POLITICAL CONTEXT: ZIMBABWE

Introduction: A historical overview:
Like most other former colonies, Zimbabwe, at Independence, inherited a racially determined socio-economic system. Indeed, the political climate during the colonial period was akin to South Africa’s apartheid, except that in the then Rhodesia it was called “separate development.” British colonial administration in Rhodesia had ensured that there were separate schools, clinics, hospitals and other social amenities for whites and blacks. This obviously irked the majority black population, who had also lost most of their fertile land and livestock to the white colonists. The Federation of Rhodesia and Nyasaland, comprising Northern Rhodesia (Zambia), Nyasaland (Malawi), and Southern Rhodesia (Zimbabwe), broke up in 1963. Both Malawi and Zambia attained national independence from Britain in 1964, while the settler community in Rhodesia remained under the control of the imperial British government for a further year and a half. The view of the white settlers in Rhodesia was that those African countries that were becoming independent were essentially also turning to communism as the primary ideology. There was therefore a determination to resist communism and keep Rhodesia firmly in the western capitalist camp. To protect their privileged status in Rhodesia, white settlers resorted to drastic measures.

Desperate to keep the majority blacks under their rule, white Rhodesians formed a political party, the Rhodesia Front (RF), which was led by Ian Douglas Smith, who became the Prime Minister of Rhodesia in 1964. On 11 November 1965, Smith made the infamous Unilateral Declaration of Independence (UDI), purportedly to end British rule in Rhodesia. It is necessary to point out that UDI was also aimed at thwarting black Africans’ demand for black majority rule in Zimbabwe. African political parties such as the Zimbabwe African People’s Union (ZAPU), led by the late Joshua Nkomo, and the Zimbabwe African National Union (ZANU), led by the late Ndabaningi Sithole, were banned by the Smith government. This forced these political parties to go underground and into exile. Smith and his Rhodesia Front (RF) party were severely criticized by both the former colonial rulers, the British, and by the international community at large. Indeed, the act of UDI was condemned even by the United Nations, which proceeded to impose an economic embargo or sanctions against Rhodesia.

Ian Smith consolidated his power base by passing more racist legislation as a way of controlling the Africans. The state’s coercive apparatus, i.e. the army, the police and the central intelligence, were expanded and heavily resourced by the Smith regime. For their part, the African nationalists decided to resort to an armed struggle in order to free themselves from the white settlers. Young men and women who had managed to flee the repression in Rhodesia and were based in neighbouring countries were sent to such friendly countries as the Soviet Union, China, Cuba, Tanzania and Libya for military training. The first group of freedom fighters entered Rhodesia in 1966 and fought against the Smith regime’s forces near Chinhoyi. Thus began a protracted armed struggle for the independence of Zimbabwe. Meanwhile, several of the nationalist leaders had been arrested for their political activities in Rhodesia. Some of them stayed in the rebel regime’s prisons for more than ten years. Over the years, more black Zimbabweans fled
from Rhodesia to go into exile in neighbouring countries and to be trained as guerrilla fighters. As the liberation war intensified, huge areas of Rhodesia were taken over by the liberation forces. In response, the RF government placed these areas under martial law. An estimated fifteen to twenty thousand people lost their lives during the liberation struggle in Zimbabwe.

The armed liberation struggle culminated in the convening of a conference at Lancaster House, London, in 1979, which resulted in the granting of national independence from Britain in 1980. The Robert Mugabe led Zimbabwe African National Union – Patriotic Front (ZanuPF) party ascended to governmental power after winning the 1980 general elections. That party has thus been in office for thirty years at the time of writing this report. The party was popular with the masses because it articulated an ideology that sought to correct the injustices of the colonial period, some of which will be discussed in this study. On assuming state power, ZanuPF moved swiftly to address some of the Africans’ grievances against successive colonial regimes of the past.

Discrimination on the basis of race, ethnicity and any other affiliation was abolished. Equality of access to all state structures, institutions and services was made mandatory. Efforts were made to restore the dignity of the African people by promulgating laws that ensured the democratisation of the Zimbabwe body politic. There were even some efforts made at land distribution albeit on a limited scale. Sectors such as health, education, social welfare, industry and commerce were opened up to all races and ethnic groups. Needless to state that these measures alienated the privileged white settlers who felt threatened, and feared that they would result in what they termed, “the lowering of standards”. The measures were, however, very popular with the majority black people of Zimbabwe, who viewed them as the beginnings of the restoration and reconstitution or reconstruction of the Zimbabwean society that colonialism had disrupted and distorted over a period of some ninety years.

Since the days of the armed liberation struggle, the Mugabe political party, ZanuPF, had always espoused a socialist ideology. There was widespread condemnation of the capitalist ideology as exploitative and inhuman. Socialism was viewed as not only humane, but also as just and equitable in its approach to the management of national resources. The unfortunate disagreement between Joshua Nkomo’s PF Zapu and ZanuPF from 1982 to 1987 resulted in the outbreak of what was called the dissident war in the Matabeleland provinces and parts of the Midlands (CCJP & LRF, 1997). It is estimated that more than 20 000 people lost their lives during this “moment of madness”, as it was called by Robert Mugabe himself. The war only came to an end with the signing of the so-called Unity Accord between the two warring parties on 22 December 1987. The two parties decided to merge into one party, ZanuPF, thereby consolidating their power base and significantly increasing the prospects for the institution of a socialist one-party state in Zimbabwe.
Developments in the international community, however, resulted in the global collapse and abandonment of socialism as a viable ideology. Eastern bloc countries such as the then Soviet Union, Romania, Poland, and many others rejected socialism and adopted the capitalist ideology en mass. The implications for Zimbabwe included that there was active dialogue among political players both within and outside of ZanuPF. Indeed, within ZanuPF were some staunch believers in socialism, including Robert Mugabe himself. Fortunately, the majority of the people of this country rejected the notion of a de jure socialist one-party state, and so to all intents and purposes, Zimbabwe remained essentially a capitalist state, but with a sprinkling of half-baked socialist, if not social welfarist policies. The manner, in which the nation was governed, however, was clearly indicative of the existence of a de facto one-party state, though not entirely socialist. It is from this backdrop that this paper will discuss the political context of rights issues in Zimbabwe.

Throughout Africa, the end of colonialism and the ushering in of national independence was greeted by most citizens with great joy, hope and expectation of liberty, freedom and the prospects of positive development in the former colonies. African nationalist leaders were rightly hailed as patriotic liberators who had sacrificed, for some, their own freedom and personal security to fight against the colonial powers that ruled and exploited their respective countries for many years. In a classic exposition of the politics of Africa, George B.N. Ayittey (1999.7) writes:

> The nationalists who won freedom for their respective countries were hailed as heroes, swept into office with huge parliamentary majorities, and deified. Currencies bore their portraits and statues were built to honour them.

This was obviously, well-deserved honour, given the courage they had demonstrated and the sacrifices that they had made. In the case of Zimbabwe, President Mugabe and several of his colleagues in ZanuPF had spent ten or more years in the colonists’ prisons. Indeed, they had endured various forms of colonial repression, including beatings, torture and being forced into exile. Sadly, however, the majority of these early nationalist leaders tasted power and found it to be so sweet that they strenuously resist any attempts to replace them, even many years after the attainment of their countries’ independence. Ayittey (Ibid.) puts it more succinctly thus:

> Criticising them became sacrilegious and, very quickly, the freedom and development promised by Nkrumah and other African nationalists transmogrified into a melodramatic nightmare. In many countries, these nationalist leaders soon turned out to be crocodile liberators, Swiss bank socialists, quack revolutionaries and grasping kleptocrats.
The majority of Zimbabweans would agree wholeheartedly with this description of the nationalist leaders that were instrumental in their nation’s attainment of independence. The majority of these leaders seem to have committed a flagrant volte-face from their presumed goals and objectives for the emancipation of Zimbabwe. Some of the events that have occurred in Zimbabwe from 2000 amply demonstrate that, by and large, the former liberators have now become the new oppressors of their own people (Blair, 2002). Ayittey (1999.7) rightly notes, “For many Africans, the ‘paradise’ promised them turned out to be a starvation diet, unemployment and a gun to the head. Disaffection and alienation set in”. As noted earlier, this “disaffection and alienation” resulted in the withdrawal of popular support from the nationalist liberation party, ZanuPF, culminating in the rejection of the government sponsored draft constitution in February 2000. In an earlier publication, this author (Makumbe, 2003.225) writes:

Fear gripped the regime because parliamentary and presidential elections were due to be held in June 2000 and March 2002 respectively. Indeed, when the results of the referendum were announced, there were celebrations in most urban areas by people who were mainly supporters of the opposition MDC party. The waving of red cards by the majority of these people was a signal to the beleaguered regime that its days appeared to be numbered.

The nationalist party therefore turned to the unfinished business of the liberation era – the land issue – as a crafty way of salvaging popular support in the run up to the general elections of June 2000 (Ibid.). The fact that many white land-owners or commercial farmers had openly supported and bankrolled the MDC, not only infuriated Mugabe and his party, but also made land a viable election and political issue for both of them. The resort to authoritarianism (Melber, 2003) and the politics of the liberation struggle essentially dictated the need for the revival of Zanu-PF’s long forgotten comrades in arms, the war veterans of the pre-independence period. Although it was generally claimed by the Mugabe regime that the former guerrillas knew best how to reclaim the land that was still occupied by white farmers, the naked truth is that the majority of the members of the ruling party’s women and youth wings had largely defected to the popular MDC (Makumbe, 2003), thereby forcing the former liberation party to mobilise the former combatants to lead the farm invasions from 2000 to 2001.

An interesting feature of liberation movements in Southern Africa, such as Mugabe’s ZanuPF, is their public denunciation of colonialism, imperialism and the injustices that are generally associated with these practices, while they themselves have little regard to justice and the observance of human rights (Melber, 2003). Indeed, in such countries as Namibia and Zimbabwe, the ruling political parties are generally more violence inclined against their own citizens than ruling parties that did not engage in liberation struggles (Ibid.). Violence may have been essential for the successful prosecution of the liberation struggle, but does violence have to continue to be the norm even after the liberation movements have ascended to power in their respective countries? Assuming for a moment that this would be the case, then why do countries such as Mozambique and, to
some extent, South Africa, not experience similar types of state sponsored violence against the citizenry? Further, it is an established fact that the majority of the Southern African countries that did not engage in armed liberation struggles, such as Botswana and Lesotho, have tended to be more democratic and less violence inclined than countries that fought liberation wars (Ibid.). Suzanne Dansereau (2003.24) aptly notes:

President Mugabe and ZanuPF call on the memories of the liberation struggle in their search for legitimacy. Yet we have seen throughout southern Africa how effective liberation movements have been in consolidating their dominant position to remain in power and establish a new neo-patrimonial system, resulting in liberation without democracy….

The so-called Third Chimurenga (Third Revolution) that began in 2000 was propagated by the Mugabe regime as a logical sequel to the first and second revolutions to liberate Zimbabwe from colonial forces and injustices. The opposition MDC was therefore alleged to be a colonial agency employed by former colonial and imperialist powers in order to re-colonise Zimbabwe. Formed in September 1999, the MDC comprised labour, civil society, academics, business persons and farmers from all over Zimbabwe, as noted earlier. There is no evidence whatsoever to suggest that the formation of the MDC was initiated or even encouraged by any forces external to the Zimbabwe body politic. Zimbabweans generally view the Mugabe regime’s accusation as part of the rhetoric of deception that is aimed at misleading the citizens. Accusing African ruling elites of using governments as vehicles for looting national resources and terrorising the people, Ayittey (1999.16) writes:

What one observes in many African countries is an ‘artificial government’ – ‘government by deception,’ run by a phalanx of degreed bandits sporting Ray-Ban sunglasses and bazookas. They are not only out of touch with the people but perennially locked in combat with them…. They prey on the rural populations to line their own empty pockets. They raid livestock, loot homes, divert humanitarian aid, and extract false taxes.

Indeed, government by deception is consistent with the manner in which the Mugabe regime has performed since the decline of its popular support became more apparent in 2000. The resort to the politics of the liberation struggle is therefore a deceptive design aimed at hoodwinking the citizenry to think that no other political grouping can run the affairs of the nation in a better or more democratic manner.

Bratton, Mattes, and Gyimah-Boadi (2005) classify Zimbabwe as a liberalised autocracy; other authors use the term competitive authoritarianism to describe the same regime type. Liberalised autocracies are hybrid political systems. Bratton et al state,
…their genesis lies in previous military and one-party arrangements, now adapted for survival in a more open environment. Leaders have learnt how to manipulate the rules of the democratic game and to stage-manage low-quality elections to their own advantage.

Bratton et al argue that in liberalised autocracies such as Zimbabwe, leaders may pay lip-service to basic freedoms, for example, by allowing token opposition, but they govern in heavy-handed fashion, typically placing strict limits on an independent press, civil organisations and political parties to the point of imprisoning their strongest opponents or barring them from contesting elections (Ibid.). Mugabe, though chronically intolerant of opposition political parties, has, nonetheless, allowed them to exist and operate in Zimbabwe since Independence. He has however, consistently paid lip-service to democracy and democratic elections, which he has manipulated to his advantage and that of his party. Through such draconian legislation as the Public Order and Security Act (POSA) and the Access to Information and Protection of Privacy Act (AIPPA), the Mugabe regime has drastically diminished democratic space and curtailed civil liberties. Opposition political parties, the media, civil society and even the churches are often harassed, harangued, tortured and intimidated for simply disagreeing with the repressive regime.

Since the advent of national independence, political developments in Zimbabwe have largely been played in what may be termed “a neo-patrimonial political system in which autocracy is a distinctive feature of the style of rule of President Mugabe” (Sachikonye, 2003.99). With reference to the treatment of civil society organisations (CSOs), Sachikonye argues that democratisation “from below” is associated with the presence of pressure for reform from organised civil society on state institutions and the incumbent ruling party. CSOs construct a broad alliance that pushes an authoritarian state into making substantial reforms. “However, authoritarian regimes do not easily succumb to that pressure; they often seek to restrict the autonomy of CSOs, which then leads to struggles for democratic rights. Developments in Zimbabwe amounted to struggles for democratisation from below” (Ibid.).

Authoritarianism, according to Sachikonye, relates to a form of arbitrary government, “…which uses coercive instruments of the state to expedite its own purposes of monopolising power while denying political rights and opportunities to other groups to compete for that power” (Ibid.). The Mugabe regime has been notorious for its rapid resort to instruments of coercion whenever there have been threats to its monopoly on political power. What is amazing is that all law enforcement agencies openly claim to carry out their vicious attacks against innocent civilians in the name of Mugabe and the state. Sachikonye (Ibid. 101) rightly observes that in patrimonial political systems,

…a leader rules by dint of personal prestige and personal power while ordinary folk are treated as extensions of the big man’s household with no rights or privileges other than those bestowed by the ruler. Authority is entirely personalised and shaped by the ruler’s preferences rather than any codified system of laws.
Further, state and other political institutions can actually be allowed to co-exist but in most cases they hold only nominal authority and very limited power, compared to that held by the “Dear Leader”. Sachikonye (Ibid.) aptly writes:

**Under a neo-patrimonial system, the president and his inner circle undermine the effectiveness of a nominally modern state administration by using it for systematic patronage and clientilist practices in order to maintain political order and perpetuate their hold on power.**

Evidence abounds indicating how the Mugabe regime has systematically undermined state institutions for partisan purposes (Makumbe and Compagnon, 2000). The Zimbabwe Republic Police, the Central Intelligence Organisation, the Zimbabwe National Army, the Department of Information and Publicity, the Ministry of Youth Development, Gender and Employment Creation, have all been major victims of the regime’s abuse of state institutions and resources for the benefit of Mugabe and his ZanuPF. Sachikonye asserts that the principal institutions or modes of neo-patrimonialism in Africa include presidentialism, clientilism and use of state resources:

**These institutions militate against democratisation because they undermine transparency and accountability, checks and balances in the state, and independence of key institutions such as the judiciary. Authoritarianism and corruption tend to be the hallmarks of a neo-patrimonial system** (Sachikonye, 2003.99).

Thus any forces, or groups of citizens, that attempt to demand their democratic and constitutional rights, are swiftly dealt with by these personalised “state” institutions in the name of preserving the peace, law and order. The truth of the matter is that these institutions have been reduced to mere survival instruments for the dictator. They no longer serve the interests of either the state or the citizens. Instead, they are now both personalised and privatised for the benefit of Mugabe and his political party. In a study of the 1995 general elections in Zimbabwe, Makumbe and Compagnon (2000) observe:

**Personal rule typifies...a kind of political regime where legal institutions and the rule of law have been systematically weakened to allow the leader (generally the head of state) to rule the country through arbitrary decisions and personal patronage.**

The two authors argue that behind the façade of a British-inherited Westminster type of constitution, parliament and government, Mugabe has established a neo-authoritarian rule that has nothing to do with either socialism or democracy. It however, has everything to do with his stranglehold on political power.

**Farm invasions:**

Stung by the public rejection of the government-sponsored draft constitution in February 2000, the Mugabe regime mobilised thousands of war veterans, unemployed young
people and rural peasants to invade white-owned commercial farms throughout the country. The formation of a credible opposition political party, the Movement for Democratic Change (MDC), in September 1999 had been the first unequivocal indication that the Mugabe regime was threatened with defeat at the polls in 2000. The resounding “No” vote in the constitutional referendum served to confirm the regime’s worst fears with regard to its waning popularity among the people of Zimbabwe. The fact that the MDC had attracted virtually all forces that were opposed to the Mugabe regime, including white commercial farmers, infuriated the beleaguered Mugabe regime, and forced it to resort to drastic means of staying in power.

With the national economy virtually on its knees, the only viable issue that the former liberators could use in an election was the perennial land issue. The political and financial support that white commercial farmers had demonstrated towards the MDC gave the Mugabe regime an excuse for invading their farms and violently drive them off the land. At least ten white commercial farmers were killed in the process. What is often forgotten is that the marauding farm invaders also killed more than two hundred black farm workers, while hundreds of thousands of them were displaced. A serious humanitarian crisis ensued with allegations of gross violations of human rights perpetrated by elements of the Mugabe regime. A Zimbabwean human rights organisation (Human Rights Forum, 2000) aptly notes:

*The continuing violence has meant that farm workers and MDC supporters have been forced to flee their homes to escape harassment, assault, and, in the worst cases, death.*

Law enforcement agencies such as the police and the army were explicitly instructed to look the other way. Indeed, in some cases they even provided tacit support to the farm invaders rather than enforce law and order in the troubled farming areas:

*The police and the army, far from trying to protect the rights of the farm workers are often part of the problem, standing to the side when violence erupts on the farm, and continuing to harass the displaced farm workers, once they have left for the urban centres and refuge (Ibid.).*

This “Fast Track” Land Reform Programme, on the face of it, appeared legitimately targeted at ensuring that past colonial injustices were redressed, and that the landholding system in Zimbabwe would be more equitable among all the races. The Zimbabwe government stated the objectives of the Fast Track Land Reform Programme as to:

- acquire not less than 8.3 million hectares from the large-scale commercial farming sector;
- reduce the population pressure in communal areas;
- reduce the extent and intensity of rural poverty among rural families and farm workers by providing them with adequate land for agricultural use;
- increase the contribution of the agricultural sector to GDP and to export earnings;
- promote environmentally sustainable use of land through agriculture and eco-tourism;
• develop and integrate small-scale farmers into the mainstream of commercial agriculture;
• create conditions for sustainable economic, political and social stability (Makumbe, 2009).

It is the assessment of this study that the Zimbabwe government failed in practically all of the above-mentioned objectives, except, perhaps, the first one. Indeed, the Mugabe government has to date acquired much more than the originally intended 8.3 million hectares. There has, however, been no meaningful decongestion of communal areas since most of the people who have so far been allocated land came from urban areas. There has, therefore not been any significant reduction of rural poverty as a result of the Fast track Land Reform Programme. Instead, available evidence indicates that, if anything, rural poverty has escalated phenomenally since 2000 (Ibid.).

Further, the contribution of the agricultural sector to GDP and export earnings had fallen by about 50% since the commencement of the Fast Track Land Reform Programme in 2000. In fact, Zimbabwe had to import food as well as receive food aid since that year. Ironically, some of the food was being imported from such countries as Botswana, Malawi and Zambia, countries that used to import food from Zimbabwe before the onset of the Fast Track Land Reform Programme. Some of the white commercial farmers evicted from the land by Mugabe migrated to Zambia, Nigeria and Mozambique where they were allocated vast tracks of land and assisted by these governments to set up commercial farms.

Investigations have amply demonstrated that the major beneficiaries of the fast track land reform programme were essentially ZanuPF members, and supporters and individuals closely associated with that party. There were numerous allegations that some of the government officials who were allocating some of the invaded farms were demanding that applicants present their ZanuPF party cards before their applications could be considered. Naturally, the Mugabe government denied this, but evidence abounds confirming that the whole exercise was conducted on a partisan basis.

The Executive:
Following the inauguration of the inclusive government, the top end of the national executive has become rather congested. There is one president and head of state, Robert Mugabe, who is assisted by two vice presidents. These three individuals are all members of ZanuPF. Morgan Tsvangirai, president of the MDC-T is the Prime Minister and head of government. He is assisted by two deputies, one from his own formation of the MDC and the other from the MDC Mutambara formation. This is a temporary arrangement that should only last until the next elections. It was, in fact agreed that the inclusive government should last for eighteen months to two years. The cabinet comprises thirty-six (36) ministers from the three political parties in the GNU. Although the GPA stipulates that there should be thirty-one (31) ministers, the principals agreed to increase this number by a further three ministers, clearly in violation of the agreement.
As noted above, at independence, Zimbabwe inherited an administrative system which had been designed to serve the interests of the colonising power and the settler elements. Colonial administration in Zimbabwe, as elsewhere in Africa, had been tasked with the maintenance of law and order and the collection of revenue. The extent to which the post colonial government could transform this administrative system into a viable and appropriate instrument for national development was dependent, not only on the will and engineering skills of the political leadership, but also on the availability of resources of all kinds, which could be utilised in creating a desirable, appropriate and effective administration.

In Zimbabwe, the Presidential Directive of 1980, and the Prime Minister's Directive on Decentralisation of 1984 largely shaped the major changes that have so far occurred in central and local administration respectively. There have also been a number of cabinet reshuffles and re-organisation of various departments, all of which have resulted in the creation of what is generally believed to be one of the largest peace-time Ministries in the world, at least in relation to the economy. Political developments, notably the Unity Accord between Zanu-PF and PF-Zapu, have necessitated the creation of such superfluous structures as Deputy Minister, over and above the structures obtaining at Independence.

To what extent has the Zimbabwe Government succeeded in adapting the inherited colonial administrative system and structures to suit the needs of the new society? What part has been played by the economic crisis in the shaping of the current administration; and, how does this administration manage the economy given the economic crisis? It is the contention of this paper that the inherited structures have not adapted easily, if at all, to the needs and aspirations of Zimbabwe. Further, inherited structures, when the supposed changes have largely been peripheral, have tended to lead to the continued negation of the aspirations and expectations (including basic human rights and needs) of the masses of the people of Zimbabwe. Thus, while the various changes and creations in the Zimbabwe Public Service have resulted in what may seem to be a strong administrative system, it can also be argued that the changes and creations have largely been of dubious utility in terms of the benefits and services they deliver to the various publics of the administration, notably to the ordinary people.

Finally, and possibly central to this paper, is the truism that, as elsewhere in the world, the various changes, the levels of administrative capacity, and the continuation of largely obsolete and inappropriate structures and systems is a function of the class formation processes in post-colonial Zimbabwe. Inherited colonial structures and systems are only maintained and preserved if they serve the interests of the ruling class in a given neo-colonial polity.

**Parliament:**
Zimbabwe possesses one of the most impressive and well-organised legislatures in the southern African region. On the surface, it would appear that the Parliament of Zimbabwe (PoZ) is a competent institution that effectively carries out its multi-faceted
functions in the interest of the citizens of this country. Serious investigation of the workings of this august institution, however, reveal that it is little more than a rubber stamp of whatever the executive and the ruling political party wish to do. Indeed, to the executive, Parliament is more of a necessary nuisance than an essential partner in the governance of this country (Makumbe, 2005.228).

Structured along the Westminster system of parliamentary democracy, the PoZ exhibits an organisational and operational system that would rival any democratic state both in the region and further afield. Sadly, most of the structures that constitute the PoZ are moribund and irrelevant to the realities on the ground. Elaborate organisation of Parliament into various committees with a variety of responsibilities does not seem to have resulted in Parliament performing its functions more effectively. Although most of the recommendations of the Parliamentary Reform Committee have been implemented, Parliament still struggles to make the executive accountable to it or to the people of this country.

One of the benefits of the implementation of the PRC’s recommendations has been the opening up of Parliament to public participation in the legislative process. Civil Society Organisations (CSOs) took advantage of this development and, with the assistance of a variety of international donors, embarked on serious engagement of Parliament through the work of Portfolio Committees. The result has been abundance of current information on the state of affairs in many constituencies, as well as an expression of the people’s views on various matters of national development, transparency, human rights, and good governance.

Regrettably, all this good work makes little impact on the final outcomes of the legislative process. The PoZ still passes some of the most draconian pieces of legislation ever seen in a democratic country (Ibid.234). This is largely because of an over-powering and over-sized executive that has the audacity to ignore the reports and recommendations of both Portfolio and Select Committees with disdain. Measures such as the notorious “fast tracking” of Bills ensure that the executive has little tolerance for any amendments to its policy proposals. The hostility that the executive displays towards CSOs, which they suspect of being too close to the opposition further militates against any serious consideration of the submissions made by civil society to Parliament.

A number of measures need to be undertaken in order to strengthen Parliament and facilitate meaningful engagement of the legislature by both insider and outsider civic groups. Repressive legislation such as POSA and AIPPA need to be repealed. The Broadcasting Services Act needs urgent amendment in order to allow private players to participate in the provision of alternative electronic media to that provided solely by the State. Parliament needs adequate resources in order for MPs to be able to fulfil their representative obligations. The recently created Parliamentary Constituency Information Centres (PCICs) need to be adequately staffed and equipped in order to make them viable liaison offices linking the MP to his or her constituency. Virtually all the departments of Parliament need to be revitalised to enable them to provide the requisite services to the MPs in a timely fashion. Obsolete and undemocratic legislation that prohibits MPs from
crossing the floor or from voting their conscience should have no place in a democratic legislature.

The legislature needs to formulate ways and means of ensuring that the executive takes the recommendations of all its committees seriously. At the same time, consideration should be given to the positive and constructive handling of submissions made to Parliament by CSOs and other interested parties that lobby Parliament. Finally, a culture of tolerance and accommodation should replace the current political culture of fear if Zimbabwe is to develop along democratic lines.

**The Judiciary:**
Zimbabwe’s Judiciary comprises the Chief Justice, Judges of the Supreme Court, Judges of the High Court, and Judges of other inferior courts such as magistrates. The Supreme Court comprises the Chief Justice and at least two other judges. It is the final court of appeal, and is also the Constitutional Court of Zimbabwe. The High Court comprises the Chief Justice, the Judge President and such other judges as may from time to time be appointed. The Magistrate’s Courts are creations of the Magistrate’s Court Act. There are two types of Magistrate’s Courts: regional and provincial. Regional Courts are the more important. Their jurisdiction is limited to the regions or provinces to which they are assigned.

The Chief Justice is the head of the Judiciary while the Judge President is in charge of the High Court. All Supreme Court and High Court judges are appointed by the President after consultation with the Judicial Services Commission. Should the President appoint a person who has not been recommended by the Commission then he should inform Parliament as soon as practicable. If the office of the Chief Justice is vacant, or the Chief Justice is unable to perform his duties, the President can appoint an Acting Chief Justice or the Judge President to act but only after consulting with the Judicial Services Commission. The President also appoints acting Supreme Court and High Court judges in the same manner. Normally, acting judges will be appointed to act for a specified period of time, but if the period is not stipulated they may serve until their appointment is revoked by the President. Acting judges may also be appointed by the Chief Justice.

The Chief Justice may also appoint Supreme Court judges to act as High Court judges but only after consultation with the Judge President. Supreme and High Court judges are, according to Section 86(1) of the Constitution, entitled to stay in office until they reach the age of 65 unless prior to attaining that age they elect to retire at age 70. Continuance until 70 is dependent upon the submission to the President being accepted by the latter, and a medical report on the fitness of the judge to serve the extended period. Section 86(2) of the Constitution provides that a judge may resign their office at any time by writing to the President. No acceptance of the resignation is required to make it effective. The President may not attach any conditions to such a resignation such as that the judge must complete all matters commenced before him. Judges’ salaries are paid from the Consolidated Revenue Fund at rates determined by the President from time to time. The President also fixes the terms and conditions under which judges’ pension benefits are
paid. The Minister of Finance is required to review all judges’ salaries and benefits whenever there is a general salary increase for all other State officials.

Judicial autonomy: is provided for in Section 79 B of the Constitution which states that members of the judiciary shall not be subject to the direction or control of any person or authority while exercising their judicial authority. The only exception is where the law stipulates that they shall be subject to the control and direction of another member of the judiciary. Removal of judges from office: is dealt with in Section 87 (1) of the Constitution “Inability to discharge the functions of the office, whether arising from infirmity of body or mind, or any other cause, or for misbehaviour” is the only ground upon which dismissal may be authorised.

Political Parties:
Prior to the formation of the MDC in September 1999, the political arena was dominated by ZanuPF. There were, however, numerous smaller political parties but none of them ever posed a real challenge to Mugabe’s ZanuPF. A brief discussion of the nature of political parties prior to the formation of the MDC may assist in describing the Zimbabwe political context. All Zimbabwe opposition parties seemed to suffer from the same shortcomings and perennial problems. It seems that history was repeating itself, when one collapsed after the other and no meaningful opposition emerge until 1999. Most of these parties were led by veteran politicians who, at some time or other, had been members of ZANU (PF), or were associated in some way with the liberation struggle in the 1960s and 1970s. Sithole is now hardly known outside Chipinge, by the post-war generation, and Muzorewa is tainted by his association with the racist UDI regime during the “Internal Settlement” period (Makumbe and Compagnon, 2000). These ageing leaders could hardly motivate the ordinary citizenry in Zimbabwe to support their political endeavours, especially the youth, which constitutes an increasing share of the electorate. It was also widely believed that the election, on Forum’s inception (Ibid.), of the highly respected retired Chief Justice Enoch Dumbutshena as the party president was a mis-calculation. Dumbutshena was not a politician and lacked the crude, confrontational disposition, which is a requisite for dealing with condescending ruling party elements. FORUM lacked political heavyweights and experienced leaders, with the exception maybe of the late Patrick Kombayi the former Zimbabwe Unity Movement (ZUM) - and then FORUM - candidate in Gweru.

In fact, the major weakness of opposition parties was that they offered no meaningful alternative to the established government policies. They took it for granted that anybody standing to oppose ZANU (PF) would automatically receive overwhelming popular support. ZUM was campaigning in 1990 against the introduction of a one-party state and it capitalised on the anti-corruption feelings then prevalent among the Zimbabweans. It also proposed a liberalisation of the economy, while ZANU (PF) was still advocating state controlled ownership of the ‘means of production’ in a Marxist-Leninist style. Although corruption had deepened and intensified within the ruling ZANU (PF) by the late 1990s neither ZUM nor FORUM succeeded in exposing it, or in utilising the scandals disclosed in the press to malign government and ruling party officials. Some of the ZANU (Ndonga) leaders specialised in making statements that would bear no logic, and the government press
was happy to ridicule them. The Democratic Party (DP) also made several pronouncements of what might have passed as policy proposals. However, they were described in *The Daily Gazette* (12.03.1995) as “...ludicrous policies that would destroy what little good Government has done with ESAP, and failed to attract the attention of the electorate. This did not foster the credibility of the opposition parties.

The formation of the MDC changed most of the characteristics of opposition political parties discussed above. The MDC provided a solid and viable alternative to Zanu-PF. It became highly popular virtually over-night since it was based on a combination of labour, civil society, academia and business. The founding president of the MDC had a chequered track record as the discussion below demonstrates.

**The Zimbabwe Congress of Trade Unions (ZCTU):**
At the same time Government targeted the labour movement whose main representative, The Zimbabwe Congress of Trade Unions (ZCTU) had taken a more independent line since its 1988 congress, when Morgan Tsvangirai was elected Secretary General of the organisation. In 1989, Tsvangirai was illegally detained for having expressed his support for the demonstrating students harassed by the police. In conjunction with the SRC, ZCTU’s leadership used the May Day celebrations in 1990 (again in 1991 and 1992) to express its opposition to the one-party state and Government’s policies, with the slogan, “Trade Union Rights are Basic Human Rights.” This emergence of the Trade Unions as an autonomous political actor, with an agenda perceived as confrontational by the Government, represented a direct challenge to the ruling party and led to direct conflict in June 1992. In addition to a defamatory campaign against the union in the Government press and the encouragement of the illegal creation of splinter unions by the Ministry of Labour, the 1985 Labour Relations Act - already very constraining by the limitations it imposed on legal industrial action - was amended in April 1992. This was an attempt to weaken ZCTU organisational structure and to increase the Minister’s powers to interfere with the union movement. Government made strong use of the army and the police, on the basis of the Rhodesian Law and Order (Maintenance) Act, to quell the unions’ protest, while ZCTU leaders were accused of behaving like an opposition party (an accusation ZANU (PF) has proffered since 1980 against any civil society organisation which happened to criticise the government). This politicisation further divided the labour movement, but to date the ZANU (PF)-sponsored splinter unions have proved to be failures. The long awaited Supreme Court judgement on the arrest of six ZCTU members during the demonstrations of June 1992 was delivered February 25, 1994 and was a landmark victory for the unions and the democratic movement: section 6 of the Law and Order (Maintenance) Act that restricted severely the right to hold public demonstration, was declared *ultra vires* sections 20 and 21 of the Constitution of Zimbabwe.

**Local and regional government:**
The colonial local government system that was inherited by Zimbabwe in 1980 was patterned along racial lines, with some local government authorities catering for whites, and others catering for blacks. This was consistent with the racially determined land tenure system of that time. Some of the features of the colonial local government system
include:

- The Ministry of Internal Affairs was responsible for so-called Tribal Trust Lands (TTLs), now known as Communal Areas (CAs).
- There were African Councils responsible for the provision of basic services and governance activities in the TTLs.
- District Commissioners (DCs) were the presidents of the African Councils.
- Some eight provincial authorities were established in 1973 for the purpose of supervising and co-ordinating the 242 African Councils throughout the country.
- Traditional chiefs were *ex officio* members of African Councils as well as members of provincial authorities.
- The Ministry of Local Government and Housing was responsible for urban councils and the commercial farming areas.
- Only white residents of urban areas were accepted as citizens of urban council areas, who could therefore vote during council elections. Blacks were treated as temporary residents of urban areas and so they were denied the vote or any say in urban council matters.
- African townships in urban areas were called Local Government Areas, and they were organised through Area Boards, and were supervised by the respective directors of Housing and Community Services in urban areas.

In the post-independence era, African Councils were replaced by Rural District Councils (RDCs). These RDCs perform basically the same functions as the former African Councils. Local authorities in Zimbabwe exercise devolved authority. They are bodies corporate and can sue and be sued in their own right. They raise and manage their own funding and other resources as well as receive grants from central government on an annual basis. Although legislation makes provision for the election of councillors, representatives of both the youth and women are normally appointed by the minister of local government. The representatives participate in all council activities and have voting powers. Past practices have witnessed the minister largely appointing representatives from his own political party rather than allow the women and the youth to nominate their representatives. The representation of women and youth at the local government level is still very much inadequate.

**Functions of Urban Councils:**

These are stipulated in the Urban Councils’ Act, and they include:

1. To provide, operate and maintain schools, and for such purposes to levy and collect fees and other charges.
2. To provide and operate hospitals and clinics and dispensaries.
3. To provide and maintain roads, bridges, canals, reservoirs and dams.
4. To provide parks and recreational facilities.
5. To provide and operate a service for the removal of refuse.
Although urban councils also exercise devolved powers, they are generally restricted because of the extensive powers of the minister of local government. At the time of preparing this report, practically all urban councils in Zimbabwe are dominated by MDC councillors. The minister of local government is however, a member of ZanuPF, and there tends to be considerable friction between him and some urban councils. The minister also has the responsibility of appointing representatives of special groups such as the disabled, youths and women into urban councils. Here again, he has often made use of this legal provision to ensure that those he appointed were members of ZanuPF.

It needs to be state that local government units have not been effective promoters of human rights. For example, most rural councils failed to prevent the countrywide outbreak of political violence during the run-up to the run-off presidential election in 2008. One of the reasons for this was the fact that at that time, these councils were dominated by ZanuPF elements, most of who had lost their seats during the March 29 2008 harmonised elections. The newly elected councillors had not yet been inaugurated into office, and could therefore not take any action against the perpetrators of the violence. This same situation also applied in most urban areas, which were also very badly affected by political violence.

The role of state institutions:
National institutions play a vital role in governance. Per Nordlund observes that the legislature, the civil service and the judiciary, “...are usually mentioned as the institutions that can supply the most powerful checks and balances on any government” (1996:39). He further contends that these

...inherent institutions of the state apparatus may serve as safeguards for predictable and correct rules of the game as laid down in constitutions. As such these institutions may constrain the ruling elite’s tendency towards arbitrary rule and the enforcement of authoritarian practices (1996:281).

It has already been noted that with reference to Zimbabwe, experience has largely demonstrated that the executive arm of government has tended, or at least tried, to dominate all other state institutions. Per Nordlund rightly observes that in Zimbabwe, both the legislature and the civil service are too weak to play this crucial role vis-à-vis the ruling party (1996:281).

Institutions are crucial for the determination of the nature of governance because they are essentially sets of rules and regulations. They determine who participates, for example, in policy-making, and who does not. Their relationship with the political parties in a given political system should therefore be obvious. Thus in a political system like Zimbabwe, where the ruling ZanuPF party is so dominant as to dictate how state institutions are to be run, and what they are to do, it becomes necessary to examine these state structures in terms of their impact on democratic governance.
Institutions of governance are, to all intents and purposes, creations of the constitution. Their role is that of implementing the policies, plans and programmes which result in the realisation of national goals, objectives and aspirations. But institutions are also instruments of the ruling elite. They are socialising agents of the ruling elite which have the primary task of ensuring that the ruled comply with the laws and procedures outlined in the constitution without the elite's recourse to the use of force (Nnoli, 1986:112-113). To this end, institutions of governance are critical players in the democratisation process. They are agencies that are charged with the responsibility of exercising state power on behalf of the ruling elite (Nnoli, 1986:154). The major problem here is that in most cases, institutions exercise state power and authority at the expense of the people as a whole. This results in the negation of democracy and good governance.

In Zimbabwe, the public service, the army, the police and the Central Intelligence Organisation all operate in such a way that they serve the interests of the ruling ZanuPF party. In some cases, they go out of their way to frustrate, intimidate and obstruct opposition parties and other elements in society that are viewed as opposed to or threatening these elite interests. It is largely well known that all Service Chiefs in Zimbabwe are expected to be members of the ruling party, who hold senior positions in that party. The extent to which they can be expected to act impartially in managing the affairs of their institutions can, therefore only be extremely limited. With specific reference to the one-party state era in most of Africa, Mliyamkono writes:

**Because of the supremacy of the party, the leaders of these [state] institutions were required to be party members of unquestionable loyalty. Such institutional heads would be expected to attend all the party conferences, and in some cases they are appointed as members of central committees of the parties. In other words, these state institutions are thoroughly politicised into the ideology of the single political power (1994: xiv).**

It is not surprising that this rings so true for Zimbabwe even today. It is the contention of this paper that, to all intents and purposes, Zimbabwe is essentially a *de facto* one party state, where institutions of governance have as their primary objective, the preservation of state power in the hands of the ruling ZanuPF party, and the promotion of that party's interests.

There have been many cases of personal violations involving state institutions since the advent of national Independence in Zimbabwe. Perhaps the most dramatic of these are contained in the report by the Legal Resources Foundation (LRF) and the Catholic Commission for Justice and Peace (CCJP) on the Matabeleland/Midlands atrocities of the mid-eighties (LRF/CCJP, 1997). This report makes such depressing reading that it is extremely difficult to believe that these occurrences actually took place in this country and in this modern day and age.
With reference to freedom of mind, expression, and speech, the most serious violations pertain to the Zimbabwe government's control of the media and several other sources of information. The Ministry of Information has ultimate control and responsibility over the Zimbabwe Broadcasting Corporation (ZBC), and the state controlled dailies - The Herald and The Chronicle - as well as several other print media outfits. This enables the state and the ruling party to effectively control, if not determine to a large extent, what the citizens hear, see and therefore know, both about the world at large and about their own country. Control of the media is, probably, one of the most effective means of ensuring that opponents of the ruling party have little political space within which to operate. The Zimbabwe government has utilised this technique of public control for a long time, especially during periods of civic unrest, or of adverse political activities in the country. At the time of preparing this study, the government is drafting new legislation to liberalise the information sector, but preliminary drafts which have so far been published indicate that the ultimate intention is still for the state to maintain its stranglehold on this vital political resource for some time to come.

High levels of corruption within government circles curtail equal access to opportunities. Classic examples include violations of the Government Tender Board (GTB) procedures in order to benefit some at the expense of other private citizens of this country. Further, it is now well documented that most schools, clinics and hospitals are in a bad state of repair throughout the country. There is a shortage of both drugs and qualified personnel to man some of these essential services. It is estimated, for example, that some 60% of all medical doctors trained since the advent of national Independence have since left Zimbabwe for greener pastures in other parts of the region and beyond. Landlessness and the shortage of housing in this country are the lot of most of the citizens; except, of course, for those who have managed to benefit from the numerous scandals that are the features of the Zimbabwean economy in the post-socialist era. Examples of recent and current scandals include the land-grab scandal, VIP/Pay-for-your-house scheme, War Victims Compensation Fund scandal, and the NOCZIM scandal. The Mugabe regime has been forced to investigate only some of these scandals but resists all efforts to investigate others.

Political activity is curtailed in various ways in Zimbabwe. The most notable was the banning of street demonstrations by the Minister of Home Affairs in complete violation of the Constitution of Zimbabwe. At the time of preparing this study, the Mugabe government is preparing to place before Parliament, a bill aimed at making such bans constitutional. The Public Order and Security Bill is intended to replace the colonial Law and Order Maintenance Act which was deemed by the Supreme Court to be *ultra vires* the Zimbabwe Constitution. The numerous incidents of civic unrest and street demonstrations by various groups in the latter part of 1997 must have shocked the ruling party to such an extent that hardly any Member of Parliament will vote against this bill when it finally reaches Parliament. The nation's only hope is that the Parliamentary Legal Committee will reject that bill, otherwise civil society will have to resort to "democratisation by litigation", which has become the only recourse to justice and the protection of human rights in Zimbabwe.
**Partisan utilisation of state institutions:**

State institutions in Zimbabwe are usually headed and manned by individuals who are known to be supporters of the ruling party. The manner in which most of them operate can be argued to largely reflect and serve the interests of ZanuPF, even at the expense of the common good or national interest. Box 1 identifies selected institutions of governance and comments on their roles in facilitating the achievement of the ruling ZanuPF party's goals and objectives.

**BOX 1: Selected national institutions and their alleged roles in facilitating the ruling ZanuPF Party.**

<table>
<thead>
<tr>
<th>INSTITUTION:</th>
<th>COMMENTS:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zimbabwe Republic Police (ZRP)</td>
<td>Officiates at ZanuPF primary elections; Restricts/controls street demonstrations; ignores violence &amp; other law violations by ZanuPF.</td>
</tr>
<tr>
<td>Zimbabwe National Army (ZNA)</td>
<td>Top leaders are members of ZanuPF; officiates at and facilitates ZanuPF functions; penalises officers who support opposition parties</td>
</tr>
<tr>
<td>Central Intelligence Organisation (CIO)</td>
<td>Monitors opposition parties and other civic groups; alerts ZanuPF of opposition strategies; harasses and intimidates opposition parties; threatens civic &amp; opposition leaders.</td>
</tr>
<tr>
<td>Public Service Commission (PSC)</td>
<td>In making senior appointments, ensures that only politically acceptable people are appointed; ensures that all ministries are headed by ZanuPF members; ensures that officers appointed into electoral bodies are ZanuPF; harasses non-ZanuPF electoral candidates on seeking to rejoin Service.</td>
</tr>
<tr>
<td>Min. of National Affairs, (MNAECC)</td>
<td>Provides administrative support to ZanuPF; implements ZanuPF decisions; trains ZanuPF youths at vocational training centres; accommodated in ZanuPF headquarters.</td>
</tr>
</tbody>
</table>
maintaining law and order. To opposition parties and independent electoral candidates, the message seems to be that the ZRP is part and parcel of the ruling party, and that it will be futile for these other political organisations to seek the assistance of the ZRP in cases of confrontation with the ruling party elements. Experience has already proved this to be true as the shooting of Patrick Kombayi in Gweru during the 1990 election campaign demonstrates. Further, the ZRP has, on occasions too many to enumerate, either prevented would be demonstrators from marching in the streets, or dispersed them through the use of tear-gas, police dogs and other repellents. Currently, the ZanuPF government is placing before Parliament, the Public Order and Security Bill, which seeks, *inter alia*, to empower the ZRP to control public demonstrations. This is an attempt by the government to reinstate sections of the colonial Law and Order Maintenance Act which were struck down by the Supreme Court because they were deemed to be *ultra vires* the Constitution of Zimbabwe (*Sunday Mail*, 27/7/97).

Perhaps the institutions most commonly used, or abused, for the benefit of the ruling party at the expense of its opponents are those that have responsibility for the administration of elections. Box 2 identifies some of these institutions and summarises some of the ways in which they have been commandeered to ensure Zanu-PF's success at the polls.

**Box 2: Electoral institutions and their alleged abuse by the ruling ZanuPF party**

<table>
<thead>
<tr>
<th>Institution</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delimitation Commission</td>
<td>gerrymanders, especially of urban constituencies; determination of sizes of specific constituencies to suit or disadvantage some interests.</td>
</tr>
<tr>
<td>Electoral Supervisory Commission</td>
<td>Pays blind eye to irregularities; often reluctant to investigate electoral fraud; lacks authority to penalise electoral offenders; fails to highlight legal defects affecting electoral process; issues vague reports which lack quantitative details of polling; grossly understaffed so lacks capacity to supervise elections.</td>
</tr>
<tr>
<td>Election Directorate</td>
<td>Composed entirely of civil servants who tend to be partisan in favour of the incumbent political party; highly secretive in its handling of elections; violates some of the laid down procedures of handling elections.</td>
</tr>
<tr>
<td>Registrar-General of Elections' Office</td>
<td>Incapable of accurately registering voters; headed by a partisan official alleged to be a member of the Provincial Committee of ZanuPF; violates laid down procedures; lacks transparency in handling elections; highly defensive against queries from media, opposition and independent electoral candidates.</td>
</tr>
</tbody>
</table>

**Economic and social development:**
The socio-economic crisis that Zimbabwe has experienced over the past ten years has, *inter alia*, resulted in a serious humanitarian crisis. For example, since 1998, life
expectancy has declined from 55 to 35 years. Nearly 50% of the population is at risk from malnutrition and starvation, according to the “Zimbabwe Papers” (19 May 2009) [http://www.freemarketfoundation.com/DynamicData/Event_4.pdf]. Zimbabwe has had the worst economic performance over the past decade compared to all the countries in the southern African region. At independence, Zimbabwe’s per capita income was estimated at $1 300 but has now declined to $950, according to the World Bank. Bad government policies, violation of property rights and the breakdown of the rule of law have been the major contributors to this unhealthy socio-economic situation.

Further, hyperinflation produced an 80% decline in living standards over the past ten years. The Zimbabwe Papers indicate that since 1997, Zimbabwe experienced a 3.8 billion % cumulative interest in prices. This resulted in the scrapping of the Zimbabwe dollar in December 2008 and its replacement by multiple currencies, including the US dollar, the Botswana pula and the South African rand. The consequences of these developments include a record rate of unemployment at 94%, and an estimated poverty rate of 90%. The Zimbabwe papers summarise some of the human rights violations during the past ten years as follows:

- Limiting political opposition was achieved by controlling public funds and limiting access to the media, including controlling the airwaves.
- In addition, government forces were deployed to harass, imprison and torture the opposition.
- Since 2001, more than 20,000 human rights violations and 3,000 reported acts of torture have occurred, according to the Zimbabwe Human Rights NGO Forum. The majority were carried out by the police force.
- In 2002, the National Assembly made it illegal to openly raise criticisms against the government.
- In 2002, bills banning independent observers from monitoring elections were passed.
- In 2002, bills silencing the privately owned media were also passed.
- The land seizures between 2000 and 2003 resulted in thousands of beatings deaths and mass displacement.
- In May 2005, during Operation Murambatsvina, more than 700,000 people, most of whom were considered unsympathetic to the government, were evicted from their homes and hundreds of thousands of houses were demolished. Aid from the United Nations was denied.
- The 2008 elections were fatally flawed by violence and intimidation.

Constitutional and legal reforms:
Following a lot of pressure from civil society, opposition political parties and academics, the Mugabe government finally agreed to institute a constitutional reform process to replace the British made Lancaster House Constitution under which Zimbabwe has been governed since 1980. In July 1999 President Mugabe appointed a 400 strong Constitutional Commission (CC), which was heavily dominated by members of his ruling ZanuPF party. There was strong opposition to this partisan composition of the CC to the
extent that most opposition political parties and civic bodies, which had constituted themselves into a body aptly named the National Constitutional Assembly (NCA), boycotted the official constitutional reform process. Instead, they embarked on a parallel process aimed at providing civic education to Zimbabweans, and soliciting their views on desirable constitutional provisions for a Zimbabwean constitution.

The CC under the chairmanship of the then Judge President, Godfrey Chidyausiku, proceeded to hold outreach meetings where members of the public were invited to make submissions to the commission for possible inclusion in the proposed new constitution. More than 4 000 such meetings were held throughout Zimbabwe in just four weeks. Media reports indicated that most of these meetings were either poorly attended, or that the commissioners were given a tough time by the general public who viewed the whole exercise with great suspicion. Some people, however, attended these meetings with the genuine hope that their views would be included in the new constitution.

For its part, the NCA held similar meetings throughout the country. These meetings were very popular with those citizens who had grown tired of the Mugabe regime and who wanted to see meaningful and real change in Zimbabwe’s governance. The ruling ZanuPF party was publicly denounced for its inept administration and the collapse of the Zimbabwean economy. The Lancaster House Constitution, which the Mugabe government has amended some nineteen times over the years, was condemned for, *inter alia*, concentrating power in the hands of one person, the President, and placing him above the law.

During the month of November 1999, the CC started drafting the new constitution, presumably on the basis of the submissions that the people had made to it. At the end of that month Justice Chidyausiku chaired the final plenary session of the CC at which the Draft Constitution was to be adopted through a formal vote by the 400 commissioners. Prior to that meeting, there had been several allegations that the Draft Constitution did not reflect what the people had said to the CC. This disturbed many people including some of the commissioners. Sensing the danger that the commissioners were likely to reject the Draft Constitution at the formal adoption stage, Chidyausiku deviated from the formal voting stipulated in the terms of reference for the CC, and asked for approval of the Draft by voice acclamation. The result was that he declared that the majority of the commissioners had expressed support for the Draft Constitution. Twenty-eight commissioners prepared and signed a petition objecting to both the content of the Draft Constitution and the method of adoption resorted to by the Chairman of the CC. President Mugabe ignored the petition and proceeded to announce the dates for the referendum.

The NCA capitalised on the disparity between what the people had said to the CC and what was finally included in the Draft Constitution. For example, it pointed out that whereas the people had demanded an end to the executive presidency, the Draft Constitution retained the position and with increased executive powers for the President. The people had expressed the need for a smaller legislature and a cabinet of no more than fifteen ministers, but the Draft Constitution increased the size of the legislature from 150 to 260 members and the cabinet was set at twenty ministers or more. These, and many
other similar differences underlined the fact that the people’s views had largely been set aside by the CC, and what appeared to be acceptable to the ruling ZanuPF and President Mugabe was included.

But the NCA had severe problems putting its views across to the people because the Zimbabwe Broadcasting Corporation (ZBC) and mainstream newspapers, which are state-owned, refused to flight NCA advertisements claiming that they were biased against the government. The NCA therefore resorted to the use of selected independent media outlets, distribution of information sheets and pamphlets, T-shirts and the holding of popular meetings. Media reports indicate that the CC spent more than ZW$50 million on advertisements during this period.

President Mugabe set the dates for the national referendum at 12 and 13 February 2000. This gave the people of Zimbabwe very limited time to debate and understand the Draft Constitution, which some in the NCA called the “Daft Constitution”, and others dubbed “the Graft Constitution” in clear reference to widespread corruption in the Mugabe government. A few weeks before the set dates, both the NCA and the CC embarked on major mass education campaigns, with the CC urging people to vote “Yes” and the NCA advocating a “No” vote. The state media was once again reluctant to flight NCA adverts in spite of a High Court order instructing the ZBC to flight them.

During the two days of voting, there was order, peace and tranquillity throughout Zimbabwe. Some eight NCA members were, however, arrested by the police for using a loudhailer too close to a polling station. They were later discharged from police custody without any charges being laid against them. Several civic bodies had made available to the Electoral Supervisory Commission more than five thousand monitors who were deployed to all the polling stations. It is strongly believed that if it had not been for these monitors, the Mugabe government would have riged the results of the referendum to reflect a majority “Yes” vote. As it turned out, the Mugabe government, which had never lost a national election since 1980, was literally dumbstruck by the final result. It had been defeated at the polls by the NCA. The people of Zimbabwe had rejected its “cooked” Draft Constitution. Some analysts went further to reflect that the people had, in fact, rejected Mr Mugabe and his ZanuPF party. They called on Mr Mugabe to resign and to call elections for a new government. Needless to say he paid no attention to these calls.

But the February referendum will go down in the annals of Zimbabwean history as marking the beginning of the end of the Mugabe era. Never before had Mr Mugabe been so publicly humiliated by his own people. To this day, he and his party are still smarting from the traumatic experience. The defeat of ZanuPF in both the parliamentary and presidential elections of 2008 effectively forced former liberators into a corner where they have had to confirm the truism that the DNA of liberation political parties in southern Africa makes them allergic to handing over political power to civilian political parties.

It must be remembered that this was the very first time that the Mugabe government had ever lost a national plebiscite. The reasons for this can be quickly summarised as follows:
The fact that most of what the people had stated to the CC had been left out of the Draft Constitution made the people realise that they had been cheated and deceived;

The NCA did a good job, against all the odds, of educating the people on the shortcomings of the draft constitution;

Those who took the trouble to read and understand the draft constitution realised that there would be no real change to the status quo as a result of the adoption of the new basic law for the nation;

The people of Zimbabwe had hoped that the adoption of the new constitution would enable them to get rid of Mr Mugabe and his cabinet colleagues, some of who had been in these positions since Independence. When it was realised that this would not necessarily happen the people rejected the draft;

The people have generally lost all confidence in the Mugabe government, and are anxious to support any viable alternative political party such as the labour based Movement for Democratic Change (MDC);

The difficult socio-economic situation that Zimbabwe was experiencing became a major factor in influencing the choices of the people during the referendum. The people perceived that the Mugabe government lacked the capacity to resolve the problems, and yet the draft constitution was designed to perpetuate this moribund government’s tenure of office;

While the people wanted the perennial land question to be settled and meaningful land reform measures to be implemented, they did not accept the cunning packaging of these measures together with the nasty provisions that would see Mugabe and his ZanuPF party remain in office for the foreseeable future;

Because of the flawed nature of the constitutional reform process, the draft constitution was perceived by most people as a ZanuPF rather than a national document. Its imposition on the whole nation was therefore to be rejected.

The rejection of the Draft Constitution effectively meant that Zimbabwe would continue to be governed under the Lancaster House Constitution, and this suited the Mugabe government. Violations of human rights escalated soon after the 2005 general elections. In May 2005, the state coercive apparatus were instructed to demolish all illegal dwelling places in urban areas throughout the country, as shall be discussed later.

Nature and extent of corruption in Zimbabwe:

In the past thirty years, Zimbabwe has experienced widespread corruption in virtually all sectors of the economy. Prior to 1990, the most infamous scandal to make the headlines in Zimbabwe pertained to the acquisition of motor vehicles by politicians and senior
administrators on government controlled prices, and the sale of the same vehicles at
exorbitant prices only a few days later. The scandal was so effectively reported on in the
media that President Mugabe was forced to appoint a commission of inquiry into what
became known as the Willowgate scandal. At least five cabinet ministers lost their jobs as
a result of the Willowgate scandal; one is alleged to have committed suicide, and one was
convicted and imprisoned (Makumbe, 1994.51).

The imprisoned politician was, however, granted presidential pardon one day after he had
been incarcerated. This prompted the Attorney General to drop all charges pending against
the remaining politicians and administrators as he argued that the President is likely to
pardon every one of them after conviction in a court of law. This infuriated many people
who interpreted this action as tantamount to protection for the corrupt elements within
government and Zanu-PF.

In the post-1990 period, there have been several allegations of corruption in the areas of
public procurement (Daily News, 24.03.2000) land acquisition by government, housing
for civil servants, public works and the social welfare sector. The health and education
sectors have also experienced serious problems of unethical conduct by politicians and
civil servants. Public enterprises probably constitute the most seriously corruption
affected sector of the Zimbabwean economy. The politics of patronage seems to have
taken its toll on this sector to the extent that there is hardly any state-owned enterprise
that has not been reported to experience some form of corruption or other. Some of the
corrupt practices relate to the appointment of board members, while others relate to the
awarding of government tenders or contracts to individuals and companies under
questionable circumstances.

In 2000, the Minister of Transport and Energy resigned his post alleging that he had
failed to ensure that Zimbabwe was able to acquire adequate amounts of fuel. What he
did not admit was that the national Oil Company of Zimbabwe (NOCZIM) had been so
adversely affected by widespread corruption that it was no longer able to generate enough
funds for the procurement of fuel for the nation (Daily News, 7.02.2000). The President,
who proceeded to appoint a team of mainly army personnel to run NOCZIM, accepted
his resignation. Fuel shortages in Zimbabwe have effectively crippled the economy and
forced some companies to close down (Business Herald, 14.12.2000). This, in turn, has
exacerbated the unemployment problem thereby fueling an already unhealthy situation
of poverty. It is estimated that 90% of the Zimbabwean population live in poverty. This
figure is likely to escalate further unless stern measures are taken to arrest the corruption
that pervades the economy.

At about the same time, the Minister of Lands and Agriculture was arrested for alleged
corrupt practices that amounted to Z$228 million (Daily News, 27.3.2000). Meanwhile,
the secretaries of the two ministries concerned – Lands and Agriculture and Transport
and Energy – were also arrested for alleged corruption (Herald, 17.3.2000). Both had
their charges subsequently dropped for the proverbial “lack of evidence” at the High
Court. The impact of the corruption in the Ministry of Lands and Agriculture was
highlighted when the Grain Marketing Board (GMB) failed to purchase maize from commercial and small-scale farmers for the first time since its creation.

What is most sad about the Zimbabwean situation is that there is a demonstrable lack of political will to fight against corruption on the part of government. This is coupled with the political arrogance of the governing party, ZanuPF, which fielded some candidates for the 2000 parliamentary elections who were facing corruption charges in the courts. A brief survey conducted by TIZ established that no less than twenty such candidates were nominated to represent the Mugabe party in the June 2000 elections. Sadly, eleven of them got elected, and President Mugabe appointed three of them as non-constituency members of parliament. Mugabe went further to appoint one of them into his cabinet. This particular individual is also a son-in-law of the late Vice President, Joshua Nkomo. The politics of patronage stinks to high heaven.

Operation Murambatsvina:
The demolition of people’s flea markets and so-called illegal residential places can only be described as Zanu-PF’s attack against the poor. Indeed, the name of the operation indicates that Mugabe and his ZanuPF view poor people as filth (tsvina). Police Commissioner Chihuri actually called poor people “maggots”, makonye or honye. Normally honye are found only on something that is rotten. It therefore means that the whole of Zimbabwe is now rotten. What then are the causes of this so-called dirt?

Obviously the first major cause is the illegitimacy of the Mugabe regime, which resulted in a state on the verge of collapse. People only resorted to flea markets and unauthorised houses because the state had failed to provide. The second cause comprises the excessive patron-client political relationships, with the patrons violating laws and standards in order to provide benefits to their clients. It is an established fact that some of the co-operatives that have since been demolished were actually sanctioned and opened by government ministers and ZanuPF party officials during election campaigns.

The third cause is the breakdown of the rule of law sponsored by the ruling party itself for the primary purpose of political survival. Since March 2000, ZanuPF was sponsoring illegality in the form of farm invasions and the take over of urban stands by its political supporters in the ridiculous slogan, “the land is the economy”. It is testimony of the evil within ZanuPF that some of the people who supported that party have also had their properties demolished. That is the ZanuPF way.

The fourth cause is state failure to provide adequate goods and services in accordance with the demands of the people. The collapsing economy was increasingly failing to ensure the availability of such basic commodities as sugar, bread, milk and mealie-meal. The people were therefore forced to engage in flea market trading and the so-called parallel market. The shrinking of the once vibrant economy and its failure to provide meaningful employment and productivity constituted the fifth cause. There had been no creation of new wealth since the onset of the political crisis in 2000. Numerous factories
and mines had to close down thereby forcing people into alternative ways of earning a living.

The sixth cause was corruption in its various forms, as discussed above: elements operating in the state sector being in the forefront of corrupt practices. Most of the problems that Zimbabwe is facing today are a result of corruption, including electoral fraud, which resulted in a president who lost the 2002 and 2008 elections refusing to go home claiming that he won the elections when he lost them by a huge margin.

Administrative and political incompetence on the part of ZanuPF and the executive arm of the state – the government - is certainly the seventh cause of the so-called disorder. The evil Operation Murambatsvina is testimony of the Mugabe regime’s failure to run the country. This leads to the eighth cause: rural-urban migration as a result of the lack of development in most rural areas. After creating numerous Growth Points, which are merely centres of prostitution, the dictatorship failed to facilitate any meaningful development of these centres and their surroundings. This forced many rural people to migrate to urban centres in search of some means of earning a living.

The final cause is the excessive centralisation of resources with Harare taking the lion’s share while other population centres are marginalized and neglected. This resulted in the migration of many people from rural areas and smaller urban areas to Harare in search of viable livelihoods. The Mugabe regime has never been interested in the meaningful development of other population centres apart from Harare, hence the crowding that Operation Murambatsvina was purported to seek to remedy. In other words, the problems that the operation was attempting to resolve were direct creations of the inept ZanuPF regime itself.

Several theories have been thrown around regarding the specific objectives of Murambatsvina. This study proposes the following as some of the more credible purposes for the so-called clean up operation:

- To diffuse a politically volatile situation that was developing and largely defiant to state apparatus;
- To reclaim the political space that the opposition MDC had taken since its formation in 1999;
- An attempt at reversing the debilitating breakdown of law and order that the ruling ZanuPF had promoted and sponsored since 2000;
- To get rid of political, social and economic entities and structures that were operating independently of both the state and the ruling political party, ZanuPF;
- To create an environment conducive to foreign direct investment in a futile attempt to attract foreign currency back into the economy;
- A futile attempt at destroying the parallel market, hoping that the foreign exchange traded there would then be offered to the state through formal financial institutions;
- To inflict pain on urbanites that are generally viewed as supporters of opposition political parties;
• To drag a sizable number of people back to the rural areas where they are more vulnerable to ZanuPF political control;
• To reduce the visibility of growing urban poverty – a direct result of the political crisis and the failed land reform process;
• To divert public attention from some of the worst problems that the nation was facing, e.g. shortage of food, fuel, and the breakdown of social services such as health and education.

For many years, political analysts and civic leaders have been telling the people of Zimbabwe, the southern African region and the world at large that the Mugabe regime was an evil dictatorship whose sole purpose is to inflict pain and suffering on innocent people. For just as long, these voices have largely been ignored, if not despised as armchair analysts that are over-dosed with infantile radicalism. The May 2005 attack on the poorest of the poor people by the evil regime, however, finally convinced everyone that the Mugabe regime’s primary objective was to destroy everything good in Zimbabwe, including its people.

Elections and political violence:
In most developing societies, tempers always seem to rise at election time. Zimbabwe has not been an exception in this regard. Numerous election studies have shown that political violence is a major feature of the politics of elections in Zimbabwe. Reports on political violence that have been prepared and released by civic organisations have also painted similar grim pictures in this regard. In a discussion of the 2002 presidential election, Makumbe aptly notes:

The breakdown of law and order in Zimbabwe resulted in other violent crimes such as rape, abductions, kidnappings, arson, and even murders. At least 100 people, mainly supporters of the MDC, are alleged to have been murdered for political reasons during the election campaign and soon after the polling days (2002.88).

Travellers in most rural areas found themselves in trouble with ruling party militia who demanded that they present their ZanuPF party cards. Failure to produce these cards usually resulted in serious beatings and torture by the youth militia. In its October 2003 report on human rights in Zimbabwe, the NGO Human Rights Forum observes:

The Human Rights Forum deplores the excessive use of force by members of the Zimbabwe Republic Police when effecting arrests. [Several civic activists] were demonstrating, with other NCA members when they were all reportedly assaulted with baton sticks by the riot police at the time of their arrest. The assaults took place in the centre of Africa Unity Square in full view of members of the public and signify the level of impunity and lack of accountability of the ZRP (HRF, October 2002.2).
The NGO Forum bemoans the level of impunity prevailing among the Zimbabwe Republic Police (ZRP) officers in relation to the perpetration of political violence against members of opposition political parties (Ibid.). The result of this level of impunity, coupled with the violence perpetrated by political thugs and hoodlums, is the inculcation of both political apathy and the political culture of fear and despondency among the citizenry. In a study of the 1995 parliamentary elections, Makumbe and Compagnon acidly note:

Further, whereas in the past violence was always utilised by the ZANU (PF) youth and women's wings, in 1995 even the ‘top heavies’ themselves sank to the same deplorable level as well. For example, the ZANU (PF) weekly reports that two rival MPs exchanged blows at a business centre in the Masvingo Province during the campaign period, a trend that cannot but lower the party’s prestige in the eyes of the nation. « When internal power struggles for leadership positions within one and the same political party reach this level of individual hatred, the business of accomplishing the tasks of the Party is jeopardised. » aptly concludes the party organ, *The People's Voice* (2000,31).

The proliferation of the above-mentioned abuses and irregularities in the ZANU (PF) primaries have the effect of further discouraging ordinary citizens from participating in the political process, thereby hindering meaningful political development. While this suits those already in positions of power and privilege, it tends to have serious negative implications for democracy (Ibid.)

It must, however, be noted that although the formation of the opposition MDC in 1999 resulted in, *inter alia*, increased public interest in electoral participation, it also forced the ruling ZanuPF party to intensify the use of political violence in order to remain in office. Civic organisations in Zimbabwe report that the June 2000 elections probably witnessed the highest number of political murders, beatings, rape cases, arson and wilful destruction of private property (HRF, 2005). The 2005 parliamentary elections actually experienced much less violence than the 2000 and 2002 elections (*e-Africa*, 2005). To win those elections, ZanuPF had to resort to other means of manipulating the results. Some of the methods utilised are captured in the citation below:

While less violence erupted than in past elections, allegations of systematic rigging soon surfaced. The opposition Movement for Democratic Change charges that 250,000 more votes appeared between the polls closing and the final result 48 hours later. The voters' roll may have contained over 2 million dead, relocated or fictitious voters. Millions of expatriates were disenfranchised. Over 130,000 potential voters (about 10% of total voters) were turned away in six provinces. Observers had limited oversight of ballot counting. State-owned media allowed the MDC token coverage, having demonised them for six years. Constituencies were carved up anew to boost
the number of rural seats and dilute the opposition's urban dominance. NGO voter education campaigns were banned. Rural voters feared casting ballots for the opposition, and the only foreign observer teams came from countries friendly to Harare (Ibid.).

It is always a sad indictment on a regime to be persistently accused of resorting to violence and the rigging of election results in order to hold onto political office. This is, however, an accusation that does not seem to bother Mugabe and his political party at all, as long as they stay firmly locked onto political power. Sadly, the implications for democratic development in Zimbabwe are definitely negative in nature. Political violence is a cancer that eats at the heart of the nation. The political violence that is under discussion here must, however, be viewed in relation to the general human rights violation problem that Zimbabwe has been subjected to since 1997. As noted earlier, the nationwide decline in political support for the ruling ZanuPF party since 1999 has tended to exacerbate the situation considerably.

The 3-11 “Massacre” and the SADC Intervention:
The Save Zimbabwe Campaign, comprising both civil society organizations (including churches) and political parties organized a “prayer meeting” at the Zimbabwe Grounds in Highfields, Harare on March 11, 2007. To all intents and purposes, this was going to be a protest prayer meeting, and the Zimbabwe Republic Police (ZRP) surrounded the venue in order to prevent the meeting from taking place. Scores of MDC supporters, members of progressive civil society organizations and church leaders were beaten up by the police and driven from the area. There were numerous arrests of people who were allegedly intending to attend the prayer meeting. Political party leaders, including Morgan Tsvangirai, President of the MDC, were thrashed and tortured by the police and army details and then detained in prison.

There was such a huge outcry about this police brutality that the SADC called an emergency summit in Dar es Salaam, Tanzania the following week. At the Dar es Salaam summit, the SADC made the decision to ask Mr. Thabo Mbeki, then President of South Africa, to facilitate a mediation process between Mugabe’s ZanuPF and the two MDC formations. The three political parties argued back and forth for what seemed an endless year, until the so-called harmonized elections of March 29, 2008. Robert Mugabe and his ZanuPF were beaten by the MDC in these elections. Presidential election results were however delayed by the Zimbabwe Electoral Commission (ZEC) for some five weeks, thereby raising strong suspicions that they were being manipulated in order to save Mugabe from outright defeat by the MDC’s Morgan Tsvangirai. Indeed, when the results were finally published, they reflected that although Tsvangirai had received more votes than Mugabe, he had not attained the stipulated majority of 50% plus one vote. A run-off election was therefore called for June 27, 2008.

In the run-up to the run-off, ZanuPF unleashed a wave of country-wide violence, which resulted in the deaths of more than two hundred MDC supporters, the displacement of
more than fifty thousand people from their rural homes, and the burning of many homes by the ZanuPF militia working in cahoots with elements of the Zimbabwe National Army (ZNA), the ZRP, the Zimbabwe Prison Service (ZPS), and the Central Intelligence Organisation (CIO). The electoral environment was grossly skewed in favour of ZanuPF. Morgan Tsvangirai was hardly allowed any space to campaign for support. State owned media would not accept his campaign adverts. He was arrested at least five times within the space of two weeks. MDC supporters were harassed, beaten up, tortured and even killed for supporting the MDC during the March 29 polls. Tsvangirai finally announced that he was pulling out of the race in protest, much to the chagrin of Mugabe and his ZanuPF party (Makumbe, 2009b.127). The ZEC, clearly on instructions from on high, announced that the presidential run-off election would proceed because Tsvangirai had not given adequate notice to withdraw from the contest. Mugabe obviously won the June 27 election essentially contesting against himself. To date, there is no evidence of that election having been recognised by any country in the world as a valid contest. Indeed, even the AU and the SADC denounced the June 27 election as a sham and a nullity (Ibid. 131). Mugabe, however, proceeded to have himself sworn into office thereby worsening the political crisis that Zimbabwe was facing.

The 2008 harmonised elections had thus failed to resolve the Zimbabwe crisis. A dictator is not readily susceptible to removal from office through democratic means. Mugabe insisted that he had won the June 27 election and was therefore entitled to remain President of Zimbabwe. Once again Mbeki was urged to continue facilitating the negotiations between the MDC and ZanuPF. An agreement was eventually reached and signed in Harare on September 15, 2008. This was going to be the Kenyan style of power-sharing, and at the time of writing, there are still serious disagreements regarding numerous outstanding issues among the three parties involved.

**The Mbeki brokered Agreement:**
The agreement signed between Zanu-PF and the two formations of the MDC has now proved to be defective in several ways. Only a few days after the signing ceremony in Harare, the three parties to that agreement held several meetings seeking to allocate the thirty-one portfolio ministries among themselves. The principals of the three parties failed to agree on the allocation of the ministries, with Robert Mugabe and his Zanu-PF party insisting on holding onto such key ministries as defence, finance, foreign affairs, lands and agriculture, local government, and home affairs. The President of the MDC, Morgan Tsvangirai, felt that apart from the defence portfolio, all the other ministries should be allocated to the two MDC formations, especially since Mugabe and Zanu-PF had messed up these ministries over the years. In typical Zanu-PF style, Mugabe would have none of that argument, as he argued that the two MDC formations had no experience of running such important line ministries. The result of all that squabbling was a deadlock and a delay in the implementation of the signed agreement.

Initially, the agreement was viewed by most Zimbabweans as a major break through and a positive first step towards the resolution of the national crisis, which has reduced the once promising country to a beggar nation and the laughing stock of the region. Indeed, there was hope, and still is in some quarters, that the power-sharing deal would enable
Zimbabwe to begin the long march along the road to democratic development. The resignation from the presidential office by Thabo Mbeki, the broker of the Zimbabwe agreement, further complicated the issues surrounding the signed agreement.

The Mbeki brokered agreement suffers from a number of rather fatal defects, some of which are already becoming evident. In my view, any agreement that leaves Robert Mugabe at the helm of the Zimbabwe state is bound to run into serious difficulties. Robert Mugabe is notorious for taking with the left hand what he will have given with the right. Zimbabweans will remember how the Zimbabwe African People’s Union (Zapu) was duped into signing the 1987 so-called Unity Accord and ended up being swallowed by Mugabe’s ZanuPF-PF. Members of the MDC claim that they will strongly guard against being so deceived by Mugabe and ZanuPF-PF. Indeed, the fact that the signed agreement does not specify a time frame indicates that Mugabe intends to rule Zimbabwe for the next five years. The MDC had indicated that whatever transitional arrangements were agreed on should not have duration of more than two years. Mbeki seems to have brushed that demand aside when he drew up the final document.

Another defect was the fact that the content of the agreement did not include the allocation of portfolio ministries. This became a serious bone of contention among the three principals. Mugabe was reported to be demanding that such key ministries as Finance, Defence, Agriculture, Foreign Affairs, Home Affairs, Information and State Security remain in his ambit. The MDC wanted the same ministries to be headed by its members since by and large these are the core of governmental power. If the agreement had spelt out the allocation of these and the other ministries the principals would have signed the agreement in the full knowledge of what actual power each would wield in the power sharing arrangement. This fatal omission almost caused the complete breakdown of the negotiation process. In other words, the deadlock could easily develop into an aborted agreement between the parties.

Perhaps the third major defect of the agreement was the provision that as President, Mugabe would appoint the cabinet ministers and chair cabinet meetings. This also meant that he could dismiss cabinet ministers after consulting the Prime Minister. This provision clearly indicates that Mugabe would be exercising serious levels of executive powers. The fact that Morgan Tsvangirai, as Prime Minister, would be the deputy chair of cabinet did not adequately mitigate this defect. In fact, the inclusion of two vice presidents under Mugabe made the provision of the Prime Minister as cabinet deputy chair laughable. It befuddles the mind how the several negotiators failed to foresee the problems that would arise as a result of such a top-heavy presidency. This unhealthy situation was exacerbated by the provision of two deputy Prime Ministers. The structure of the proposed inclusive government clearly contains the seeds of such a government’s downfall.

Further, the agreement creates a council of ministers which is chaired by Tsvangirai. The tasks of the council of ministers are vague and almost ceremonial since its primary role is to review the governmental activities of the cabinet. The danger here is that there is likely
to be a parallel government to the structures that will be under the President’s control and supervision. The potential for conflict is evident even to the least analytical of minds. What makes the matter even more foreboding is the fact that the agreement does not make specific provision for the resolution of possible conflict between these two bodies. For example, which of the bodies wields more power? What happens when (not if) the two bodies disagree on some matter of national governance? Is the Prime Minister not going to be actively defending the actions of the council of ministers at cabinet meetings? Will this not eventually result in serious conflict between the President and cabinet and the Prime Minister and his council of ministers? At any rate, what purpose is served by creating such a complex governmental structure for a country that can hardly afford to pay school teachers a decent salary?

This agreement, however, has essentially left Mugabe in control. He continues to control the forces of repression that have been used in the past to suppress dissent. He controls the army, the police and the intelligence services. The commanders of these services to Mugabe and show no respect for the incumbent Prime Minister. The politically indoctrinated youth militia continues to operate with many of these youths now placed in the civil service and the police force. The prosecution service is now headed by Mr Tomana who is a staunch supporter of ZANU (PF) and who has received a number of expropriated farms. Mugabe appointed Mr Tomana as Attorney-General after the Inclusive Government deal was entered into and did so without consulting with Tsvangirai, as required by the so-called Global Political Agreement. Tomana has orchestrated a whole series of dubious prosecutions against sitting MDC MPs, the clear political objective of which has been to try to reverse the MDC’s parliamentary majority by disqualifying these persons as members of parliament. Mugabe also reappointed Dr Gono as the Governor of the Reserve Bank, again without consulting Mr Tsvangirai. Gono is widely perceived to be a key financier of ZANU (PF) and has helped to fund the patronage system of ZANU (PF).

ZANU (PF) has been behind the formation of a number of bogus CSO organisations that are intended to undermine existing CSOs by pretending that they have extensive following. One such organisation is the Zimbabwe Federation of Trade Unions which is headed by Joseph Chinotimba, a war veteran who led farm invasions. This organisation was set up to try to wrest control from the Zimbabwe Congress of Trade Unions that clearly has mass worker support. Various other such CSOs have been set up by ZANU (PF).

Engagement or non-engagement
More legitimate CSOs have recently been faced with making difficult decisions relating to whether to participate in the invited spaces created by the Inclusive Government, such as those arising out of the constitutional reform programme and the setting up of a number of independent commissions in terms of the Constitution.

The Global Political Agreement (“GPA”) provides for a constitutional reform programme leading to the creation of a new Constitution if the electorate approve the draft document in a referendum. The process of drawing up this new Constitution has already been mired
in considerable controversy. The GPA requires the process to be conducted by a bi-partisan Select Parliamentary Committee. The National Constitutional Assembly and the Zimbabwe Congress of Trade Unions has maintained that the envisaged process is unacceptable and will not produce “a people driven constitution”. These two organisations have refused to participate in the GPA process.

Many CSOs initially decided to participate in this process. However, there has been increasing scepticism about the process in the light of various developments. The First Stakeholders Conference organised by the Parliamentary Committee was badly disrupted by war veterans. Mugabe and ZANU (PF) have insisted that the new constitution should be based on the Kariba draft constitution, a constitution that leaves Mugabe’s sweeping autocratic powers intact and makes no provision for a Prime Minister system. This went against assurances by various MDC leaders that the Kariba Draft would be considered together with other drafts and the existing constitution. There is likely to be much political wrangling surrounding the selection of civil society representatives to serve on the various thematic committees that will be involved in the outreach programme. Already, ZANU (PF) militants are attempting to intimidate rural people into supporting the Kariba Draft during the outreach programme. The political polarisation that will attend this exercise will make it extremely difficult for people freely to express their views about what should be contained in a new Constitution.

There are similar political distortions entering the picture in relation to the appointment of persons to serve on the four independent commissions which has made it problematical for individuals in civil society to decide whether to put their names forward for consideration for appointment as Commissioners. There are doubts as to whether these Commissions will have any real power to perform their functions effectively or whether they will be merely window dressing organisations that will be ineffectual. For instance, the Media Commission, which is supposed to protect media freedom, is being set up when a whole panoply of repressive media laws are still in place, including AIPPA. There is no detailed legislation in place giving powers to the soon to be established Human Rights Commission to perform its functions effectively.

Public interviews have just been held for persons to serve as Media Commission and on the Broadcasting Authority of Zimbabwe. ZANU (PF) is claiming that the process was set up to lead to the end result that pro-ZANU (PF) candidates were rejected and pro-MDC candidates were accepted. ZANU (PF) is now insisting that the names of all the short-listed candidates should be forwarded to the President and he should make the final selection. This is contrary to what is required by the Constitutional provisions that require only a limited number of persons to be provided to the President from which he will make his final selection.

The government of Zimbabwe has for long been condemned for breaching human rights despite being a signatory to the Universal Declaration of Human Rights. The land reform exercise and the latest Operation Restore Order (May 2005) are two distinguishing cases to note. The country drew the regional and international ear and eye through such catastrophic exercises. Operation Restore Order was codenamed ‘Tsunami’ because of
the damage it caused to the people. The operation resulted in demolitions of people’s homes, business structures and hence destroyed people’s sources of income. Analysts commented that the operation was carried out in an indiscriminate and unjustified manner, considering its negative impact on people’s livelihoods. The operation was also criticised for breaching both the national and international human rights law provisions guiding evictions, with some commentators renaming the operation as ‘Operation Murambavanhu,’ ‘Operation Anti-people’.

Human rights in Zimbabwe are enshrined in sections 11 through 24 of the Constitution under Chapter 3 entitled “The Declaration of Rights”. Section 11 is the preamble and it states:

Whereas persons in Zimbabwe are entitled to the provisions of this Constitution to the fundamental rights and freedoms of the individual specified in this Chapter, and whereas it is the duty of every person to respect and abide by the Constitution and the laws of Zimbabwe, the provisions of this Chapter shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations on that protection as are contained herein, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any person does not prejudice the public interest or the rights and freedoms of others or the public interest (Government of Zimbabwe, 2009).

Sections 12 to 24 confer individual rights and freedoms that involve the protection of the right to life, protection of the right to personal liberty, protection from slavery and forced labour protection from torture and inhuman or degrading punishment or treatment among others. Despite the existence of the law governing human rights, from 2000 to date, the government’s record on and respect for human rights of all types, has been far from satisfactory to put it mildly. As already revealed in the preamble, the Zimbabwe Constitution provides for fundamental freedoms and liberties but allows for limitations of these under the broad interests of “defence, public safety, public order, state economic interests, public morality and public health”.

It is fair comment to say the civil and political rights provided for in the Constitution are respected only to the extent that they do not collide with the interests of the State as defined by the government. It regularly rides roughshod over them when it suits the government. This is the basis for the widespread perception among experts that civil and political rights provided in the Constitution are “rarely respected.” The independent media, opposition political parties and supporters, the legal fraternity, human rights defenders, commercial farmers and others have borne the brunt of these violations.
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