



Looking for keys under street lights

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One of the enduring mysteries of the SADC Facilitation, and the central role that hegemonic South Africa has played in this, has been the steadfast manner in which the region has avoided the most obvious lessons of Southern African history, and particularly South African history. For South Africa, the political change was built around the principled negotiations of the CODESA that led to the building of deep trust between the respective parties and the nation as a whole. This is, of course, an over-simplification of a very complex process, but nonetheless it was a process that earned South Africa international respect, and demonstrated that sustainable change could emerge out of deeply polarised positions. The change was only possible because of the way in which the mediation was able to generate deep trust between the parties, and of the inclusive manner in which all South Africans became involved, albeit indirectly.

In contrast, the mediation on Zimbabwe has been built on secret talks, exclusiveness, and finally on blunt pressure. When SADC tells Zimbabwe to form an inclusive government, and the Facilitator treats this as a *fait accompli*, he even has the temerity to suggest in his letter of 22 November that “this is the most urgent demand of the masses of the people”. This is fatuous nonsense on the part of the Facilitator: the “masses” do not demand this at all. If the Facilitator had made the vaguest attempt in the period since March 2008 to find out what the masses want, he would find that they demanded, through their votes, that the MDC govern Zimbabwe, and it is clear to all that this view was supported by millions in the Diaspora that were deprived of a vote. The political reality is that ZANU PF represents a minority constituency in Zimbabwe, yet the Facilitation persists, with the assent of SADC [but not Botswana], in the view that the solution to the Zimbabwe crisis is power sharing between equals.

In this way, SADC behaves like the drunk who has lost his keys, but persists in looking for them under a street light – because that’s the only place where he can see clearly! Perhaps it is time for SADC, and the Facilitator, to sober up and see that there are other places to look for the key to solving the Zimbabwe crisis. Although there is muted excitement over the agreement between the negotiating parties on Constitutional Amendment 19, there are still considerable problems to be solved before SADC can award prizes to itself and the Facilitator. And it is not too late to canvass other options. The idea that other options may be necessary stems from a cursory examination of the draft of Amendment 19. There are many contradictions and confusions between the substantive sections, the supporting Schedules and the existing Zimbabwe Constitution. This is not the place to undertake a comprehensive analysis of the draft Amendment, but the point here is that the many weaknesses in the draft (and the problems in the negotiations) may require other options to be considered.

Two have already been suggested in recent weeks. The first, suggested by Botswana, and endorsed by an MDC-T spokesman, is to hold fresh elections. This is practicable only if two pre-conditions are

met. Firstly, this suggestion must be unpacked to mean a fresh Presidential election only. This is justified by the fact that it is only the result of the Presidential election in June 2008 that has caused the present crisis. All parties have accepted that the elections in March were valid, and hence there is a properly-constituted Parliament in place. Secondly, this will have to be accepted by Robert Mugabe and ZANU PF, and this is highly improbable, more especially when SADC encourages Mugabe and ZANU PF in their assertion that Mugabe is President. Whether this is done because SADC believes that he is *de facto* the President of Zimbabwe or, more seriously, that they believe he is President *de jure*.

No matter on which basis SADC holds the view that Mugabe is President, the bald fact is that he and ZANU PF act unchallenged as if this is the case, and certainly unchallenged by SADC. So ZANU PF will continue in this view until reality is forced upon them, and SADC will continue with a fatal contradiction at the heart of the Facilitation: rejecting an election but accepting the result does not encourage Zimbabweans in the view that SADC will honour the decisions of the Zimbabwean people.

The option of a fresh Presidential election is unlikely mostly because SADC cannot act without contradiction. The second alternative will also not happen. This alternative revolves around the existence of a properly constituted Parliament, again a fact that SADC conveniently ignores while it bangs on about their being no government and all the pressure it is applying for an "inclusive government". Parliament could easily adopt the role of government: from its ranks it could appoint ministers, and clearly it can pass any needed constitutional amendments and laws. It is already inclusive of all opinion in Zimbabwe, and the relatively even balance between the two major parties will ensure that co-operation will emerge. All of this is considerably enhanced by the observation that the members of the august house are certainly in a better position to understand the "demands of the masses" than the Facilitator.

So what then of a way forward if the Agreement and the Amendment fail? More mediation under the Facilitation, or are there other alternatives?

The most sensible alternative has been continuously put forward by Zimbabwean civil society, and, on occasion, even by the MDC. It was first raised by the Crisis in Zimbabwe Coalition, and echoes the South African solution. Clearly laid out in the Crisis Coalition's Yellow Paper, the demand is for the setting up of a Transitional Authority, with the limited mandate of stabilising the country, producing a new constitution, and then overseeing new elections under this constitution. The government that emerged from this process would unquestionably be legal, and the winner would be acceptable to the people of Zimbabwe, or at least the losers would have to accept the result.

This is an entirely different process to that being forced down Zimbabwe's throat by the Facilitation and SADC. The demand from civil society is not for a government of national unity, which could persist way beyond the currently envisaged period of 18 months, but for a clearly circumscribed authority, both in its powers and its life time. This would avoid some of the risks inherent in the GPA

underpinned by Amendment 19. Once the Amendment is passed, and the new government is in place, there will be very little that SADC or any outside interest will be able to do if the terms of the GPA are not followed to the letter.

This alternative will never happen under the current Facilitation, and especially because of the current Facilitator. It may come as a surprise to SADC and Thabo Mbeki that Zimbabweans have no faith in the Facilitation. Yet it has been constantly expressed by the leaders of Zimbabwean civil society since 2003, and by the MDC since 2000, but most seriously now by the MDC-T in the context of an evidently biased Facilitator, clearly shown in the intemperate letter written to the MDC-T formation. Mbeki's assertion that the MDC-T derives its support from its "western" allies is not only insulting to the MDC-T, but also to all those Zimbabweans that gave the MDC-T a mandate to govern in the March election. This was a mandate given by "African" voters to an "African" political party, and had nothing to do with the West. Furthermore, the perception that Thabo Mbeki is partial has been ignored completely by SADC and the AU. SADC and South Africa have dealt with the problem by continually asserting that they have confidence in the Facilitator. This is very heart-warming on the part of SADC, but it does rather miss the point.

Any successful mediation or negotiation depends on the creation of trust, which is no easy task when the political stakes are very high and the situation is desperate. Trust cannot be imposed; it must be created, and it is this that bedevils the current process. It also raises an enormous question about the bona fides of the Facilitation and the Facilitator: when one party, let alone a nation, openly expresses reservations about the Facilitator, why does he not recuse himself, no matter how much confidence the region may have in him? If he does not, then we will continue looking under street lights for keys that will never be found.