICE Minister Hon. Patrick Chinamasa who on Tuesday June 18 ostensibly made a Constitutional Court (Con-court) application on behalf of the Government of Zimbabwe in compliance with the recommendations of the SADC Summit in Maputo has been berated for acting unilaterally and planning to "lose" the case against the bloc's advice.

was behaving irresponsibly by contriving to "lose" the case.

"We have serious political issues; a leader who behaves like this does not deserve to be anywhere near government," Timba said, adding that the application by the Justice Minister was "unilateral".



Thabani Nyoni

The Court case seeks to reverse the election date of July 31 decreed by President Robert Mugabe which legal analysts said was not implementable without violating the new Constitution.

The allegations against Chinamasa surfaced at a public discussion at the SAPES Trust in Harare on Tuesday, June 18.

Chinamasa reportedly made himself the sole applicant, while citing PM and MDC-T leader, Morgan Tsvangirai and Industry and Commerce Minister and MDC President Welshman Ncube, who are part of government and political principals as respondents rather than applicants.

Crisis in Zimbabwe Coalition (CiZC) Spokesperson Thabani Nyoni appealed to the Zimbabweans to remain resolute.

"We note that Zanu-PF continues to undermine the latter and spirit of the Inclusive Government, showing halfhearted commitments to implementing SADC resolutions as part of frustrating the process of creating a conducive environment for credible elections."

Minister of State in the Prime Minister's Office Jameson Timba said Chinamasa

"Our message to the people of Zimbabwe is that this election is not about Zanu-PF, or the two MDCs or even SADC."

"It is about citizens creating a better Zimbabwe for themselves and they must defy all these obstacles and come out in their numbers to make this election count," said Nyoni.

Sydney Chisi, a civil rights activist and director of Youth Initiatives for Democracy in Zimbabwe (YIDEZ), said an application without the endorsement of other parties was not a sign of compliance with the SADC position by Zimbabwe.

"There is no compliance at all given that this application was supposed to be done by government which means by all the principals. By, making some of the respondents Chinamasa wants to portray them as criminals."

"So it was an application to 'lose' the case and water down any chance of winning."

"If Chinamasa loses the case"

then there will be a crisis of legitimacy and just like Madagascar, SADC will not recognize the election,” Chisi said.

The three political principals President Mugabe, PM Tsvangirai and MDC President Welshman Ncube were scheduled to meet on Wednesday each with two lawyers to make an application to the Con-Court, according to Regional Integration and Cooperation minister and GPA negotiator, Priscilla Misihairambwi Mushonga.

“We now have a president under captivity from people because he wants to lead this country into a chaos,” Misihairambwi-Mushonga added.

Zanu-PF member and former Ambassador to China Chris Mutsvangwa dismissed the efforts of SADC leaders to resolve the contestation around the election date proclamation by President Mugabe, saying the regional bloc was just “a club in the face of the courts”

“They (SADC leaders) were not sitting as judges, they were sitting as politicians,” Mutsvangwa said at the public dialogue forum before being booed and walking out.

The resolutions made by the SADC Summit included that the media reforms must kick in and that the security forces must make a public statement pledging their allegiance to the new Constitution which provides that they must be non-partisan.

OF SADC RESOLUTIONS, THE ZIMBABWEAN ELECTION AND AN INFATUATION WITH A FINITE RESOURCE CALLED ‘TIME’



FROM THE DIRECTOR'S DESK

OF SADC RESOLUTIONS, THE ZIMBABWEAN ELECTION AND AN INFATUATION WITH A FINITE RESOURCE CALLED ‘TIME’

By McDonald Lewanika

Everyone agrees that the gripping political drama that we have called the Inclusive Government is in its final scene. True to drama, this final scene is not short of final intrigues, last throws of the dice, and captivating pieces of political theater, as well as bruising final fights by the main protagonists.

At the end of it all - someone will walk away into the sun with the girl or wearing the white hat of triumph, peace and justice as the thriller ends with the coming of ‘harmonized’ 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.

The penultimate episode of this action packed drama has been the SADC Extraordinary summit in Maputo, whose outputs have been over intellectualized, over analyzed and spun in different directions.

By far the section of the outputs that has been focused on has been the elements that have an import on the dates of elections. Did SADC okay the July 31 Poll plan or not? Did they veto the Zimbabwean President's decision around the poll or did they say that the courts would have the final say?

While the above has indeed been the major focus, just like in any good piece of theater, I believe that this is not where the focus should be and that this focus is sponsored to specifically plant confusion.

A diversion, that is easy to mistake for the crux of the matter, when it isn't. Without wasting too much time, I think this is a subject that is easy to dispense with.

Firstly, if SADC had okayed the July 31 Poll plan, there wouldn't be any need for the uncertainty that is now there around whether this will really be the poll date or not.

It may well remain because it serves the political interests of those with the most fingers gripping the state, but it simply wasn't okayed. In other words, SADC didn't agree with it and urged a rethink, without the qualifications that we have seen being sponsored by political spin-doctors.

In their words on the matter SADC simply said in point 8.5 of their communiqué:

Summit acknowledged the ruling of the Constitutional Court on election date, and agreed on the need for the government of Zimbabwe to engage the constitutional court to seek more time beyond July 31 2013 deadline for holding of harmonized elections.

On the above, SADC deserves to be given credit for the clarity of their position and simplicity of their language. Surely it does not need a scientist of any kind, let alone a political one to untangle what the above means.

Yet, they have tried - whole professors, doctors and political scientists - have tried to give new meaning to the word "acknowledged", and suggest that because of the acknowledgement it means acceptance and denotes that there is nothing being overturned.

But like I said, this focus and confusion on the above is sponsored and aimed at making people miss the bigger, albeit more salient elements of the SADC Summit outcomes.

The basic fact of the matter is that there was a clever piece of political engineering, which was staged by the President of Zimbabwe through his 'hand' the Minister of justice Honorable Patrick Chinamasa.

The play of proclaiming election dates 2 days before the SADC Summit was meant to pull the rug from under the feet of SADC on the Zimbabwean election matter.

SADC refused to be backed into a corner, and rightly so, because in terms of real politics the next Zimbabwean election is a joint venture between Zimbabwean Political Society and the Regional body, which guaranteed the agreement that the Political parties are using to govern the country right now.

To that end, given the multi-stakeholder nature of the next election - the unilateral actions taken by President Mugabe were unaccepted and based on the collective conversation of the above stated stakeholders in the process, he was 'told' politely to go back and reverse his unilateral action.

Basically, in one fell swoop, SADC invalidated the unilateral actions by President Mugabe, based on the nature of the governing arrangements that they guarantee and also the patently illegal and unconstitutional matter in which this was done.

So it's not just about what SADC said, as some kind of "big brother", but it is also about the illegal and unconstitutional nature of the actions based on Zimbabwean law.

SADC urged the Government to address this situation, in their words in point 8.6 of the communiqué; the parties in the GPA were to:

Undertake immediate measures to create a conducive environment for the holding of peaceful, credible, free and fair elections.

It is clear from the above that SADC is unconvinced that Zimbabwe as of now is ready for a 'peaceful, credible, free and fair poll'. This is not just a SADC sentiment; it is a Zimbabwean one, shared by the bulk of Zimbabweans. It needs to be addressed. It is probably this point that those who are sponsoring a focus on timing want everyone to desist from engaging

with.

A point has been made in numerous debates, that SADC has no writ on the constitution of Zimbabwe and that their decisions are not binding, and that they merely 'urged'.

The above is entirely true but that is what regional bodies do. They do not necessarily dictate, they persuade, they urge, they encourage, within the spirit of territorial integrity and respect for sovereignty. But it is only a fool that ignores these encouragements and does not think that SADC can be 'very' persuasive in its recommendations.

The SADC communiqué on the outputs of the Maputo Summit does not really render itself to the kind of confusion that is now being sponsored.

Its resolution point number 8.4 even exemplifies the kind of issues that needed to be addressed ahead of elections. It lists them in a non-exhaustive manner as:

Media reform

Upholding the rule of law,

The role of the Joint Monitoring and Implementation Committee, JOMIC

Election date, Validity of electoral regulations and

Deployment of SADC observers.

The political costs of ignoring these recommendations by our peers in the region, when we clearly don't have consensus ourselves as a people in sovereign Zimbabwe are just too high.

Election Funding - 'No amount of money can aid the failure to secure it in time' - ERC

CIVIL society has expressed doubt that Zimbabwe is moving firmly on the rails in terms of its preparedness for the forthcoming harmonized elections to end the Inclusive Government, amid contestations over the polling date, pending reforms and lack of funding.

The Southern African Development Community (SADC) Summit on Zimbabwe held on June 15 in Mozambican capital Maputo 'agreed' that the Government had reengage the constitutional court to push the date from July 31 to allow for more time to prepare for the elections.

The matter has been unresolved after other government players as unilateral and designed to 'lose' the case dismissed Justice Minister Patrick Chinamasa's application on Tuesday.

Collen Tembo - a Zimbabwean of Foreign decent -who has been trying to regularize his citizenship after he failed to vote in the Constitutional referendum on March 16 2013, told the Crisis Report in Harare that he was still to have a new Identity Document despite the fact



Collen Tembo

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that he has regularized his citizenship.

"I have spent the whole week trying to queue for an Identity Document at the registration offices but the process is very slow and some of the officials are actually asking for bribes in order to jump the queue," Tembo said.



Tawanda Chimhini

Election Resource Centre (ERC) Director Tawanda Chimhini lamented the delay by the Zimbabwe Electoral Commission (ZEC) in accrediting civil society to monitor voter registration and to do voter education as the process entered its second week.

"What is clearly disturbing is that there has not been accreditation of observers from civil society. The intention is not to attack the Commission; the intention is make them aware of where there is need for improvements.

"We have a lot of so called 'aliens' that are being referred to very centralized centres to regularize their citizenship.

"We understand that a lot of workers are not able to participate because the process is taking too long and they can not abandon their work to stand

in the queues," Chimhini said.

Zimbabwe failed to secure election funding from the United Nations (UN) after the body proposed to send a Needs Assessment Mission (NAM) before considering the request by Government, a move that was rejected by Zanu-PF.

After the SADC Summit held in Maputo on June 15, President Robert Mugabe said elections could be held by August 14, but if the constitutional court maintains its ruling they will be held by July 31.

Chimhini expressed worries that the continued lack of election funding as expressed by Treasury this week was becoming a growing source of concern amid uncertainty and contestation over the election date.

"This is the only country in world which might hold elections in such a short period without knowing where the money is coming from.

"These issues go beyond resources and whether these are adequate, to include concerns around timely and strategic deployment of those resources to ensure smoothness in the whole chain of election preparations.

"No amount of money can aid the failure to secure it in time. The certainty about the date and the source of funding are also crucial for credible elections.

"We emphasize that there is need for consensus among the government players on the eventual source of the money for the coming elections to ensure that this will not be a contested election," Chimhini said.