NEGOTIATING THE IMPASSE:

Challenges and prospects for democratisation in Zimbabwe

Edited by
Wole Olaleye

EISA RESEARCH REPORT No 9

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EISA is a non-partisan organisation which seeks to promote democratic
principles, free and fair elections, a strong civil society and good governance
at all levels of Southern African society.

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LIST OF ACRONYMS

AIPPA	Access to Information and Protection of Privacy Act
ANZ	Associated Newspapers of Zimbabwe
AU	African Union
BSA	British South Africa Company
CSO	Civil society organisation
DC	Delimitation Commission
DFID	Department for International Development
ED	Election Directorate
EISA	Electoral Institute of Southern Africa
ESAP	Economic structural adjustment programmes
ESC	Electoral Supervisory Commission
EU	European Union
FPTP	First-past-the-post
GDP	Gross domestic product
GSI	Governance and Strategic Initiative
IMF	International Monetary Fund
MDC	Movement for Democratic Change
MISA	Media Institute of Southern Africa
MP	Member of parliament
NCA	National Constitutional Assembly
NDU	National Democratic Union
NEC	National Executive Committee
NEPAD	New Partnership for Africa's Development
NFZ	National Front of Zimbabwe
NGOs	Non-governmental organisation
Osisa	Open Society Institute for Southern Africa
POSA	Public Order and Safety Act
PVO	Private Voluntary Organisation
RF	Rhodesia Front
RG	Registrar General
SADC	Southern African Development Community
UANC	United African National Council
UDI	Unilateral Declaration of Independence
UK	United Kingdom

UN	United Nations
UNDP	United Nations Development Programme
UNFP	United National Federal Party
UPAM	United People's Association of Matabeleland
US	United States
USAID	United States Agency for International Development
WFD	Westminster Foundation for Democracy
Zanu	Zimbabwe African National Union
Zanu–PF	Zimbabwe African Nation Party – Patriotic Front
Zapu	Zimbabwe African People's Union
ZBC	Zimbabwe Broadcasting Corporation
ZCTU	Zimbabwe Confederation of Trade Unions
ZDERA	Zimbabwe Democracy and Economic Recovery Act
ZDP	Zimbabwe Democratic Party
ZESN	Zimbabwe Electoral Support Network
ZimRights	Zimbabwe Human Rights Association
ZIP	Zimbabwe Integrated Party
ZNWVLA	Zimbabwe National War Veterans' Association
ZUD	Zimbabwe Union of Democrats
ZUJ	Zimbabwe Union of Journalists
ZUM	Zimbabwe Unity Movement

PREFACE

EISA has undertaken various initiatives, which have been aimed at facilitating the nurturing and consolidation of democratic governance in the Southern Africa Development Community (SADC) region. One such initiative is the first phase of the democratic consolidation research programme. Covering almost all the SADC countries, this research programme focuses on the following key issues:

- Elections;
- Good governance;
- Gender and democracy;
- Determinants of democratic consolidation;
- Electoral systems;
- Electoral administration;
- Political parties;
- Conflict and elections; and
- Democratic assistance.

This first phase of the project has generated an enormous stock of knowledge on the dynamics of democratic governance in the region over and above the intricacies of elections *per se.* It has demonstrated beyond any shadow of a doubt that indeed there is more to democratic governance than just elections and electioneering. In a word, with hindsight, it is abundantly clear to us today that an election, in and of itself, does not necessarily amount to democratic culture and practice. Put somewhat differently, an election is not tantamount to a democracy, in the strictest sense of the term. Various other determinants are critical too including, *inter alia,* multipartyism, constitutional engineering and the rule of law, gender inclusivity in the governance process, electoral system designs and reforms, transparent and accountable management of national affairs including elections themselves, responsive and responsible conduct by political parties, constructive management of various types of conflict and the form and content of external assistance for democracy.

All these issues are explored in a fairly rigorous and refreshing fashion in this monograph to come out of the programme, although a deliberate focus

is given to electoral engineering in the form of reviews and reforms required in the SADC region in order for the selected countries to achieve the difficult goal of democratic consolidation. This monograph will be followed in due course by various others that are country-specific exploring a broad array of challenges for democratic consolidation in the SADC region.

I would like, on behalf of EISA, to acknowledge, with gratitude, the invaluable financial support that EISA has received from the Norwegian Embassy through Norad and the Open Society Initiative for Southern Africa (Osisa) for this first phase of the programme and without which this monograph and subsequent others would not have been possible. I would also like to thank the authors for their enormous contributions to this project. All said and done, the views and opinions expressed in this and subsequent monographs do not necessarily represent an official position of EISA. Any possible factual, methodological or analytic errors in this and subsequent monographs therefore rest squarely on the shoulders of the authors in their own capacities as responsible academics and researchers.

Denis Kadima
Executive Director, EISA
Johannesburg

EXECUTIVE SUMMARY

This research report forms part of EISA's on-going research initiative on democratic consolidation across countries in Southern Africa funded by Norad and Osisa. With the exception of Angola, the Democratic Republic of Congo and Swaziland, the countries in Southern Africa have instituted the practice of electoral democracy and have had at least two consecutive competitive multiparty elections. But the challenges confronting these new democracies have changed the focus away from democratic transition to issues related to the long-term sustainability of these systems. Implicit in this statement is that democratisation is a process which begins way before the founding elections and is without any specific end. The challenge now for countries in the region, and Zimbabwe in particular, is to nurture and consolidate democratic governance – a process which depends very much on complex and interrelated institutional and political processes.

The objective of this research endeavour is to conduct an empirical assessment of the state of democracy in the Southern African Development Community (SADC) region following the momentous transition from authoritarian rule to multiparty governance in the early 1990s, or, in the case of Zimbabwe, since 1980. The numerous political developments unfolding within Southern Africa undoubtedly make this an opportune moment to take stock of progress, problems and prospects for democratic governance in Zimbabwe after more than two decades of commendable political developments which have ushered in a new sense of optimism and hope. Behind this sense of hope and optimism, however, has been a realisation that although Zimbabwe has indeed experienced democratic transition, the stark reality on the ground reveals the extent to which regular elections that have marked Zimbabwe's electoral democracy since 1980 have in fact not deepened democracy.

This study then investigates interconnections and interfaces between democratic governance, elections, democratic assistance, political parties and civil society. The assessment is based on both primary and secondary data collected during interviews with numerous key political stakeholders in Zimbabwe. Among the people and agencies interviewed have been leaders

of political parties, members of civil society, academics, opinion leaders, electoral commissioners and members of the foreign donor community.

The report is both descriptive and analytical in the presentation of its findings. It takes a look at the critical democratic developments and the challenges that lie in the way of democratic consolidation. It is our hope that the analysis presented in this monograph will inform key stakeholders on appropriate mechanisms and systems needed for the fostering and support of democratisation initiatives that are under way in Zimbabwe.

INTRODUCTION

Wole Olaleye

Since the beginning of the 1980s, Zimbabwe made significant progress in institutionalising democracy. This is reflected in a number of developments which took place in the country, such as setting up democratic institutions, holding multiparty elections, increasing popular participation in governance and dialogue between government and stakeholders. Twenty years later, the extent to which Zimbabwe has progressed towards democratic consolidation – a process through which democratic norms and values are institutionalised and routinised by the political system – is a critical subject for debate. We have concluded that a number of constitutional, legal, administrative and economic decisions have been taken that do not support the objective of consolidating and deepening democracy in Zimbabwe.

Experiences in Zimbabwe demonstrate that deepening democracy entails more than the holding of periodic elections and the creation of a set of institutions. Democracy also requires the development of a generally accepted set of values that ensure fair electoral practice, predicated on representation, accountability, inclusiveness, transparency, gender equality, tolerance and respect for diversity. These basic values have been accepted by Southern African countries and are expressed in the various declarations and instruments to which they are signatory: the Windhoek Declaration on the Freedom of the Media (1991), the SADC Treaty of 1992 and the 1997 SADC Declaration on Gender and Development. During 2001, Southern African leaders identified as part of their common agenda the promotion of common political values, systems and other shared values which are transmitted through institutions that are democratic, legitimate and effective, as well as the consolidation and maintenance of democracy, peace and security. This led to, among other things, the adoption of a Regional Indicative Strategic Development Plan by the SADC member states in 2002.

The widely held view about Zimbabwe democratisation is that the process is increasingly 'illiberal'. Although regular, competitive multiparty elections are held, whether or not such elections are free, fair and credible is an issue left for later discussion. While categorising Zimbabwe as an electoral

democracy, by most accounts the behaviour of the state is increasingly characterised by different forms of abuse. Political freedom and civil rights are enshrined in the constitution but the rule of law is imperfectly observed in practice. Human rights abuses are a prevailing feature of the present Zimbabwe government. The press is strictly controlled and the private print media are continuously harassed. In the recent past two print media have been closed down, while citizens' rights to education are continually violated. Private schools were shut down and university students and staff are not able to provide education because of draconian laws. There is no separation of power between different tiers of government. Political heavyweights including the president and some members of the military and police are above the law. Makumbe enumerated some of the ways in which democracy has been eroded in Zimbabwe after two decades of democratic gains:

> "Breakdown of the rule of law resulting in many cases of human rights abuse and denial of access to justice for the victims; promotion of the political culture of fear and the negation of the democratic ethic, which have in turn resulted in increased levels of apathy on the part of the majority of the people; humanitarian disasters of various kinds, such as displacement of more than 6,000 people from their rural homes during the 2000 election campaign, and well over 70,000 during and after the presidential election in 2002; a collapse of the social sector with health and education institutions failing to measure up to the expected standards of service delivery; a chronic shortage of foreign currency, fuel and many other imports that are necessary for the manufacturing industry, the mining industry, commerce and agriculture; capital flight; withdrawal of official development assistance and the dying up of foreign investment resulting in rapid shrinking of the economy; and soaring unemployment currently estimated to be higher than 70%, which contributes to an already unfortunate and unacceptable level of poverty with some 80% of the population living below the poverty datum line."[1]

At the centre of this crisis is the government of the Zimbabwe African Nation Party–Patriotic Front (Zanu–PF), which has ruled the country since

independence in 1980. This research report attempts to assess the extent of electoral democracy in Zimbabwe and the critical challenges that confront the consolidation of democracy with a view to making policy recommendations around the possible intervention areas. It does this by focusing on four main indicators. These are an assessment of electoral management and administration, an assessment of the impact of democratic assistance on democratic processes, the role and extent to which political parties are effectively strengthening democracy through the adoption of democratic practices, and the critical role and challenges confronting civic society in the democratisation process in Zimbabwe.

The monograph is presented in six sections. It begins by locating the study within a historical background in order to provide an overarching political framework, which will give the readers the perspective and contextual understanding of the findings presented. This is followed by an assessment of the election administration and management system with specific focus on the constitutional and legal framework governing elections, especially with the independence of the Electoral Supervisory Commission, the Delimitation Commission, the Election Directorate and the Registrar General of elections, the registration process and the cost of elections. The third section provides an analysis of the impact of foreign democratic assistance on Zimbabwe's democratic process. Attention is focused on the complex relationship between foreign donors, the government of Zimbabwe and civil society. We explore the extent to which this interconnected relationship is unsustainable for democratic consolidation. The fourth section provides an analysis of the role and importance of political parties in the democratisation process. Detailed attention is also given to an understanding of the character and internal arrangement of political parties in promoting democratic practices. The fifth section provides a brief synopsis of the role of civil society in political transition and electoral support, with particular reference to the impact of the legal and constitutional environment on the involvement of civil society in elections. We conclude that Zimbabwe is on the road back to the era of pre-independence characterised by uncompetitive elections, banned and constrained political opposition activities, repressed press and media freedom, poverty and bleak economic conditions. The final section presents a brief analysis of the current plethora of conflict in Zimbabwe. It argues that current violent conflict in Zimbabwe is premised on the bitter

colonial legacy and gross racial discrimination of the pre-independence period inflicted on the population and the dilemma faced by President Mugabe's regime in balancing the challenges of democratisation with social justice.

1
THE POLITICAL BACKGROUND

Wole Olaleye

Zimbabwe was formally known as Zimbabwe–Rhodesia, then Rhodesia and then Southern Rhodesia by imperialist Britain until 1980, when it achieved independence after being one of the last British territories in Africa. The colony of Southern Rhodesia, as it was referred to, was established by the British South African Company (BSA) under the command of Cecil John Rhodes to exploit the rumoured mineral wealth of Zimbabwe.[2]

In 1953, the British government joined Southern Rhodesia with Northern Rhodesia (Zambia) and Nyasaland (Malawi) in what was described as the Central African Federation.[3] The African people in these various regions joined together in opposition and strongly resisted the amalgamation. In 1959 the popular resistance by the African political movement led to the declaration of states of emergency, the banning of political parties and the arrest of African political leaders. In 1963 this resistance led the British government to agree to break up the federation. This decision led to a second yoke of political domination on the African people in Zimbabwe, when the white minority in Zimbabwe objected to the new political arrangement and voted into power the Rhodesia Front (RF) under the leadership of Ian Smith. The RF defended white supremacy and demanded full independence from Britain and the retention of a minority-rule constitution against the African uprising.[4]

In 1965, Ian Smith made a unilaterally declaration of independence (UDI) of the territory and subsequently changed the name to Rhodesia. However the move by the white minority led to strong resistance from both the Zimbabwe African People's Union (Zapu) led by Joshua Nkomo and the break-away Zimbabwe African National Union (Zanu), led by the Rev Ndabaningi Sithole and then by Robert Mugabe. This resistance laid the foundation for the long liberation struggle to bring an end the Ian Smith's rule and the domination of the white minority. Zanu established a military political wing and joined forces with *Frente de Libertação de Moçambique* (Frelimo), which was also a

liberation movement fighting the rule of Portugal in Mozambique, as well as with the People's Republic of China.[5]

The cumulative effect of the resistance to Ian Smith's government by Zanu and Zapu and the depressing economic condition through the imposition of economic sanctions by the international community, dampened white morale and intensified guerrilla activities of the liberation movement, culminating with the 1979 'internal settlement' agreement. In terms of this agreement, an interim government was established under the leadership of Bishop Abel Muzorewa to lead the way in finding a political solution for Zimbabwe.[6] All parties to the conflict agreed to a peaceful settlement, a process which saw the British foreign and Commonwealth minister chairing a constitution conference. After 14 weeks, on 21 December 1979, the so-called Lancaster House Agreement delivered a ceasefire, an end to the UDI government and a transitional British administration to prepare Zimbabwe for multiparty elections in 1980. The agreement also provided for the adoption of a prime ministerial system as opposed to a presidential system of government and 20 of the 100 parliamentary seats were reserved for the white minority. Land reform without white minority consent was prohibited for 10 years.[7] This clause was only accepted into the constitutional arrangement by the liberation movements after the assurance was given that multinationals would provide funds to assist in land redistribution projects.[8]

In this first multiparty election in February 1980, Zanu won 57 of the 80 'common roll' (African) seats in the house, receiving 63% of the votes. Nkomo's PF won 20 seats and Muzorewa's United African National Council (UANC) three seats. Between them, the two parties which had conducted the armed struggle received 87% of the votes in a turnout estimated at 94%.[9] The RF won all 20 seats reserved for the white minority. The Rev Canaan Banana, a liberation struggle nationalist, became the first president with ceremonial duties and Robert Mugabe (Zanu) became the first prime minister.

Zimbabwe's independence was described as a "political watershed" because "there were more continuities, in political terms, than discontinuities".[10] Among the continuities was the domination of the political landscape by one party. "While the settler regimes tried to eliminate black politics by criminalising them, the ruling Zanu–PF government has tried to criminalise

opposition politics by emasculating the opposition or rendering it impotent through various manifest and overt measures."[11]

In furtherance of its dominance, Mugabe introduced a series of constitutional changes between 1980 and 1987: in 1986 the constitution was amended to give the president powers to legislate unilaterally; he combined the position of a prime minister and president into an executive presidency and he became the country's first president through the Constitutional Amendment Act of 1987. This act changed the electoral system from proportional representation to a first-past-the-post (FPTP) majority system. This system is known for increasing one-party dominance, intra-party conflicts, faction fighting and splits of parties into fragmented splinter groups. The act also abolished the 20 reserved seats for the white minority in the House of Assembly. In 1989 the Senate, or upper house, was abolished and seats in the single House of Assembly were increased from 100 to 150. Further provision was made for the appointment of eight provincial governors, 10 chiefs and 12 presidential nominees into the Assembly. This was followed by a move towards a *de facto* one-party state. During this period Matabeleland was ravaged by internal conflict, culminating in the November 1987 massacre. Convinced of the need to unite all the African parties against the continued economic hegemony of the minority white population, President Mugabe achieved a merger of Zanu and Zapu to form Zanu–PF in December 1989, following the December 1987 agreement by the leaders of the two parties. This move effectively destroyed the prospect of political opposition and consolidated the dominant political position of Robert Mugabe and Zanu–PF. The outcome of the March 1990 general election was a clear indication of this dominant position, with Zanu–PF winning 117 of the 120 parliamentary seats. The party continued with this dominance by increasing its parliamentary representation to 118 out of 120 in the 1995 election. The remaining two seats went to Zanu – Ndonga, which was led by the Rev Ndabaningi Sithole.

But things were to take a dramatic turn for Zimbabwe when, in 1997, the government of Zanu–PF decided on an unpopular political and economic roadmap that was to see the crisis in the country continue along an apparently irreversible course. In August 1997 half a million war veterans took to the streets of Harare to challenge the legitimacy of Robert Mugabe. Two months later he responded by announcing plans to accelerate the implementation of

the Land Designation Act, and 1,500 mainly white-owned farms were gazetted for redistribution. No compensation was offered to the farmers and this threw the entire agricultural sector into a panic.

In response to the national crisis, more than 200 civil society organisations (CSOs) formed a coalition under the National Constitutional Assembly (NCA) in quest of constitutional reform. The NCA growth in size and importance was such that the government could not ignore it. Its response, in 1999, was to commission and appoint a 400-member constitutional commission with responsibility for setting in motion a process that would lead to the drafting of a new constitution, which would be voted upon in a national referendum. Many CSOs and individuals, including the NCA refused the invitation to participate in the commission. The NCA objected on the grounds that the commission comprised people with leanings toward the government. Consequently, the NCA embarked on a national campaign against the government's constitutional review process and canvassed for a 'No' vote in the February 2000 referendum. The result of the referendum was a victory for the coalition members, with the majority of the population voting against the draft constitution. This was a resounding victory for the opposition parties as it demonstrated a lack of confidence in the government of Zanu–PF under very difficult socio-economic circumstances. Out of the civil society mobilisation against the onslaught on democracy by the ruling Zanu–PF, the Movement for Democratic Change (MDC) was born. It was led by Morgan Tsvangirai, secretary-general of the Zimbabwe Congress of Trade Unions (ZCTU). The emergence of a vibrant opposition by civil society (NCA) and the MDC completely changed Zimbabwe's political terrain.

The 2000 parliamentary elections tested and almost brought an end to the political hegemony of Zanu–PF's two decades of political dominance. However, given the manipulation of the judiciary, the security forces, the electoral laws and election administration procedures, the incumbent party managed to retain political power. The MDC won 57 out of 120 contested parliamentary seats but Zanu–PF secured a comfortable majority because of the 30 reserved parliamentary seats, which the president was free to allocate to deserving Zanu–PF supporters.

2
AN ASSESSMENT OF ZIMBABWE'S ELECTION ADMINISTRATION

Claude Kabemba

> "Our system with its checks and balances has received acclamations world wide; that is through separate functions of the ESC, the Election Directorate and the Delimitation Commission. This allows for the decentralisation of accountability and control."[12]

Zimbabwe is a constitutional democracy and is obliged to uphold the relevant provisions of its governing instrument.[13] Elections in Zimbabwe are organised according to the law of the country. The constitution and the Electoral Act stipulate how and who should organise elections from the delimitation of constituencies and the registration of voters to the actual running of elections. In other words, the constitution and the Electoral Act provide the framework for elections in Zimbabwe. The current system in Zimbabwe dates from the 1987 constitutional amendment, which replaced the Westminster model adopted following the 1979 Lancaster House Agreement.

In accordance with sections 28 and 29 of the constitution, the president is elected separately by all voters on the common roll within 90 days of the expiry of the six-year presidential term of office, or of the presidency becoming vacant as a consequence of death, resignation or removal. During this 90-day period, the previously elected president remains in office.

According to section 38 of the constitution, the national legislature consists of 150 members. Of these members, 120 are elected on the basis of single-member constituencies on an FPTP basis. The other 30 legislative seats are appointed as follows: 12 directly by the president, eight on the basis of having been appointed provincial governors by the president, and 10 for chiefs elected through the electoral college of the National Council of Chiefs and the provincial councils of chiefs. Although the chiefs are indirectly elected, they are subject to presidential approval. Presidential appointments therefore account for 20% of members of parliament (MPs).

Following the epoch-making independence elections (1980), Zimbabwe has organised elections regularly (1985, 1990, 1995 and 2000 for parliamentary elections and 1990, 1996 and 2002 for presidential elections) according to constitutional requirements. The recent disunity and tension over the election results in Zimbabwe has been created by serious flaws in the management of elections.

ELECTION MANAGEMENT: A UNIQUE STRUCTURE

Zimbabwe has a structure for the management of elections that is unique and exceptional in Southern Africa. While all the other countries, including Swaziland, have opted for one body to manage elections, Zimbabwe has four structures that play a role in the management of elections. The organisation of elections – presidential, parliamentary and local – is over-seen by a quartet of institutions. These are:

- the Electoral Supervisory Commission (ESC);
- the Delimitation Commission (DC);
- the Election Directorate (ED); and
- the Registrar General (RG) of Elections.

Members of the four organs are presidential or government appointees and as such lack independence of the state. Their *modus operandi* has for some time been a "source of concern for other stakeholders"[14] – civil society and political parties. There exists a deep mistrust among these institutions which has impacted negatively on the organisation of elections. It seems the current election management structure in Zimbabwe was effective when Zanu–PF was the only dominant party with all the characteristics of a one-party state and with no strong opposition. The situation has since changed with the appearance on the political scene of a strong opposition and a vibrant civil society capable of pinpointing wrongs in the political system without fear. It is not surprising that it took 20 years to introduce changes to the electoral system. This has been made possible by the demystification of Zanu–PF.

The country's electoral administration is multifaceted and the different structures often appear to duplicate if not complicate the synchronicity of their roles. Critics have identified the electoral management structure as the single most important factor that impacts negatively on the electoral process

in Zimbabwe. This does not mean that governance problems facing Zimbabwe could be resolved simply by introducing electoral reforms. The country is experiencing far deeper malaise beyond simple election management. Issues of land reform, poverty, HIV/AIDS, deterioration of health and education systems and lack foreign exchange are all challenges that need to be confronted head on to start recreating confidence in the state. Nevertheless, the lack of credibility and transparency in the electoral process is undermining attempts to deal with the societal challenges the country is facing. Although an election is not the only ingredient of democracy, it is generally accepted that elections play a crucial role in deepening and sustaining democratic governance. The dispute over the results of the 2002 presidential elections – which was characterised by violence, confusion and exclusion – has had both political and economic consequences. Politically the country cannot move forward without a consensus being reached on a new constitution. Economically, Zimbabwe cannot access the funds it badly needs from the international community to kick-start its economy without a fundamental change to its political system. It seems that nothing would change before a transparent and fair electoral system is put in place. Many studies have already been conducted on exactly what needs to be done and what kinds of reforms to introduce in order to stabilise the political situation in the country and put the country back on the road to development.

Electoral Supervisory Commission and Registrar General
The two most important structures in terms of their roles are the ESC and RG. There have been tensions between the two that have paralysed the smooth administration of elections, especially during the 2000 parliamentary elections and the 2002 presidential elections. The function of the two structures has also been singled out as having played a key role in the controversial re-election of President Mugabe in 2002.

The ESC is provided for in the Constitution of Zimbabwe (Section 61). The ESC's role is to supervise all elections in Zimbabwe, including presidential, parliamentary and local government elections. It is also required to supervise the registration of voters and to consider any proposed election legislation referred to it.[15] It has five commissioners: a chairman and two other commissioners are appointed by the president in consultation with the

Judicial Service Commission and two other commissioners are appointed by the president in consultation with the speaker of parliament.[16] The current commission has two female members. The ESC reports to the president about those matters it has to supervise and about proposed election legislation. It also gives instructions and recommendations to the RG and other people employed by the state or local government for the purpose of ensuring the efficient, proper, fair and credible conduct of elections. Members can be removed from office by the president on grounds of infirmity, misbehaviour or failing to comply with the conditions of service in effect at the time of appointment.

The ESC commissioners hold office for a period decided at the time of their appointment, but not exceeding five years. Its decisions are made through a majority vote. It is also mandated to scrutinise any proposed bill or statutory instrument which may be referred to it relating to presidential, parliamentary or local authority elections as stipulated in the constitution. However, it has no powers to intervene or conduct the actual polls. Its main purposes are to report on the conduct of elections and make recommendations about legislative reforms. To do this, the ESC must access reports on registration and other electoral matters from the RG. But, according to the law, the RG is not obliged to pass any information to the ESC. This is exactly why in the 2000 and 2002 elections tension reached its peak between the two institutions. The contradiction is in the provision of section 61(6) of the constitution, which stipulates that the ESC in exercising its responsibilities shall not be subjected to "the direction or control of any person or authority" but at the same time does not give it the power to access information necessary to permit it to exercise its functions. This has created confusion and mistrust between the ESC and the RG. Legally, the ESC and its commissioners lack the authority to order the correction of any irregularities that might be identified in the system.

The *de facto* authority in the electoral process seems to be the RG. The RG is a public servant whose office falls under the Ministry of Home Affairs. In the electoral process the RG is answerable to the minister of Justice, Legal and Parliamentary Affairs. Since the funding of the RG's functions is obtained from the minister of Home Affairs, the RG and his office consequently report to and are answerable to both ministries concurrently. Unlike, the ESC, the

RG is recognised only in the Electoral Act. The RG conducts elections in accordance with the Electoral Act, which is administered by the minister of Justice, Legal and Parliamentary Affairs. The RG is charged with the overall administrative responsibility for the conduct of elections. Section 15(2) of the Electoral Act enhances the independence of the RG's office when it states the RG "shall not be subject to the control of any person or authority other than the Election Directorate". The RG's responsibilities include:

- registration of voters;
- preparation of the voters' roll;
- presiding over the nomination court;
- provision of ballot papers;
- setting up of polling stations;
- provision of electoral staff;
- declaration of election results; and
- custody of election materials.[17]

These extensive functions make the RG central, and therefore powerful. At the same time, any weaknesses and limitations in the discharge of its functions have negative ripple effects on the rest of the electoral process. The current RG has held the position since 1980. He has the duty to run the election from the compilation of the voters' roll, setting up of polling stations and providing polling officers to the counting of ballots.[18] The RG is supported in his function by:[19]

- constituency registrars;[20]
- deputy constituency registrars and one or more assistant constituency registrars;
- presiding officers;
- polling officers; and
- counting officers.

For the ESC to do its work, the RG is expected "to provide reports relating to registration of voters and the conduct of elections to the commission; and keep the ESC informed on all matters; it also might get advice from the ESC on matters relating to registration and conduct of elections".[21] In practice this does not happen. In general and since the 2000 elections, the RG resisted

cooperation with the ESC to allow the ESC to do its work**.** While the mandate of each body is well defined either in the constitution or in the Electoral Act, the chain of command between the RG and the ESC is not clear. The ESC is supposed to supervise the work of the RG, who organises the elections. According to the Electoral Act, the RG should not take instruction from anybody, but:

- shall provide the commission with reports relating to the registration of voters and conduct of elections as the commission may from time to time require;
- shall generally keep the commission informed on all matters relating to the exercise of his function; and
- may refer to the commission for advice any matters relating to the registration of voters and conduct of elections.

The RG is the structure with the power to make decisions. In the 2002 election the RG refused to provide information to the ESC on the number of ballot books printed as he considered this information classified. This was a clear demonstration of lack of trust between these two bodies. The constitution as the supreme law of the country has given the power of supervision to the ESC. The failure by the RG to provide information that would allow the ESC to perform its duty should create suspicions about the entire electoral process. Again the RG may have acted according to the law which says that "in the exercise of its functions, the Registrar General shall not be subject to the direction or control of any person or authority other than the Electoral Directorate, but shall have regard to any report or recommendation of the ESC".[22] In the 2002 presidential elections the ESC was not informed of:[23]

- the election calendar. This made the job of the ESC very difficult. It could not follow the preparation of the election. It was in the dark as to when the process started and ended;
- the number of eligible voters in the country, by constituency and by province. The RG failed to provide this information until polling day;
- the number of ballot papers printed and the number sent to each polling station; and
- the number of people on the supplementary voters' roll.

The lack of information made the work of the ESC very difficult or impossible, especially to do the inventory of the electoral process:

> "At the end of each election, the ESC submits a report to the president on the conduct and outcome of the election. The issues covered in such report are wide ranging; they encompass voter registration, financing of campaigns, election monitoring, incidents of intimidation and violence, media coverage, counting of votes and the announcement of election results. Its report pronounces on whether the elections were 'free and fair'."[24]

Examination shows that the RG is much closer to the Election Directorate, or effectively to the ruling party. This does not in any way suggest that the ESC is not close to the ruling party but it seems that, since 2000, a deliberate decision was made to weaken the ESC and strengthen the RG. One good reason for that was the uncompromising attitude and faith the RG has in the ruling party and *vice versa*. The current RG has also served in that capacity for decades and he understands the system better than anybody else.

Lack of independence of both the ESC and RG

Most respondents and opposition groups have pointed to lack of independence of the ESC and RG as one of the greatest deficiencies in the electoral management. The ESC is supposed to be an independent, impartial and non-partisan body appointed by the president in terms of section 61(i) of the constitution for a five-year term of office. The independence of the ESC has been questioned because of its closeness to the ruling party. With no constitutional claim on finance and the absence of an administrative or executive function, "this commission has always not been independent".[25] The budget of the ESC is determined by the Ministry of Justice, which decides how the allocated funds are to be used. In essence, therefore, this ministry controls the use to which funds may be put and the ESC is treated in the same way as other government departments.

Also, the fact that its role and responsibilities can easily be shifted depending on the needs of the ruling party has led to the ESC's loss of credibility. In an effort to reclaim its role, it has, periodically, gone to court. For example during the 2000 parliamentary election the ESC challenged the state on its role.

During the run-up to the 2000 parliamentary elections, the ESC launched two major, but unsuccessful, legal challenges in the High Court against the RG and the government respectively. First, the ESC complained that it had not been involved in the supervision of the registration of voters for the 2000 elections, as required by law; second, it challenged the government for making changes to the electoral law by decree without consulting the ESC, as required by the Electoral Act.

The ESC challenge involved the accreditation of monitors and observers, the eligibility of monitors, and the postal ballot system. The ESC argued that it was the sole body entrusted with supervising elections and accrediting monitors, observers and polling agents under the constitution. In February 2000, the ESC chairperson, Bishop Hatendi, resigned after complaining about the conduct of the RG, which did not give room for the ESC to perform its functions. A new chairperson, Sobuza Gula-Ndebele, was appointed in June 2000.

In general, the delineation of roles between the ESC and RG is not clear. As mentioned above, several opposition parties have expressed concern about the dependence of the RG on the ruling party and the lack of cooperation between the RG and the ESC. Responding to Dr Sachikonye's assertion in his country profile that the RG was partisan, the RG said that this was the view of those who were pushing for an independent electoral commission to run elections in Zimbabwe.

Lack of resources impacts the ESC's independence
The lack of resources for the ESC is of particular concern. It appears that the ESC has neither office capacity nor political support from the electoral apparatus of the government of Zimbabwe. For its operation, it depends on a small allocation from its parent ministry. The ESC has a secretariat which has no staff, no office and no capacity to do its supervision work, clearly demonstrating the insignificance of its role in the electoral process. But it may request secretarial and administrative staff to be assigned to it by the minister of Justice, Legal and Parliamentary Affairs. In view of its ambiguous and limited powers and meagre resource, the ESC is therefore constrained in exercising its 'supervisory role' in the electoral process. By contrast, the RG is very confident of his office's role and responsibility for the overall

electoral process. As we see below, the RG and the ED are more substantial players in the electoral process than the ESC. They draw upon government resources and intervene at all crucial stages of the electoral process.

Election Directorate
The third institution that adds confusion and weakness to the management of elections is the ED.[26] According to the chief election officer in the ESC, the ED is no more than a support structure to ensure that resources and logistics are in place to conduct elections. As such, it is not supposed to get involved in the operational side of elections. Its mandate is to give logistics support to the ESC and RG. However, the ED sometimes goes beyond its mandate and gets involved in elections by making pronouncements on elections. Its importance rose significantly during the 2000 elections. On 7 June 2000, Statutory Instrument 161A of 2000 empowered the ED to accredit foreign observers on the recommendation of the Ministry of Foreign Affairs, thus moving away from the traditional responsibility entrenched in the constitution and the Electoral Act. Its functions include:

- guaranteeing the efficient conduct of elections and ensuring that they are administered freely and fairly;[27]

- organising the activities of ministries and departments of government in regard to the delimitation of constituencies, the registration of voters, the conduct of polls and all other matters connected with elections; and

- giving instructions and making recommendations to the RG in regard to the exercise of his functions under the Electoral Act, and other persons in the employment of the state (for the purpose of ensuring the efficient, proper, free and fair conduct of elections).

Since the ED plays the role of the secretariat of the different ministries in providing logistics, it should remain in the background instead of being seen as leading the electoral process. It is worth noting that prior to 1990 the ED had been an informal body of civil servants established in recognition of the fact that the RG did not have the powers to command the resources necessary

to enable him to execute his duties under the Electoral Act.[28] Nhara argues that the establishment of the ED added to the number of players involved in the electoral process, thereby splitting the responsibility still further.

The independence of the RG and the ED is questionable. It is clear from the appointment procedures of their members and their location within the state apparatus that there is need for concern. Both the ED and the RG form part of the public service.[29] The working relations between the three responsible bodies – the ESC, RG and ED – are confusing. The ESC is the only body referred to in the constitution but it is also the body with no power at all. The RG and ED are provided for in the Electoral Act. There is no doubt that for future elections Zimbabwe cannot afford to continue using the same system which gives advantage to the ruling party. This is not simply because it is Zanu–PF which is in power: the system would not perform well even with another party in power. The duplication of duties between the three bodies needs to be rectified as a matter of urgency, especially since by-elections continue to be organised.

Delimitation Commission

The fourth body is the Delimitation Commission (DC),[30] which, as in the case of the other three electoral bodies, is appointed by the president. The DC determines the limits of constituencies in Zimbabwe. The country is divided into 120 constituencies, in accordance with section 60(2) of the constitution.[31] The constituencies should have "as nearly as may be equal numbers of voters in each". In determining constituencies, the DC can depart from this principle by 20% more or less than the average number of registered voters on the common roll. The constituencies should be viable with regard to topography, communications, voter distribution and community of interest between voters on the roll. On completing this division, the DC submits a report to the president with lists of names, descriptions of boundaries and maps of the proposed constituencies. The DC is convened by the president at five-yearly intervals or prior to the next election. The last delimitation was in 2000. The president can refer the proposal back to the DC before proclaiming the delimitation in the *Government Gazette*. One of the weaknesses of the delimitation process is that the public has no input: public participation is non-existent. In a democratic dispensation, the public should be entitled to give its seal of approval to the delimitation exercise. This reduces

the likelihood of the validity of the exercise being challenged. It is not surprising that election results in Zimbabwe have been seriously contested.

The DC's inefficiency was clearly demonstrated in the 2000 parliamentary elections. It made its report public only three weeks before the polling days. There were no public submissions or hearings on the voters' roll owing to the insufficient time period for effective public consultation. Opposition parties therefore claimed that the voters' roll was rigged to favour Zanu– PF. This lack of transparency from a structure such as this can only increase mistrust in the electoral process. The perennial problem encountered by DCs has been the state of the voters' roll. Only when the number of registered voters is reliably established can the number of voters per constituency be estimated to enable the boundaries to be drawn. In an effort to deal with this deficiency, the ESC convened a workshop in 1997 which came up with the following recommendations:

- The consultation process before the appointment by the president of members of the DC should be more broadly based and preferably the Justice Service Commission rather than the Chief Justice alone should be the body to be consulted.

- A preliminary delimitation report, which should be published in the *Gazette* and which should be open for inspection and comments by the public, should precede the submission of the report for endorsement by the president.

- The DC should be appointed or convened well in advance of a general election to allow sufficient time for proper performance and reports, which will determine whether the DC meets its basic conditions and expectations.

To conclude on the uniqueness of Zimbabwean election management, it is worthwhile highlighting the role of the ESC. Compared to other electoral commissions in the rest of SADC, the ESC is a much weaker institution and lacks autonomy. Indeed, there exists deliberate ambiguity concerning the role of the ESC. Section 15(2) of the Electoral Act stipulates that the RG shall not be under the direction or control of any person or authority other than the ED, but shall have regard to any report or recommendation of the ESC.

The meaning of "regard" is not defined and also it is subjective as the RG might choose not to consider the recommendations of the ESC. Nowhere are the powers of the ESC explicitly stated nor has it been made clear which powers it can assume without risking a challenge.[32] Although the constitution states that the power of the ESC may be provided under an Act of Parliament, no such provision has been made.[33] It has been left entirely to the ESC members to decide for themselves what they perceive their powers to be.

PRESIDENTIAL POWERS AND THE MANAGEMENT OF ELECTIONS

In addition to the four bodies described, the enormous powers vested in the executive president of Zimbabwe are of great significance in the whole electoral process. The Zimbabwean electoral system accords considerable power and discretion to the president, whose powers include the capacity to change electoral laws by proclamation after the announcement of an election. Furthermore, in accordance with Section 158(2)(b) of the Electoral Act, the president and the minister of Justice, Legal and Parliamentary Affairs are authorised to issue statutory instruments and regulations in relation to the conduct of elections.

According to section 2(1) of the Presidential Powers (Temporary Measures) Act of 1986, the president is empowered to institute regulations that have the potential substantially to affect electoral competition or participation. This provision was not apparently used in the 2002 elections, but the presidency invoked section 158 (Regulatory Powers of the President) of the Electoral Act. Overall the president is empowered to:

> "(1) Make statutory instruments 'as he considers necessary or desirable to ensure that any election is properly and efficiently conducted and to deal with any matter or situation connected with, arising out of or resulting from the election'.
> (2) Statutory instruments made in terms of Section (1) may provide for:
>   a) Suspending or amending any provision of this Act or any other law in so far as it applies to any election;
>   b) Altering any period specified in this Act within which anything connected with, arising of or resulting from any election must be done;

c)   Validating anything done in connection with, arising out of or resulting from any election in contravention of any provision of this Act or any other law;

d)   Empowering any person to make orders or give directions in relation to any matter connected with, arising out of or resulting from any election;

e)   Penalties for contraventions of any such statutory instrument, not exceeding the maximum penalty referred to in Section 155."[34]

The confusion and lack of clarity in the responsibilities of the different electoral management bodies combined with the excessive power of the president were used efficiently in 2002 to favour the ruling party. There were critical areas where this was highly apparent, as discussed below:

REGISTRATION OF VOTERS

In Zimbabwe registration of voters is done on a continuous basis. This means voters' rolls in Zimbabwe are updated daily as long as people register as voters, register deaths of deceased relatives or change information concerning their personal details or civil status. However, for the purpose of the 2002 elections, fresh registration was done a few months before the election. Voter registration took place from 15 October to 13 December 2001. People were supposed to produce their national identity card or a valid passport to register. People were allowed to inspect the voters' roll from 19 November to 9 December. Voter registration was reopened between 27 February and 3 March 2002. The RG proceeded with the printing of the supplementary voters' roll without informing other political parties. He also did not reveal how many people had registered during the extension period.[35] There was serious criticism of the inspection of voters' rolls, which, according to the Electoral Act, shall be open to inspection by the public, free of charge, at the offices of the constituency registrars. Political parties claimed that the extension was intended to rig the election. There are questions which have remained unanswered. Why was such a long time allowed to separate the first registration and the second? The ED failed in many instances to communicate its plan to other stakeholders including the ESC. Experience has shown that lack of transparency in the electoral process is a source of disputes and reason for the rejection of election results.

Despite the ED's assurance that it is practically impossible to rig elections in Zimbabwe, its inability to put in place transparent mechanisms created the perception that government was indeed involved in efforts to rig the elections. The behaviour of the different institutions with the responsibility of organising elections in Zimbabwe has created doubt in the assertions that Zimbabwe's electoral system is impeccable and watertight.[36]

In general, voter registration for the 2002 presidential election was mired in confusion and secrecy which left many voters uncertain of their status on the voters' roll. This came about because of the numerous changes introduced to the laws governing the elections. For example, President Mugabe, in the Electoral Act (Modification) Notice 2002, dealt with postal ballots, the supplementary roll and the list of voters who have changed citizenship. The timing of these new initiatives was seen as intentional and done in bad faith, misusing the power conferred to him by the constitution.

The right to vote was denied to many Zimbabweans. The government and the RG alleged that only those granted permanent residence after 31 December 1985 had the right to vote. This was in contradiction with the schedule to the Constitution of Zimbabwe which stipulates in section 3(3) that:

> "Subject to the provisions of this paragraph and to such residence qualifications as may be presented in the Electoral Law for inclusion on the electoral roll of a particular constituency, any person who has attained the age of 18 years and who is (a) a citizen of Zimbabwe; or (b) since 31 December 1985 has been regarded by virtue of a written law as a permanent resident of Zimbabwe and who meets the requirements of any particular constituency or who has satisfied the Registrar General that for reasons related to place of origin, political affiliation or otherwise, it is appropriate that he be registered in a constituency in which he does not reside, shall be qualified for registration as a voter on the common roll."

Critics argue that the Ministry of Home Affairs in conjunction with the RG's office under presidential directives was engaged in illegal and un-

constitutional deprivation of the right to vote of permanent residents of Zimbabwe ahead of the presidential election.[37] The amendment of the Citizenship Act barred people who had changed their citizenship from voting. This was done so as to disenfranchise white voters and black people of Zimbabwean or from neighbouring countries who were assumed to be MDC supporters. In short, the registration process was not citizen friendly.[38]

CITIZENSHIP OF ZIMBABWE AMENDMENT ACT

Passed in July 2001, the Citizenship of Zimbabwe Amendment Act outlawed dual citizenship, compelling the millions of naturalised Zimbabweans to re-apply for citizenship or lose it. Children born in Zimbabwe of foreign parents were also affected and needed to renounce their parent's citizenship to qualify as citizens of Zimbabwe. The most affected were migrants or their offspring from Malawi, Mozambique and Zambia. The Catholic Commission for Justice and Peace (CCJP) reported that there were 200,000 internally displaced people in Zimbabwe as a result of the land invasions and fast-track land reform. In addition, a large number of people were reportedly disenfranchised because they could not produce proof of citizenship or residence, a requirement under the new law. The opposition viewed this act as a deliberate move by the government to disenfranchise the white community, who were increasingly seen as opposition supporters.[39]

DELIMITATION OF CONSTITUENCIES

The constituencies of the 2000 parliamentary election were used for the 2002 presidential elections. The problem was that the delimitation of 2000 was done without taking into account the voters' roll, which was still not ready. This meant that the number of voters in each constituency could have been distorted, opening room for the possibility of creating an incorrect voters' roll for the 2002 election. A similar situation also applied in the 1990 elections. According to Sachikonye, no reliable voters' roll was produced for the 1990 elections. This also meant that the work of the DC was handicapped.[40]

Number of polling stations

Without consultation with other political parties and a few days before the polls opened, the RG proceeded to reduce the number of polling stations in urban areas and to increase the number of rural polling stations. The ESC justified this action as intended to create justice in the electoral process. An

increase in the number of polling stations in rural areas would help reduce the walking distance to the polling stations for rural citizens. Compared to the 2000 parliamentary elections there was a 30 – 40% reduction of polling stations in urban areas and a similar increase in the rural areas, which were a Zanu–PF stronghold.[41]

A statistical analysis revealed that in Harare Province there were 167 polling stations in 2002 compared with 244 in 2000; in Mashonaland East Province there were 542 stations in 2002 compared with 378 in 2000; in Manicaland province the number of polling stations was increased to 657 in 2002 from 388 in 2000; in Bulawayo there was a decrease in polling stations from 160 in 2000 to 124 in 2002; in the Matebele South Province there was an increase from 265 stations in 2000 to 397 in 2002; in Midlands Province there was a substantial increase from 491 stations in 2000 to 710 in 2002; in Masvingo, the number of polling stations increased from 440 in 2000 to 636 in 2002; and in Mashonaland Central Province the number of stations increased from 316 in 2000 to 467 in 2002.[42]

The increase in the number of polling stations was also observed with mobile polling.[43] The problem with mobile polling stations is that they are very difficult to monitor especially with a limited number of observers on the ground.

A more correct approach might have been to keep the status quo in terms of the number of polling stations in urban areas and to increase the number of stations in rural areas – or simply to increase the number of stations in both areas. The government and the ESC argued that the decision to increase and decrease polling stations in rural and urban areas respectively was dictated by financial and logistics reasons and by human capacity. For the opposition, all was clear to see. The urban areas are said to be predominantly MDC. The decrease in the number of polling stations there was a political decision by the ruling party to make it more difficult for MDC supporters to vote.

Decision to hold multiple elections in Harare and Chitungwiza
When the government also decided to go ahead with its plan to hold tripartite elections in Harare, the electoral authorities failed to release a list of polling

stations for the two constituencies and the voters' roll for the voters to know the ward in which they were supposed to cast their votes for the mayor or councillor. This disenfranchised many voters who once at the polling station were able to vote only for the president and not for the mayor and councillor since their names could not be found on the voters' roll of the ward.

In Harare and Chitungwiza, the voters could not go to the second ward to vote since their hands had already been marked with indelible ink. In fact there was no information available for voters on the mayoral and council elections. After two days of voting, it became clear that many people in Harare (where there were tripartite elections) and Chitungwiza (where there were dual elections) would be unable to cast their votes. The MDC quickly introduced an application in the High Court to have the voting day extended until Monday. The High Court ruling extended voting in the two constituencies but polling stations were closed in other constituencies countrywide.

The High Court ruling did not go well with the government / Zanu–PF, which in turn argued that only the RG had the ability to take such a decision in terms of the Electoral Act. The court's duty, Zanu–PF maintained, was to be limited at reviewing the decision of the RG and not to decide on administrative and electoral procedures. The government, however, did not challenge the court's decision arguing that it was futile action by the MDC since the RG had already taken a decision to allow all voters to cast their votes. The court's decision did not contradict the RG's position, said Zanu–PF. However, the court's decision met obstacles in its implementation. By 7 am most polling stations remained closed despite the presence of polling officers.[44] The MDC returned to court on Monday 11 March to request that voting be extended for a fourth day in Harare and Chitungwiza, but the court dismissed this application, the judge saying that he had no mandate to intervene in the administration of elections and that it was the sole responsibility of the RG to do so. This position, which contradicted the earlier ruling of the court, which extended the voting for the third day, clearly demonstrated the ability of the ruling party to manipulate the judicial system of the country. It seems that the two court decisions had nothing to do with the legal aspects of the matter but with the political affiliation of the presiding judges.

USE OF STATE RESOURCES: THE LAND

Beside the use of state resources by the ruling party, as is common in many other countries, one of the state resources abused by Zanu–PF in the 2000 parliamentary elections and the 2002 presidential elections was land. There is no doubt that, apart from the correctness of the land redistribution policy, President Mugabe used the policy primarily for election purposes. Fearing disaster in the March elections, Zanu–PF decided to invoke memories of the revolution and used land to recreate those memories. The redistribution of land before, during and after the elections was used for election campaigning. For example, the thrust of the Zanu–PF presidential and parliamentary campaign centered on land redistribution. Over 60% of Zimbabwean women work and live on rural land and it must have been easy to intimidate them and promise land if they voted for Zanu–PF, even though the land distribution programme did not enhance women's access to the land. There is also no doubt that the link between land redistribution and elections increased the level of political violence. The MDC criticised Zanu–PF's actions as opportunistic and intended to confuse the voters, hide its economic and social failures, put fear into people and to discourage them from voting for another political party. But it was the failure by the ESC to sanction the perpetrators of the violence that impacted negatively on the electoral process and further tarnished the already damaged image of the ESC. In fact, the lack of authority on the part of the ESC to impose sanctions on anyone for breaches of electoral laws during the period of campaigning and voting represents a serious shortcoming of the electoral process.

PARLIAMENTARY AND PRESIDENTIAL ELECTION TIMETABLE

The timing of both presidential and parliamentary elections has been questioned by constitutional experts. Since independence, the two elections have been held in two different years. Parliamentary elections are held at five-yearly interval, while presidential elections are held every six years. Critics argue that the prospect of a president's party being defeated in a general election while the president continues in office until his term expires could trigger a constitutional crisis.

POST-ELECTION PERIOD

The post-election period is characterised by either the acceptance of results by all parties or the rejection of result by the losing parties. In Zimbabwe

although political parties have always complained about the manner in which elections have been organised, including intimidation from the ruling party, an uneven playing field and the misuse of state resource by the ruling party, there was a real challenge against the elections results in 2002.

Soon after the announcement of the election results, the leader of the opposition party introduced a petition in court. There was a delay of two months before the respondents (the government) opposed the court petition. At the time of writing – 18 months after the elections – the election petition had not yet been heard. The opposition petition was based on two main arguments. The first was that the ESC was not validly and independently able to carry out its function during the 2002 presidential elections. This argument aligns well with the arguments in this paper. The second argument was that section 158 of the Electoral Act is unconstitutional. This paper has argued that the power to introduce new regulations is well recognised by law. But the petition's claim is that the introduction of new regulations was done in bad faith, was morally wrong and was not conducive to fair elections.

Credible election management and administration in Zimbabwe will require the development of a consensus based upon key principles, which will ensure fair electoral practices based on representation, accountability, inclusiveness, transparency, tolerance, and respect for diversity, which ultimately ensure not only the legitimacy of rule, but, equally importantly, the stability of the political system. Thus, it is crucial to abide by best practices in the management of elections in the period leading up to the elections (the pre-election phase), during the polling day (the election phase) and in the immediate aftermath of the election (the post-election phase). The challenge for electoral management bodies during all three phases is for the institutions to strive for transparency, accountability and consultative approaches at each step of the electoral process and to foster trust and confidence in the management of elections as well as encouraging greater ownership of the electoral process by the key stakeholders and the general public.

AN ASSESSMENT OF THE IMPACT OF DEMOCRATIC ASSISTANCE

Shumbana Karume

A variety of political deals were devised during the 1990s by the international community to assist countries in the SADC region and the developing world at large in their transitions to democracy. Most of these deals entailed developing parameters for low-intensity democracy, which both the International Monetary Fund (IMF) and the World Bank had designed in their hurried state to prescribe their economic structural adjustment programmes (ESAPs). It was no different for Zimbabwe. During the ESAP years, Western aid set aside for Zimbabwe began to be tied to questions of governance and political liberalisation, and although the international community's expectations on Zimbabwe to liberalise politically were not high, for the next few years a space had been opened up for the emergence of democracy in Zimbabwe. The call for political liberalisation has gained more momentum since then and with much assistance from the donor community democratic processes continue to unfold, even though the country is experiencing a political crisis.

Before locating the position of donors in present-day Zimbabwe – quite obviously not their political stance on Zimbabwe's crisis, but rather their present level and scale of interventions via democracy assistance programmes – it is worthwhile to look briefly at their role in the early 1990s. Most of the democracy aid packages geared for Zimbabwe during this time focused on 'good governance' initiatives with very little or no effort at stimulating or forcing political changes. This assistance was simply disbursed in an attempt to answer international calls for increased efficiency in state institutions, good governance and electoral administration institutions. For example, one of the United Kingdom's (UK's) priority areas in 1995 for Zimbabwe was civil service reform and capacity building within local government. For the United States Agency for International Development (USAID), democracy and governance was only incorporated into its programme in 1997; before that the only governance programme USAID had funded was an ongoing initiative aimed at parliamentary training and reform.[45]

CURRENT LEVELS OF DEMOCRATIC ASSISTANCE

The major donors currently in Zimbabwe are Japan, the European Development Fund, the UK and Germany. The IMF was also in this category until recently when it suspended already approved credit of $180 million after the government missed its performance targets and defaulted on its international debt. The current economic and political crisis has forced many donors either to hold on to the balance of their payments disbursements or to reduce their assistance – or, even worse, as the Danish did, to pull out altogether. Although the UK's Department for International Development (DFID), USAID, and the European Union (EU) tripled their 2003 budgets, much of this assistance was in fact targeted for humanitarian relief activities. Overall foreign assistance has been reduced and now accounts for about 15% of Zimbabwe's gross domestic product (GDP).

Many donors have restructured their democracy-related interventions with the hope of mitigating the political crisis in Zimbabwe. In the realisation that Zimbabwe required targeted US support, USAID for example has undertaken a series of strategic interventions focusing mostly on aiding Zimbabwe's civil society. Its assistance is purportedly aimed at helping civil society to increase its participation in economic and political decision-making. With a total of $30 million over five years intended for its democracy and governance component, a range of CSOs have benefited greatly and continue to receive much prominence and attention. These include human rights advocacy groups and church-related associations. In addition, within the realm of its democracy interventions, USAID is simultaneously supporting Zimbabwe's parliamentary reform by helping parliament implement the recommendations of the Parliamentary Reform Committee's report as agreed by parliament and several of its financial backers. Some of the areas of reform on which USAID and others are focusing include, as specified in their recommendations, strengthening the committee system and improving legislative processes. The EU provides support in the same fashion in line with the Cotonou Agreement, although Zimbabwe has now rejected some of the provisions it had accepted in this agreement. Most of the EU members made contributions to the Commonwealth election observer team for the presidential elections, and remain active in funding non-governmental organisations (NGOs) with credibility. For example, the Zimbabwe Human Rights Association (ZimRights) and the Zimbabwe Electoral Support

Network (ZESN) received substantial support for capacity building during the 2002 presidential elections.[46]

There are those, however, who have preferred to take a back seat in the last year or so. Seeing that Mugabe's retaliation, as a result of their increased interest in pro-democracy institutions, has become more repressive, donors such as DFID informed us that their interventions did not include any democracy programmes. Traditionally, they noted, DFID has not undertaken major funding on civil society development due mainly to its lack of belief in the credibility of the system but also fear that if it got involved it could undermine democratic processes.[47] As a result, most of the DFID's funding focused on election monitoring, observation and voter education for the 2002 presidential elections, with the objective of contributing towards a well-managed electoral process. The DFID's support was channelled through a contribution to an EU-managed election fund. It is quite probable, however, that depending on the progress and outcomes of the MDC/ Zanu–PF inter-party dialogue, DFID will initiate funding in these areas.

Given the high level of polarisation and the lack of political dialogue between the donor community and the government, the United Nations Development Programme's (UNDP's) interventions are strategically structured to revolve around this quandary or dilemma. Unlike many donors who have taken pre-emptive or defensive positions against Zimbabwe's political crisis, the UNDP has, as a multilateral organisation, had to take an impartial stance and act as a unifying force between the government and the donor community. The UNDP's Governance and Strategic Initiative (GSI) has, for instance, been set up specifically to respond to some of these challenges. Through this initiative, the UNDP acts as a mediator between the government and the donor community on a number of related issues. More importantly, driven by the lack of dialogue in society, it coordinates and facilitates policy dialogue between the government and other key sectors of society including the private sector and trade unions on a broad range of policy issues.

As a result of the culture of openness and freedom of discussion that the UNDP has nurtured, the government has recently asked the UNDP for support in Zimbabwe's electoral processes.[48] It is an indication of how effective the UNDP's dialogue initiatives have been that some level of trust

has been engendered in a highly suspicious and mistrustful government. A UNDP envoy has had talks with the minister of Justice, Legal and Parliamentary Affairs. Although UNDP dialogue in these matters has been initiated, nothing has as of yet been finalised on the kinds of support or specifications that the government has requested in relation to election assistance for the 2005 parliamentary elections.

A further strategic area of intervention that deserves some mention here is the UNDP's parliamentary reform programme. The focus of parliamentary reform is enhancing the capacity of parliamentarians and the institution of parliament to enable parliament to play its stipulated constitutional role. GSI support to parliament started in 1996 when the one-party parliament realised that it needed to move beyond being a rubber-stamp institution. The objectives then were to support portfolio committees, which were a completely new development in parliament at that time; and to reach out to the population to make the people more aware of their role in government. By 2000, however, there was a complete disruption in parliament, which provided a new setting as a result of a new crop of MPs and opposition parties: there were 105 new MPs out of a total of 150. The UNDP has had to overcome this new development. It has undertaken an assessment of this project in order to understand its predecessor's agenda and to come up with recommendations. From this assessment, we were informed that GSI support to parliament has evolved to include a further expansion of portfolio committee activities and the establishment of a media section.[49]

DONOR INTERVENTIONS: CIVIL SOCIETY, THE POLITICAL OPPOSITION AND THE MEDIA

The discussion in this section is confined to the manner in which international interventions have affected civil society, the opposition and the media landscape in Zimbabwe, by first tracing the context and the process of their emergence and then deliberating on the impact that international assistance has had on these networks and on the democratisation processes of Zimbabwe as a whole. In response to the involvement of the donor community, the government has lashed out at civil society networks, the media and the political opposition in a variety of antagonistic ways. A closer examination of the government's reaction to all these pro-democracy networks will reveal that the law has been the government's most favorable

instrument of coercion and repression of these groups. And as the international community continues to take an active interest in Zimbabwe's economic and political crisis via these networks, President Mugabe's retaliation against these networks also continues.

Donors' politicisation of civil society

With much financial help and prodding from the donor community, a movement of civil society emerged in the early 1990s that initiated a concentrated critique against the ruling party. Although at this time the operation of this group was in fact prohibited, many groups arose to take advantage of whatever civic and political space there was. Most notably, this critique originated initially from academics, the student union from the University of Zimbabwe and the labour movement. They focused mainly on corruption, welfare and political rights issues. It was not until a little later that human rights groups, professional associations and NGOs – which were equally aggressive forces – began to focus their assessments on issues of governance and political liberalisation.[50] Under governance, topical issues included conditions of impoverishment and social exclusion, while calls for political liberalisation came in the form of a constitutional discourse. In terms of donor contributions to democratic processes, external assistance was highly welcomed during this time. As some practitioners in Zimbabwe indicated, "there was no way that local NGOs could pressurise the government. Development assistance, focused on democracy and governance and human rights initiatives, has been vital because it has energised and enabled various civil society groups to challenge policy-makers and lobby against draconian policies".[51]

Even before donors took a keen interest in pro-democracy NGOs in Zimbabwe and explicitly channelled through them democracy assistance targeted at critiquing Mugabe's establishment, these NGOs had already been politicised as a result of their partisan affiliations. It must be noted that the leadership that now makes up the MDC executive emanated from various civic and labour movements. Morgan Tsvangirai had in fact been the head of the secretariat of the ZCTU until he was elected president of the first MDC executive on 11 September 1999, when the MDC was officially launched. And NGOs such as ZimRights boast of having had at least six board members who are now in the MDC leadership. Quite expectedly, the state uses this to

discredit the entire civic movement as politically biased. The intense interest the EU, UK and the US have in the civic movement has further complicated and compromised their image within the government. Not only are they faced with the task of breaking their bond and proving their independence of opposition parties, they are now faced with the even more difficult task of demonstrating that they are not propagandist broadcasters for the West.

Since the emergence of Zimbabwe's crisis, there has been a shift in donor support. Financial support is now only for projects in direct support of the population, such as social sectors, democratisation and respect for human rights. All associated support for these areas is now channelled to civil society groups instead of to the government, as had previously been the case. Although optimists in Zimbabwe attribute this shift to the global trends that usually govern Western policies, this newly found friendship with NGOs is more noticeable in programmes related to democracy and governance, and it is the view of many that the shift of policy is in response to the Zimbabwe political crisis. Since the imposition of EU and US government sanctions on Zimbabwe, there has, in the view of a representative of the NGO community, "been a tilt where civic education and human rights campaigns have been more pronounced, and donors have tended to fund NGOs which are directly challenging Zanu-PF's political structures".[52] "If NGOs are clever enough to formulate a proposal they will be sure to be funded," the representative said.

There are, however, a number of challenges associated with this support. The executive director of the NCA in Zimbabwe listed a few of these. His first charge was that "donors dictate, they don't allow flexibility and they fund even those NGOs that have no value. As a result there is a multiplicity of organisations who claim that they are useful, but in the end the efforts are divided". Given the vibrancy of the NGO sector, there is an overall sense that donors in Zimbabwe do indeed support many of the same organisations. Some organisations get funded on their merit and some on the basis of their leadership. He asserted secondly that the funding of organisations was not consistent. Some are very sensitive where their responsibility is solely to provide funding while others prefer to involve themselves in the implementation phases. It was highlighted that most donors have openly stated that they could only fund certain programmes, forcing NGOs to alter their activities to accommodate the needs and demands of funders. It is no

wonder then that the government accuses the NGO community of instituting the agendas of their paymasters. Third, a few NGOs felt that donors should also bear some of the blame for turning the donor environment in Zimbabwe into the war zone that it is today. The NCA executive director concluded that while "some donors would want to initiate activities that would embarrass the government, these are necessary issues to consider but should not detract from the overall contribution of donors".

Increasingly, policy makers, although unaware of the hostilities NGOs have had to face due to their affiliations to foreign governments, see foreign support to civil society as a significant democracy-building effort in Zimbabwe. Western powers such as the US are as a result continuously encouraged to support democracy through these channels. This is not the first for countries like the US however. The use of NGOs has been very effective in carrying out certain tasks over the years. In the case of Yugoslavia, for instance, NGOs were used to overthrow the government. While the same may not be expected from NGO operations in Zimbabwe, these are expected to further Western interests. This is likely to be so because their work receives considerable support from Western governments and because they shape their policies and initiatives with assistance from donor officials. This may be true to a degree for many local NGOs in Zimbabwe; however, it is more applicable to those international NGOs which have a considerable presence in Zimbabwe. There is a myriad of such NGOs operating in Zimbabwe, including the Westminster Foundation for Democracy (WFD), the Zimbabwe Democracy Trust, International Media Support, and the Southern African Media Development Fund.[53] The WFD is the most active NGO in Zimbabwe, and there was much mention of its work from several electoral stakeholders interviewed. With half its project budget aimed at assisting political parties, the WFD has been closely linked with MDC operations. Several of its projects in Zimbabwe are involved in aiding the MDC, whether through training, consultation on strategies or direct financial support.[54]

A number of government-orchestrated prohibitions have been put in place against such international support and there has been a deliberate effort to ensure that all the space for local NGOs has been closed. Zanu–PF has in fact blamed its actions on both the donor community for their political biases and the opposition – "we are not entirely happy with the tensions in society.

The coming in of the MDC has set democracy backwards ˘ and donors distort the political process as a result of their support".[55] While donor funding via NGOs has always been viewed negatively by governments in the region, Zimbabwe has gone beyond this, and NGOs are viewed with great suspicion by the government. The government categorises NGOs into two groups: those that are truly representing the grassroots communities; and those that are actors for external influence. "The government of Zimbabwe feels that its backyard has been invaded by foreigners because the external assistance provided has worked to their disadvantage," commented Munyaradzi Bidi, national coordinator of ZimRights. Many describe the relationship between the government and NGOs as unhealthy, and say they "do not see this relationship improving as long as the political situation stays as it is".[56] In September 2003 this detrimental relationship reached its breaking point when the Zimbabwean government issued a notice that required all civil society groups operating in the country to register under the Private Voluntary Organisation Act (PVO Act) of 1995. This contentious piece of legislation was passed in 1995 to replace the Welfare Organisations Act, whose only motive was for the government to achieve total control over this sector and to control their sources by deciding who would be registered and have access to their accounting systems. Under the act, NGOs – and especially those wishing to source external funding for their operations – must register with the Ministry of Public Service, Labour and Social Welfare. Several supporters of the act stated that in fact the amendments to the Welfare Organisations Act were undertaken specifically to empower the responsible ministry[57] to act against abuses by NGOs which were receiving large sums of donor funding. Opponents of the act lodged several complaints against it – the most widely acknowledged criticism being the discretionary powers granted to the responsible minister. In terms of implementing the act, it gives him a central and determining role in the way the provisions are applied. This has made many NGOs nervous as placing such extensive authority on a single person compromises their autonomy and independence.[58]

In an attempt to dodge all the harmful provisions in the act, many NGOs, especially human rights organisations, are now registering as trusts, although several asserted that the act has so far failed on many levels. No organisation has to date been banned because of the PVO Act; and they are still able to operate with a few restrictions to their autonomy. Nonetheless NGOs have

received many threats; these have remained largely verbal and are mostly in rural areas. We were informed that Security of Human Rights, a local NGO, had received several physical threats and harassments on people working on development institutions in rural areas.[59] Some CSOs both in rural and urban areas have had to reduce their operations as a result. For example, ZimRights scaled down its operations in the rural areas and the Legal Resources Foundation had to close six offices because of threats which were particularly high during the election.[60]

While foreign relations with the government continue to deteriorate, a number of donors have been compelled in recent months to withdraw their support for democracy. This has caused some NGO operations to go into a tailspin, and there is now a small segment of donors in Zimbabwe who have decided to disengage by either reducing their support to NGOs with the hope of easing the tensions between NGOs and the government or expelling democracy components from their aid packages altogether. DFID, for instance, informed us that they had no democracy initiatives at the moment for fear that any direct contact with local NGOs would compromise them.[61] Such an arrangement, we were told, is aimed at defusing some of the most acute political tensions at hand. They have opted instead to fund CSOs in the region, particularly in South Africa, more robustly and more generously or are shifting their funding towards health-related projects: at least 75% of USAID's projects, we were told, are health related. As donors pull out of Zimbabwe, there has been a rapid dwindling of support for the NGO community, which has affected its ability to deliver. Some programmes have had to be discontinued and others are now under-funded.

As President Mugabe's grievances against the West's policies grow more intense, relations between the donor community and the Mugabe government continue to deteriorate – to the point that the UNDP is now acting as mediator between the donor community and government. Some NGOs, however, feel that the UNDP's role is limited and that it should do more. One view is that "the UNDP is a toothless bulldog. It is bankrupt and its money is usually sourced from donors. It is irrelevant, and plays a very small role in fostering democratic processes".[62] Civil society too has realised that such polarisation in the country is deteriorating further and seeing that the government is impervious to any of this, it is planning on meeting and

discussing the possibility of coming up with a roadmap to steer away from the two dominant parties as well as the donor community, to enable the civil society sector to become independent of these groups.

A CASE STUDY: THE NATIONAL CONSTITUTIONAL ASSEMBLY

By the 1990s much of civil society's critique of the government was linked to calls for greater democratisation in the form of a discourse of consti-tutionalism, and many donor interventions consequently found an audience in this area. This was the NCA, established in May 1997. It formed a broad alliance with several institutions, political parties and individuals to advocate a new constitution for Zimbabwe. From the onset, the NCA enjoyed great support from donors. As a new kind of mobilisation force for national democratisation – "its overall objective was to bring about a democratic state that is inclusive of all stakeholders"[63] – it was an opportune establishment and viable channel for donor funds. It indeed offered new opportunities for democratic assistance to contribute to Zimbabwe's democratisation processes. In 2000 the NCA had in fact come up with a new draft constitution based on the various consultations it had with Zimbabweans, which – as expected – the Zanu–PF parliament and the executive did not accept.

After 2002 there was, however, a slowing down of donor funding because the constitution was no longer a priority. The NCA still remains useful in providing assistance for activism; it continues with public and civic education and it has held demonstrations, which as in the case of many other NGOs, resulted in full-scale retaliation from the government. The most favoured form of this retaliation has been the enactment of repressive legislation aimed at deliberately restricting the NCA's operations. President Mugabe's recent embracing of dialogue with his political enemies has, however, once again brought the NCA back into the political scene. It has been speculated that in his much talked about 'exit strategy' there are some political compromises that can be instituted only through a new constitution. The government recognises that this is a job that can be done efficiently by the NCA.[64]

DONORS AND THE POLITICAL OPPOSITION

While the issue of political funding is the subject of grave disagreement in the region at large, in Zimbabwe, especially external funding, has bred severe

mistrust in already tumultuous political environment. Until the early 1990s and the emergence of the MDC, there were no prohibitions against parties from receiving external funds nor was there a state mechanism for funding political parties from public resources. The introduction of the MDC and other opposition parties on the political scene has necessitated some prescription that addresses the issue of funding. At first the state mechanism introduced for funding political parties from government coffers stipulated that parties which won a minimum of 15 seats in parliament were eligible to draw funds from government resources. This state mechanism was proposed under the Political Parties Finance Act, which later opposition parties legally challenged in the Supreme Court for demanding an unreasonably high threshold for access to funding, and which resulted in Zanu–PF on many occasions monopolising state funding. As a result of this challenge, the court ruled that the threshold should be lowered to a minimum of five per cent of votes received by a party in an election contest.[65]

Despite this ruling, access to government funding remains problematic and there continues to be a polarisation of opinion among parties over a formula for state funding. An even more disputed element in this area regards the accessibility to foreign funding. Due to the unfairness of the mechanism which prescribes funding for political parties, most opposition parties have been compelled to find alternative sources of support. Given the poor state of Zimbabwe's economy, it seems highly unlikely that local well-wishers would contribute generously to the coffers of these parties. As a result, opposition parties have been left with little choice but to rely heavily on external funding. In response, the Mugabe government has spent substantial time and energy blocking external funding destined for the MDC and conjuring up varying types of intimidation and insults directed at the MDC for its 'alleged' association to external funding – British funding in particular. German foundations too have been accused of funding intellectual groups within the MDC. Before the emergence of the MDC, Zanu–PF ironically enjoyed considerable support from a number of its sympathisers abroad. Now that external funding is highly undesirable and legally prohibited, President Mugabe has started a sinister war against foreign funding.

Notwithstanding the legislative ban Zimbabwe's government has on external assistance to political parties, several donors have supported and continue

to support political parties within the ambit of technical assistance programmes. How much of this assistance is in fact financial is hard to ascertain, but there is growing evidence that foreign donors continue to maintain and intensify their support for the opposition; in the case of Germany, support to political foundations is usually direct and mostly financial. USAID funds several NGOs whose projects support mainly MDC parliamentary activities. International institutions such as the WFD provide funding to the MDC's youth and women's groups. Zanu–PF officials claim that the MDC has received at least $30 million from the WFD since its inception in 1999.[66] Some say that the rapid growth the MDC experienced by winning 57 seats out of 120 within a year of its creation must be attributed to the significant funding it received from Western sources. There are reasons that would make one believe that foreign powers are behind the MDC's existence. The MDC's programme, for example, reads like a call for a return to ESAP.[67] Its policy paper includes a detailed plan for privatisation within which the interests of Western capital will be upheld and defended. Hence, as on so many occasions in the ongoing political quagmire, Tsvangirai, and to a lesser extent the MDC, have been accused by the governing establishment of acting under external influence. Zanu–PF went as far as to say that his collaborations with the international community constituted a serious threat to the safety and security of the state. The government has found a number of ways of channelling and articulating its resentment against the MDC. If these are not through the most vocal mouthpiece – President Mugabe himself – the *Herald*, the state daily paper, habitually refers to the MDC and its leadership as "stooges of white imperialist interests". Forced to operate in such conditions, the MDC and to a lesser extent other smaller opposition parties have tried to raise their own funding locally with varying degrees of success. The most controversial groups among the MDC's local supporters have been white commercial farmers. Most obviously dissatisfied with the land situation, white commercial farmers have assisted the MDC through donations of cash and kind but also by setting up support groups within their farming communities.[68] It must be said that the MDC's much-shunned alignment or association with white commercial farmers has not been widely welcomed nor has it been the most strategic alliance ever made by the MDC. Not only has this given Zanu–PF an opportunity to castigate the MDC as a front for white interests, but the region's response to this relationship has been extremely unsympathetic.

DONORS, OPPOSITION MEDIA AND MUGABE'S REACTION

A related priority of the international community during these years has been to shape the country's internal media environment via financial support. In their explanation for such assistance, the funding of private media helps to nurture alternative media outlets in addition to the oppressive state media. The WFD, for example, provides direct financial support to opposition media in Zimbabwe. Most of this is for production costs including equipment, training, expansion of circulation, radio and television coverage.[69] The Southern African Media Development Fund is another international NGO that focuses its attention on opposition media or – as many financial backers of this entity like to put it – independent private media enterprises. Others include USAID, the Media Institute of Southern Africa (MISA), the Media Development Loan Fund and International Media Support. The intention of most of these funders is to provide technical and practical assistance to media working in difficult political climates. Their assistance has, however, gone beyond such practicalities, with the issuing of loans to publishers of opposition papers facing financial difficulties not uncommon. Publishers of both opposition papers, the *Mirror* and the *Daily News*, received such loans, which, their backers insisted, were aimed at making them more competitive.[70]

It was not until 1998 that real independent media opposition emerged in Zimbabwe. Prior to that there were a few monthly and weekly magazine newspapers that had opposed President Mugabe, but these were ineffective and their impact was limited. Most were small and under-resourced, with very little prospect of changing the media landscape. With extensive financial backing from Australian, British and South African interests, the first ever viable opposition daily, the *Daily News*, was produced under the auspices of a large newspaper group, Associated Newspapers of Zimbabwe (AZN). This same group also publishes five community newspapers.

President Mugabe responded in the way he knows best – via harassment and by enacting oppressive legislation to restrict the operation of the newspapers as well as donor investment in private sector media. This was all done under what he termed "a propaganda war". Mugabe justified his war against his media critics by maintaining that they were "ganging up on him unscrupulously and their only policy was to oppose the government and Zanu–PF".[71] When the AZN began operations in 1998, oppressive

legislative provisions aimed at muzzling the media and disciplining journalists were introduced in the old Law and Order Maintenance Act – one of the Rhodesian government's oppressive laws. Because this did not contain sufficiently strong measures to deal with the media, the new Public Order and Safety Act (POSA) was introduced in 1998 to replace the Law and Order Maintenance Act. Although this was not passed into law until 2002, violence and intimidation on the media continued. The government at the same time threatened to introduce legislation that would restrict foreign investment to local media investors, prohibit donor funds and impose a legal framework under which foreign donors could operate.

Attacks on the opposition media were particularly glaring in the period preceding the March 2002 presidential elections. New limits to and restrictions on the media using the famous Access to Information and Protection of Privacy Act (AIPPA) were suddenly conjured up, and attacks and intimidation on several media outlets escalated. This trend continues, however, despite the courts' removal of several of the most draconian provisions of the AIPPA. For instance, the Supreme Court launched an attack on the 'false news offence' clause, which it managed to remove from the AIPPA on the premise that it violated section 20 of the constitution. This clause had imposed criminal sanctions on any journalist convicted of publishing false information.[72]

WESTERN RESPONSE TO ZIMBABWE'S DEMOCRATIC CRISIS: ADDITIONAL INTERVENTIONS

Public rebuke of President Mugabe by the international superpowers and their explicit support of a range of local organisations aimed at challenging his hold on power have not produced the intended results. The government continues to intimidate political opposition, the judiciary, media and other politically-oriented bodies. His political loyalists continue to resort to violence at the slightest indication of opposition, the economy is worsening at an alarming rate and food shortages have left more than half of Zimbabwe's population at the mercy of international humanitarian relief agencies.[73] The failure of all this international 'effort' to turn things around has now been replaced by a more overt concerted international campaign against President Mugabe. This is intended to resolve the precipitating crisis at whatever cost. The Bush administration and UK Prime Minister Blair's labour government

have, for instance, had to pursue additional policy measures with the hope of improving the stark state of affairs in Zimbabwe. After an active internal review of policy options, both governments publicly outlined additional policy measures intended for Zimbabwe. A concoction of strategies has now been undertaken simultaneously by the international community, which has included the imposition of 'smart sanctions', influencing the IFC's (International Finance Corporations) decisions on Zimbabwe's financial crisis combined with more innovative and overt support to the opposition forces.

Such efforts against President Mugabe may be more intensified by the British and the Americans but there are others, including the EU and the Commonwealth, that are also engaged in this 'union' of nations aiming to pressurise the Mugabe government. Their roles have, however, been as supporters compared to the more direct and prominent roles of both the US and the British governments. The part played by the US in the multilateral efforts aimed at devising credible packages of 'carrot and stick',[74] manifested with the passing of the Zimbabwe Democracy and Economic Recovery Act (ZDERA) by the US Senate Committee on Foreign Relations. This act lays out a package of punitive measures including the imposition of sanctions and suspension of bilateral assistance and debt-forgiveness. It also calls for the enlargement of contacts and interventions with pro-reform groups via the expansion of operations of the USAID office in Zimbabwe and other related international democracy and governance organisations. The EU began closely monitoring developments in Zimbabwe in June 2001 and subsequently initiated measures against the country. These were first discussed among EU foreign ministers at the 2001 October General Affairs Council meeting. Although the meeting proved inconclusive, there was a clear understanding that they wanted EU sanctions on Zimbabwe, including a travel ban. There has been much achievement and consensus in this area since then. Before the March 2002 presidential elections, the EU had imposed sanctions targeting President Mugabe and his inner circle of advisers. The Commonwealth reacted in a similar fashion and suspended Zimbabwe's membership immediately after the 2002 March presidential elections. It seems that Australia and Britain as the principal decision-makers of this group will maintain this action at least until President Mugabe accepts some of their demands, including the restoration of the rule of law and an end to government-sponsored political violence.

As an expansion to some of the above disciplinary or punitive strategies, both the US and UK encouraged multilateral and bilateral organisations such as the World Bank and IMF to deny assistance to the Zimbabwe government. Although the US cannot by itself prevent these institutions from providing assistance to rogue states,[75] it has, as the largest donor, significant influence over the lending decisions and the support of other lenders. Collectively, the West has substantial influence over Africa's relations with international financial institutions. On 13 June 2002 the IMF issued a declaration of non-cooperation and announced that it was suspending the provision of technical assistance to Zimbabwe. The IMF declaration also urged other financial institutions to deny credit to Zimbabwe. We are told by sympathisers of President Mugabe that this policy decision has resulted in a depressing collapse of the economy. Non-sympathisers, however, blame this entirely on the political decision-making of the Mugabe government that usually occurs without participation by or any accountability to the public. Ironically, the international community openly admits that shunning President Mugabe economically in such ways may have an adverse effect on the people of Zimbabwe in the short run, but they are consoled with the idea that this is only short-term hardship, and it is in their long-term interest to do away with President Mugabe's repressive economic and political policies.

The already mentioned ZDERA was another component of the West's efforts to discipline Zimbabwe. President George Bush signed this act into law in December 2001. Depending on how one looks at it, the act could have several interpretations. There are those who see it purely on the basis of a disciplinarian policy; it is against Zimbabwe, forcing the country to return to a neo-liberal economic model. Even more pessimistic, it is viewed as a triumph of right-wing people who have always been against Zimbabwe and do not understand the land issue. For this group, the act's directives have several negative implications. To begin with, ZDERA instructs American officials in international financial institutions to "oppose and vote against any extension by the respective institution of any loan, credit, or guarantee to the government of Zimbabwe, and to vote against any reduction or cancellation of indebtedness owed by the government of Zimbabwe".[76] Among other punitive measures, it has authorised Bush to utilise $6 million for democracy and governance programmes intended to aid Zimbabwe's ailing democracy through initiatives such as funding independent media in Zimbabwe.

The other interpretation of the act presents a reverse or contradictory scenario. ZDERA is short and to the point; it in fact makes an *offer* to the Zimbabwe government. It offers to undertake a review of the sovereign debt owed by Zimbabwe to the US and any of its agencies with a view to restructuring, rescheduling or eliminating that debt. It offers to instruct financial institutions including the World Bank and the IMF to consider doing the same for Zimbabwe's foreign debt and to provide support for the stabilisation of the Zimbabwe dollar and the recovery of its economy. It offers to establish a Southern Africa Finance Centre, located in Zimbabwe, to facilitate commercial projects in Zimbabwe and the region.[77] Of course there is a catch as these propositions will be put into effect only when political stability has been restored, and if none of the conditions specified are met then quite logically these same institutions will be instructed to oppose any of the financial benefits set out in the act. It is argued, however, that this is not a sanction since President Mugabe had alienated himself from these institutions before the act's existence, and the only sanctions that are in the act are targeted and specific – namely the ineffective travel and economic ban on President Mugabe and his colleagues.[78]

International isolation of the Mugabe government has continued in a variety of ways: donors such as Japan and Germany have frozen their aid; diplomatic missions such as the Danish have been removed; others have downgraded their diplomatic relations; and some Western governments have even played political games with food aid in an attempt to undermine the Mugabe government. Western governments have on several occasions told the UNDP that the aid assistance it seeks from them will not be forthcoming unless Zimbabwe agrees to devalue its currency.

CONCLUSION

There is ample evidence to suggest that President Mugabe is indeed the dictator he is constantly portrayed to be, and that the economic troubles his country is facing are to a degree caused by his disastrous policies. However, the present policy pursued by Britain and the US towards Zimbabwe has quite clearly not yielded the intended results. And in the light of the growing recognition that purely negative measures cannot on their own be effective, it seems that Zimbabwe's impasse or deadlock with the international community is heading for an even more intense face-off. Owing to this and

because some members of the EU believe that there is hardly any alternative to the continuation or improvement of the present policy – and that the key to changing the situation in Zimbabwe to the better is through regional actors – the EU is realising that there is now a basis for a more special and intensified relationship between itself and SADC for resolving Zimbabwe's crisis. This had not always been the case. EU relations with SADC on the issue of Zimbabwe have been extremely sour to date. In January 2002 the UK threatened to withhold $18 million in budgetary support from Malawi, unless it agreed to direct SADC towards imposition of sanctions against Zimbabwe.[79] Other SADC countries including Mozambique and Tanzania received similar bullying threats. A more collaborative approach will, however, be possible only – analysts suggest – if the donor community distances itself from their current policies on Africa, which SADC nations believe are policies of double standards.[80] The case of Zimbabwe has, for instance, shown clearly that international motives for interventions are often selective, in that nations which display too much independence and embark on an economic model different from Western demands will evoke concern and face interventionist policies from the West under the guise of democracy and human rights.

4
POLITICAL PARTIES AND THEIR CONTRIBUTION TO THE DEMOCRATISATION PROCESS

Wole Olaleye

"Democratic parties promote democratic procedures and democratic procedures consolidate democracies."[81]

No modern democratic state exists without political parties. If one takes a critical look at democratic governance in Africa, two factors become apparent on the political front. First, in many parts of the continent, democracy is slowly becoming the only form of governance in such places as Botswana, Mali, Ghana and South Africa. The citizens of these countries are experiencing political freedom, inter- and intra-party competition, press freedom, civil liberties and growth of civil society. Conversely, in other parts of the continent, old-established practices and the hard-won principle of democracy attained through a bitter armed struggle are now being eroded.

In Zimbabwe, democratic governance would have been impossible in the absence of competitive political parties, especially during activity leading up to, during and immediately following the founding elections of 1980, when for the first time in the history of Zimbabwean politics the elected positions of national importance were fiercely contested under a multiparty electoral competition. However, the contribution of parties to democratic development remains somewhat qualified in practice. In academic circles, political parties are generally perceived as "weak links in the chain of elements that together make for a democratic state, or even to have helped undermine democracy through the irresponsible and self-interested action of their leaders".[82] Van de Walle and Butler further argue that "African political parties are plagued by weak organisation, low levels of institutionalisation, and weak links to the society that they are supposed to represent".[83] Fomunyoh, in his overview of 20 Francophone countries, found "weak political parties" as one of the chief hurdles holding back the process of democratic consolidation.[84] Political parties are defined as distinctive forms of organisations designed to acquire and exercise political power, to articulate and aggregate different views or interests, to operate as a system for selecting

cabinet members, to organise individuals in relation to policy formulation and the implementation of public policy, and to serve as mediators between individuals and their governments.[85] It is, however, a widely accepted truism among political analysts that democratic consolidation will be impossible without a strong political party system.[86]

Party politics are alive in Zimbabwe. They are today mostly dominated by the existence of Zanu–PF and the MDC. These two parties represent the focus of our analysis. Together, they represent the main political parties developing party leadership and governance in Zimbabwe through party ideology, policies and goals, programmes and manifestos; bridging the links between the people and government by advocating collectively in favour of group interests, needs and views; and responsible for political socialisation and political recruitment of leadership through party structures such as women's and youth wings. The two parties also represent respectively the ruling party that has taken on the governing role and the party that operates within the ambit of government but which does not have sufficient political mandate to govern. The MDC emerged strongly as a party in active politics and not merely as a party seemingly responsible for contesting the elections but without any real interest in being part of the government or the actual governing party.

Depending on the theory of democratic consolidation adopted in assessing the political process in Zimbabwe, it could be argued that democratic consolidation is on the right track because of Zimbabwe's record of accomplishment in conducting regular multiparty elections since independence. One thing is certain: using this kind of indicator is very problematic, especially if applied in isolation from other democratic governance indicators. The two-election test is inadequate within the context of Zimbabwe's electoral contest. It does not take into account the repressive electoral laws, the manipulation of the constitution, abuse of state resources during elections to favour the incumbent political party, the role of violence, the intimidation by security forces and party supporters, and the nature of the party system under which these elections (1985, 2000, 2002) were conducted. It is a fact that we have yet to witness any transfer of power in Zimbabwe. Furthermore, the 'longevity test' or 'generation test' – 20 years of regular competitive elections as a sufficient requirement for evaluating a

consolidated democracy, even if there is no change in ruling party – is incapable of assessing how a system will behave in the future. What we observe in Zimbabwe, with over 20 years of Zanu–PF rule, is that the longer the same party remains in power the more indistinguishable it becomes from the machinery of state on one hand and powerful economic interests on the other; and the more doubtful it becomes whether electoral competition and participation take place on a genuinely level playing field, or whether electoral accountability remains the rule of the game.

As Ake convincingly contends, the critical aspect of true democracy is not multiparty elections but the assurance of "popular" (mass) participation within African political systems.[87] The critical issue here is whether we can separate democratic consolidation from the quality of democracy being consolidated and how political parties behave in this process. Thus, the critical role of political parties cannot be salient in comprehending the ingredient necessary for the consolidation of democracy in Zimbabwe. It will be argued in this chapter that the democratic process that began when Zimbabwe achieved independence in 1980 has been reversed. The evidence on political, social and economic fronts in Zimbabwe suggests this conclusion.

Zimbabwe was until the end of the 1990s regarded as the "breadbasket of Southern Africa" by the World Bank and IMF because it had established and maintained one of the best educational systems in Africa, coupled with a vibrant political system, a free press, an independent judiciary, and a rapidly growing economy with a productive agricultural sector. But after the 2000 parliamentary elections, in which the MDC emerged as a strong political opposition to Zanu–PF by winning 57 of the elected 120 seats in parliament, Zanu–PF, through the actions of its last remaining military operatives – 'war veterans'[88] – embarked on a series of offensive attacks on the supporters of the opposition party (MDC) and indiscriminate attacks on farm workers and white farmers. In total, more than 200 black farm-workers and 10 white farmers were killed.[89] Since March 2002, with the re-election of President Mugabe with 56% of the vote, Zimbabwe has continued to be plagued by political, social and economic turmoil. Leaders of the MDC are repeatedly assaulted and attacked. Morgan Tsvangirai, leader of the political opposition and the main challenger for the presidency, was charged

with plotting to assassinate President Mugabe. The case remains in court and, if found guilty, Tsvangirai will be liable to life imprisonment or the death sentence. Agricultural production has dropped drastically as many farmers and farm workers find it difficult to continue production in the face of on-going attacks. After 20 years of Zanu–PF rule, Zimbabwe's citizens are one-third poorer than they were at independence, while, according to IMF figures, Zimbabwe has gained the dubious distinction of having the world's fastest-shrinking economy.[90] The inflation rate continues to grow at an alarming rate, with the present inflation rate standing at more than 250%. At the end of 2000, nearly half the population in Zimbabwe was said to be facing starvation, and Zimbabwe's civil society movement claims that the limited food available is being diverted from the rural poor and starving population to supporters of Zanu–PF.

It is our finding that the democratic consolidation process in Zimbabwe has been halted by the inability of Zanu–PF to transform itself from a liberation political movement to a functional, democratic political party. The adherence of Zanu–PF to socialist party organisational structures and management procedures has stifled the development of credible and strong political opposition.

Zanu–PF is plagued by internal weak democratic procedures and processes, while the MDC exhibits the characteristic of an organisation with low levels of institutionalisation, and inadequate links with rural communities. Collectively, these factors make the role of political parties as agents for translating the proceeds of electoral outcomes into effective action and a major component in legitimising control of political office highly difficult. It will be argued that party structures and their functions negatively impact the contribution to consolidation of multiparty democracy in Zimbabwe. The approach taken in this paper seeks to locate political parties' contribution to democratic consolidation within the specific political environment[91] (i.e. historical circumstances, institutional traditions and national characteristics of Zimbabwe democracy) within which political parties emerged.[92] This review seeks to assess the extent of political party institutionalisation[93] in Zimbabwe. It follows that understanding political party institutionalisation is critical to explaining the prospect of democratic consolidation in Zimbabwe.

THE HISTORY OF POLITICAL PARTIES IN MULTIPARTY POLITICS IN ZIMBABWE

> *"We have always had multiparty democracy in Zimbabwe. All elections have been fought by 4 – 5 parties but only one dominant party. That is multiparty democracy. The coming in of the MDC set democracy backward …."*[94]

According to Chimanhire,[95] "there is a resemblance of multiparty democracy … it is always the ruling party dictating". For political parties to contribute to the process of democratic consolidation, Kiondo[96] argues that political parties must function along three main areas: set a vision for leadership and governance of the country; act as bridges and links between people and government; and act as schools for politics and leadership. It is interesting to note that when Zanu won the liberation struggle against the Rhodesian government together with Zapu, they were not political parties in the classical sense, but liberation movements. Both Zanu and Zapu were spontaneous peaceful associations of people with a common goal, united in eradicating the domination of British colonial rule. According to Makumbe,[97] when independence was won, Zanu took on a commandist and regimentalist character rather than a democratic character in its operations and management style. He further refutes the claim that Zanu–PF's various party structures engage in and encourage participation and active involvement of party members in decision-making processes. After 23 years of independence from Britain, Zimbabwe had witnessed five general elections, which makes it one of the oldest multiparty electoral democracies in Southern Africa. These elections were fiercely contested by various political parties:

- Zanu, dominated mainly by the majority Shona ethnic group and led by Robert Mugabe.
- Zapu, led by Joshua Nkomo with strong followers from the Ndebele ethnic minority.
- UANC, led by Bishop Abel Muzorewa.
- The RF, led by Ian Smith.
- The Zimbabwe Democratic Party (ZDP), led by James Chikerema.
- The National Front of Zimbabwe (NFZ), under the leadership of P F Mandaza.

- The National Democratic Union (NDU), led by H Chiota.
- The United National Federal Party (UNFP), led by Chief K Ndjweni.
- The United People's Association of Matabeleland (UPAM), led by Dr F Bertrand.
- The Zimbabwe Union of Democrats (ZUD), led by a woman – Margaret Dongo.[98]
- The Zimbabwe African National Union (Zanu) – Ndonga, led by a veteran nationalist, the Rev Ndabaningi Sithole.
- The Zimbabwe Unity Movement (ZUM).
- The Zimbabwe Integrated Party (ZIP), founded in 1996 by a mathematics professor, Henri Dzinotyiwei.
- The MDC, formed in 1999 under the leadership of a trade unionist, Morgan Tsvangirai.

Zanu–PF has always emerged as the strongest link among all parties within the electoral chain, while the MDC provided the first serious party competition for Zanu–PF in Zimbabwe's June 2000 election.

Despite the strong presence of political parties in Zimbabwe – according to Mudehwe – "political parties have not enjoyed the space to develop as organisations. They have always been reactive and are not able to develop because the environment is not conducive to the growth of parties".[99] Lovemore maintains the view that multipartyism has worked to a limited extent in Zimbabwe. This, he argues, "is due to the inability of different political parties in understanding their role both because the parties did not think they could co-exist and because they lacked the respect for their roles. Compared to South Africa, where there is respect for the role of the opposition party … [the] opposition is always referred to as [a] Western puppet …".[100]

Zapu was formed after the banning of the Southern Rhodesia African National Congress and the National Democratic Party in 1961 by the then white minority imperialist government. Joshua Nkomo assumed the leadership and the responsibility for exposing and advancing the course of African people's liberation in Zimbabwe. Ndabaningi Sithole, a nationalist, led the splinter group which later became Zanu. The two factions (Zanu and Zapu) were born out of a disagreement on the strategies and tactics for the

liberation struggle. These two parties remained the dominant parties responsible for negotiating the independence of Zimbabwe. Until the signing of the Lancaster House constitutional arrangement in 1979, which paved the way for the first multiparty elections in Zimbabwe, the two parties launched offensive attacks on the Rhodesian government. As the contest for political power intensified, the tension between the two parties, driven by internal power struggle and factions, also exacerbated. According to the commentary of Nkiwane on the national liberation and opposition politics: "Zapu internal discord was associated with a number of political figures, including James Chikerema, and lasted from 1968 until 1972. While Zapu was emerging from its internal conflicts which, in the 1970s, claimed the lives, through assassinations, of Jason Moyo and Nikita Mangena, Zanu plunged into factional in-fighting which led to the ousting of Ndabaningi Sithole from the movement's helm in 1975 and his replacement by Robert Mugabe."[101] Nkiwane argued that this inter- and intra-party factionalism, which characterised the liberation movements, "was also symptomatic of a political culture of violence which, to this day, still pervades Zimbabwe politics".[102]

The first multiparty election was conducted in 1980, under the Lancaster House constitutional arrangement, which stipulated that elections must be strictly supervised by the British, with an element of proportional representation to ensure the representation of whites in the national parliament. Of the 100 seats in parliament, 20 seats were reserved for the whites. The 1980 election was contested by nine political parties, but only Zanu–PF and Zapu stood out as strong parties. Zanu–PF emerged as the overwhelming winner, capturing 1,668,992 (62.99%) of the total national votes. This translated into 57 of the 80 seats allocated to the black Zimbabweans according to the Lancaster House Accord.

The election results across the provinces clearly illustrated voting patterns along ethnic cleavages. In Mashonaland East, Central, and West, Victoria, and Manicaland, which is predominately dominated by Shona, 78% of the votes cast in these regions went to Zanu. Zapu captured 638,879 (24.11%) of the votes and won 20 seats in parliament with most support coming from Ndebele Matabeleland.[103] With three seats, Muzorewa's UANC was the only other party contesting the founding elections with representation in

parliament. Although the subsequent election, which took place in 1985 did not reveal any change in voting pattern along the two major ethnic groups – Shona and Ndebele – Zanu succeeded in increasing its share of seats in parliament and consolidating its power and dominance over Zimbabwe's politics. This dominance was possible through changes in the electoral law. The electoral system was changed from the proportional representation to FPTP under a single member district (SMD). The FPTP system is notorious for promoting under-representation and wasted votes. Zanu was able to secure 64 of the 80 seats reserved for black Zimbabweans in parliament, compared to Zapu with only 15 seats; Zanu – Ndonga won one seat. Zanu therefore gained seven seats compared with its performance in the 1980 election.

In furthering the dominance of Zanu, Robert Mugabe signed a 'Unity Accord' with Joshua Nkomo on 22 December 1987. This resulted in the merger of Zanu and Zapu into a mega party called Zanu–PF. This merger destroyed any hope of effective opposition politics in Zimbabwe, which is partly responsible for the reverse democratic progress in the country. The move was described by many political commentators in Zimbabwe as a strategy employed by President Mugabe to consolidate power and facilitate the formation of a one-party state. The 1990 and 1995 election results in many ways lent credence to this assertion. Now Zanu–PF won 1,690,071 (80.55%) of the votes cast in 1990, which translated into 117 of the 120 elected seats in parliament, the provision for 20 reserved seats for whites having been removed from the constitution before the 1990 election. There was henceforth no special provision for race groupings. The election campaign centred on the need to ensure national unity and warned against the new and old reactionary and racist divisions of the Zimbabwe Unity Movement (ZUM). The ZUM was formed in April 1989 by a group of disgruntled students' and workers from the urban areas. Despite the unsavoury political environment against ZUM (i.e. limited resources and lack of publicity), as a newly formed political party contesting an election for the first time, it secured two parliamentary seats in the Manicaland North and Mutare Central constituencies. Zanu – Ndonga won one seat in Chipinge South. In 1995, Zanu–PF won 1,140,000 (81.63%) of the votes and 118 seats in parliament and solely controlled the 30 nominated and reserved seats, giving Zanu–PF control of 148 of the 150 parliamentary seats. The coming of the MDC into

the political marketplace completely changed the nature of party competition as well as weakening the hegemony of Zanu–PF in Zimbabwean politics.

Until the MDC was established as part of the political equation, Zanu–PF commanded such an overwhelming majority that Zimbabwe became a *de facto* one-party state. This allowed other parties to exist as long as they did not pose any serious challenge to the domination and rule of Zanu–PF. Nevertheless, the MDC managed to gather considerable political strength through widespread support from trade unions, disgruntled intelligentsia, students and the civil society movement. At the heart of party politics in Zimbabwe is the inability of Zanu–PF to accept the reality of the disappearing dominance of Zanu–PF party political structures, as people are becoming able to vote for policy issues rather than merely paying homage to the lasting memories of independence. The voting pattern in the 2000 and 2002 general elections is a clear illustration of the end of Zanu–PF domination of political competition. Unsuccessfully, Zanu–PF has turned itself into an elite party, while the MDC has clearly emerged as a popularly based party with a large following from the urban middle class citizens. Contrary to what was suggested by some commentators[104] that any possibility of political opposition in Zimbabwe politics would be through a spilt within Zanu–PF, the emergence of the MDC in Zimbabwe has shifted the focus away from possible opposition from within Zanu–PF, to the alliance of CSOs, which led to the formation of the MDC as the first formidable national opposition party.[105]

The level of popular support enjoyed by the MDC, which was based on a common goal of forming a credible opposition to offset the rule of Zanu–PF, clearly upset the dominant position of Zanu–PF. A series of political manoeuvres was introduced to suppress any successful electioneering by the MDC. This included, among other violations mentioned at the beginning of this paper, a careful manipulation of the electoral law and the election process. These included amendments to the Electoral Act of 1990, the promulgation of draconian laws such as the 2000 POSA, a sharp cut in the number of urban polling places, and physical assaults or intimidation of voters suspected of having MDC sympathies.[106] POSA was regarded by many commentators as having been more repressive than the notorious colonial era Law and Order Maintenance Act. It was reported that POSA was used to

stop no less than seven MDC election campaign rallies in one week, as well as voter education meetings organised by civil society groups in Harare, Bulawayo and Mutare.[107] Despite all attempts by the ruling party to frustrate the efforts of the opposition parties, the MDC's electoral performance during the 2002 presidential election was a clear signal of an end to the political domination and control of Zanu–PF.

From the above analysis, it follows that the development of political parties is interrelated with the struggle for independence. Zanu–PF emerged as a liberation movement that mobilised citizens for independence. With time, Zanu–PF has become a source of power and accumulation of wealth in the face of poverty and human starvation. The nature of party systems that developed during the phase of the liberation struggle demonstrated the prevalent tendency among political parties to solicit support around a dominant party for the sole purpose of defeating the colonial power and not necessarily for carrying out the task of governance. Zanu–PF used its dominant and prominent role in polity to eliminate political competition and consolidate power after achieving independence. This behaviour culminated in the evolution of pseudo one-party rule. Single-party dominance did not emerge as a result of consensus between parties during the struggle for independence. The monopolisation of power by Zanu–PF happened after independence. Zanu–PF was voted into power through competitive elections but, once in power, the party destroyed any form of effective political opposition. The pseudo one-party state failed to fulfil its expected role: representing the needs and aspiration of all citizens, providing a stable government, and, above all, reconciling the differences between the Shona and Ndebele political rivalry groupings. This has resulted in the creation of weak institutionalised party systems, where the distinctiveness of party organisations in Zimbabwe is characterised by ethnicity, clientism, patronage, highly centralised political power structures, control and abuse of state resources by the ruling party, high volatility of election competition and weak opposition party systems. Zanu–PF emerged as a dominant party because it abused the privilege of incumbency by systematically manipulating the electoral laws and the constitution in order to weaken every attempt by opposition parties to gain equitable and proportional access to political power. Hence, the interplay between structural and regulatory conditions under which opposition parties operate remains one of the major

deficits for opposition parties in the process of democratic consolidation. But it is difficult, if not too early, to assess the extent to which the MDC has shifted party politics away from the old pattern of party allegiances. It was successful in providing an alternative political expression of politicised cleavages in society. These cleavages facilitated the development of a civil association network that collectively mobilised supporters on either side of the cleavage. The success of the MDC is mostly attributed to the nature of the coalition that brought about its formation and continues to work within the party structure. The close relationship of the MDC and civil society groups has heightened the risk of politicisation of civil society along party political lines.

INTRA-PARTY POLITICS WITHIN ZANU–PF AND THE MDC

Opponents of intra-party democracy have repeatedly argued about the importance of representative linkages within parties. McKenzie[108] argues that the internally democratic parties are "incompatible with the workings of democratic government". He maintains that control of the legislature and executive by extra-parliamentary party organs is a distinguishing feature of a totalitarian political system. It follows that "oligarchical control by party leaders of their party organisation is indispensable for the well-being of a democratic polity". Duverger postulates that the democratic process of decision making is inefficient and will weaken a political party's ability to compete with its opponents: "democratic principles demand that leadership at all levels be elective, frequently renewed, collective in character and weak in authority. Organised in this fashion, a party is not well armed for the struggle of politics".[109] This line of argument follows what political theorists call the 'rational – efficient party model'.[110] In this model the workings and operations of a party are compared to competitive corporations which operate on the basis of profit. It follows that parties must compete for voters in the same manner that businesses compete for buyers of their product. Of critical concern for the supporters of this view is the supposed importance of party cohesion for competitiveness within the parties.

Zanu–PF is likened to a case of 'democratic centralism'[111] in which the Politburo ultimately decides on who becomes the party's representative for any elected office. Although the People's Congress is supposed to be the highest decision-making body within Zanu–PF, it is rather the first secretary (who is also the president of the party), Politburo and the Central Committee

who makes all the important decisions within the party through the secretary for administration, who is the link between the party, the government and the president. This arrangement locates all the powers within the party in the hands of one person – President Mugabe. Despite the long-established tradition of party primary elections, many party members do know how the mechanism works. Primary elections always end by creating anger, bitterness, non-acceptance of election results, factions and an increase in the number of independent candidates.

Democratisation of party selection is not a universal trend within parties (Zanu–PF and MDC) in Zimbabwe. The degree to which parties open up their selection processes varies across parties. The MDC party structure looks different from Zanu–PF, but it is not very different in operation. The highest decision-making body within the MDC is the National Congress, which like the Zanu–PF equivalent, meets every five years to elect members of the National Executive Committee (NEC). The NEC, which is a much smaller party structure but an extremely powerful one, meets annually and implements all policy decisions made by the congress. Different from the Zanu–PF structure, the MDC's secretary general is not the party's president, but in similar fashion to Zanu–PF the NEC controls the nomination process within the MDC.

The effect of democratising candidate selection varies because the different selection mechanisms or bodies within parties often produce different kinds of parliamentary candidates, as well as different types of party leadership. In both parties, for example, women are always causalities of primary elections. Women, in general, struggle to be nominated during primary elections. Women lost elections during this phase because there was no adequate political education within parties. Women are often placed in traditional societies where there are deeply entrenched gender biases. Parties need to carry out a civic re-orientation or education programme long before election time.

It is unrealistic to expect that people will change their socially conditioned responses in a society perpetuated by traditional values and systems and where people vote on gut feelings during election time. This constitutes a major deficiency among parties in Zimbabwe.

WOMEN'S REPRESENTATION IN PARTY POLITICS

The United Nations (UN) Development Report of 1995 which analysed gender and development in 174 countries, found that "while it is true that no definite relationship has been established between the extent of women's participation in political institutions and their contribution to the advancement of women, a 30% membership in political institutions is considered the critical mass that enables women to exert meaningful influence on politics". In an effort to address the gender inequality in politics and other state-related agencies, SACD member states adopted Gender and Development Declaration in Blantyre, Malawi, in 1997. In this declaration, they recognise that while gender equality is a fundamental human right, individually and collectively, they will commit themselves to equal gender representation in all key organs of the state and to reach a target of at least 30% representation by women in key political and decision-making structures by 2005. The progress made so far in Zimbabwe toward reaching the 30% minimum target of women in key organs of the state, especially parliament, is still minimal. It is unfortunate that neither Zanu–PF nor the MDC has sufficiently promoted women participation and representation in politics. The representation of women in decision-making structures within both parties and in parliament continues to remain unimpressive. Both Zanu–PF and the MDC have very few women in parliament. The imbalanced nature of women's representation is a matter of serious concern and despite many parties recognising and acknowledging the imbalances in party manifestos, little progress has been in this regard. Zimbabwe's 25-member cabinet is dominated by men, with only four posts filled by women. Furthermore, many of the local councils are dominated by men – e.g. in Harare only six city councillors out of 46 are women.

Other factors that have been identified for the under-representation of women in politics include a lack of economic empowerment, a lack of confidence to participate in politics except to vote, social constraints and political party frameworks that do not support women. According to the MDC: "It is sad that we did not field any woman for the urban council – without women in the leadership, there is no development. The answer to gender disparity takes time, given the violence associated with the pre-election periods. There is need for security; otherwise many women will remain out of politics."[112] Jonah Mudehwe, executive director for the National Association of Non-

Governmental Organisations (Nango) in Zimbabwe, said: "Women are victims of the political contest … women need to be high risk-takers to contest under a very violent system. Women are the king-makers and women refuse to vote for women." According to John Makumbe of Transparency International in Zimbabwe: "Women have been socialised to be followers, to become subordinate and not leaders, such that whenever there is a vacant position they decide to take a back seat and to wait for a man to come up for the position. Women struggle to be nominated during party primary elections and in most cases they lost at primaries because there is no civic education … women are placed in essentially traditional communities." Although cultural factors entrenched in the socialisation process and the prevailing hostile political environment have mostly been cited as reasons why women feature poorly in Zimbabwe politics, research indicates that political structures (i.e. the electoral system) rather than purely socio-cultural reasons are the major causes for the under-representation of women in politics. In Zimbabwe, the few women representatives in parliament are generally secured through reserving a fixed number of seats for women within parties. A look at Table 1 clearly illustrates what multipartyism has meant for women in Zimbabwe. In parliament today, both Zanu–PF and the MDC have very few women representatives.

Table 1: The number of women in Zimbabwe parliament from 1980 to 2003, by political party

Year of election	Number of seats in parliament	Number of women in parliament by party		Ruling party	Type of electoral system
		Zanu–PF	**MDC**		
1980	100	–	–	–	PR
1985	150	–	–	–	FPTP
1995	150	29	–	Zanu–PF	FPTP
2000	150	9	7	Zanu–PF	FPTP

Source: W Olaleye, own compilation, 2003.

The position is advanced in this paper that the issue of women's representation within parties cannot be addressed in a vacuum. Raising the profile of women within parties should be part of a strategy that seeks to address issues of national socio-economic development. It is equally important to stress that other short- to medium-term measures could possibly be adopted to correct the under-representation of women that characterises parties in Zimbabwe. In the words of the Zanu–PF publicity and information secretary: "The quota system accelerated the participation of women … the number of women in parliament actually dropped because competition with the MDC got fierce … though the party prefers women to be elected, some women are appointed into parliament by the president through the special seats."[113] Parties should consider a more vigorous adoption and application of quotas and reserved seats for women. This should be applied at the party nomination phase. The quota system must ensure that women constitute a certain number or percentage (30%) of the membership of a body, be it on the candidate list, parliament, or the cabinet. The other approach that could be used in fast-tracking the representation of women within party structures and politics is to have a statutory quota system as opposed to reliance on the party elites for nomination. It must form part of a deliberate strategy and have strong support from the political leadership.

This system places the responsibility on those who control the nomination and recruitment process within a party. It makes provision for the expected target of women in decision-making structures to be written into party and/ or national constitutions. For the system to be effective, women candidates must be prepared and adequate linkages must be established between women in parties, parliament, institutions and agencies that empower women for effective leadership.

At a national level, the number of women in the Zimbabwe parliament account for nine per cent of the total number of seats. One of the important reasons for this low figure lies in the nature of the electoral system employed in translating votes cast into parliamentary seats. The First-past-the-post (FPTP) electoral system, which is used in Zimbabwe, is based on constituency representation. This has the tendency of making it difficult for women to overcome the conventionally attributed stereotypes roles of women in society. Evidence elsewhere in the SADC region suggests that countries with

proportional representation systems (i.e. Mozambique, South Africa and Namibia) allow politically progressive elites to break through patriarchal biases and fast-track women in decision making. Changing the electoral system may be a better option and a much easier mechanism for changing deeply entrenched social and cultural perceptions about the role of women.

PARTY FUNDING

With the emergence of a strong opposition in 2000, the issue of political party funding also grew in importance. Most political parties in Zimbabwe have charged that the funding system is inadequate.[114] Political parties did not receive funding until the early 1990s when the state introduced the Political Party (Finance) Act to fund parties with a minimum of 15 seats in parliament. Under pressure from the parties in October 1998, the 15% provision was reduced to five per cent.[115] Public funding of political parties takes place from the consolidated revenue fund.[116] Political parties wishing to receive public funding must make written application to the minister of Justice, Legal and Parliamentary Affairs for their parties to be registered. They must also identify each of their candidates for election in the general election and any other information the minister may reasonably require. This has to be completed no later than seven days before the first polling day.

Each registered political party whose candidates received at least five per cent of the total number of votes cast in the most recent general election is entitled to the same proportion of the total amount of monies as the number of votes cast for all candidates in that election. Thus, a party which received 60% of the votes cast in a general election will be entitled to 60% of the money granted under the 1992 Political Parties Finance Act in each year until the next general election. All payment, in respect of any election expenses, should be made through an agent and all expenditure should be disclosed. Payments dealing with election expenses must, except where they are less than $80, be vouched for by an account, stating the particulars, and a receipt. The enforcement agencies are the ED and the ESC. The ED is responsible for the coordination of the activities of ministries with regard to delimitation of constituencies, the registration of voters, the conduct of polls and other matters related to elections. In addition, the ED gives instructions and makes recommendations to the RG, and other persons in the employment of the state, for the purpose of ensuring the efficient, proper, free and fair conduct

of elections. The ED consists of a chairperson, the RG, and not fewer than two and not more than 10 members. The chairperson is appointed by the president and the other members are appointed by the minister of Justice, Legal and Parliamentary Affairs. The penalties for non-compliance are fines or imprisonment. There are no laws or statutes establishing free media time for candidates or political parties. There are no disclosure laws for the private funding of political parties and there is no specified definition of campaign expenditure in Zimbabwean law.

CONCLUSION

Although Zimbabwe is a multiparty democracy, the political outlook is that of a one-party state, in which Zanu–PF is extremely bureaucratic, oppressive and indistinguishable from the state apparatus. The idea of a separation between the three tiers of government is a complete illusion. Both the legislature and judiciary are subjected to the powers of the executive embodied in the presidency. Even though MPs are elected, they are, when it comes to exercising legislative oversight, merely rubber-stamping agents for the decisions taken by the party and the president. The latter is also the party chairperson. The failure of the legislature to maintain an oversight function *vis-à-vis* the government is a reflection of the nature of the internal democratic culture evident within the party. Until the emergence of the MDC, the whole parliament was an extension of the Zanu–PF committee. However, as the MDC now forms a visible opposition in parliament, this can no longer be reduced to a mere extension of party affairs.

AN ASSESSMENT OF CIVIL SOCIETY IN THE ELECTORAL PROCESS

Claude Kambeba and Wole Olaleye

HISTORICAL PERSPECTIVE

The development of civil society in Zimbabwe dates back to the late 20th century when the African population (Shonas and Ndebeles) formed resistance against the colonial administration by establishing associational groups. Recreational organisations such as soccer clubs, theatre and music groups and burial associations formed the early civil society development in Zimbabwe. Associative organisations of various kinds (i.e. political, trade union, home movement, voter, Bantu congress and other associations) were formed only in the 1930s. These organisations created a basis for labour mobilisation under trade union movements in urban areas during the post – Second Word War era. In 1948, a general strike was organised by railway workers, signalling the advent of organised labour movements in Zimbabwe. These movements gradually developed political muscle and eventually became a significant force within the national liberation movement.

However, the political construction of nationalist organisations was such that space for the independence of other organisations was hampered by the expedience of unity. When Zimbabwe achieved independence in 1980, the political space was inhabited by a weak civil society. After independence, calls for unity did not allow the flourishing of civil society. Any organisation that attempted to oppose the government way of doing things ran the risk of being accused of 'divisionism'. Zimbabwean CSOs soon found themselves under pressure from the new Zanu–PF government which sought to consolidate its support base by controlling labour, women's and students' movements.

From independence to the mid-1990s, civil society played a supportive role to the government. During this period the government faced unprecedented social and economic problems especially in the areas of education, health and agriculture. Civil society stepped in and complemented the efforts of

government through welfare-type interventions. They involved themselves in developmental issues such as rehabilitation, relief and social services based on close ties with both international donors and the Zanu government. Some NGOs concentrated on agriculture, vocational training and other income-generating projects, drawing mainly on donor assistance.[117]

Things started to change in the mid-1990s following a series of adverse socio-political and economic events The economic crisis of early 1997 brought on by the decline of prices for the country's key exports coupled to poor economic policies was aggravated by the fall in tobacco exports due to farm invasions by war veterans and the new drive by the government to accelerate the pace of land reform by gazetting 1,471 privately owned farms that were to be acquired. In June 1998, many of these farms were occupied by displaced families and a resettlement plan for 150,000 families on one million hectares of land was initiated. During the period leading up to the parliamentary elections in 2000, Zimbabwe began to face massive shortages of food, energy and fuel. A consistent pattern of human rights abuses related to invasions of white-owned farms by self-styled war veterans instigated sanctions from Western nations causing a further swift deterioration. With little or no action from the police force, the invasions continued with impunity during the 2000 – 2002 period. Human rights watchdogs reported an increasing militarisation of normal policing activities, including the involvement of the military in food distribution and electoral management.[118]

These manifestations led to civil society becoming increasingly politically active and developing a more confrontational approach when engaging the government. Between 1998 and 1999, formations emerged such as those aimed to promote various forms of institutionalisation and to change the political landscape in Zimbabwe. They included the Non-State Actors' Forum, the Women's Coalition on Constitutional Reform and – perhaps the most significant – the NCA, comprising 135 organisations.[119] The NCA challenged the state on constitutional reform and was immediately drawn into hostilities with the ruling party.

Further, the 1990s saw the growth of media-based associations such as the Zimbabwe chapter of MISA and the Zimbabwe Union of Journalists (ZUJ). The private press became bolder despite an environment that was politically

inhospitable; the birth of the Associated Newspapers of Zimbabwe and its flagship, the *Daily News*, promoted a media activism not seen in the country since independence, pushing the boundaries of press freedom further. One of the most powerful formations to materialise in the 1990s was the Zimbabwe National War Veterans' Association (ZNWVLA) – an increasingly influential counter-weight to the pro-reform civil society grouping. An NGO sector analysis by the UNDP in 2000 showed that of the 11,990 NGOs, 63 were active in the good governance/human rights/democracy arena, constituting 0.53% of the sector total.[120]

CIVIL SOCIETY AND ELECTIONS

The creation of ZESN, comprising 36 NGOs, was formed to coordinate activities relating to elections. This facilitated the coalescing of a critical mass focused on promoting democratic processes.[121] ZESN membership included church-based formations, media associations and various NGOs. Their activities focus mainly on:

- civic and voter education;
- research and advocacy;
- election monitoring;
- media; and
- violence monitoring.[122]

It was particularly in the area of civil society interventions that the ruling party tampered with electoral regulations and the law to frustrate the work of CSOs. The ruling party lost its trust in civil society. For Zanu–PF, civil society is equated to the opposition. From 2000, the area of intervention of civil society has continued to shrink. The situation reached its peak before the 2002 elections, when civil society was totally barred from exercising a role.

Civil society's documentation of electoral violence, irregularities, violations of fundamental freedoms and the general conduct of the elections provided much needed data on the extent of the country's political regression.[123] More recently, in 2001, an over-arching body called the Zimbabwe Crisis Coalition was formed to "enhance civil society's capacity to deal with socio-economic and political crisis, through encouraging well-coordinated strategic

planning". With the promotion of freedom and democratic values as one of its principal objectives, the Crisis Coalition's membership includes labour, students, women, church groups, human rights activists, media practitioners, war veterans, farmers, lawyers and doctors. Its membership stands at 350 organisations representing various interests.[124]

Already there had been an emergence of various organisations engaged in dealing with poverty-related issues and the re-entry of residents' associations seeking to foster accountable and transparent local governance. It was around the same time that CSOs asking for a say in the electoral process also started to emerge. One can argue that the materialisation of broad-based civic organisations articulating issues of democracy and governance began to emerge in the mid and late 1990s at a time when a wave of change from single to multiparty democracy was sweeping across the continent. The labour movement, previously under the tutelage of the state, began to grow as an independent political force guided by a new leadership in 1988. Inevitably, labour forged links with civil society in the quest for a democratic dispensation.[125] By 1998 lobbies based on constitutional reform, gender equality and economic participation were formed. Prominent among these was the NCA.

The involvement of labour in the NCA led to the formation of the MDC, which challenged Zanu–PF in the 2000 parliamentary elections, claiming 57 of the 120 elective seats. This was the first time in the country's history that Zanu–PF had faced stiff competition. Prior to the election of 2000, Zimbabweans had also refused to endorse a proposed new constitution. The civil society campaign in favour of a 'No' vote led to the rejection in 2000 by a majority of Zimbabweans of the new constitution proposed by the state. This was seen as a sign of the power of civil society, which had tirelessly campaigned against the document.

The links between civil society and the MDC caused the state to regard the civil society movement as an extension of the opposition. They argued, however, that while there was a common purpose of reformation between the NCA and the MDC, civil society formations were neither a political competitor nor a part of the opposition. The formation of the ZESN and the over-arching Crisis in Zimbabwe Coalition signalled the consolidation of a

phenomenon of coalitions that sought to create a critical mass on pressing issues affecting the country. The coalitions have increased civil society's documentation and articulation capacities and introduced a form of checks and balances previously unknown to Zimbabwe. With the creation of the ZESN, monitoring of electoral processes has become a significant part of civil society's democratic agenda. The 2000 parliamentary elections and the presidential polls of 2002 hence both received critical scrutiny from the civil society networks, and the resultant research on democratic processes has formed a basis for fostering reform.

> "Civil society organisations were perturbed that war veterans, accused of spearheading much of the political violence in the elections, were in addition also designated members of the defence forces and therefore deemed to be members of the public service. The security personnel were, according to civil society, largely chosen as presiding officers and although this was legal under the regime created by the state, it was interpreted as being unconstitutional.[126] The military was allegedly also involved in the training of monitors."[127]

LEGISLATION AND CIVIL SOCIETY

In the 2002 presidential elections, the state and the ruling party sensed a real possibility of losing power and introduced new regulations to suffocate the work of civil society and political party campaigns. These regulations included the following:

- *General Laws Amendment Act*
  This act caused grave concern among civil society. The stipulations of the General Laws Amendment Act had broad implications for the activities and responsibilities of civil society. The provisions of the act had the effect of denigrating the role of civil society and increasing the role of the state in the area of voter education and election observation and monitoring.

- *Voter education*
  There can be no real democracy without voter education. Voter education plays an important role in ensuring that elections are

free and fair. Imparting knowledge on the importance of exercising the right to vote and how to vote is crucial to the electoral process. The importance of voter education is even more relevant in polarised societies such as Zimbabwe. The General Laws Amendment Act gave the ESC the sole mandate on voter education, with freedom to appoint and register persons to assist it in the conduct of its programmes. Under section 14(c)5 of the act all funding for voter education was to be channelled through the ESC, which meant that civil society's key programme area was closely controlled by an extension of the state apparatus with no guarantee of collaboration.[128]

- *Election observation and monitoring*
  Election monitoring is a relatively new phenomenon in Zimbabwe with the first exercise mounted for the 1995 election.[129] The General Laws Amendment Act meant that the monitoring role of civil society was assigned to members of the public service. Civil society – trained persons were designated as observers. Not only did the act expand the definition of observer to include local and foreign persons (eminent persons from within Zimbabwe and individuals representing local organisations qualified for appointment), it mandated the minister of Justice, Legal and Parliamentary Affairs to determine who was to be invited.[130]

The act, in other words, reduced the role of civil society from the stronger position of monitoring with powers of intervention, to mere witnesses.

"Under the General Laws and Amendment Act, civil society was reduced to election observation, which by definition does not allow members to intervene in the case of irregularities. An election monitor, on the other hand, has a duty to intervene. The accreditation process, in addition, was so tedious that it was logistically not possible to transport eligible observers trained by civil society from all corners of Zimbabwe to the capital, Harare, where the facilities were installed for registration. In the end, only 460 out of 12,000 potential observers were accredited."[131]

It became extremely difficult for civil society to undertake an efficient observation exercise because of the tedious accreditation procedures and the incredibly few observers who were sanctioned to operate.[132] Civil society in an effort to overcome the limited number of observers accredited, put in place parallel observations. Non-accredited observers were posted outside polling stations, at least 100 m from the polling station.[133] Those accredited were also asked to move around to observe different polling stations; but they were not effective and worked in fear.

This also meant that they could not accompany ballot boxes. Although the Supreme Court of Zimbabwe declared the General Laws Amendment Act unconstitutional on 27 February 2002, its provisions were reinstated by presidential decree. Further, the act mandated the RG to effect amendments to the voters' roll after registration and inspection and during the elections without reference to a court of law, according to the previous practice. The law also restricted the postal ballot system to uniformed forces and Zimbabwe's diplomatic missions. Civil society respondents argued that millions of Zimbabweans living abroad and those living outside of their constituencies were disenfranchised as a result.[134] The political situation prevented civil society from critically questioning the accuracy of the voters' roll. As mere observers, with limited scope and mandates, CSOs could not ascertain the number of soldiers that voted either through the formal voting system or via the postal ballot. This exposed the limitations of civil society to monitor some potential irregularities in the elections.[135]

The MDC introduced court challenges seeking the invalidation of section 158 of the Electoral Act as *ultra vires* the constitution. The opposition argued that parliament's law-making powers had been delegated to the president by the act.[136] The presidential powers were also used during the elections to override Supreme Court decisions, and included the reinstatement of provisions of the General Laws Amendment Act that the court had previously found to be unconstitutional.

International observers were not very effective either. It is reported by interviewees that some international observers were intimidated by the threat of violence or were themselves victims and hence remained in the safety of their motor vehicles.

Consequently, to paraphrase the CCJP, "no one, except government officials could vouch for the integrity of the poll or the count. This is a serious democratic deficit".[137]

- *Public Order and Security Act*
  One of the two acts that stakeholders emphasise had the most effect on all political activities by opposition, civic groups and the media was the POSA of 2002. Parallels are drawn between POSA and the colonial Law and Order Maintenance Act of 1960. Not only does the act criminalise criticism of the president, it confers immense powers on the police to control or prohibit public assembly and has unprecedented provisions severely limiting freedom of speech, expression and association guaranteed under the Zimbabwean constitution.[138]

- *Access to Information and Protection of Privacy Act*
  POSA is further reinforced by the AIPPA tabled before parliament in 2001 by the minister of Information and Publicity. It has a strict regime of licensing journalists and media concerns and has provisions for punishing practitioners for publishing 'false-hoods'. It was not enacted into law until after the 2002 elections and stakeholders attribute the delay to concerted protests staged against the government.

In fact this act started to question the role of the media in the Zimbabwean electoral process. Part VIII of the Broadcasting Services Act (2001), which relates to the public service's obligations of licensees, stipulates that "every licensee shall, when providing an information service, provide a fair, balanced, accurate and complete service". In reality the access to the media, especially public media, does not respect this.[139] The public media – including both print and electronic media – blindly favour Zanu–PF at the expense of the opposition.[140] The 'private press',[141] while trying to represent and balance their reporting, have been very critical of Zanu–PF to the extent that the government considers them as a mouthpiece of the opposition. This has created a situation where now we have in Zimbabwe two opposing media: the public media which favours the ruling party; and the private media which favours the opposition MDC. In this discourse, both groups of media failed to focus on issues of substance such as explaining the different

changes which were being introduced. The media failed to disseminate analytical or interpretative information on the electoral process, especially before the election, when it was most needed.

The public media is run from the Ministry of Information. There is no law or instrument governing the ESC in terms of how it should deal with the media.[142] One does not need to be smart to understand that the public media has been involved in propaganda throughout. The professionalism of the Zimbabwean public media has been tampered with. As one respondent said in describing the state of the public media in Zimbabwe: "They have all lost their soul. They are chosen only if they would toe the government line."[143] During the run-up to the 2002 elections the media failed to initiate voter education. The public media only started referring to voter education two days before the opening of the polls. The private media was more interested in criticising the ruling party and completely forgot about voter education. There was also a total absence of analytical reporting from both public and private media around the instruments that government kept introducing.[144] The most notable weakness of both public and private media has been the failure to analyse and interpret developments for the electorate. The state media virtually did not fulfil its mandate to the people of Zimbabwe. There is no public media but Zanu–PF media in Zimbabwe.

Many of the new laws governing elections that were rushed through parliament in the last few months before the 2002 elections were extremely opaque and had the overall effect of violating previous regulations. But one thing that is certain is that Zanu–PF did everything, including using the flaws in the constitution and the Electoral Act, to introduce those changes. Nothing was illegal but most of the changes were morally incorrect and lacked fairness. The behaviour of the four structures charged with organising elections as well as that of the president showed that Zimbabwe was far from having a stable electoral democracy. Urgent constitutional reform needs to be undertaken before the next general elections. Presidential powers and the Electoral Act need overhauling to avoid the political excesses evident in the 2002 presidential elections. The earlier the constitutional reform process begins, the greater the chances of finding political solutions to the stalemate and addressing the underlying problems faced by civil society during the electoral process.

CONFLICT AND DEMOCRATISATION IN ZIMBABWE

Wole Olaleye

SOURCES OF CONFLICT: SANTA CLAUS LEGACY?

Any attempt to understand the current plethora of conflict in Zimbabwe should be premised on the bitter colonial legacy and the gross racial discrimination of the pre-independence period inflicted on Zimbabwe's black population and how these continue to plague and influence the current political environment in Zimbabwe. The legacies of inequitable distribution of land perpetuated by the colonial administration sparked a violent uprising against the white imperialists, known as the first *Chimurenga*.[145] Zimbabweans across different ethnic groups joined in protest against the British in 1987.[146]

At the expense of the local population, the British enjoyed economic prosperity through expanded agricultural activity. The Land Apportionment Act of 1930, which essentially codified the white colonial land take-over, meant that approximately 51% of Zimbabwe territory was set aside for fewer than 3,000 white farmers. While the majority (blacks) were prohibited from owning or occupying land in the designated white areas, much of the white-controlled land was underutilised. This backdrop of landlessness, oppression and domination by the white minority led to resistance from the black population. A guerrilla war against the white-dominated government, launched in the 1970s, was led by Joshua Nkomo of Zapu and Robert Mugabe of Zanu. The two parties, under the leadership of Nkomo and Mugabe, pledged to bring about land reform in an insurgency known as second Chimurenga. The white minority government reacted by deploying state machinery to destroy any onslaught against the regime. More than 25,000 people were killed in the insurrection.

In the face of international isolation, political instability and increasing white emigration, the Smith administration agreed to organise elections in 1979. This election not only excluded the insurgent political groups (Zapu and Zanu), but it was also meant to given blacks limited civil rights. Bishop Abel Muzorewa became the prime minister after the election. The Muzorewa government lacked popular legitimacy, being regarded as a puppet of the

white minority rule. The struggle was further intensified by Zapu and Zanu, thus setting the platform for the 1979 Lancaster House negotiation that created independent Zimbabwe.

The Declaration of Rights dealing with property allowed Zimbabwe's new government to acquire underutilised land for resettlement purposes by compulsion as long as prompt and adequate payment in foreign currency was made to the property holders.[147] The government was unable to embark on land reform due to lack of funds. Although it had brought independence, by 1990 the Lancaster House Agreement, which had conceived a market-based land reform programme, had failed to deliver sufficient land to the historically deprived. The government and war veterans were determined to restore what they saw as a historical injustice; for them, the system that had prevailed at the time was both unjust and unsustainable. They pushed for state-led land reform. The principle of willing-buyer – willing-seller had failed over the previous 20 years as there were neither willing sellers nor capable buyers.[148] This process, according to Lansberg, highlights the tension between traditional notions of sovereignty and the right to protect one's land versus the obligation to address injustice.[149]

The brutal colonial past and injustice provided the backdrop for the eruption of violent conflict in Zimbabwe. Conceptually, free and fair elections are competitive contests with unpredictable results, and confrontation is inherently part of the process. Elections underpin the democratic process. They are remarkably high profile and vulnerable to manipulation, but are still critical to government legitimacy. In Zimbabwe, there appears to be a close linkage between elections and conflict. By the late 1990s, Zanu–PF's control was under threat in the face of serious economic deterioration. According to the government's own figures, the economy had shrunk by 19.3% between 2000 and 2003. The collapse of the real value of wages led to rising criminality, homelessness, domestic violence and increasing numbers of street children. Unemployment was estimated at 75%, while inflation of 365% was projected by some economic analysts to rise to 1,000% by the end of 2004. The agriculture sector, which had accounted for 16.5% of GDP and 30% of foreign exchange earnings, was severely crippled by the fast-track land reform exercise and two years of successive drought. Between six million and eight million people now depend on international food relief. There are

severe shortages of foreign exchange, resulting in insufficient fuel and erratic electricity supply. Recent government increases in wages brought the average salary to about Z$45,000 a month, which is Z$80,000 below the poverty line of Z$125,000 calculated by the unions. The buying power of wages is further eroded by the unavailability of basic commodities. Government price controls have created a thriving black market with exorbitant prices. The Consumer Council of Zimbabwe recently reported that a family of six needed approximately Z$200,000 (US$100) a month to afford a decent standard of living. These problems are compounded by the shortage of banknotes, which makes it more difficult to cash paychecks or withdraw money.

Even though there is wide disagreement on the causes of the economic crisis, there is a general acknowledgement among the public, the World Bank and other economic actors that the introduction of structural adjustment policies in the 1990s and the lack of support for comprehensive land reform contributed to the economy's downward spiral. This inevitably led both to depressed essential basic services, such as education and health, and to a popular uprising. A public sector strike in 1996, a ZCTU strike in 1997, and mass boycotts at the end of 1998 pushed a revitalised labour movement to the forefront of politics. In late 1999, this labour movement, supported by a broad coalition of civic groups, launched the MDC. Facing its first viable electoral challenge, Zanu–PF responded with violence. As in 1983, ethnic scapegoating and claims of violent destabilisation from within were used to legitimise state-sponsored violence.

In response to the 'No' vote in the public referendum on the government's new constitution, an extensive land redistribution exercise followed, accompanied by an intensive government propaganda campaign. The third *Chimurenga* was launched – the violent occupation and takeover of commercial farms by war veterans and peasants, with direct encouragement from key political personalities and the police and army. Those suspected of supporting the MDC were beaten, driven from their homes, and forced to attend Zanu–PF rallies as a means of 're-education'.

The June 2000 parliamentary elections were preceded by widespread violence and the internal displacement of farm workers by several thousand party loyalists. Violence continued throughout 2001 and intensified before the

March 2002 presidential elections. Alhough the government never accepted formal responsibility for the violence, the state openly encouraged such violence with rhetoric invoking war and depictions of the opposition party (MDC) as a group as traitors of the liberation and puppets of Britain and America. The leader of the MDC was likened to Hitler. The cry went up that those who play with fire will not just be burned but will be consumed by that fire.[150]

The violence and inflammatory rhetoric did not stop with Mugabe's contested victory in the presidential elections. Throughout 2002, government television and radio continuously played a celebratory song for the land reform programme entitled *Chave Chimurenga* – literally translated as 'now it is war', with an overtly anti-imperialist slant. With the prevailing culture of impunity, violent threats were made against the country's core democratic institutions, especially the judiciary. In 2000, the Supreme Court was invaded by war veterans and supporters of the ruling party and judges were forced to resign.

HOME-GROWN SOLUTION: FAILED?
Several initiatives have been directed at mediating the conflict in Zimbabwe. What is evident to date is that these efforts have to a large extent contributed to reducing the scale of violent attacks. Conflict and violence remain, however, a critical challenge in negotiating a way out of the democratic impasse in Zimbabwe.

The political stakeholders in Zimbabwe and the international community remain highly polarised on how to negotiate the current crisis in the country. Until now, the land saga has been Zanu–PF's primary strategy for remaining in power. In addition to the violence associated with the land reform exercise, Zanu–PF formed a national youth training programme in 2001. The graduates, known popularly as 'green bombers', served as an informal party militia and led attacks on opposition party supporters and civil society activists.[151] They were deployed in rural areas in the run-up to elections, and reports of torture and rape in and around the training camps were widespread.[152] Youth militia are increasingly found in urban centres and marketplaces, where they 'enforce' government-mandated price controls by seizing the property of those not in compliance. Meanwhile the MDC

maintained that the road towards stability was through a constitutional reform amendment to include the establishment of an independent electoral supervisory commission and a limitation of presidential powers over electoral administration. This, it believed, would create the minimum condition for building a democratic Zimbabwe.

No way forward will be possible while the security forces remain an effective agent for stirring violence in the face of on-going instability. Over the past year the state security forces have also been enlisted in what could be seen as political operations. Military presence in urban areas, particularly during election periods, has increased markedly. The military have become involved in food distribution and elections monitoring, especially prior to the presidential elections. Formal police and military roadblocks have increased throughout the country, as the government attempts to clamp down on the thriving black market.

International responses to the Zimbabwe issue also highlight the difficulty of responding to an issue of democratisation while simultaneously having to grapple with the issue of social injustices. South Africa tried to be 'a voice of reason'[153] with its 'quiet diplomacy' strategy;[154] but some Western powers regarded President Thabo Mbeki's strategy as one of appeasement. Behind the scenes, however, Mbeki was quietly advising Zimbabwe to adopt free and fair elections, respect legal governance and adopt a new land reform programme. He called for an end to the violence in Zimbabwe and for the government and the opposition MDC to begin negotiations.

SADC countries showed signs of ambivalence as they wished to continue to demonstrate solidarity with a country that had been instrumental in their own liberation struggles. There was also general fear throughout the region that, unless carefully handled, the Zimbabwe crisis could have spill-over effects into other countries in the region, notably those with a racial past, such as South Africa and Namibia. These countries rejected what they perceived to be the Western powers' 'coercive diplomacy'.[155]

The positions of actors such as the Western powers became controversial and divisive, as they tended to pit states of the region against those from abroad. The antagonism between Britain and Zimbabwe proved counter-

productive as it revived images of colonial power struggles. Critics in Southern Africa also argued that Western powers were critical of Zimbabwe because of the plight of white commercial farmers. In other words, there was a widespread view in Africa that the West was concerned about Zimbabwe only because white property rights had been violated.

South Africa and Nigeria tried to broker negotiations between Zanu–PF and the opposition MDC. Western powers in turn tried to ostracise the Mugabe government. They imposed targeted sanctions against that government while they tried to gain support for a New Partnership for Africa's Development (NEPAD) initiative on Zimbabwe led by South Africa, Nigeria and other African states.

International actors including the Commonwealth and the UN tried to play a role but were not very effective. Through its UNDP, the UN strove to separate political questions, such as human rights, from the land question. It sought to mobilise international assistance to try and address the historical injustice of land in Zimbabwe.

7
RECOMMENDATIONS

ELECTORAL MANAGEMENT AND ADMINISTRATION

- Zimbabwe urgently needs to undertake a comprehensive review of its legal and constitutional framework before the next general elections. If Zimbabwe is to continue on the democratisation road, the Presidential Powers and the Electoral Act will be critical to this reform. The review should include all political stakeholders, especially opposition parties. Before any meaningful and genuine dialogue can begin among all political stakeholders, the government will need to show a strong commitment to the restoration of the rule of law and the promotion of a culture of mutual trust and tolerance. Greater involvement of supranational institutions and bodies such as SADC and the African Union (AU) will be needed for a political settlement in Zimbabwe to be achieved.

- Zimbabwe needs an independent electoral commission to replace the quartet of governmental and quasi-governmental institutions responsible for the administration and management of elections. Such a body should not be subject to political influence and will need to be financially independent. It will need to include civil society representatives and have judicial expertise (such as being headed by a High Court judge or equivalent), while security of tenure for its commissioners will need to be guaranteed. An electoral tribunal will need to be appointed in order for electoral disputes and allegations of irregularities arising from elections to be dealt with expeditiously.

- For the state media to play a constructive role in elections, the state media apparatus will need to be transformed into an effective public media and broadcaster. The distinction between the state and public media is that the former is funded and controlled by the state using tax payers' money while the latter may be state funded but will represent a cross-section of society and be answerable to an independent body. Zimbabwe needs to establish an independent broadcasting authority representing the diverse composition of interest groups within the country. This agency will replace the present Ministry of Information's responsibility for overseeing media

operations. It should be given the task of liberalising the airwaves, awarding media licences to entities other than those sympathetic to the ruling party. In addition, an access to information act that promotes rather than prohibits freedom of expression should be introduced. A repeal of all laws inimical to freedom of expression and press, such as POSA and AIPPA, and an atmosphere conducive for the development of private media should be cultivated.

DEMOCRATIC ASSISTANCE

- Zimbabwe's vibrant civil society, which has successfully defied government efforts of suppression, should continue to receive moral, financial and technical support from the international community. The increasing hostility NGOs face due to their affiliations to foreign governments should be neutralised. At present, various legislative prohibitions enacted by the Mugabe government have become instruments of coercion and repression. By the same token, democratic entities in Zimbabwe should not be manipulated by the use of international financial assistance to campaign against Zanu–PF. This only serves to expose their political biases, which undermine their credibility and weaken their ability to challenge policy makers and lobby against draconian policies.

- In addressing the current political crisis in Zimbabwe, SADC, AU and other regional and continental bodies of which Zimbabwe is a member should be encouraged to play a more active role in resolving the crisis. These organisations have an interest in backing the South African mediation process. Also, the Bush administration and Blair government should encourage SADC and AU efforts and back them politically or financially in order to bring about an MDC and Zanu–PF negotiation process.

- To date all the targeted sanctions and other measures directed against the Mugabe government have not produced positive results, and Zimbabwe's situation continues to worsen. All that isolation has managed to produce in Zimbabwe an extreme polarisation of the country's political life, and an unhealthy climate of irreconcilable views and positions. What is needed is a well-constructed international diplomatic effort that can result in a

positive outcome for Zimbabwe. More international dialogue on the political future of the country and less isolation therefore seems to offer the most practical solution.

POLITICAL PARTIES

- The issue of whether political parties are a basic prerequisite of a democratic system is a foregone conclusion, at least in Zimbabwe. The issue that confronts the party system in Zimbabwe is that of finding appropriate political mechanisms and institutions to transform the highly centralised political institutions into ones that promote viable and pluralist democratic procedures within political parties, as well as fostering the culture of political pluralism that symbolises the democratic aspiration of many Zimbabweans.

- The nature of political parties' organisation forms one of the essential ingredients in the process of democratic consolidation. If political parties are to contribute towards consolidating democracy in Zimbabwe, it is critical that they promote democratic principles and procedures and help bring about a sustainable socio-political and economic environment. The hostility between the ruling and opposition parties has been traced back to the era of colonialism and the predominantly one-party system effected in Zimbabwean politics after the first independence election. There is need to build and strengthen a culture of political tolerance among and within parties.

- It is important within the political context of Zimbabwe that parties should develop an environment that will help mainstream internal democratic practices within parties as the role of political parties in democratic governance is highly critical.

- It is further recommended that political parties should adopt a compulsory quota system in order to address the under-representation of women. The system of election based on FPTP has contributed to the low number of women in parliament and in the party nomination process. Parties need to expand the current pool of women who are qualified for recruitment into political careers. This can be done through helping women to develop political leadership skills from an early stage.

- The playing field must be levelled among all political parties and candidates. Equal funding and access to the media and the freedom of movement and association throughout the region should be guaranteed to all political stakeholders.

CIVIL SOCIETY

- Civil society should consider instituting a non-statutory self-regulatory mechanism in order to promote and foster a spirit of trust and critical partnership with government. A code of conduct that would ensure that civil society is wary of indulging in party politics should be instituted under a national association of NGOs umbrella. A non-statutory mechanism will avoid abuse by government. Within the context of nation building and political impasse, civil society needs to facilitate dialogue between itself, opposition political parties, donor agencies and the government.

- There is serious need to create democratic space for civil society to operate freely within society. This cannot be done without a broader constitutional, legal and electoral reform, which will require the repeal of repressive legislation.

- Four broad coalitions have emerged with specific issue focus: ZESN *vis-à-vis* election-related issues; the NCA *vis-à-vis* constitutional issues; the Human Rights Forum *vis-à-vis* political and legal issues; and the faith-based coalition *vis-à-vis* peace and justice. The relationship between these coalitions must be consolidated in a way that avoids duplication and unnecessary rivalry.

CONFLICT

- Democratic elections are necessary to ensure sustainable peace, political stability and economic development. Elections must be organised in an environment of trust and tolerance between different political stakeholders, especially between the two main Zimbabwe political parties – Zanu–PF and the MDC.

- There is no substitute for an all-stakeholder dialogue. This will be the only way to break the current impasse in Zimbabwe, and there is therefore urgent need for an *Indaba* involving all political stakeholders.

POSTSCRIPT

At the time when the report was going to print, the Zimbabwe government initiated a host of electoral reforms. Some of these reforms were proposed in the recommendation section of this report. Among these were amended electoral laws ahead of the country's 2005 general elections and the promulgation of an NGO Bill.[156]

The Electoral Bill – which is being gazetted at the same time as our proposals for the establishment of an independent electoral body – would create a Zimbabwe electoral commission to conduct all future elections including referendums. According to the bill, the commission will not be subject to direction or control by any person or authority in discharging its duty. The proposed electoral reform has received serious criticism from members of the opposition parties, especially the MDC, as well as the community of NGOs. Their main objection to the proposed reform lies in the way the proposal has arisen. Members of opposition parties and NGOs were not given the opportunity to participate in the process. Instead, the proposals were internally driven and controlled by the Zanu–PF government. The MDC, in particular, wants the Zimbabwe government and the ruling party to implement electoral reforms, which would ensure credible and transparent elections. The official opposition party in parliament (MDC) wants a cessation of political violence, a repeal of repressive legislation which prohibits free assembly and expression, the restoration of political freedom, the rule of law and a genuine reform of the electoral system. The proposed independent electoral commission should be based on a structure, composition and function to be decided through dialogue between the ruling Zanu–PF and the MDC. Most importantly, the bill provides no indication on how the commission would relate to other existing bodies responsible for the conduct of election – the ED, the RG's office, the ESC and the newly established four-member DC, which was unilaterally selected by President Mugabe.

The new NGO Bill seeks to monitor and regulate all NGO operations[157] in a way that the public interest is protected by ensuring that NGOs are properly governed and administered and funds appropriately utilised. In its present form, however, the bill does not seem free of political intentions.[158] For example, section 2 defines a non-governmental organisation as:

"any foreign or local body or association of persons, corporate or unincorporate, or any institution, the objects of which include or are one or more of the following:

a) the provision of all or any of the material, mental, physical or social needs of persons or families;
b) the rendering of charity to persons or families in distress;
c) the prevention of social distress or destitution of persons or families;
d) the provision of assistance in, or promotion of, activities aimed at uplifting the standard of living of persons or families;
e) the provision of funds for legal aid;
f) the prevention of cruelty to, or the promotion of the welfare of, animals;
g) the promotion and protection of human rights and good governance;
h) the promotion and protection of environmental rights and interests and sustainable development;
i) such other objects as may be prescribed;
j) the collection of contributions for any of the foregoing; but does not include–
    i) any international organisation or institution whose privileges, immunities, rights and obligations in Zimbabwe are governed by the Privileges and Immunities Act [*Chapter3:03*]; or
    ii) any governmental or quasi-governmental organisation or institution whose legal status is that of an instrumentality or arm of any foreign government; or
    iii) any institution or service maintained and controlled by the State or a local authority; or
    iv) any religious body in respect of activities confined to religious work; or
    v) any educational trust approved by the Minister; or
    vi) any body or association of persons, corporate or unincorporate, the benefits from which are exclusively for its own members; or
    vii) any health institution registered under the Health Professions Act [*Chapter27:19*], in respect of activities for which it is required to be registered under that Act; or
    viii) any body or association in respect of activities carried on for

the benefit of a hospital or nursing home which is approved by the Minister; or

ix)   any political organisation in respect of work confined to political activities; or

x)   the Zimbabwe Red Cross Society established by the Zimbabwe Red Cross Society Act [*Chapter17:08*]; or

xi)   such other bodies, associations or institutions as may be prescribed."[159]

This a clear indication that the intention of the state is that of criminalising a sector that has been the force behind the democratisation process and providing 'social safety nets'[160] to many victims of political violence and abuse of state power. If it is enacted, the bill could provide another political instrument in the hands of the state to restrict democratic space and further entrench Zanu–PF political dominance of all aspects of society ahead of the March 2005 parliamentary elections.

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3   J Brown, Zimbabwe recent history, *Regional surveys of the world: Africa south of the Sahara 2000*, 29th Edition, Europa Publication, London, 2000.

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7   Zimbabwe Elections Observer Mission, 2000, op cit.

8   J Brown, op cit.

9   Ibid.

10   A B Chikwanha, et al, *Democracy and national governance in Zimbabwe: A country survey report*, Afrobarometer, 2001, <www.afrobarometer.org>.

11   Ibid.

12   Registrar General of Election, Comment on Dr L Sachikonye's country profile Zimbabwe: Election management, 2001.

13   ZESN's 2002 report on Zimbabwe's presidential elections states: "Section 3 of the Constitution of Zimbabwe states that the Constitution is the supreme law of Zimbabwe, and that if any other law is inconsistent with it, that other law shall to the extent of the inconsistency, be void. The three arms of Government i.e. the Executive, Judiciary and Legislative are also under and subject to the Constitution, which recognises the concept of separation of powers. The Constitution enshrines a Declaration of Rights, which provides for the basic freedoms of conscience, assembly, association, worship, expression and movement. The Constitution provides for the term of the President as six years and sets out conditions under which the President shall hold office."

14   CSOs talked of the militarisation of the ESC, headed by a former military officer and the engagement of security personnel to serve as electoral officers and monitors.

15   Ibid.

16   There is indeed a problem on how the process takes place. The chief election officer says that he is appointed by the president by recommendation of the Judiciary Service Commission, which is an independent body, and the speaker of parliament after consultation with parliamentarians. If this process is correct, the role of the president in appointing commissioners becomes ceremonial.

17   Electoral Act, quoted in ZESN, 2002, op cit.

18   Chief Election Officer.

19   Electoral Act, Section 16.

20   In each constituency, members of the public service are appointed as constituency registrars, deputy constituency registrars, and assistant constituency registrars Their main task is to maintain the voters' roll and to ensure that the constituency rolls are available for public inspection in their offices. They may authorise printed copies of the roll, and they are responsible for the registration of voters on the roll. They are empowered to demand information from people applying for registration and from any other person to establish whether applicants are qualified to register.

21   Electoral Act, Section 14.

22   Electoral Act, Part IV, section 15(2).

23   Interview of the Chief Election Officer.

24   W G Nhara, The enhancement of the electoral process of Zimbabwe. Paper presented to the All Stakeholders Conference on the Electoral Process of Zimbabwe convened by the Centre for Peace Initiatives in Africa, 28-31 July 2003. Which body should announce election results in Zimbabwe remains much disputed. The RG and the ESC both say that it is their role to do this.

25   Interview with Professor Ncube, Secretary-General, MDC, 15 March 2002, Harare.

26   The Directorate consists of a chairperson, appointed by the president, the RG and between two and 10 other members appointed by the minister of Justice, Legal and Parliamentary Affairs. Members of the Directorate hold office for periods determined at the time of their appointment.

27   Section 4 of the Electoral Act, Chapter 2:01.

28   Nhara, 2003, op cit.

29   Electoral Act, Part IV, section 15(1).

30   The commission must be chaired by the chief justice, or a member of the Supreme Court or High Court appointed after consultation between the president and the chief justice. Three other members are appointed after similar consultations. The commission members should not be MPs. If members of the commission are unable to continue their duties their replacements must be appointed through a similar consultative procedure. The present Delimitation Commission is headed by Justice Wilson Sandura, who has headed all previous commissions. The commission should make its decisions through a majority vote with the chairperson using a casting vote when the commission is equally divided.

30   ZESN, 2002, op cit. The evaluation team learned that the Delimitation Commission was not constituted in the 2002 polls and reliance was placed on the constituency boundaries delimited for the purposes of the 2000 parliamentary election, despite the fact that new voters were added to the voters' roll.

31   Ibid.

32   L Sachikonye, The electoral system and democratisation in Zimbabwe since 1980. Paper presented at a conference on Electoral Perspective in the DRC, Kinshasa, 2001.

33   Ibid.

34   Electoral Act, quoted in Zimbabwe Human Rights NGO Forum, Special Report 4, 2002.

35   Registration was conducted between 27 January and 3 March 2002.

36   *Herald*, 7 March 2002.

37   Political violence report, 1-16 February 2002 produced by the Zimbabwe Human Rights NGOs Forum, 19 February 2002.

38   Interview with Paul Themba Nyathi, in charge of elections for the MDC,

39   ZESN estimates that in excess of 3,000 whites in Bulawayo alone and in many other places did not cast their ballots in the elections because of the citizenship issue.

40   Electoral Supervisory Commission, Report of the ESC on the general elections 1990, Harare,

41   ZESN chairperson, press conference, 12 March 2002, Harare.

42   ZESN statistic.

43   In Mashonaland East mobile polling stations were increased from 83 to 91; in Manicaland from 80 to 102; in Bulawayo there was one for both elections; in Matabeleland South

they increased from 56 to 66; in Midlands there was a decrease from 49 to 39; in Masvingo an increase from 26 to 64; in Mashonaland Central a decrease from 47 to 65; and in Matebeland North an increase from 39 to 69.

44   The ESC says that it played its role to ensure that the court order was respected. It also says that it was incorrect to say that all polling stations were closed. It says it has information and its commissioners visited some polling stations which started processing voters as early as 7 am. But it is also true that most polling did not open on time. The ESC attributes this to communications difficulties as the court order came late in the night when most polling staff had already gone home. It was difficult to regroup the team. In some cases the ESC was forced to deploy new supervisors at polling stations.

45   B Kagoro, Coordinator crisis in Zimbabwe coalition, The opposition and civil society, *Zimbabwe's turmoil: Problems and prospects*, monograph, African Security Analysis Programme, Institute for Security Studies, Pretoria, 17 June 2003.

46   EISA research interviews in Zimbabwe, September 2003.

47   Ibid.

48   Ibid; John Makumbe, chairman of Transparency International, Zimbabwe.

49   Such as live broadcasting of parliamentary sessions and installation of constituency information centres.

50   Kagoro, op cit.

51   Professor Donald Chimanikire, director, Institute of Development Studies, University of Zimbabwe.

52   EISA research interviews in Zimbabwe, September 2003.

53   G Elich, Swans Commentary, Zimbabwe Under Siege, 26 August 2002.

54   Ibid.

55   EISA research interviews in Zimbabwe: Comment by Zanu-PF's secretary of Public Information.

56   EISA research interviews in Zimbabwe, September 2003.

57   Ministry of the Public Service, Labour and Social Welfare.

58   R Mtutu, The Private Voluntary Organisation Act: A widening rift between civil society and the state in Zimbabwe, in P Camay & AJ Gordon (eds), *Advocacy in Southern Africa: Lesson for the future*, 1998.

59   EISA research interviews in Zimbabwe: Comment by Munyaradzi Bidi, National Director, ZimRights.

60   Ibid.

61   EISA research interviews in Zimbabwe: Comment by Alexis Ferrand, economist, DFID, Zimbabwe.

62   A view expressed by a member of the pro-democracy NGOs, John Makumbe, political analyst in Zimbabwe and chairman of Transparency International.

63   E Zinyemba, national coordinator, NCA.

64   EISA research interviews in Zimbabwe, September 2003: Comment by Alexis Ferrand, economist, DFID, Zimbabwe.

65   T Lodge, D Kadima & D Pottie (eds), *Compendium of elections in Southern Africa,* Electoral Institute of Southern Africa, Johannesburg, 2002.

66   Elich, op cit.

67   The MDC's campaign strategy and programme are neo-liberal, which is quite a change considering the party arose from anti-IMF struggles in the mid-1990s.

68   Kagoro, op cit.

69   Quoted in Elich, op cit.

70   Ibid.

71   As quoted in R Louw, Zimbabwe silencing the media, Indicator South Africa, 18(1), March 2001.

72   International Crisis Group (ICG), Africa Briefing, Nairobi/Brussels, 8 July 2003.

73   The UN's World Food Programme (WFP) estimates that 7.2 million Zimbabweans, or well over half of the population, will need food aid this year - WFP, The hunger crisis in Africa, 2003.

74   J S Morrison, T Lyons & Jennifer Cooke, Time for concerted international action on Zimbabwe, Africa Notes, Centre for Strategic and International Studies (CSIS), August 2001.

75   Rogue states are defined by President Bush's foreign policy as those states which are a threat to their neighbours and to the entire world. They are also loosely understood to be 'outlaw nations'.

76   Elich, op cit.

77   Zimbabwe News, The Zimbabwe Democracy and Economic Recovery Act - an overview, 15 August 2001.

78   Ibid.

79   Elich, op cit.

80   This is not an unfounded or groundless accusation by SADC nations on Western policy. A 2002 essay by a UK foreign affairs adviser, Robert Cooper, called for a new imperialism and confirmed SACD suspicions. As quoted in Elich, op cit, the essay held the opinion "that the challenge of the post-modern world is to get used to the idea of double standards. Among the West, we operate on the basis of laws and open cooperative security. But when dealing with more old-fashioned kinds of state outside the post-modern continent of Europe, we need to revert to the rougher methods of an earlier era ... force, preemptive attack, deception, whatever is necessary to deal with those who still live in the nineteenth century world of every state for itself. Among ourselves, we keep the law but when we are operating in the jungle, we must also use the laws of the jungle".

81   This is a working hypothesis developed by the author of this paper.

82   V Randall & L Svåsand, Political parties and democratic consolidation in Africa, *Democratisation*, 9(3), 2002.

83   N Van de Walle & K S Butler, Political parties and party systems in Africa illiberal democracies, *Cambridge Review of International Affairs,* 13(1).

84   C Fomunyoh, Democratisation in fits and starts, *Journal of Democracy,* 12(3), 2001.

85   M Duverger, *Political parties: Their organization and activity in the modern state,* Methuen, London, 1954.

86   R Dix, Democratization and institutionalization of Latin American political parties, *Comparative Political Studies*, 24(4), 1992; S Mainwaring & T Scully (eds.), *Building democratic institutions: Party systems in Latin America*, Stanford University Press, Stanford, 1995.

87   C Ake, *Democracy and development in Africa*, The Brookings Institution, Washington DC, 1996.

88   It is widely reported that the 'veterans' were not old enough to have served in the war for independence, and that 'veterans' had focused their attacks on white and black

farmers who supported the political opposition to President Mugabe.

89   This view was expressed by John Makumbe, chairperson, Transparency International, Zimbabwe, 9 October 2003.

90   I Taylor, *We are the democrats: The crisis in Zimbabwe and the death of the NEPAD*, 2002, <http://www.fpif.org/>

91   Most political parties in Africa were strongly influenced by the history of imperialism and colonisation, which often resulted in political parties exhibiting two distinctive characteristics: national movements or congresses protesting colonial rule; and more tightly organised parties equipped with programmes and concentrating on contesting elections.

92   R Dahl (ed), *Political opposition in western democracies,* Yale University Press, New Haven, 1996; S P Huntington, *The third wave: Democratisation in the late twentieth century,* University of Oklahoma Press, Norman, OK, 1991.

93   S Mainwaring & T Scully, op cit. The practice by which an organisation becomes established and widely known, if not universally accepted. Huntington, op cit described it as a process by which organisations and procedures acquire value and stability. Invariably political actors display clear and consistent expectations about the behaviour of other actors and accept the inherent contradictions and challenges of party competition.

94   A view expressed by Dr Nathan Shamuyarira, publicity and information secretary, Zanu-PF, in an interview on 9 September 2003.

95   Interview with Dr D P Chimankire, Institute for Development Studies, University of Zimbabwe, 8 September 2003.

96   A S Kiondo, Political parties and party system, in Civics: A Tanzanian reader, E & D, Tanzania, Dar es Salaam, 2001.

97   Makumbe, 2003, op cit.

98   The only women candidate ever to contest for the presidential seat.

99   Interview with the executive director, National Association of Non-Governmental Organisations (Nango), 10 September 2003.

100   Interview with Dr Madhuku Lovemoore, chairperson of the NCA, "a non-governmental organisation committed to a peaceful, prosperous, democratic and united Zimbabwe". The NCA was the lead organisation responsible for the formation of the MDC in 1999.

101   T C Nkiwane, Opposition politics in Zimbabwe: The struggle within the struggle, in A O Olukoshi (ed), *The politics of opposition in contemporary Africa*, 1998, p 95.

102   Ibid.

103   L Sachikonye, Zimbabwe, in T Lodge et al (eds), op cit.

104   Nkiwane, op cit.

105   Founded in 1997, the NCA is a formation of more than 40 civic organisations and opposition parties dedicated to promoting constitutional reforms. It provided the support base within the labour movement, especially the ZCTU under the former secretary general, now the president of the MDC, Morgan Tsvangirai, the Catholic Commission for Justice and Peace and human rights advocacy groups such as ZimRights, the Women's Coalition, and the Zimbabwe National Student Union.

106   J Makumbe, Zimbabwe's hijacked election, *Journal of Democracy,* 13(4), 2002.

107   Ibid.

108   R McKenzie, quoted in R Michels, *A sociological study of the oligarchical tendencies of*

modern democracy, Transaction Publishers, London, 1999.

109   Duverger, op cit.

110   Ibid.

111   Mair & Sithole, *Blocked democracies in Africa: Case study Zimbabwe*, Konrad Adenauer Foundation, Harare, 2002.

112   Interview with Remus Makuwaza, director of elections, MDC, 9 September 2003.

113   Interview with Dr Nathan Shamuyarira, publicity and information secretary, Zanu-PF, 9 September 2003.

114   Sachikonye, 2001, op cit.

115   Nhara, op cit.

116   The Public Funding of Political Parties: An International Comparative Study, National Democratic Institute for International Affairs, 1998.

117   UNDP, *Zimbabwe Human Development Report.* 2000.

118   Under the shadow: Civil and political rights in Zimbabwe, Human Rights Watch briefing paper, 6 June 2003.

119   Raftopoulos, 2000 quoted in UNDP, *Zimbabwe Human Development Report 2000.*

120   UNDP, 2000.

121   Report on the 2000 Parliamentary Elections in Zimbabwe, 24-25 June 2000, ZESN.

122   Ibid.

123   Ibid. ZESN indicates that 31 lives were lost and 500 people injured from election-related violence.

124   Defiance v repression: Critical reflections on the final push, Crisis in Zimbabwe Coalition, 2-6 June 2003.

125   The labour movement was formed in 1981. The ZCTU was not considered an independent political force until 1988, when a new leadership managed to break clear of state patronage. Tensions around the lack of consultation over the ESAP and its effects created a gulf between state and labour, sowing seeds of resistance among workers that would eventually spawn a political agenda. The marriage between the ZCTU and CSOs through the NCA facilitated the formation of a formal opposition in the MDC.

126   Interview with B Kagoro, Crisis in Zimbabwe Coalition, 2002.

127   P Katjavivi & C Kabemba, *Evaluation of the Zimbabwe Election Management Body,* EU Capacity Building Project, Harare, Zimbabwe, 2002.

128   ZESN's interpretation suggests that the provisions in the act are *ultra vires* the constitution. It argues, for instance, that the ban on voter education infringes section 20 of the constitution.

129   Sachikonye, 2001, op cit.

130   ZESN, 2002, op cit.

131   C Kabemba, K Chirambo & P Mukwengi, Role of civil society in the organisation of elections in Zimbabwe, evaluation paper, July 2003, unpublished.

132   CCJP report on the Zimbabwean Presidential Elections, 2002.

133   Kabemba, et al, op cit.

134   According to ZESN, Zimbabweans with permanent residence status in other countries were not allowed to vote unless they produced passports and proof, such as bills, that they had lived in their constituencies for a continuous period of 12 months prior to the elections.

135   Kabemba et al, op cit.

136   Ibid.

137   Ibid.

138   ZESN says that the act criminalises ridicule, contempt or hatred expressed against the president or in respect of his office.

139   Public media include ZBC Radio and television, the *Herald*, the *Chronicle* and the *Sunday Mail*.

140   For example, the Media Monitoring Project of Zimbabwe in its update No 3/2002 says that Zanu-PF was dominant on ZBC's news bulletins. ZTV had six campaign-related stories. Of these, four were Zanu-PF campaign rallies, including repeats and one was a negative report on the MDC rally in Bulawayo. On the same day the 8 pm ZTV news allocated 12 minutes 35 seconds to campaign rallies, with 11 minutes five seconds allocated to President Mugabe's campaigns in Hwange and Bulawayo, and one minute 30 seconds allocated to a denigration of the MDC.

141   Private media include the *Daily New*s, the *Zimbabwe Independent*, the *Standard*, the *Financial Gazette* and the *Zimbabwe Mirror.*

142   Interview with Andrew Moyse, Zimbabwe Media Monitoring Project, 2002.

143   Interview with Professor Walter Kamba, Law Faculty, University of Zimbabwe, 11 March 2002.

144   Interview with Andrew Moyse and Nhlanhla Ngwenya, respectively project coordinator and head, monitoring unit, Zimbabwe Media Monitoring Project, 7 March 2002.

145   The *Chimurenga* became the mobilisation slogan for the liberation movement in the 1960s and 1970s and a campaign rhetoric for Zanu-PF during the fast-track land reform programme.

146   Blood and soil: Land, politics, and conflict prevention in Zimbabwe and South Africa, International Crisis Group, <www.icg.org>.

147   Ibid.

148   Interview, October 2004.

149   Interview, October 2004.

150   Statement made by President Mugabe during the 2002 presidential campaign.

151   International Crisis Group, op cit.

152   Zimbabwe Report, Crisis in Zimbabwe Coalition, 20 June 2002.

153   C Landsberg, *Quiet diplomacy of liberation*, Jacana Media, Johannesburg, South Africa, 2004.

154   Ibid.

155   Ibid .

156   The bill was already publicised in Zimbabwe (*Gazette* No 68, 20 August 2004; General Notice 432 of 2004).

157   Interview with Arnold Tsunga, executive director, Zimbabwe Lawyers for Human Rights, 20 August 2004.

158   Other sections of the bill undermine the basic principle of self-regulation (section 9), an efficient registration system (section 10), the sustainability of NGOs (section 17), the professional environment (section 28) and representation (section 30).

159   Non-Governmental Organisations Draft Bill, 2004.

160   Press statement released by the Nango national executive committee, 6 August 2004.

LIST OF RESPONDENTS

Political parties

Dr Nathan Shamuyaria
Publicity and Information Secretary, Zanu–PF

Professor Ncube
Secretary-General, MDC

Mr Paul Themba Nyathi
MDC

Mr Nomore Sibanda
Election Coordinator, MDC

Academics

Professor Donald Chimanikire
Director of Institute of Development Studies, University of Zimbabwe

Dr John Makumbe
Chairperson, Transparency International, Zimbabwe

Professor Walter Kamba
Law Faculty, University of Zimbabwe

Civil society

Mr Andrew Moyse
Coordinator, Zimbabwe Media Monitoring Project

Mr Nhlanhla Ngwenya
Head, Monitoring Unit, Zimbabwe Media Monitoring Project

Dr Lovemore Madhuku
Chairperson, National Constitutional Assembly

Ms E Zinyemba
National Coordinator, National Constitutional Assembly

Mr Bidi Munyaradzi
National Director, Zimbabwe Human Rights Association

Mr Jonah Mudehwe
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The Chief Electoral Officer

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WOLE OLALEYE is a research fellow in the Research, Publication and Information Department at EISA. He has postgraduate degrees in Social Development and Social Science Research Methodology from the University of the Western Cape and University of Stellenbosch. His scholarly interests include theory of democracy, good governance, elections, comparative political behaviour and attitudes, and research methodology. He is at present working toward completing a doctoral dissertation in Political Studies at the University of Cape Town, South Africa. He was selected in 2002 as one of the 50-member team of academics, researchers and civil society practitioners from the SADC countries to observe Zimbabwe's 2002 presidential election and as part of the 2002 Carter Center international observer delegation to observe the general elections in Kenya.

ABOUT EISA

EISA is a not-for-profit and non-partisan non-governmental organisation which was established in 1996. Its core business is to provide technical assistance for capacity building of relevant government departments, electoral management bodies, political parties and civil society organisations operating in the democracy and governance field throughout the SADC region and beyond. Inspired by the various positive developments towards democratic governance in Africa as a whole and the SADC region in particular since the early 1990s, EISA aims to advance democratic values, practices and enhance the credibility of electoral processes. The ultimate goal is to assist countries in Africa and the SADC region to nurture and consolidate democratic governance. SADC countries have received enormous technical assistance and advice from EISA in building solid institutional foundations for democracy. This includes electoral system reforms; election monitoring and observation; constructive conflict management; strengthening of parliament and other democratic institutions; strengthening of political parties; capacity building for civil society organisations; deepening democratic local governance; and enhancing the institutional capacity of the election management bodies. EISA is currently the secretariat of the Electoral Commissions Forum (ECF) composed of electoral commissions in the SADC region and established in 1998. EISA is also the secretariat of the SADC Election Support Network (ESN) comprising election-related civil society organisations established in 1997.

VISION

Realisation of effective and sustainable democratic governance in Southern Africa and beyond.

MISSION

To strengthen electoral processes, democratic governance, human rights and democratic values through research, capacity building, advocacy and other strategically targeted interventions.

VALUES AND PRINCIPLES

Key values and principles of governance that EISA believes in include:
- Regular free and fair elections
- Promoting democratic values
- Respect for fundamental human rights
- Due process of law / rule of law
- Constructive management of conflict
- Political tolerance
- Inclusive multiparty democracy
- Popular participation
- Transparency
- Gender equality
- Accountability
- Promoting electoral norms and standards

OBJECTIVES

- To nurture and consolidate democratic governance

- To build institutional capacity of regional and local actors through research, education, training, information and technical advice

- To ensure representation and participation of minorities in the governance process

- To strive for gender equality in the governance process

- To strengthen civil society organisations in the interest of sustainable democratic practice, and

- To build collaborative partnerships with relevant stakeholders in the governance process.

CORE ACTIVITIES

- Research
- Conferences, Seminars and workshops
- Publishing

- Conducting elections and ballots
- Technical advice
- Capacity building
- Election observation
- Election evaluation
- Networking
- Voter/Civic education
- Conflict management
- Educator and Learner Resource Packs

PROGRAMMES

EISA's Core Business revolves around three (3) main programmes namely (a) Conflict Management, Democracy and Electoral Education; (b) Electoral and Political Processes; and (c) Balloting and Electoral Services.

CONFLICT MANAGEMENT, DEMOCRACY AND ELECTORAL EDUCATION

This programme comprises various projects including voter education, democracy and human rights education; electoral observation; electoral staff training; electoral conflict management; capacity building; course design; citizen participation.

ELECTORAL AND POLITICAL PROCESSES

This programme addresses areas such as technical assistance for electoral commissions, civil society organisations and political parties; coordination of election observation and monitoring missions; working towards the establishment of electoral norms and standards for the SADC region; providing technical support to both the SADC-ECF and the SADC-ESN.

BALLOTING AND ELECTORAL SERVICES

The programme enhances the credibility and legitimacy of organisational elections by providing independent and impartial electoral administration, management and consultancy services. The key activities include managing elections for political parties, trade unions, pension funds, medical aid societies, etc.

EISA'S SPECIAL PROJECTS INCLUDE:

- Rule of Law, which examines issues related to justice and human rights;
- Local Government, which aims to promote community participation in governance ; and
- Political Parties, which aims to promote party development at strategic, organisational and structural levels through youth empowerment, leadership development and development of party coalitions.

EISA'S SUPPORT SERVICES INCLUDE:

- Research
- Publications
- Library
- Information and Communication Technology (ICT).

EISA PRODUCTS

- Books
- CD-ROMS
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- Election Handbooks
- Occasional Papers
- Election Observer Reports
- Research reports
- Country profiles
- Election updates
- Newsletters
- Voter education manuals
- Journal of African Elections
- Election database

GOVERNANCE STRUCTURE

Patrons

EISA's patrons are His Excellency Sir Ketumile Masire, former President of Botswana and the instrumental broker of the peace negotiations that ushered peace and reconciliation in the Democratic Republic of Congo in 2002 and Mr. Cyril Ramaphosa, a key negotiator during the political transition to democratic governance and majority rule in South Africa in 1994 and a businessman of standing in the new South Africa.

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JUSTICE ANASTASIA MSOSA Judge of the Supreme Court of Appeal in Malawi 1992-1997 and judge of the High Court of Malawi 1993-1998 and Chairperson of the Electoral Commission of Malawi in 1994

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