



CONSTITUTION A VEXED ISSUE IN MEDIATION PROCESS

Both sides in the Zimbabwean confrontation want to change the constitution — but in radically different ways.

By Zakeus Chibaya in Johannesburg

Constitutional matters look set to feature large in the mediation effort led by South Africa president Thabo Mbeki to seek a solution to Zimbabwe's continuing political crisis. While the opposition wants Mbeki to facilitate progress towards a more democratic constitution, the ruling ZANU-PF may pre-empt this by getting its own constitutional changes in first.

Mbeki has been mandated by the Southern Africa Development Community, SADC, to talk to President Robert Mugabe and his political opponents. As he engages with the two sides, he is hearing demands from the opposition Movement for



Credit: Lazele

A woman inspects a banner at the National Constitutional Assembly's offices in Harare. Picture taken May 30.

Democratic Change, MDC, for a major overhaul of the current constitution as a precondition for fair elections.

According to political analyst Edmund Gwazai, "The roadmap should lead to constitutional amendments which are acceptable to both parties.

"A new and well-drafted constitution will definitely solve the whole conflict facing the country. It will provide a platform for fair and free elections, and there will be an independent judiciary to arbitrate on issues of conflict arising from elections."

NEWS IN BRIEF

■ The government is to compensate white farmers whose land it has confiscated under a controversial land redistribution programme over the past seven years. In a notice published in the state-controlled Herald newspaper on May 31, Ngoni Masoka, permanent secretary at the Ministry of Lands, Land Reform and Resettlement, advised former owners to approach the ministry for compensation for improvements they made to their properties such as buildings, dams and roads.

■ The Zimbabwe Sugar Association, ZSA, has said the country faces a severe shortage of sugar this year because of poor production. Addressing parliament's committee on industry and trade on May 29, the ZSA said sugar production in Zimbabwe is set to decline from 585,000 tonnes recorded before the land reforms of 2000 to 442,000 tonnes this year.

■ MDC deputy national organising secretary Morgan Komichi is battling for his life in a prison hospital as the authorities continue to prevent him

receiving specialist medical treatment. Harare magistrate Gloria Takundwa ordered Komichi to be taken straight back to the hospital when he appeared for a remand hearing on June 1.

■ On May 29, Zimbabwean journalists postponed plans to launch a self-regulatory council for the media, amid revelations that President Robert Mugabe's office was pressuring the Zimbabwe Union of Journalists, ZUJ, not to back the council. The ZUJ is the largest representative body for journalists.

The MDC has threatened to boycott the 2008 elections if the mediation process fails to result in an agreed set of constitutional amendments.

IWPR understands that both factions of the MDC have submitted letters to Mbeki identifying the constitution as the source of the present political conflict.

"The talks should lead to a new constitution where draconian laws will be scrapped to make way for free and fair elections," Thamsqwa Mahlangu, the MDC's national youth chairperson for MDC, told IWPR.

Zimbabwe still uses the constitution that was drafted at Lancaster House in London as a prelude to independence in 1980. There is common consent that it needs to be changed, but the consensus stops there.

Mugabe's critics say he has used amendments passed over the years to steadily strengthen his position and marginalise opponents, notably in 1987 when the rules were changed allowing him to become president instead of merely prime minister.

Like the MDC, the National Constitutional Assembly, NCA, a pressure group calling for legislative reforms, is demanding that a democratically-inspired constitution should be in place before any election takes place.

"Whilst supporting the mediation efforts being led by South Africa, the NCA believes that without promoting a process of assisting Zimbabweans to establish a people-driven and democratic constitution as a basis for substantive democracy, the culture of anti-democratic practice will persist at an extreme human cost to Zimbabwe and the region," said NCA spokesperson Madock Chivasa.

"Without a constitution that rests on a vision of democracy, any talk of mediation does nothing but buy time for the regime to perfect its art of thuggery and abuse."

Mugabe's ruling ZANU-PF party appears to be avoiding discussion of the issue in the mediation talks. But it is

likely to rush though further amendments slanted towards strengthening the president's position. That could derail any effort by the South African leader to forge a constitutional solution acceptable to both sides.

When ZANU-PF's Central Committee met on March 30, it decided to introduce a constitutional amendment to parliament enabling the 2010 presidential election to be brought forward so that it coincided with next year's parliamentary ballot. Other changes would bring in a new procedure whereby parliament selects a successor if Mugabe resigns before the end of his next term — meaning the head of state would be indirectly elected by a ZANU-PF dominated body rather than chosen by the people of Zimbabwe.

It is these revisions, rather than a new document agreed in consultations with Mbeki and the MDC, that ZANU-PF plans to push through.

"We are not going to have a new constitution now, and we don't know what they are talking about," said ZANU-PF spokesman Nathan Shamuyarira, in remarks quoted on the website of The Zimbabwean.

Speaking to IWPR earlier this year, an anonymous ZANU-PF insider was dismissive of the MDC's demand for a new constitution, and refused to say whether his party would consider the issue if it were put on the agenda of mediation talks.

"They rejected a new constitution in 2000. Have they changed their mind now? What are they proposing?" he asked. "It is their problem. Comrade Mugabe has said the current constitution is sacrosanct and non-negotiable."

He was referring to a referendum in 2000 in which Zimbabwean voters rejected a new constitution proposed by the authorities, which would have legitimised the confiscation of white-owned farms as a way of providing redress for the British colonial past. Mugabe went ahead with the land seizures anyway, with disastrous effects on the country's agricultural production.

A fait accompli by ZANU-PF will make the South African leader's job that much more difficult.

"Mbeki is going to face a problem where Mugabe rejects a new constitutional initiative and drafts his own," said Gwazai. "The opposition would demand an outright new constitution. The issue of the constitution is going to take up much of the time."

This is not the first time Mbeki has been involved in attempts to put together a constitution that both sides could sign up to.

With Mbeki as intermediary, ZANU-PF and the MDC draft a secret document in 2004. Mbeki told the South African Broadcasting Corporation last year that the process was complete before the 2005 parliamentary election, and that he had copies of the document initialled on every page by ZANU-PF and the MDC.

Mbeki has said subsequently that the election put the process "on the back-burner" and it was not revived.

Other accounts suggested that Mugabe got cold feet on the constitution, not so much because of concerns about the opposition as over a meeting attended by some of his officials which he saw as a coup plot, requiring him to pull in his horns.

In Zimbabwe, many people are putting great store in the South African president's ability to find a political solution and thus open the way to economic recovery.

Esinath Majoni, who is a nurse by profession but makes a living from cross-border trading, captured this sentiment when she said, "We hope that the talks will end our suffering in the country. It's now difficult to survive in the country, and everyone is putting her last million dollars on Mbeki's efforts to rescue us."

Zakeus Chibaya is a regular contributor to IWPR. ■

FOOD FOR VOTES

Local relief groups complain that government pressure is compromising their ability to feed a hungry population.

By Nonthando Bhebhe in Harare

The Zimbabwean authorities have a history of controlling access to food for political purposes. As the ongoing drought adds to the food shortages, and the 2008 elections draw closer, the government is once again focusing its attention on distribution.

By imposing restrictions on non-government organisations, NGOs, officials are curbing their ability to provide food aid. And as international donor find that their local partners are less and less able to operate freely, there is a danger they will divert food aid to countries where it can be distributed effectively.

During the liberation struggle in what was then Rhodesia in the Seventies, Ian Smith's white minority regime withheld food from rural areas in an attempt to starve out rebel guerrilla groups.

Soon after independence in 1980, the new administration of President Robert Mugabe and his ruling ZANU-PF party again used food as a weapon against political opponents. During the Gukurahundi campaign, in which thousands of civilians in the Matabeleland and Midlands regions died, shops were closed and relief aid was halted to these drought-stricken areas, just to prevent a few hundred armed dissident fighters from accessing food.

Since 2000, when Mugabe launched a campaign to dispossess white farmers and redistribute their farms to landless people, Zimbabwe has suffered severe problems with agricultural production. As a result, many people are reliant on handouts from relief agencies or the government.



Credit: Lazele

People wait to receive food aid from an NGO in Harare. Picture taken February 2007

As well as selective distribution through its own food aid centres, the government has tried to influence the way international relief groups manage distribution.

Since Mugabe launched a campaign to dispossess white farmers, Zimbabwe has suffered severe problems with food production.

In the run up to the 2002 presidential election, ZANU-PF members warned local chiefs and headmen in some areas that they would be denied supplies of food aid for their communities if they did not deliver an electoral victory for Mugabe. The government also discouraged international donor organisations from giving out food, misleading them by telling them that Zimbabwe had had a bumper harvest.

Then in 2004, months before the crucial 2005 parliamentary election, the authorities introduced the controversial Non-Government

Organisation Bill which restricted the activities of NGOs and human rights groups, particularly those financed from abroad.

This attempt by Mugabe to stifle debate served its purpose, as most NGOs were uncertain about their future and security, and many limited their operations during that period.

As a result, an estimated 2.3 million rural people in need of food aid had to rely completely on government assistance programmes. Food imports arranged by the MDC were seized at the border and distributed by government.

In autumn 2006, the government lifted a ban on NGOs handing out food. But as the country heads towards next year's make-or-break presidential and parliamentary election, the government is again trying to control NGOs, particularly those involved in food aid, human rights, civic education and election monitoring.

Local aid groups are now jittery after Information Minister Sikhanyiso Ndlovu said all NGOs had been "deregistered" and must apply for new



Credit: Lazele

Agriculture Minister Rugare Gumbo at an agricultural field day in Mashonaland East . Picture taken in March 2007.

licenses to operate. Later, however, the government said it had not banned NGOs but simply put in place new policy guidelines for their registration and operation.

Under the new regulations, NGOs now have to sign a memorandum of understanding with the government department relevant to their specialist area, and can be stripped of their official registration if they are deemed to have exceeded their mandate.

Towards the end of April, Agriculture Minister Rugare Gumbo reiterated the official line that any food aid that appeared to have political strings attached would be blocked.

“Government will certainly sit down and decide which aid agencies or organisations to allow assisting with food distribution,” he told the United Nations information agency IRIN. “We realise that there are organisations bent on using aid as a political tool to enhance the interests of the opposition, and we are not going to allow that.”

The government is shipping state-subsidy grain for public distribution — but only to ZANU-PF strongholds. Given the state Grain Marketing Board's history of discriminatory allocation, supporters of the opposition are likely to suffer.

“Food distribution has been made political,” Fambai Ngirande, spokesperson for the National Association of NGOs, told IWPR.

“There are organisations bent on using aid as a political tool to enhance the interests of the opposition, and we are not going to allow that” — Agriculture Minister Rugare Gumbo.

“Distribution organisations have been compelled to give food only to card-carrying members of the ruling party. These agencies have been denied access to some areas, and told to leave the food with government distribution arms.”

Ngirande predicted that the pressure, obstructions and surveillance NGOs now have to endure would get worse.

“As we are heading towards 2008, part of the election strategy is to close certain NGOs that deal with governance and human rights issues. They also want to monitor food; and given that it is a drought year, they want to make sure that they are the sole distributors of food aid,” he said.

Zimbabwe's food crisis may get worse, as stocks of the staple food item, maize, are said to be running out.

Domestic production of maize, sorghum and millet for the 2006-07 growing season is forecast to be about 50 per cent of the preceding season. Cereal production is forecast to be enough to meet only 40 to 50 per cent of domestic consumption needs.

The United Nations Food Programme says nearly half of Zimbabwe's 13 million people will need food aid this year, and a country which used to export food to its neighbour would need to import two million tons of grain to get through the year.

With no hard currency reserves, the government will almost certainly be unable to pay for adequate grain imports — even taking hundreds of tons of donated food into account.

Ngirande said most foreign-funded organisations had already significantly reduced their aid to Zimbabwe, and given the worsening environment in which NGOs operate, they were liable to curtail it even further; putting millions of lives at risk.

“We are telling our members that pulling out is not the answer, as it will make it worse for ordinary Zimbabweans,” he said. “If we stop our activities, the human rights abuses, torture and denial of food because of political affiliation will go on. The situation demands an even greater presence — we simply cannot afford to close down.

“Most of our organisations are funded from outside, the foreign policies of those countries affect resources that come into Zimbabwe. If the food distribution is not done properly, then they would rather go elsewhere where there is also need.”

Nonthando Bhebhe is a pseudonym used by a journalist in Zimbabwe. ■

MUGABE BENEFITS FROM MDC WEAKNESSES

Tactical failings of Zimbabwean opposition have played into the hands of the regime.

By Norman Chitapi in Harare

While Zimbabwe's ruling ZANU-PF party is making it as hard as possible for the main opposition Movement for Democratic Change, MDC, to campaign, let alone win, the synchronised presidential and parliamentary elections scheduled for next year, the MDC is just as complicit in its own downfall, political analysts say.

Draconian laws such as the Public Order and Security Act render it almost impossible for the MDC to address its supporters; intelligence service-run electoral institutions, like the Zimbabwe Electoral Commission, tilt the ballot in favour of the ruling party; while the government's monopoly over the four radio stations and the sole TV channel ensure opposition voices are rarely heard.

Since the beginning of the year, the government has moved up a gear. It has become blatant in its attacks on pro-democracy movements, which it accuses of fostering what it calls "a regime change agenda" and stirring up civil unrest in the country. Since the arrest and brutal attack on opposition leaders and their supporters for trying to attend a banned rally on March 11, government pressure on the opposition has intensified.

Up to 600 MDC and civil society activists have been detained, assaulted and tortured since the abortive rally, dubbed "Black Sunday". They include ordinary people, journalists attempting to cover opposition activities and lawyers trying to secure their release. Police have



Credit: Lazele

MDC leaders Arthur Mutambara, Morgan Tsvangirai and Gibson Sibanda (left to right) at a memorial service for an opposition supporter killed by police in March. Picture taken March 27.

routinely ignored court orders to allow those beaten access either to their lawyers or medical treatment.

"It is a state gone berserk. It is the ultimate breakdown of law and order," lamented a political analyst in Harare.

"It is a state gone berserk" — Harare-based political analyst.

This followed the arrest and beating up of four senior Harare lawyers on May 9 for demonstrating against the detention by police of two of their colleagues who were seeking bail for detained opposition activists.

Southern African Development Community Lawyers' Association president Sternford Moyo, a veteran lawyer in Harare, said they would challenge the deliberate subversion of the law by the state. He deplored the

attack on lawyers going about their duty to ensure every Zimbabwean had access to legal counsel.

Analysts, however, said these attacks could not go on forever, noting that violence of this kind had a limited impact. The analysts said there was enough resentment in the country against the ruling party over the collapsing economy, which the opposition could easily tap into if it was organised and able to change its strategies.

"Therein lies the biggest problem for the MDC," said another analyst in Harare. "Instead of organising its local structures, even without holding rallies, the MDC is more visible when complaining against police brutality or in its messages delivered to foreign audiences."

The analyst said the MDC leadership put too much faith in the influence of the international community instead of local voters. "We all know [President Robert] Mugabe doesn't care what the West

says. After all, he believes they want him out of power. But more than that, the MDC is addressing the wrong audience. Who reads the Washington Post or the South African Sunday Times?" he asked, referring to foreign newspapers that carried recent speeches by MDC leader Morgan Tsvangirai.

"The MDC is addressing the wrong audience. Who reads the Washington Post or the South African Sunday Times?"
— Harare-based analyst.

He said the MDC was failing to set up strong structures in rural areas to challenge ZANU-PF. Referring to the MDC's performance in its first parliamentary election in July 2000, the analyst said the party had won several seats in rural areas despite the worst electoral violence ever witnessed in the country.

He also said the MDC apparently didn't have a coherent programme for rural areas. He said this made it hard for it to penetrate countryside communities, which have received land free from the ruling party. He said the MDC was also failing to counter

claims by new ZANU-PF landlords that it planned to return land to white commercial farmers.

Another analyst said the MDC was also losing support in urban communities because of its "negativity". He said the party was focused on negative factors without offering a better vision and purpose to restore people's hopes.

"It is well to expose ZANU-PF's incompetence and corruption," he said. "But surely they must show us the way forward. There is too much negativity in their politics."

"The best the MDC can talk about is human rights and democracy... it is a hard sell to ordinary people."

"When they tell their supporters that elections under the current constitution produce 'predetermined outcomes', this breeds apathy among voters. Why should people vote when you already know the result? It becomes very difficult to gauge their level of support and how far the outcome is a result of rigging."

Along with inducing voter apathy, the analyst said the MDC wasted too much time deciding whether to participate in elections, "This shows bad leadership. Indecision is a definite no-no in leadership. People don't owe any politician a living and want to vote and get on with their lives."

"Indecision is a definite no-no in leadership"
— analyst in Zimbabwe.

But when leaders threaten to boycott elections one day and the following day turn around to say to people "go and vote for us", they are not doing their party any good service. This has worked badly for the MDC in the past and ZANU-PF has probably won by default.

People are looking for new and positive strategies to beat ZANU-PF and those can only come from leaders — leadership cannot be subcontracted to the moral influence of foreign governments, he said.

Norman Chitapi is the pseudonym of an IWPR reporter in Zimbabwe. ■

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