



## ZIMBABWE ELECTION SUPPORT NETWORK

The Real Crisis In Zimbabwe, paper presented by Jealousy Mawarire (ZESN) Research Officer, at PEPSA Workshop in Blantyre, Malawi.

I know I am supposed to speak about the achievements and challenges faced by my organisation in its quest to promote democratic, free and fair elections. But since the Zimbabwean situation is unique in the region, I will adopt an almost different approach to presenting the challenges and achievements that my organisation has scored in its endeavour to ensuring democratic, free and fair elections in the country. By outlining the Zimbabwe situation, I will implicitly address the part of the presentation that requires me to talk of the challenges faced by movements that seek to promote democracy in the country. Because of the many reports that have been, so far, doing rounds on Zimbabwe, the situation in the country, to those from without, is confusing, if not convoluted. It therefore calls me to explain the crisis.

The Zimbabwean political situation is one that has been talked of through various media. Many of our African brothers have been made to believe that the crisis in the country is a result of the souring bilateral relationship between the country and Britain. Some have been made to believe the crisis is resultant from resistance by the international community, mainly the Anglo-Saxon, to the land reform exercise carried out in the country if I may qualify it as a reform exercise.

I would like to believe that the Zimbabwean situation is much more, a crisis of governance than it is a result of insidious bilateral relations with its former coloniser. It is in that context that I would briefly outline “the Zimbabwe crisis” before I touch on the achievements and challenges that the Zimbabwe Election Support Network (ZESN), and other civic organisations have come across hitherto.

The major problem in Zimbabwe is that of legitimacy of the government in view of the infringements on democratic processes by the country’s constitution, the Public Order and Security Act (POSA), the Access to Information and Protection of Privacy Act (AIPPA), the Electoral Commission Act and other various statutory instruments that have been used by government to entrench the will of the ruling party over that of the general population.

I will briefly touch on the constitution. The Zimbabwean constitution, apart from affording executive powers on the president which he has used to enjoy incumbency, absolves the government from honouring regional and international conventions that it is signatory to. “Section 111B [of the Constitution of Zimbabwe] states that no international treaty, covenant or agreement signed and

ratified by the Zimbabwean government shall form a part of the local laws unless parliament passes a law making the agreement part of the laws of Zimbabwe.

What this means is that while government is signatory to international treaties and protocols like SADC Principles and Guidelines Governing Democratic Elections (2004), Principles for Election Management, Monitoring and Observation (2003), SADC-PF Norms and Standards for Elections in SADC (2001), African Charter on Human and People's Rights, the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and all other international and regional instruments, there are no local statutory instruments in place, in the country, to ensure that the contents of the various regional and international documents are enforced.

What is happening is that government, through a partisan parliament, and through executive powers vested in the president by the constitution, is enacting laws and other statutory instruments, that curtail the freedoms availed by the various regional and international instruments. Of serious concern today is the Zimbabwean constitution. While it vaguely or rather casually guarantees the freedoms of expression and association, the twin tenets of democracy, it allows for the Executive and his highly partisan parliament, to pass laws that restrict or virtually nullify the freedoms guaranteed by the constitution.

Of particular concern are the two Acts I have mentioned earlier on, POSA and AIPPA. POSA makes it illegal for more than five people to be gathered and interact without prior police clearance. It outlaws political gatherings that have not been sanctioned by the police. To make matters worse, under the same Act, political rallies could be banned, as was the case in Harare and the satellite town of Chitungwiza during the beginning of the year. AIPPA has been used to close newspapers critical to the government like the Daily News, the Daily News on Sunday, The Tribune and others publications which were deemed 'anti-government'.

The Electoral Act (2004), which purportedly offered electoral reforms, is one statutory instrument that has been enforced without wide consultation in its formulation and enactment. It has allowed for the president to appoint an electoral commission that is highly partisan and manned by government paid civil servants whose impartiality cannot be guaranteed. It has also empowered

the Zimbabwe Electoral Commission (ZEC), an appendage of the Ministry of Home Affairs, to run elections, roll out voter education programmes and virtually do everything associated with the elections.

### **What does all this mean to the Zimbabwean situation?**

All the situations I have mentioned above, and many others I have not alluded to, compound what I have called the Zimbabwean crisis. It is a crisis of governance. A crisis emanating from the shrinking and pollution of the democratic space. It is a crisis of legitimacy where government ceases to be credible in the eyes of the people because of the flawed nature of the electoral process that ushers it in. It becomes a human rights crisis to the general polity when government uses statutory instruments like POSA to bash, arbitrarily incarcerate and vilify political opponents. It is a crisis in terms of a lack of the means, among the general population, to exercise the freedom to freely express themselves when newspapers are closed, journalists arrested and intimidated through trumped up charges under a draconian media law. It is a crisis in the sense of people needing police permission to associate in groups of more than five.

### **In all this what then are the achievements of ZESN and other Civic bodies?**

The most recent success scored by civic organisations, chaired by ZESN, was the successful lobbying for an audience with the South African government mediating team in the Zimbabwe crisis. The civil society has managed to push for the need for electoral reforms, repealing of POSA and AIPPA, restoration of the rule of law, an end to wanton beating of opposition political parties and civil society leaders, among other concerns, to be put on the agenda for talks.

ZESN called for an Independent Electoral Commission (IEC) which resulted in the coming into being of the Zimbabwe Electoral Commission (ZEC) through an Act of parliament although ZESN is still lobbying for major reforms to ZEC.

ZESN has made recommendations for electoral reforms, a copy of which it circulated to every Member of Parliament and Senate. ZESN has also successfully lobbied for the removal of presidential powers to modify or amend the Electoral Act without reference to parliament.

ZESN successfully lobbied for electoral administrative changes which have since been effected.

These include, among others,

- Voting in one day
- Counting of votes and announcement of results insitu
- Use of translucent ballot boxes

The organisation has, also, successfully campaigned, through the media and public gatherings, for electoral reforms, a call that other civic organisations, legislators and the general public has headed, evident in ZESN's successful chairing of the civil society leaders who met with the SADC mandated South African mediation team.

ZESN has, since 2000, been observing elections in the country and producing observers' reports that have been useful as reference documents in debates aimed at electoral reforms. The observation process has helped, to some extent, deter electoral fraud and minimise election-related violence.

## **Challenges**

As I have outlined in my presentation of the Zimbabwean situation at the beginning, the crisis in Zimbabwe is about governance. It is about the constitution, the various oppressive laws that have helped the ruling party entrench its will and policies on the general public regardless of the detrimental effects realised so far. Movements aimed at restoring democracy in the country, ensuring a free and fair electoral environment and the respect for human rights, are met with an inhumane government security forces response, a skewed electoral legislative framework and statutory instruments designed to curtail the twin freedoms of expression and association.

In short, the challenge in Zimbabwe is to reform the system of governance in an environment where the incumbent has successfully enacted laws and acted outside clauses of conventions and protocols it signed in an attempt to ensure it stays in power. The challenge also comes in when one realises that the same government has successfully peddled lies to its neighbours about the crisis

in its midst. The struggle is then how to communicate, to the local, regional and international community that the problem in Zimbabwe is not Bush or Blair, or whoever is now the British Prime Minister in a country where the only medium of communication is through state controlled newspapers and a state-broadcasting corporation. The real challenge lies with convincing SADC leaders that the problem in Zimbabwe is not about sanctions imposed by the West because of the land reform exercise, but that the country is undergoing challenges because of policies that have been enacted, principally to secure the current government's incumbency at the expense of the general public.