



Prime Minister Morgan Tsvangirai's statement to the press

Charter House, Harare, 13th June 2013

Today, early in the morning, I received a letter from President Mugabe dated 13 June 2013, in which he advised that in purported compliance with the Constitutional Court judgment, he was proclaiming the 28th of June 2013 as the sitting of the nomination court and the 31ST July as the Election Day.

As the Rt Hon. Prime Minister of this country and a key member of the coalition government, mere courtesy would have required prior discussions on this matter. However, this is a matter governed by the law.

In terms of the GPA we signed on 15 September 2008, which has been codified as the 8th schedule of the current Constitution of Zimbabwe, the President can only act in consultation with the Prime Minister in respect to any executive decisions including the announcement of the date of the election. Thus, President Mugabe's actions are a unilateral and flagrant breach of our Constitution and the GPA. I, as PM, cannot and will not accept this.

Moreover, part 3 of the 6th schedule of our Constitution makes it clear that there shall be an intense 30-day voter registration exercise. Only on Tuesday in Cabinet all political parties agreed that this process had commenced on 10 June 2013 and would be completed on 9 July 2013.



The net effect of the proclamation is therefore to infringe on the Constitutional provisions obliging the 30-day intense voter registration exercise.

It will also mean that President Mugabe is disenfranchising many people who were registering to vote, for instance aliens and first time voters. President Mugabe is also denying political parties and Zimbabweans the opportunity to inspect the voters roll.

In any event, section 26 A of our **Electoral Act Cap 2:13** makes it clear that voter registration for everyone closes 24 hrs before the sitting of the Nomination Court. This means that voter registration will now close on the 27th of June 2013 instead of the 9th of July 2013. **A clear, flagrant and fraudulent breach of our Constitution.**

The new Constitution also makes it clear in section 8 of the sixth schedule that the forthcoming election must be conducted in ***“terms of the electoral law in conformity with this Constitution.”***

That new Electoral law according to section 157 ought to provide among other things for new issues such as proportional representation for the election of Senators and the new two disabled Senators and members of the newly introduced provincial councils. As has been widely reported Cabinet only agreed to the proposed electoral law on Tuesday.



President Mugabe in calling for an election when the Electoral law has not been passed in Parliament is clearly acting unconstitutionally.

He is fully aware of this, hence the claim in his letter that he is using powers under the Presidential Powers (Temporary Measures) Act. Ladies and gentlemen, the Presidential Powers act, which in the past allowed the President to make laws on his own without Parliament is patently not in compliance with the new Constitution. For the avoidance of doubt, section 134 A of the new Constitution makes it clear that only Parliament has the power to make primary legislation and that its powers of making law cannot be delegated to anyone, including the President.

In any event, what is the material urgency when Parliament is still sitting until 29th of June 2013? Once it is accepted, as Cabinet accepted on Tuesday, that the intensive voter registration made obligatory by our Constitution began on 10 June to finish on 9 July, then the earliest date that the proclamation would have been on the 10th of July 2013. Our law makes it clear that the nomination court can only sit between 14 and 21 days of the proclamation. This means that the earliest date that the nomination court would sit would have been the 24th of July 2013. Our Constitution as well provides for a minimum 30-day period of campaigning to a maximum of 42 days before the election date. This means that after the nomination court sitting of the 24th July 2013, the



earliest that the election could be held is the 25th August 2013.

The point being made is that President Mugabe has acted unlawfully and unconstitutionally and is deliberately creating and precipitating an unnecessary Constitutional crisis. The Constitution makes the President the chief upholder and defender of the Constitution. It is therefore regrettable that the chief defender and upholder has become the chief attacker and abuser of the Constitution.

Surely, the defender-in-chief cannot become the attacker-in-chief!

Elections in Zimbabwe have never been about the date but the process and conditions under which it is held. The people of Zimbabwe have always insisted on the date of elections being determined by the processes that have to be carried out to ensure a legitimate, credible and sustainable election.

This call has also been reiterated in numerous resolutions of SADC since the Dar es Salaam summit 29 March 2007. Only as recent as 1 June 2012, SADC at its summit in Luanda, resolved that Zimbabwe was obliged to attend to reforms for a year to the 30th of June 2013. Once those reforms were complete, the President and the Prime Minister would agree on a date for elections.

You will also be aware that the three political parties signatory to the GPA have been involved in intense processes and negotiation under the facilitation of President Zuma. In these discussions, many issues have been agreed to although not implemented.



Agreement was reached on a ROADMAP and on 24 post-Maputo issues. All documents and agreements were handed over to President Zuma in June 2010.

Ladies and gentlemen, there are fundamental reforms to be carried out, which are currently the subject of negotiations between the parties now. These include:

- Media reforms
- Security sector realignment
- Alignment of our laws to the new Constitution
- Electoral reform including the issue of the voters roll

On the voters roll alone, as late as Thursday 6th June 2013, the party negotiators agreed and restated that the voters roll process would be as follows:

- (1) A 30-day period of voter registration (10 June-9July) followed by:
- (2) The voters roll preparation period (to be defined by ZEC) followed by:
- (3) The voters roll inspection period (to be defined by ZEC) followed by:
- (4) The final voters roll preparation (period to be defined by ZEC) followed by
- (5) The signing off of an agreed voters roll by the political parties.

Clearly therefore, the unilateral proclamation made today is a deliberate attempt to stall the reform agenda in Zimbabwe. Without reforms, Zimbabwe is



yet again heading to another contested, predatory and illegitimate election. In short, another June 27. As Morgan Tsvangirai, the Prime Minister of Zimbabwe and the President of the MDC, I will not accept a situation where Zimbabweans will yet again be railroaded and frog-marched to another illegitimate and violent election.

The people of Zimbabwe are suffering. Businesses are shutting down, workers are under attack and the economy has frozen. A fraudulent and illegitimate election will deepen the crisis and will not reverse this malaise.

Ladies and gentlemen, all of you are aware that SADC and the AU are the guarantors and curators of the Zimbabwean crisis. For six years they have selflessly and with great dedication and commitment, they have chaperoned and shepherded the Zimbabwean crisis. The GPA and the modicum of stability WE HAVE ENJOYED for the past five years are due to the tireless efforts of our African brothers and sisters, including President Zuma and his facilitation team.

The net effect of President Mugabe's unilateral and illegal proclamation is an unmitigated frontal and rear attack on SADC, the AU and President Zuma and his team.

President Mugabe and his team cannot hide behind the concept of sovereignty that they long ago surrendered and mortgaged through the mis-governance and State failure that led SADC to engage in our affairs as way back as 2007.



They can also not hide behind a Constitutional Court judgement which all Zimbabweans agree is clearly practically and legally unenforceable.

It is also disturbing to note that it was President Mugabe himself who caused SADC to postpone the summit that was supposed to be held on Sunday the 9th of June 2013. It is now clear that President Mugabe called for the postponement in order to go to SADC with a done deal of an election date.

Thus clearly, President Mugabe has sought to render the forthcoming SADC summit a dead rubber and a talk show. This is clearly dishonest and disrespectful of the esteemed leaders of SADC, the AU, President Zuma and our brothers and sisters on the African continent.

I have clearly reflected on the matter and this morning, to defend the Constitution, I instructed my attorneys to file an urgent court application.

In addition, I will be leaving tomorrow for SADC and will fully brief the regional leaders on the crisis in Zimbabwe.

Finally, I appeal to fellow Zimbabwean to remain calm but vigilant in the face of this provocation and illegality. History has taught us that evil never triumphs and the way of truth will always triumph.

As Morgan Tsvangirai, I call upon Zimbabweans to walk with me and stand by me in this patriotic fight to defend the truth and the Constitution.

After all is said and done, I am certain that one day and very soon, Zimbabweans will have a government

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of their choice where they are free to pursue happiness and their dreams and aspirations.

I thank you.

A handwritten signature in black ink, appearing to read 'Mugabe', with a horizontal line extending to the right.