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Challenges of Old Order In a New Constitutional Dispensation

By Trust Matsilele

President Mugabe's infamous statement speaks of the interwoven relationship between the votes and the guns as a power retention strategy "our votes will defend our guns and our guns will defend our votes, the two are inseparable." The above citation has in part guided ZANU PF's power retention strategy in the past three decades. This political-military nexus has been more manifest during the first seven years of independence and also post 2000 when ZANU PF faced a serious challenge to power.

Now that the country has its own constitution drafted and authored by Zimbabweans, the country awaits to see the extent to which the constitution will become the guarantor of votes and not the guns as suggested by President Mugabe. The new constitution if implemented should end the militarisation of politics and politicisation of the military.

Having been endorsed by the country's major political parties (ZANU PF, MDC-T, and MDC) and other civil society organisations across the political divide, it is the hope of many Zimbabweans that this new term under a home-grown constitutional dispensation will present a new democratic order. Save for some discriminatory elements like limiting rights on gays and lesbians, the new constitution could be a positive development as the country finds its feet in the right direction.

Some of the issues that generated both attention and interest include but are not limited to devolution, presidential term limit, proportional representation system in senate and inclusion of women in the executive arm of the state, are positive developments that need to be applauded.

Of course these developments beyond anything came as part of bargains by the country's leading political actors in a bid to please and appease respective constituencies. It is undoubtable that for example, devolution received extensive support from MDC while, MDC-T fought hard for the limit of presidential terms. ZANU PF on the other hand backed clauses like the barring of homosexuality in the country, at least the legalisation of the matrimony.

The MDC led by Professor Welshmen Ncube branded as regional party singled out Matabeleland region as having been disenfranchised from the national economy. Devolution, in a way was meant to promote retaining of economic value to respective regions and also limit executive arm in provinces where the president does not enjoy power. The MDC-T led by Tsvangirai promoted two term limits after realisation that Mugabe had almost become an imperial leader due to the silence by the Lancaster constitution on term limits. On the other hand ZANU PF, with its leader famous for calling gays and lesbians "less than pigs and digs" sought to delegitimise gay affairs.

However, of importance is not the drafting and enacting of the country's new constitution, but it is the upholding of this new constitution that matters most. Respect of the country's constitutional order has been the major challenge as successive ZANU PF governments defied the country's laws whenever it posed challenges to the regime's power retention agenda. Even with the Lancaster constitution Zimbabwe could have been properly governed but of interest now will be observing the extent to which the current executive arm will uphold and defend the country's own authored constitution.

The first challenge Zimbabwe will face in this new term will be respecting human and peoples' rights enshrined in the constitution. No constitution gives the right to the security personnel to use violence and repressive apparatus for political gain but that has been the order of the day. Police Commissioners, Military Generals and Prisons top officials made manifest declarations of their political allegiance and even threatened a coup in the event that Mugabe lost the election. This term presents a litmus test for the government especially the judiciary's role in upholding people's rights.

The past weeks saw the country's police force retaining the same tactics employed previously, clamping down on civil society organisations and opposition parties' activities. Zimbabwe Lawyers for Human Rights recently noted that the reformed constitution adopted ahead of July elections guaranteed freedoms to demonstrate and gather, however, baton-wielding police thwarting a demonstration by women activists and banning a youth march to mark the United Nations International Peace Day, are a clear sign of retaining old order in the new dispensation.



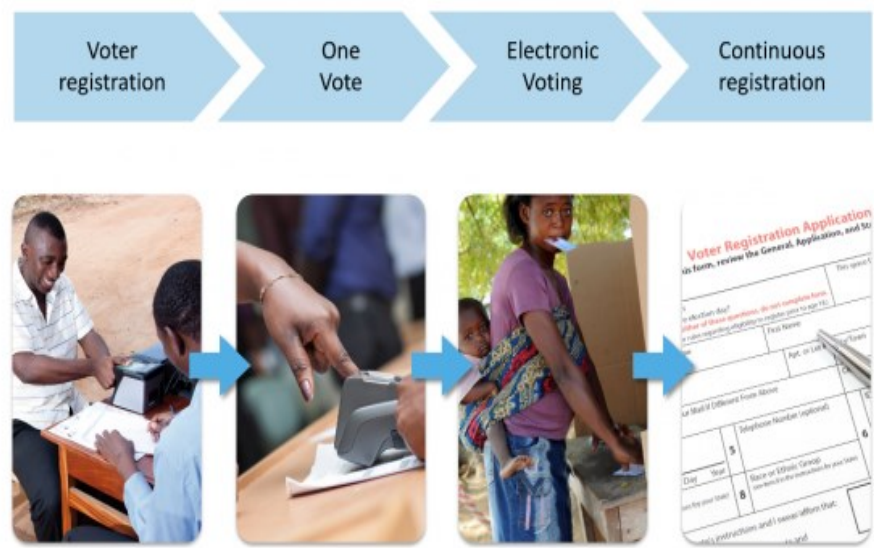
One of the leading Zimbabwe political scientists, Dr Ibbo Mandaza was cited in a newspaper article lamenting the new government's failure to uphold the new constitution on equality between males and females in executive arm of the government as mandated by the new constitution. "The ZANU PF executive arm of government appended its signature in the new constitution only to violate it a few months later," Mandaza is reported to have said. The new constitution is specific on gender equality, calling for equal representation of women in all sectors and arms of government.

These two examples provide a serious test to the incumbent regime in as far as defending human and people's rights is concerned and also upholding the constitution. As already indicated ZANU PF has started undermining the very same constitution it fought for during the referendum. The challenges as in the past have always been on upholding the constitution and respecting people's rights, hopefully this time around changes will be effected. It is paramount to note that a constitution by itself isn't enough but it is useful in setting in motion a country's pursuit for democratic order. Even in a country like South Africa with a constitution idolised world over, the country is still grappling with upholding and implementation of its constitutional provisions.

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The Importance of Election Preparedness: No More Compromise in 2018

When Zimbabwe attained majority rule in 1980, the political establishment adopted Constitutional democracy as the governance modus operandi. To that end, enshrined in the supreme law of the land is an electoral system that ostensibly makes elections (universal adult suffrage) the sole way of changing or retaining particular political officials at both local and national levels. However elections in Zimbabwe ever since 1980, are fraught with a plethora of problems from organisation, environment, conduct right through to institutional deficiencies. Zimbabwe's young has struggled to meet the level of free and fair elections, however minimally defined. In fact, part of what has been referred to as the 'Zimbabwe crisis' has had disputed elections at the centre both as cause and effect and the recently held election is no exception.



A picture depicting the biometric voting system

The Inclusive Government which was as a result of the widely disputed June 27 2008 Presidential run off instilled hope in most Zimbabweans that the 31 July 2013 harmonised election would reassert elections as a bastion of constitutional democracy. Zimbabweans were highly expectant because these were the first to be held under a new Constitution and ought to be of substance by setting a good model and clearly bring out whether the lessons of the past had been learnt from the largely failed 33 year experience. But Zimbabweans were in for a surprise. From the failure to implement all agreed reforms in line with the Global Political Agreement (GPA), to the disputed Election Date, to the chaotic postal ballot and all the other irregularities which preceded the Election and prompted stakeholders which include Civic Society Organisations, the MDCs and other smaller parties, SADC and the international community to call for an extension of the Election Date and ensure that the environment is conducive for the delivery of a free, fair and credible election. This time, it was hoped that the voice of the people of Zimbabwe would be meaningfully heard and respected. The Constitutional Court however rejected the application to extend the election forcing Zimbabweans to participate in an election which was not adequately prepared for and would obviously be compromised.

Allegations of electoral fraud cutting across the entire election process from the registration of voters, delay in releasing an electronic copy of the voters' roll prior to the election, the high number of "assisted" voters despite their ability to read and write, the disenfranchisement of an estimated million urban voters due to manipulation of the voter registration exercise and the voters' roll itself which saw many potential voters failing to find their names on election day to the alleged inflation of results have resulted in inconclusive appeals. Ultimately, these allegations have resulted in questions around the legitimacy of the process' outcome leading to governance crisis chiefly owing to ZANU PF's manipulation of the electoral system in its bid to cling to power.

The legitimacy of a political system depends on the consent of the governed and perhaps more importantly, on a transparent process surrounding elected persons in the context of lending the representative function of governance its due credence.

Elections in Zimbabwe have brought into question whether what matters most is actually who among the contesting parties has control, influence or leverage over part or the whole of the electoral process. To that end, it is not far-fetched to remark that most observers would regard Zimbabwe's elections as largely a farce, except for the SADC and AU, for reasons best known to themselves! Zimbabwe was unable to run free, fair and credible elections as provided for in the GPA in particular and as dictated by regional, international guidelines governing minimum requirements for free and fair elections.

It is therefore critical to immediately prepare for the next elections to be held in 2018 and ensure that institutions such as the state media, security sector, the Zimbabwe Electoral Commission, the Registrar General's office and the judiciary which have remained compromised and politicised are professionalised. Preparations for the administration of the next election should start now; these include taking advantage of the proliferation of technology in the world and adopt the biometric voter registration system to avoid multiple entries or multiple voting as alleged to have happened in the July 31 election. The electoral system itself can also be computerised as in the case of South Africa where citizens are able to check for their voter registration status online. No more compromise in the next election, it is not about financial resources or having the skill to do something, it is about having the "political" will, desire and commitment to deliver free, fair and credible elections.

It is also critical for Zimbabweans to take back their power and desist from being taken for a ride by politicians. It is inescapable to note that people power can be a force to reckon with and once the masses, the oppressed, disgruntled and the impatient decide they have seen enough of misrule, oppression and misappropriation of their state by a select few, then there is nothing the beleaguered leaders can do to stop the tide of being voted out of power. In essence, the fallacy of the state's invincibility chiefly because it traditionally has the sole monopoly over the use of force; that it can arrest, torture and murder activists; and that it can declare a state of emergency and eventually cow opposition voices is exposed in broad daylight as mere speech for all to see. It is not a big surprise anyway given the undisputed fact that power is the people, and that power resides in the people and therefore ultimately, the people are the guarantors of any political power as they are the ones who give it in the first place.

The assumption therefore that the state by virtue of controlling and having security institutions at its disposal is invincible can be rendered null and void because the people in their numbers will never accept any repression. When the time has come, 'the people' as a category of analysis may very well extend to the men and women in uniform as was clearly shown in Tunisia and Egypt when some 'trusted' security lieutenants aided the Arab Spring in one way or another.

By Tatenda Mazarura

Underdevelopment in Africa & pompous ruling classes: Our elites should have a conversation



ONE of the major contributors to the underdevelopment of Africa has probably been the alleged pompousness and cynicism with which the views of ordinary people regarding national matters are treated by elites at the helm of most African governments.

This accusation leveled at Africa's ruling classes derives from a school of thought recommending the establishment of participatory platforms for citizens on the continent to engage in matters of the state by leveraging on the emergent crusade for democratisation. The crusade is being pushed by African elites outside government, in civil society and opposition parties, both for themselves and for the masses.

The cynicism against public opinion is a case in point in Zimbabwe, given a leadership that apparently boasts of single-handedly winning the armed war against colonialism and given a cabinet which for many years has been one of the most educated in the world – and, ironically, one of the least performing.

In a piece I wrote earlier this year titled, “Africa at 50: Redefining African Solidarity” with Zimbabwe in mind, I observed how African leaders seemed to want to move into the future without their own masses, without sounding the potential of the citizenry and without primarily referring governance issues to the central plight of these masses.

“The obsession was to blindly mock colonialism yet sometimes unwittingly mimicking its vices like exclusion, corruption and human rights abuses in the conduct of government business.”

Whilst reading a Facebook post by Tendai L. Biti where he described the Zimbabwean state as a “deaf” thing engaged in a “monologue”, I had reason to pause. I wondered whether the ruling elites in government who generally ignore the masses ever bother to genuinely talk to their fellow elites outside government - some who were their liberation war colleagues, or college mates in Europe, etc - or they are just as “deaf” to them?

Are the differing elites in post-independence Africa conversing enough to have a meaningful debate about development, or those elites in power are simply “deaf” to the views of the elites who are not in power, such that there is an impression of “monologue” in many an African state – and imperviousness to new ideas?

One would imagine that if we generally do not oppose the notion that lack of dialogue between the rulers of the post-colonial African states and the masses, whom they often treat as their lowly subjects, is detrimental to the establishment of developmental states, then it goes without saying that the lack of honest, truthful and cooperative conversation among the differing elites in the same states could be even more disastrous in countries like Zimbabwe.

The gulf between the elites in government on one hand, and those in opposition parties, civil society and business on the other hand, has unfortunately created a pompous attitude among government officials notably in Zimbabwe and many other African states, leading to a breakdown of dialogue among the knowledgeable elites. Yet, these elites, with a sense of duty to each other and the entire masses, should be engaging in serious intellectual discourse bereft of the selfish interests.



Granted, the case has been put by some scholars that over-consultation of the masses, some that are not educated enough to understand statecraft, can lead to retarded pace in pushing national programs. One of the notable arguments against this overemphasis on involvement of the masses may have been put forward by Prof. Jonathan Moyo, who argued during the constitution making process in Zimbabwe, after disruption of one of the proceedings by a mob that, the whole exercise had degenerated into “mobocracy”. Mobocracy, from my point of view and deduction, is akin to a populist way and even mockery of engaging in participatory democracy, resulting in the deterioration of statecraft into an unhelpful circus.

One would begrudgingly see the traces of logic in Moyo's assertion but the same admission of the reasons for qualified exclusion cannot be possible where the ruling class totally becomes irresponsible and even belligerent to the views of fellow elites in opposition parties and civil society. The reason is that these elites, who are not in power, have an equal understanding, if not at times a better one, of development matters to warrant serious consideration of their views by the ruling class. And here debate may be allowed to flourish even where it threatens current norms because that is the hallmark of intellectual creativity.

Yet the discourse among the elites in Zimbabwe has remained curtailed by the whims of a pompous, cynical, and overconfident, though bungling ruling class greatly delaying the achievement of development goals. It is easy to conclude that more than the breakdown of discourse between the ruling class and the masses, the lack of meaningful conversation among the enlightened elites could be at the centre of the reasons why development has failed in a continent with long serving “deaf” regimes, most engaged in “monologue” because they have willingly shut their ears, and do not respect the opposition.

The truth is that the elites in government have been blinded by the narrowness of the corridors of power and pressure of governance to be capable of self-assessment, and may need an enlightened partner in elites, who are outside the government circles, to act as their mirror as both elite factions of the African state, cooperate to contribute to the work of addressing developmental challenges. Unfortunately, this will not happen until politics is seen as a friendly contest in Africa, where everyone has a sense of duty, but is also bound by common solidarity to act reasonably and fairly.

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