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The Democratization Agenda Is A Citizen's Entitlement

Since 1983, we have seen a glut of opposition political parties, civil society groups and human rights organizations as well as dissenting voices being criminalized, delegitimized and brutalized. This culture of violence, intolerance and impunity has thrived on manufactured public anger and aloofness. Stage managed investigations, fabricated criminal charges and incessant hate language; terms like 'dissidents', 'sellouts', 'puppets of the west', 'racists' and of late 'western sponsored agents of regime change', 'threats to national security and sovereignty' have given moral legitimacy to judicial and political persecution. In fact the hate speech has worked wonders for the dictatorship creating a siege mentality to justify and perpetuate a war agenda against citizens and groups who share different political views and opinions.

This way the dictatorship has avoided public scrutiny (or consent) and destroyed the nascent signs of a vibrant pluralist society with healthy political competition and cooperation. The first target was PF ZAPU and its supporters in Matabeleland and Midlands provinces which claimed over 20 000 lives, not counting those who lost limbs, raped women, infrastructure destroyed and a decade of development lost! The 1987 Unity Accord was an elite pact that gave an impression that a war and a peace settlement had been reached and "dissidents" (and their communities in midlands and Matabeleland) had been given amnesty!

With benefit of hindsight and having seen what happened to Zimbabwe Unity Movement and Patrick Kombayi, to the MDC, and now to the civic groups and human rights defenders (including lawyers and judges!), we now know that we are governed by a dictatorship that understands one party, one leader, one ideology, one narrative prominence and dominance in politics.

After 33 years of independence plus a third wave of democracy in Africa, ZANU PF has learnt nothing and forgotten nothing. In fact a ten-year-old anti-democratic narrative has been sustained with carefully crafted rhetoric of what is termed 'Illegal regime change agenda'. And yet we know that the criminalization of a democratic outcome called regime change is meant for ZANU PF regime retention, even against the will and consent of its citizens! In fact, it does seem, judging by ZANU PF's language to the citizens, that electoral legitimacy is not important, what is



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important are the liberation war credentials. After all, the "war" is still being prosecuted and we are now somewhere around its third phase-The Third Chimurenga! There is obviously an element of denial as well. Denialism that opposition political parties exist, that there are human rights violations, that citizens need to freely make their choices, that regime change is legitimate and even deny the fact that Zimbabwe is more than ZANU PF and certainly, that the struggles millions are fighting today are different and require new non-violent methods.

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has been changing is the language and behavior of its former victims and partners- the two MDCs. Four years of constitution haggling shows that the legitimacy and independence of civic groups is not part of their agenda. In fact, we have seen desperation for politics of consensus giving the triumvirate political parties the centre stage to join together in destroying vibrant clash of political positions by categorizing and paddocking civic groups into three political party affiliate groups.

It started with the manner in which

civic groups were invited to the outreach, the first and second all stakeholders' conferences. The civics that chose not to take part but to take charge were treated as retrogressive elements and with very limited levels of tolerance and respect. If this is not convincing, consider how COPAC cajoled civic groups to sign to the 'yes' campaign as a condition to access and distribute the draft constitution. There was no room for a 'no vote', not at any cost! Was this not a classic case of a manufactured consent? Ironically, the two MDCs had earlier on joined civic groups in complaining about how ZANU PF had manufactured 'coached and bussed' people in order to control constitutional debates and its content.

As we approach watershed elections, there is a disturbing anti-democratic crystallization of col-

lective passions between and within political parties. You read stories about how the various political party hierarchies are plotting to 'block' new candidates, how factional candidates are being imposed and how rules of political competition change while the competition has already begun and the balance of scales has tilted one way. Consider how certain political party leaders now fervently defend certain institutions that have been symbols and bastions of electoral manipulation, intimidation and violence to whip citizens into consenting. These are indeed disturbing

levels of complicity and complacency that have emboldened the dictatorship to a point of even wanting early elections with measured and restrained violence and intimidation.

My disappointment with the inclusive government and with the two MDCs is a function of expectations. I travel a lot around the country and hear a lot more people like me. They look at how the two have been complicit in systematically suppressing political pluralism. They see how the fixation with "take part" positions (as opposed to other alternative positions) has weakened the "vibrant clash of political positions not a means to an end, but as continuity towards democratic solutions." They observe the public silence you get when the inclusive government harass the Zimbabwe Peace Project, Zimbabwe Human Rights Association, Zimbabwe Ant-Corruption Commission, against human rights lawyers, Judges, the Zuma led mediation team and the international community. They begin to wonder if the violent resistance to an open, vibrant and democratic public and political space is still a monopoly of one party.

In conclusion, I think we need to understand the meaning of concerted attacks and crackdown on civic groups, human rights lawyers, impartial judges and opposition politics. These institutions are part of a broad range of institutions that have advocated for accountability in terms of how far the government and politicians must exercise state power. To achieve this, they have worked to expand, democratize and maintain a vibrant and legitimate public sphere. This is a legitimate democratic agenda meant to benefit long suffering ordinary citizens. As a member of civil society, we share their pain to a point that no amount of or form of persecution, be it bloody, brutal, violent, political or legal will make us apologize or give up this struggle. Those violently opposed to this are bent on killing the life, meaning and sacredness of democratic processes, such as the consent of the citizens through credible free and fair elections.

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I have read the Clerk of Parliament's article in the Sunday Mail of 21st April 2013, in which he attempts to clarify the constitutional position regarding the fixing of dates for general elections. The net effect of his argument is that the latest date when the next election can be held is 30 June 2013, that being the first day after the automatic dissolution of the current Parliament after the expiry of its 5 year term.

This date seems to favour a section of the country's political field. Regrettably, the Clerk of Parliament has relied on a clearly erroneous interpretation of the Constitution to arrive at the conclusion he makes. While he cites the relevant constitutional provisions, I respectfully disagree with his interpretation of those provisions.

The relevant provisions are section 63(4), section 63(7) and section 58.

There is no issue with section 63(2) which states that the President may at any time dissolve parliament. Neither is there any contest on the effect and applicability of section 63(5) and (6) under which the life parliament may be extended.

It is correct that under section 63(4), unless the President dissolves Parliament earlier, the life of Parliament extends up to a period of 5 years. This 5 year period commences on the day the President assumes office, which in our case is, technically, June 29 2008. Therefore unless extended, the current Parliament automatically expires on June 29 2013.

Section 63(7) is a provision that anticipates a situation where the President would have exercised his powers under section 63(2) to dissolve Parliament, before the expiration of the 5 year term of parliament. It provides that the President may issue a proclamation for the dissolution of Parliament but such dissolution would **only take effect** on the day preceding the day of the general election fixed in accordance with section 58(1). It is for this reason that parliamentarians have always retained their positions until midnight of the day preceding the general election. The purpose of section 63(7) is to ensure the continuation of Parliament, at least nominally, until the day of electing the new parliament. Otherwise, the President could dis-



Austin Zvoma, Clerk of Parliament

solve parliament and run the country for an unlimited period without the legislative arm of the State.

Obviously, this does not apply in situations where the life of Parliament has expired automatically by operation of law, as is provided for under section 63(4). And this is precisely why section 63(7) is made subject to the provisions of section 63(4).

Section 63(7) provides for situations when the dissolution or prorogation of parliament takes effect other than in circumstances where section 63(4) applies. This is why section 63(7) begins with the words, **"Subject to the provisions of section 63(4) ..."** The effect of these words is to make the provision conditional upon the applicability of section 63(4). Put differently, section 63(7) does not affect a situation where section 63(4) applies.

So what happens in the situation where the parliament expires automatically under section 63(4)? Does it mean the President is constrained to set the date only on the day after the expiration of the life of Parliament? Or is there an allowance to set the date within a period of 4 months after that automatic dissolution?

The correct answer is that the President is not constrained but legally has a period of 4 months within which the date can be set. This, of course, is quite the opposite of the Clerk of Parliament's argument in his article. With respect, the Clerk of Parliament's argument is flawed.

If one looks at section 58, which regulates the fixing of election dates, it all becomes the more obvious. It is important to set out verbatim what section 58(1) states:

"58 Elections

A general election and elections for members of the governing bodies of local authorities shall be held on the day or days within a period not exceeding four months after the issue of a proclamation dissolving Parliament under section 63(7) and, as the case may be, the dissolution of parliament under section 63(4) as the President may, by proclamation in the Gazette, fix."

This provision is clear enough in regard to a situation where Parliament automatically dissolves under section 63(4). It means that a general election can be held within a period of up to 4 months after the dissolution of Parliament under section 63(4).

If one removes reference to the words relating to the situation where the President dissolves Parliament by proclamation under section 63(7), which scenario is different from where Parliament automatically dissolves, section 58(1) would read as follows:

"A general election shall be held on the day or days within a period not exceeding four months after ... the dissolution of parliament under section 63(4) as the President may, by proclamation in the Gazette, fix."

I have removed the words, **"after the issue of a proclamation dissolving Parliament under section 63(7) ..."** for ease of reading and understanding the provision in regard to situations where section 63(4) applies.

In his article, the Clerk of Parliament clearly erred in omitting reference to the words in section 63(7) which make its application subject to the provisions of section 63(4) which as I have observed apply to situations where Parliament dissolves automatically by operation of law. In such a situation, there is up to 4 months after automatic dissolution within which to set the date for the general election in accordance with section 58(1).

Of course there is an anomalous situation in this case because it means while the President and his/her executive can continue for up to 4 months, the legislative arm of the State would have expired by operation of law. In other words, there will be no parliament for that period, itself a scenario that is a serious hazard to the health of democracy.

It is at this point that there is convergence of views with the Clerk of Parliament on the need to find a way, via the process of enacting a new constitution, to extend the life of parliament for a limited period to enable it to conduct its important work on aligning current laws with the anticipated constitutional dispensation.

As a word of caution, it is not advisable that the Clerk of Parliament should enter matters of current party political controversy. His attempt at 'clarifying' matters in the Sunday Mail is ill-advised particularly where his legal position is clearly erroneous.

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ZANU PF's triple aches in the forthcoming election: succession, gerontocracy and ethnicity

The politics of succession have been an Achilles heel in ZANU PF's quest for regeneration and ultimately its survival. ZANU PF has repeatedly failed to manage its regeneration and allow the infusion of a new generation of cadres that will resonate with the new voter that emerged from the beginning of the 1990s. This failure at re-inventing itself to resonate with the 'new voter' whose attachment to liberation politics is not as emotional, has haunted most of the liberation movements in Africa. This presents the greatest threat to the survival of ZANU PF as a (former) liberation movement, and as well its quest for continued hegemony. This threat is further compounded by entrenched gerontocracy and ethnicity commonly referred to as factionalism. This piece will argue that ZANU PF is not a coherent and solid unit as it has been in the past but will be fighting for its life in the forthcoming elections. This is so, in light of its failure to regenerate itself and the internecine ethnic struggles within it. Furthermore it will be argued that ethnicity (commonly referred to as factionalism) makes ZANU PF vulnerable in electoral politics. Its over-dependence on the Mashonaland vote presents its major vulnerability as Mashonaland is not Zimbabwe and Zimbabwe is not only Mashonaland as Jonathan Moyo once remarked on Harare not being Zimbabwe.

Liberation or independence parties that failed to transform themselves and accommodate a younger cadreship that understands the new voters have faced extinction in the face of emerging opposition parties in Africa. United National Independence Party (UNIP) of Zambia is a good case of a liberation movement, and Malawi Congress Party (MCP) an independence party, that lost power and are facing extinction. In the same vein the Kenya African National Union (KANU) faced the same demise but had to find orphanage and rehabilitation in the Jubilee Alliance led by Uhuru Kenyatta. Tanganyika African National Union (TANU) initially failed to appreciate the need for regeneration but quickly realised the need to transform hence rechristening itself Chama Chama Mapinduzi (CCM) and undertook various key reforms that resonated with the new generation citizens (the so-called born frees by ZANU PF). The ANC of South Africa, SWAPO of Namibia, BNP of Botswana and FRELIMO of Mozambique have also realised the dangers of the trappings of power and entrenching incumbency in office, hence they instituted leadership renewal within their political DNA. It is the failure by ZANU PF to realise this publicly available wisdom that '*matakadya kare haanyaradzi mwana*' (literally translated, a child won't stop crying from hunger because she ate yesterday).



The past can only be relevant and comforting if it is only linked to the fulfilment of needs in the present.

More so, the failure of retiring its old guard has meant continuous recycling of failed ideas and leaders, thus creating a paralysis of policy crafting and implementation within the state apparatus. The results are glaring with what appears to be rampant looting, plunder by ZANU PF elites and mortgaging of natural resources to the Chinese under the guise of 'Looking East'. In addition the entrenching of gerontocracy within ZANU PF has meant that leadership renewal is anathema, therefore curtailing ambitions of vertical mobility within its ranks. The nicodemous political scheming meetings attest to the increasing discontent within the ranks of ZANU PF of failing to deal with regenerating itself. This also has the potential of alienating itself especially with the 'new voter' or 'born frees' who have become a key constituent in our electoral politics. This new group of voters is the sword of Damocles hanging over ZANU PF's head.

Ethnicity is the other factor that presents a major threat to ZANU PF having a coherent and sound electoral campaign strategy. Though, this factor has been interpreted as factionalism in various political circles, in this paper it is argued that what is tearing ZANU PF is resistance of Zezuru hegemony by other ethnic groups within it. This Zezuru alliance is rooted within the Mashonaland provinces, and has been at the centre of ZANU PF's politics. The history of this ethnic hegemony finds expression from the days of the liberation as captured in the late Professor Masipula Sithole's book, "Struggle within the Struggle", which argued that there was purging of the non-Zezuru factor and promotion of the Zezuru aligned group within the political hierarchy of ZANU. This escalation of ethnic politics in post-independent Zimbabwe saw the clipping and curtailing of presidential aspirants such as Edison Zvobgo, Emmerson Mnangagwa and Simba Makoni. The collapse of the Tsholotsho Declaration and subsequent meteoric elevation of

Joyce Mujuru to the presidium under the guise of women empowerment, further entrenched the Zezuru clique within ZANU PF. It should be noted that Emmerson Mnangagwa (a Karanga) had outmanoeuvred Joyce Mujuru (a Zezuru) and managed to unite other ethnic groups within ZANU PF who felt that it was now their time to take over. The disbanding of District Coordinating Committees (DCCs) by ZANU PF in 2012 marked a further assault to the Mnangagwa/Karanga ethnic group allied with Manyikas and Ndebele elements in ZANU PF, that had managed to regroup and capture the DCCs after earlier failed Tsholotsho attempts. Reasons advanced were that DCCs were divisive, yet the reality is that it was the eruption of the ethnic tensions that have been simmering in the ZANU PF pot. The fidgeting and instability in Manicaland and Bulawayo province attest to the increasing discontent and disapproval of continued Zezuru hegemony in ZANU PF by other ethnic groups within it. Similarly, the Manicaland provincial leadership has been dissolved and the Bulawayo provincial leadership re-aligned and putting a leadership that is pliant to Zezuru interests. Hence, my argument that it's ethnicity at play in ZANU PF, and not factionalism, as conventionally argued. More so, this contradicts the claims of a re-aligned ZANU PF from '*Bhora Musango to iBhola egedini/Bhora muggedhi*', remaining only on Nathaniel Manheru's wish list. Simply put the Mnangagwa alliance will always play second fiddle in the succession matrix of ZANU PF as it is not trusted by the Zezuru alliance whose face is Joyce Mujuru at the moment. In the same vein President Mugabe is only comfortable with the Mnangagwa alliance; in so far it acts as a brake to the ambitions of the Mujuru alliance and not entirely replacing the Zezuru hegemony of which he is a product. The only thing that is binding these ethnic alliances in ZANU PF is Mugabe and outside him, ZANU PF will implode from intense ethnic warfare. This puts ZANU PF in a precarious position and also failing to rally its constituencies to a single and solid unit.

The matrix of gerontocracy-failed succession politics and ethnicity presents major fault lines within the ZANU PF apparatus. This may also explain the waning of ZANU PF support particularly post 1990, as the ideals of the liberation simply became more of political nostalgia rather than bread on the table. Therefore, it seems ZANU PF's prospects look dim as exhausted nationalism starts to breed diminishing returns. Increasingly the voter has metamorphosed, and this has been most particularly with the so called born frees who are now numerically a political force as 15 group have emerged after the first group of those born in 1980 attaining 18 years in 1998. That means from 1998 new voters have been emerging for the past 15 years. This is outside other age groups that were born towards independence, arguably from 1974, who were too young to develop ties with the liberation struggle. It is from this perspective that ZANU PF looks vulnerable if this group of voters is tapped into. Furthermore, old age is most likely to catch up with ZANU PF's choice for the presidency in managing a rigorous campaign, hence its continued reliance on authoritarian tactics in an attempt to harvest fear in the elections. The increasingly intense ethnic/factional fights in ZANU PF, further undermines the prospects of re-alignment of its constituencies as warring groups adopt a scorched earth mentality. Just like in a nasty divorce the warring parties would make sure the other doesn't profit.

It has been argued in this paper that ZANU PF is not a solid and coherent party as it was in 1980 or 1985 but is in its last days as it has failed to regenerate itself and manage the ethnic cleavages within it. Its prospects in the forthcoming elections look dim, and its survival will be more dependent on the electoral strategies and blunders of the pro-democracy movement. There is need to push for electoral reforms, continuous piling pressure on the ZANU PF machinery and as well building the capacity to communicate effectively with the electorate and monitor the electoral process by the pro-democracy movement.

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