



Can apples be reaped from a thorn tree? A case analysis of the Zimbabwean Crisis and NEPAD's Peer Review Mechanism

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Background: The Seeds of Self-destruction?

The inception of the colonial State in Zimbabwe heralded the birth of two conflicting national legacies of *domination* and *Resistance*¹. The contestation between these two legacies assumed various forms in subsequent struggles between settler and indigenous populations. The indigenous peoples' struggles were in pursuit of *Freedom*, of a material, psychological and socio-cultural nature. It was a freedom from both settlerism² and settlerisation³. Settlerisation and settlerism were institutionally entrenched and legally protected realities of every day existence under colonialism. African peoples struggled for their *freedom* from within the precincts prescribed by these vices⁴.

Resistance to *un-freedoms* outlived the event of political independence, as indeed did the twin vices of settlerism and settlerisation. For instance the late 1980s and early 1990s saw the emergence of poorly co-ordinated opposition political parties, labour, students and women's movements. Opposition politics of the 1980s was, by and large, an outgrowth of *Zanuism*⁵ and therefore unwittingly expressive of the internal contradictions within the *Nationalist* project⁶. Such politics inherently lacked the capacity to formulate new conceptions of *change, leadership and a different society*. This was partly due to the fact that it perceived its main mission as the replacement of ZANU PF as opposed to the constitution of a democratic Zimbabwe founded on freedom for everybody⁷. This new opposition politics was a space constructed by the same political culture that it sought to unseat.

Zanuism as a political culture became a pervasive feature in all spheres of Zimbabwean life. Civic, economic and social spaces became captive to the hegemonic politics of *absolutised* perceptions and positions. Perceptions and positions, which made difference and innovation an intolerable and very often risky enterprise⁸. Herein lay the foundations of the despotism that now plagues Zimbabwe. A despotism that seeks to homogenise national opinion, conduct, perception and thus turning Zimbabwe into a nation of accomplice and patronage governance. The social forces that advocate this system claim the liberation struggle as their private sector. The criterion of admission into this sector is, first the tribe, then the region and last but not least "war veterancy".

It is a system with a clear reward and punishment mechanism⁹. This is how the seeds for Zimbabwe's self-destruction were planted.

Substitutionalism: The President as the epitomy of nationhood

Zanuism operates on the basis of *substitutionalism*, that is, the simplistic premise that the *Party* is the embodiment of the *Nation* or rather that the party is superior to government. It makes the people and the party synonymous. The party in turn becomes synonymous with government¹⁰. This is how *Zanuists* achieved the conflation of State and party. But the party itself remains a hostage of its Central Committee, which in turn is a servant of the Politburo. The primacy of Patronage within liberation movement politics reduces the politburo into a handmaid of the State President. In post-independence Zimbabwe the term *People* has, in real terms, always meant the president and his cronies and what they think and want the people to think. The terms *Zimbabwe, Zimbabwean*

interests, sovereignty, values etc, describe what the president thinks, feels and believes and not necessarily the popular sentiment of the masses. Free politics and dissent are anathema to the survival of Zanuism¹¹.

Substitutionalism can only work through an absolute control of information and therefore knowledge, which is power, self-agency and capacity¹². In its most absurd form, substitutionalism seeks to vest in the president's hirelings a monopoly to tell lies, malign and exercise force. It functions either through crude force or fraud, whereby the State either withholds, withdraws or threatens one's privileges, interests and basis of livelihood. This explains why sections of the intelligentsia become morally mortgaged to the political elite, either through inducement or undue influence. The result is a choir of intellectuals parroting the leaders' infallibility and some constructed patriotism.

Ultimately substitutionalism produces a crisis of both leadership and follower-ship. The crisis of leadership results in the celebration of mediocrity at the expense of ability. This in turn triggers off a crisis of follower-ship as a troop of political clowns fall over each other trying to please the leader for their personal gain. National interests are kept at the periphery of this selfish game of intrigue and deception. The crisis of leadership in Zimbabwe has been and continues to be the most productive industry for bad governance and corruption. Whereas the crisis of follower-ship has been productive of two corresponding vices, namely inaction and impasse of perception. Substitutionalism undermines the moral fabric of society, kills initiative and gives birth to social, economic and political conflict.

The absolute power of the leader in the substitutionalist system marginalizes the role of institutions and the constitution. Without institutions and regard for the constitution, there can be no transparent, accountable or democratic governance. This is the curse of post-independence Zimbabwe, an era that started off promising heavenly hope but has eventuated in abysmal darkness at midday. What follows is a description of the various events and processes that illustrate the nature of the national crisis.

The Post Independence state as a burden and challenge

The post-independence state derived its legitimacy from two factors, namely, the legacy of anti-colonial struggle and its broad developmentalist social Program¹³. This, however, did not stop the state using coercive means to consolidate its support in areas where its support base was weak¹⁴.

There was a contradiction in the behaviour of the state characterized by a popular level of consent as well as a distinctive coercive element. In political terms, this translated into strong controls over emerging citizen formations such as the labour, student and women's movements¹⁵. This behaviour by the state as well the security situation¹⁶ in the country proscribed the spaces open to citizen groups at the local and national level.

The legacy of the liberation struggle ensured that the two liberation parties, ZANU PF and PF ZAPU, provided the only recognized framework for political and social organization in independent Zimbabwe. Thus, community development was enacted largely from above, steered by partisan citizen formations. The state sought to guide and enable a definite movement of voluntarism from below. Citizen formations in turn sought state and ruling party patronage, by framing their demands through a government friendly terms that were less threatening to the state. This paved the way for the creation of an authoritarian state founded upon forced consent and co-option of dissenting voices¹⁷. This facilitated the capture of the state by the new political elite and the collapse of national consensus on the vision, framework and processes of development¹⁸.

IMF/World Bank Economic Reforms: The Markets as Liberators?

The demise of the Soviet Bloc and the resultant end of the cold war were accompanied by a number of defining events at the national and regional levels, such as the end of apartheid in South Africa, the fall of dictatorships in Zambia and Malawi and the introduction of the Economic Structural Adjustment Programmes (ESAP) in the 1990's. Paradoxically, these events created conditions conducive for political liberalization. ESAP, in particular, exacerbated the plight of many poor communities and thereby exposed the multi-faceted fractures in the social relations and structures in Zimbabwe. Hence the increased advocacy on questions of poverty, participation and governance. This new advocacy questioned the very basis of power in Zimbabwean society and thus initiated a protracted debate about democratization, the state and citizenship. It characterized social inequities and exclusions as aspects of limited citizenship¹⁹. In particular, it sought to establish the nature of barriers to participation in governance and decision-making faced by poor communities.

This politics of impoverishment was couched in the non-materialist discourse of human and citizenship rights to inclusion, participation and respect. There were sudden multiple demands upon the state from a multitude of citizen groups representing different constituencies such as women, war veterans, labour and cultural minorities all questioning the basis of their respective marginalisation in society. Citizen groups perceived the problem essentially as one of failed institutions and as a result, they seldom critiqued the practice of governance and politics. Another marked feature of this era was the propagation, implementation and defence of neo-liberalism by the left through the infamous SAP's²⁰. SAP's were preceded by attempts to formally turn Zimbabwe into a one-party state in the years 1989 to 1990.

As intimated above, the impact of ESAP revitalized the formation of community-based associations dealing with critical issues such as housing, land, health and employment. Residents associations also re-surfaced in response to the poor performance of local government authorities (Loewenson et al, 1995: 3). This growth of community based citizen associations provided a popular base for resisting unpopular state policies in the late 1990s. These formations inevitably became the incubators of new oppositional politics in the late 1990s(Raftopolous, 2000.)²¹.

Democratization and the Constitution-Making Debate

A number of NGOs came together in 1995 to strategize about monitoring the parliamentary and presidential elections. It was in vogue those to talk broadly about consultation and participation of citizens in decision-making. This marked the beginning of the new wave of broad coalitions. It is this new broad front politics amongst citizen associations that informed the formation of the National Constitutional Assembly, NCA²².

A critical by-product of the re-emergence of community based citizen associations in Zimbabwe was the renewed interest in Constitutionalism and constitution making²³. Notably similar trends occurred throughout Africa in the 1990s, in places like Eritrea, Ethiopia, Ghana, Kenya, Malawi, Nigeria and South Africa.

The South African attempt to reconstitute the nation through facilitating a process through which plural communities articulated collective national visions for designing and promoting democratic values became both a challenge and problem for Zimbabwe²⁴. This entailed educating the populace, drawing attention to existing social contradictions and generally promoting a new culture of tolerance, inclusion, participation and democratization. In this, South Africa presented both a challenge and example to Zimbabwe²⁵.

In Zimbabwe, participatory constitutionalism was used by the non-state sector to mobilize the populace to resolve the legacies of dictatorship and to establish a new agenda for growth and development or what others simply called “change”.

In early 2000, the NCA²⁶ led a campaign for the rejection of a new draft constitution, which would have entrenched the powers of the country’s executive President, Mr R.G. Mugabe. Against expectation, the campaign was successful and the draft constitution was resoundingly rejected in a nation-wide referendum. A parliamentary general election was due to be held in mid-2000 and, seeing a threat to its hold on power, ZANU (PF) set out to smash²⁷ all oppositional voices in the rural areas of Zimbabwe. Generally unchecked by the government’s law enforcement agencies, gangs of state sponsored militants led by war veterans invaded commercial farms, terrorised villagers and set up bases and torture centres round the country. This manifestation of political violence is part of long history of impunity dating back to the process of colonisation and subsequent colonial rule.

The genesis of the current political crisis

Following its loss in the February 2000 Constitutional Referendum, ZANU PF embarked on a desperate bid to recreate itself as a revolutionary vanguard party. This attempt at self-recreation, of necessity had to be centred around the recreation of Robert Mugabe as the post-modern Nkwameh Nkrumah, “A Man of the People?”

This effort at self-recreation was not the product of a policy blueprint, but a knee jerk reaction to an ebbing power base. Hence, the instinctive resort to liberation war strategies of using coercion as a tool of mobilisation. ZANU PF set up infrastructure for the purposes of supervising and monitoring rural communities. This infrastructure of violence, supervision and surveillance was set-up with the opposition in mind .A concerted effort was made to make the rural areas protected zones in which oppositional voices were criminalized.

Containment of the opposition alone was not enough to safeguard ZANU PF's ebbing power base. So, ZANU PF embarked on a programme to neutralise the critical arms of state such as the judiciary, parliament, disciplined forces and media.

ZANU PF also relapsed into a vicious authoritarian nationalist discourse that dismissed the arguments of the rule of law and human rights as vain attempts to preserve settler privilege or imperialism in new guise. It abandoned respect for the sanctity of formal arms of government and set up parallel structures run by youth militia and war veterans. These parallel structures were not subject to constitutionally defined rules nor were they accountable under any legislation. They were a law unto themselves and owed their allegiance to only one constituency, the state president.

This infrastructure of violence, supervision and surveillance became the main vehicle through which the rural and farming communities were immobilized and condoned off .It also permitted for unprecedented levels of political violence and gross human rights violations.

Political Violence and Intimidation

As indicated above, the current cycle of violence began in February 2000 with the politically inspired invasion of commercial farms by war veterans. The invasions were purportedly aimed at redressing racial imbalance in the ownership of land. Press reports at the time gave prominence to attacks on white farmers thereby deflecting attention from what amounted to a countrywide terror campaign conducted largely by militants of the ruling ZANU (PF) party against perceived MDC sympathisers and supporters.

This widespread violence did not prevent the MDC from winning 47 per cent of the vote in the parliamentary elections held in June 2000, and securing 57 out of 120 contested seats. This result confirmed the magnitude of the threat to ZANU (PF)'s hold on power.

The violence caused heavy casualties. At least 45 MDC officials and party supporters had been killed by December 2001. For only two of these killings are suspects facing trial. Leaders of the MDC were physically attacked and received death threats. MDC Members of Parliament and parliamentary candidates were attacked in their homes. They and members of their families were injured and had their property destroyed. Thousands of MDC supporters were sought out and attacked by militias'. Others were abducted to be tortured. Hundreds others were severely assaulted and thousands were forced to flee from their rural areas and become internal refugees.

Educated people in the rural areas were (and still are) suspected of sympathising with the MDC, and as a result, many teachers, doctors, social workers, civil servants and nurses were forced to flee to urban areas. Government employees were transferred at the insistence of the war veterans. War veterans warned rural hospitals and clinics not to offer medical treatment to MDC supporters²⁸.

The Legacy of Impunity

The war veterans and members of their militias were encouraged to believe they were immune from legal responsibility for their actions. They were fortified in this belief by amnesties granted to them by the government, in particular an amnesty granted in October 2000²⁹ which pardoned all politically-motivated crimes committed in the run-up to that year's elections, except crimes of murder, rape and fraud. And perpetrators of even those crimes enjoyed *de facto* immunity from prosecution since more often than not the police turned a blind eye to their activities.

Law enforcement agencies became increasingly partisan, to the extent that the government's perceived opponents could expect almost no protection from the law. Police officers who sought to carry out their duties professionally and on a non-partisan basis were forced to resign or were transferred. Large numbers of war veterans were recruited into the police force and many of them actually or effectively commanded (and still command) rural police stations. The Commissioner of Police is an avowed supporter of the ruling party. Hence the reluctance of the police to act against ZANU (PF) militants responsible for attacking MDC supporters and their swiftness to arrest MDC supporters who engaged in retaliatory violence.

The perpetrators' belief in their immunity was encouraged and re-enforced by, leading members of the ruling ZANU PF party who repeatedly proclaimed that the MDC would never be allowed to come to power in Zimbabwe and that a war would be waged against it. Thus in December 2000 Mr Mugabe told a ZANU (PF) congress that the commercial farmers had "declared war" on the people of Zimbabwe, that the white man was "not indigenous" to Africa and was part of an "evil alliance." He urged, "*We must continue to strike fear into the heart of the white man, our real enemy*". These sentiments were echoed by other prominent members of the ruling party.

Violence before and during the March 2002 Presidential election

President Mugabe set the tone for the Presidential elections when at the ZANU (PF) Congress in December 2001 he told party members to treat the following year's election campaign as a "total war". He said party members must regard themselves as soldiers. "Where we are going, it is not like the June 2000 parliamentary elections, which was like a football game where I was centre striker. This is total war, the Third Chimurenga [uprising]." He also branded city and town dwellers "sell-outs" for voting for the MDC.

Disorder and violence increased in the run-up to the Presidential election in March 2002. According to the Human Rights NGO Forum, at least 16 politically motivated murders were reported in January and February 2002. ZANU PF militias set up roadblocks in rural areas throughout the

country, harassing travellers who were unable to produce party membership cards. Teachers were attacked, leading to the closing of 35 schools in Masvingo Province alone. Large parts of the country were declared to be “no-go” areas for MDC supporters.

Militia bases were set up in the run-up to the poll and remained operational with the acquiescence of the State. Nothing was done to ensure that these bases were dismantled and prosecutions were not instituted against those responsible for human rights violations committed in them. In one notable case, a High Court order had to be sought to ensure the release of a prominent labour leader and his wife who had been kidnapped in February and held for a month at one of the bases³⁰.

The Stolen Presidential Election

President Mugabe, ZANU PF and their supporters went to extraordinary lengths in order to secure an election victory in the just end presidential poll. The election failed to meet the fundamental requirements of the Constitution of Zimbabwe.

The Constitution requires that Zimbabwe’s President be elected every 6 years through elections supervised by the Electoral Supervisory Commission, the ESC. The ESC reported that it was **not** able to supervise the election, and was not permitted observe key aspects of the process that were conducted through a secret Command Centre from which the ESC was excluded.

Top election officials were listed to be amongst special beneficiaries from the land acquisitions if Mugabe won the election. There was also a curious development whereby the ESC was staffed with army personnel known to be loyal to the ruling party.

The Constitution requires the President to be chosen by the registered voters. All Zimbabweans are eligible to register as voters³¹. It requires that the procedure for the registration of voters and actual voting be prescribed in an Act of Parliament. Mugabe by Notice personally altered the law and stripped hundreds of thousands of registered voters of their right to vote. He effectively took away the postal voting rights of thousands of registered voters who for one reason or the other were not in their constituency or unable to go to a polling station during the voting days. This move was particularly targeted at those voters residing outside the country and restricted the postal vote to the armed forces, diplomats and polling officials, whom he anticipated would vote overwhelmingly for him.

Mugabe also took away voting rights from, predominantly White, voters, black- listed by the Registrar-General, without a hearing, although a High Court judge had ruled against the Registrar-General. Effectively all permanent residents who had voted in the June 2000 parliamentary election were dies-enfranchised by this latest move. Which move seems to have no historical precedent or constitutional justification.

All voters who had spent in excess of eight hours waiting and were still in the queues at polling stations on Sunday and Monday evening in Harare were denied the vote, although the Registrar

General's office had primarily caused the delays by disregarding the Supreme Court order directing that Municipal elections be held prior to the Presidential election.

It is apparent that administrative hitches were experienced amongst groups known to be largely sympathetic to the opposition. Mugabe's actions in disenfranchising these groups were not only unconstitutional but a betrayal of fundamental rights and ideals of the liberation struggle.

In the ultimate analysis, the Presidential election was neither free nor fair. It violated every single one of the SADC-PF standards accepted by Zimbabwe. The right to a free and fair election is not merely the right of the contestants but of the people. A free and fair election was precluded for many reasons, in addition to the above and the prevailing violence. Many people had no access to any alternative views. The police prevented the opposition MDC from holding rallies. The State-controlled media (still operating its unconstitutional monopoly in radio and television) ran a propaganda campaign in favour of Mr Mugabe. The heads of the security forces made it clear they would not accept the opposition candidate if he won the election.

ZANU PF manipulated the electoral law extensively in favour of Mugabe. The voters' roll was kept secret and a shambles and many voters were effectively disenfranchised. Urban dwellers, most of whom supported the opposition candidate, were discouraged or prevented from voting through restrictions in the number of polling stations. The ESC had to rely on monitors chosen by government and the number of independent observers allowed to monitor the election was severely limited. There were also indications of vote rigging.

Coupled with the introduction of many new rural mobile voting stations, Mugabe had **personally** ordered that the wooden ballot boxes must not be sealed on the base, sides or hinges, but only on the aperture on top, changing the law on this after Parliament had voted against the change. There could be no legitimate reason for this.

All this vitiated the legitimacy of Mugabe's victory and thereby launched Zimbabwe into a serious crisis of legitimacy. Both the process and outcome of the election violated every aspect of the SADC-PF Norms and Standards for free and fair elections. It seems trite that the economic decline and political instability described above can not be arrested without resolving the issue of the stolen election. The stolen election raises a new dimension to the Zimbabwean crisis namely, that of legitimacy³².

Violence and intimidation after Presidential election

After the Presidential election in March 2002 ZANU (PF) supporters resumed their campaign of violence against MDC supporters by mounting a countrywide campaign of reprisals against perceived MDC supporters. Large numbers of opposition supporters have been displaced. Particularly in rural areas and commercial farms, this has been accompanied by destruction of property and theft. Some torture bases used before the elections have remained operational. Despite

the fact that most of these incidents were reported to the law enforcement agencies, in very few cases have there been proper investigations and prosecutions, and the perpetrators continue to operate with virtual impunity³³.

Intimidation of MDC leaders has also continued. Barely two weeks after the election the government instituted treason charges against Mr Tsvangirayi and two of his deputies. The charges are based on allegations that he sought to have Mr Mugabe murdered by a Canadian Public Relations consultancy firm. These allegations are based on the testimony of a questionable Israeli businessman and blurred video footage that purportedly shows Mr Tsvangirayi plotting the assassination with officers of the Canadian organisation. The video film appears to have been doctored and the Canadian organisation in question had previously and currently works for the Zimbabwe government. The government's attitude towards the MDC was summed up in a speech made by Mr Mugabe on 31 March 2002, when he stated that: "*We will make them run. If they haven't run before we will make them run now.*"³⁴

Attacks on the judicial independence

Since former Chief Justice Anthony Gubbay's comments at the opening of the legal year in 1991³⁵, the Supreme Court has been on a collision course with the executive. The composition of Zimbabwe's Supreme Court, which had come into conflict with the government was forcibly changed to favour the government during the course of the year 2001. Pressure was exerted on judges to resign and the Chief Justice was made to retire early. New judges, who are presumed to be sympathetic to the government, have been appointed.

This change in the composition of the court is reflected in several of its judgments, in particular a judgment that upheld the legality of the government's land reform programme, which the previous court had held to be unconstitutional. A similar trend has also been witnessed in electoral cases.

President Mugabe illustrated the futility of a Supreme Court order when he overruled a final decision by the Court that the Harare Elections be held by early February. He also overruled a Supreme court order nullifying the General Laws (Election Amendments) Act of 2002 by re-enacting the whole statute using his delegated legislative powers in terms of section 158 of the Electoral Act. The Chief Justice properly complained that the government treated the Supreme Court like a kangaroo court.

In the High Court, several independent judges have resigned and have been replaced with appointees viewed as sympathetic to the government. Government ministers have launched a scathing attack on the Law Society of Zimbabwe and even went to the extent of detaining its leadership on nebulous charges of attempting to subvert constitutional government.

Attacks on press freedom

On 17th March 2002 Mugabe signed, the *Access to Information and Protection of Privacy Act*, which requires journalists to be accredited with the Media Commission. This Act carries a penalty of up to 2 years and a fine of \$ 300 000 for failure to register. It also states that foreign journalists may be accredited only for short periods at a prohibitive expense.

The Act also re-enacts many provisions of the Rhodesian *Law and Order Maintenance Act* such as the crime of “falsifying or fabricating information” or the “publication of falsehoods”. At least 11 independent journalists and editors have been arrested on police suspicion that they had committed this crime. The stories, which have given rise to their arrest range from one that alleged the Presidential election was rigged to one that purported to describe conditions in the police holding cells where the journalist concerned was kept during a previous arrest. Government journalists publishing falsehoods have not been arrested. Thereby giving rise to the belief that there is selective application of the law in violation of the constitution.

The Act also now requires newspapers and Internet providers to register with the commission, which has power to revoke their registration on relatively trivial grounds. Fines or imprisonment of the owners and seizure of their equipment can stop them from operating. The Commission also has power to investigate a journalist’s sources, and to control and delay access to public records. This poses a serious additional threat to the independent press in Zimbabwe. Inconspicuously through a Schedule, the Act now also protects information relating to the most important public office, the Presidency, from disclosure.

The land crisis

White farmers held a grossly unfair 39% of Zimbabwe’s most productive land at Independence, a situation requiring urgent redress. By 1998, only 71 000 families had been resettled. The land crisis is only a part of Zimbabwe’s unresolved agrarian question.

Farm invasions, which began in 2000, have continued and have been accompanied by the compulsory acquisition of commercial farms under an Act of Parliament that has been amended to render the acquisition process increasingly unfair and arbitrary. The land programme itself has been anarchic and accompanied by considerable violence.

Despite the drought and disruption, since the election both the extent and speed of the “Fast Track” land reform have been dramatically increased. Approximately 95 per cent of commercial farms are being seized. 60% of the farmers become criminals if they continue farming after Monday 24th June, or stay in their homes after 8th August. None of these contested farms have been acquired through the courts. Many fall outside all given criteria. By criminalizing farming, government plans to avoid the courts.

Many of the larger special beneficiaries of the fast-track land programme are not landless peasants but Ministers and other senior government officials and prominent supporters of the ruling party, including those who officially supervised the Presidential election in the ESC's stead.

The economic dimensions of the Crisis

The political events described above have resulted in the deliberate destruction of various facets of the market. There has been serious confusion in both fiscal and monetary policy suggesting that ZANU PF's self-recreation bid may become the undoing of the Zimbabwean economy. This fact can be demonstrated through the following factors:

- The unresolved Agrarian question. Clearly, the system whereby a handful of whites controlled over 80% of the most productive agricultural land in Zimbabwe was neither sustainable nor desirable. However, violent seizures of farmlands in contravention of the constitution are indefensible in any law-governed state. The out-rightly criminal activities that attended the land seizures coupled with government's encouragement of violence should be continuously condemned. What all this has meant is that there is no longer a viable market for the sale and purchase of farms. The precariousness of tenure due to the never-ending invasions also means that farms no longer constitute viable collateral.
- The fixing of the exchange rate at the current statutory levels effectively means that currency exchange has been taken out of the formal market into fringes of legality or extra-legality. This policy on the part of the state has resulted in over 75% of currency exchange now taking place on the parallel market. In real terms we now have a parallel economy that is more vibrant than the formal economy. Over 50 % of foreign exchange, deals are taking place on the alternative market.
- Interest rates have been lowered in order to arrest the budget deficit. However, the continued failure to rationalise monetary and fiscal policy effectively means that Zimbabwe now has a negative real rate of interest. This is not helped by the myriad of inflationary factors that confront the country.
- The economy is expected to shrink by between 7 to 10 % during the current fiscal year.
- The domestic debt is now set at Z \$ 237 billion and there are no immediate prospects that it will be retired soon. More so in the absence of balance of payment support from the multi-lateral donors.
- Inflation is pegged at 113.3 % and as indicated above Zimbabwe has a highly inflationary monetary policy. The major source of inflation is the government. What the government has repeatedly attempted to do is to penalize the private sector and taxpayers for the myriad of inflationary factors confronting the economy. A case in point are the price –controls. Whatever the utility value of price-controls might be in the immediate, their long-term impact is undesirable. In essence, this will take pricing of all basic commodities out of the market and force retailers out of business. The costs of production have not been regulated such that there is rational pricing throughout the production line.

- The violence and anarchy referred to above, together with reckless economic policies and widespread corruption, have devastated the Zimbabwean economy. Gross domestic product has declined 14 per cent in real terms in four years and is forecast to fall by 12 % this year. Unemployment is estimated at over 60 % and inflation is over 120 %.
- Agricultural production has decreased to such an extent that Zimbabwe faces a severe unprecedented food crisis, with nearly half the population needing emergency food aid. Most basic commodities are short, and the livestock base is being destroyed. This food security situation is exacerbated by the delayed resolution of the agrarian.
- Destitution is widespread, with over 74 per cent of the population living below the poverty-datum line, and malnutrition and HIV deaths will be escalating.
- There has been a serious exodus of skilled and unskilled people seeking better lives elsewhere, and children are dropping out of school at an alarming rate. The growth of prostitution and other forms of poverty related misdemeanours is unprecedented.

The factors outlined above are unlikely to change unless if there is a drastic alteration of the present government's policies or a change of leadership within or outside the government.

The Zimbabwe crisis described above is a confluence of several factors such as institutional and constitutional collapse; economic melt-down; endemic corruption; breakdown in the rule of law; gross human rights violations; failure of liberation movements to transform themselves into national governments and inherited colonial states into democratic states as well as the failure of liberal democracy.

These democratic and governance deficits have and continue to subvert peace and justice in Zimbabwe. NEPAD proposes a Peer Review Mechanism as the panacea to crises' of this magnitude.

The NEPAD promise and Peer Review

The authors of NEPAD acknowledge that, amongst other things, “democracy, good governance, human rights and sound economic management” are pre-conditions for sustainable development. They specifically pledge to work, both individually and collectively, to promote these principles in their countries and sub-regions and on the continent³⁶. With NEPAD there is a specific undertaking to “*respect the global standards of democracy, the core components of which include political pluralism, allowing for the existence of several political parties and workers' unions, and fair, open and democratic elections periodically organised to enable people to choose their leaders freely*”³⁷.

NEPAD proposes six (6) ways in which political governance may be strengthened whilst building capacity to enforce its commitments³⁸:

- Administrative and civil service reform;
- Strengthening parliamentary oversight;

- Promoting participatory decision-making;
- Adopting effective measures to combat corruption and embezzlement;
- Undertaking judicial reforms; and
- The Peer Review Mechanism.

Peer review will start with the establishment of predetermined criteria relating to political and economic governance. The criteria will serve as core-values as well as a checklist for peer review. Member governments shall select the peer review panel made up of “independent and impartial” experts. The peer review mechanism is intended to be correctional and not punitive .It will rely more on inducement as opposed to a regime of sanctions. Submission to the peer review process will be voluntary and the findings of the peer review panel will be made public.

Critique of the Peer Review Mechanism

The idea that Africans should put in place locally conceived mechanisms to deal with conflicts and governance deficits is a noble and most welcome one. However, the nature and design of such mechanisms should be adequately informed by prevailing socio-economic and political realities on the ground. Within the context of contemporary Africa these factors include, but are not limited to the following:

- A half a century long continental obsession with sovereignty of nation-states;
- Developmental disparities between, within and amongst African states;
- The failure of existing institutions and mechanisms of conflict resolution;
- The lack of political will to promote, entrench and protect agreed standard criterion on various aspects of governance;
- The intrusive nature of African states’ bilateral and multi-lateral partners .A case in point are the EU resolutions on Zimbabwe and the US Congress’ Zimbabwe Democracy and Economic Recovery Act, 2002. These efforts may be read with the G8’s Africa Recovery Plan and the African Growth and Opportunity Act, 2000. Resultantly, there is a proliferation of bilateral and multi-lateral standards that are variously enforced through domestic and international legislation;
- The pre-dominance of national strategic interests in regional relations as opposed to continental standards;
- Intractable conflicts in most sub-regions .As a result the prevalence of weak states, disorganised private sectors and marginal civil societies;
- Lack of stakeholder participation in decision-making and general marginalization of the citizenry in governance;
- Unresolved colonial and cold-war socio-economic and political issues;

- Gender, ethnic, religious and racial discrimination in places like Algeria, Nigeria and Southern Sudan;
- Impunity of both a de facto and de jure nature .As well as the general absence of adequate mechanisms for the redress of gross human rights violations; and
- Resource plunder, asset stripping and corruption.

In order to remedy these and other democratic, governance and human rights deficits, there is a need to:

- Create at a national level, constitutional and institutional frameworks that facilitate democratisation. These include institutions that promote and protect human rights and accountability;
- Transform the political culture amongst African governments from a hegemonic to a more people-centred model;
- Create effective sub-regional and continental structures and processes that ensure access to justice for victims of human rights violations as well as liability for the perpetrators.

Human rights abuses and of necessity human rights, protection requires a combination of voluntary and mandatory processes. Certain values are so fundamental that adherence to them should be made mandatory and failure to do so should be censured through a clear programme of sanctions. Issues of justice and reparations can not be dealt with by voluntary panels of peers .It follows then that the impunity that under-writes African mis-governance can not be remedied through the “naming and shaming “of offenders by independent panels.

Given the recent experiences in Zimbabwe and the failure of the Abuja African initiative³⁹, any attempt to deliver justice that is anchored on the goodwill of peers is unlikely to succeed. Peer review as presently conceived risks tying its fate to the idiosyncrasies, fears and strategic interests of participating governments.

Justice requires a clear system that provides for individual as well as collective liability. To this end Zimbabwe is a test case for the success of NEPAD’s peer review mechanism and possibly NEPAD itself.

Conclusion

The hope in and capacity of Zimbabwe’s people to continue with non-violent efforts to achieve recognition of their fundamental rights is increasingly threatened. The price they have paid is already high, but has brought more repression. The violence, lawlessness, repression and mis-governance in Zimbabwe represent a tragic degeneration for the whole southern African region including its food security. There can be no excuse for most of the Zimbabwean government’s conduct. The continued use of violence betrays the government’s awareness of its unpopularity and general lack of support. It is most unfortunate that neighbouring countries have been reluctant to

express open criticism of the Zimbabwean government, or begin action against those responsible for the violations enumerated in this paper.

The new African Union has openly declared its commitment to democracy, good governance, the rule of law, accountable and transparent governance .If it mobilizes the requisite political will the AU has the means to influence events in Zimbabwe. Whether it does so promptly will be an indication of the seriousness of the AU's commitments to these values, and its ability to author a new political and social ethos for Africa.

Endnotes

- ¹ Resistance simply refers to the various means by which the dominated contested settlerism and settlerisation .It also refers to the politics of identity formation within the vocation of freedom fighting.
- ² Settlerism refers to the discourse that posited the settler as the knower, enlightened, powerful, civilised and the African as inferior, un-enlightened, uncivilised, ignorant, brutish (savage), etc. Settlerism sought to characterise African past (pre-colony) as a wasteland of non achievement governed by irrational animalistic instincts .On this premise, the white settler assumed a burden to civilise the native through, amongst other things, commerce and Christianity. White rule was motivated by these three C's, namely Commerce, Christianity and Civilisation. The paradoxical notion of violence as Christian civilisation was manifest in colonial rule's other three C's, namely Courts, Codes and Constables. I have argued elsewhere that the rule of law under these circumstances was inconceivable outside the reign of terror.
- ³ Settlerisation was the process by which some pockets of Africans became converts to the myth of their own inferiority thereby accepting as given the 'hewers of wood, drawers of water ' designation of settler fundamentalism. Settler de-humanisation of the black race as well as the plunder of Africa was embraced as the pre-ordained will of God or the prerogative of the superior. Accepting the logic of oppression or denouncing the imperative of resistance is what I call settlerisation . The corollary of settlerisation was the acceptance of the fact that black people are not deserving of human rights, recognition or respect. A further outgrowth of this has been black-on-black violence either perpetrated by the state or groups of black criminals in their homes or under the guise of advancing some political objective.
- ⁴ This may explain the redundant talk of equality with whites. Redundant in the sense that such talk assumed and accepted the white myth of superiority whilst advocating black liberation. Its departure and arrival points were white standards, institutions, culture, psychology, knowledge and spirituality. This further explains the obsession with capturing rather than the transforming the colonial state.
- ⁵ *Zanuism* refers to a number of things. First, it describes the absolutisation of the idea of the revolution as the exclusive property of the liberation movement's political leadership. Second, it refers to the logic that the liberators have a divine right to rule or mis-rule the liberated. Third, it justifies the use of force and fraud to repress dissent as the only means to preserve liberation and the revolution. Violence becomes a tool for mobilisation and forging consent. Lastly, it refers to substitutionalism and displacement models referred later on in the paper.
- ⁶ The nationalist project purported to include and speak for everybody and yet it excluded women, youth, children and minority groups. Its idea of the nation was as tribalist, racist and patriarchal as the colonial state.
- ⁷ It is a politics that under-theorised its real mission and thus under-performed in its execution of the self-assigned task of bringing about change. It saw the main problem as personalities as opposed to systems and the political culture .No sooner than it had emerged it fell victim to same vices as its nemesis .The press began reporting on internal feuding, centralisation of power, ethnic divisions, and misappropriation of resources within the opposition. This opposition was an infantile shadow of Zanuism.
- ⁸ The most outstanding example is the ECONET SAGA.
- ⁹ Two cases in point are the treatment of Joshua Nkomo and Ndabaningi Sithole by Robert Mugabe, albeit a different points in time in the national history.
- ¹⁰ I extracted this analysis from a collection of Robert Gabriel Mugabe's addresses to the Zanu PF central Committee in Mozambique between the years 1977 to 1979 produced by Mambo Press, 1985.
- ¹¹ This is why it is imperative to investigate the critical role played by social movements in averting one-party rule in Zimbabwe both before and after 1990. Such a study might help shed light on why the state has been most brutal in its response to protests by workers, students and civic groups. The activities of these social movements seem to be closely linked to the emergence of stronger opposition political formations in the late 1990s.
- ¹² The success of social movements in Zimbabwe has been their ability to create spaces that are "subversive" of substitutionalism. Resultantly, they have been able to produce alternative information and therefore knowledge, power and related capacity to engage in either resistance or self-liberation.
- ¹³ The Independence State's first five-year development plan entailed an aggressive programme to build schools, hospitals, roads and dams. Primary education as well as medical care was made free for the poorer sections of the community and virtually free in all other state institutions.

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- ¹⁴ The new government had very little support in areas of Matabeleland and the Midlands, which were ZAPU strongholds. Throughout the eighties, these areas became subjected to state sponsored violence and gross human rights violations of varying degrees.
- ¹⁵ In 1985, the state passed the Labour Relations Amendment Act (Chapter 28:01), which proscribed severely the operations of labour unions and placed them under the effective control of the state. In 1990, the State passed the University of Zimbabwe Act (Chapter 26:01), which provided for the arbitrary expulsion of students and members of staff for broadly political reasons. In 1996, the government passed the Private Voluntary Organisations Act to control the activities of NGO's.
- ¹⁶ See the CCJP/LRF authored Breaking the Silence Report, 1998 which documents how the state extra-judicially executed in excess of 20 000 civilians in the Midlands /Matabeleland during the years 1981-1987 under the guise of maintenance of state security.
- ¹⁷ There was actually a failed move towards a de jure one-party state between the years 1987 to 1990. This move was foiled by the formation of Zimbabwe Unity Movement (ZUM) and ferocious opposition by organised labour and the student's movement.
- ¹⁸ This capture of the state by social forces aligned to Zanu PF is what I have explained as substitutionalism.
- ¹⁹ Clearly, citizenship from the majority black population became limited since the inception of the colonial state in 1894. The colonial limitation was premised on race and in the post-colony, on political association. In the critique of the socio-economic inequities confronting Zimbabwe, race is the easiest scape-goat. It is easier and safer to suggest that the black masses continue to suffer, not owing to poor governance, but because they were colonised by whites. This spectre of a permanent 'white evil' is consistently used to shield the incumbent regime from scrutiny by citizens, regional and international community.
- ²⁰ ESAP was a program of the IMF and World Bank.
- ²¹ The MDC was formed by individuals who were leaders of organised labour, the students' movement and the constitutional lobby. Hence Zanu PF's reference to the 'unholy alliance' between the MDC and civic formations.
- ²² There were other critical coalitions such as the Women's Coalition, the Zimbabwe Election Support Network; the NGO-Human Rights Forum and the Church-NGO Forum.
- ²³ The constitutional debate was an entry point into the discussion of politics of reform in Zimbabwe. It questioned the manner in which Zimbabwe was being governed. A sub-intended result of this was questioning Mugabe's leadership and the general need for political change.
- ²⁴ Challenge because Zimbabwe had not gone through a similar process of nation building and soul-searching. A problem because the Zimbabwean political elite was unwilling to avail Zimbabweans a similar opportunity. This became the source of conflict and polarisation that attended the Constitution Making process in Zimbabwe between the years 1998 and 2000.
- ²⁵ This was particularly true of its approach to truth, justice and reconciliation. Zimbabwe is an equally divided society with a very violent history. Unlike South Africa, Zimbabweans have never been accorded the opportunity to reflect on this past collectively.
- ²⁶ It is out of the NCA and ZCTU alliance that the leadership of the MDC was drawn.
- ²⁷ It is no exaggeration to use this word. The President, Mr Mugabe, has boasted that his followers "have degrees in violence", and in March 2000 is reported as having said: "Those who try to cause disunity among our people must watch out because death will befall them."
- ²⁸ The incidents of violence are recorded in reports produced by the Zimbabwe Human Rights NGO Forum (their website is www.hrforumzim.com) and in volumes 3 to 5 of the *Zimbabwe Human Rights Bulletin*, produced by the Zimbabwe Lawyers for Human Rights.
- ²⁹ Clemency Order No. 1 of 2000, published in General Notice 457A of 2000.
- ³⁰ Report for 1-15 March 2002, issued by Zimbabwe Human Rights NGO Forum.
- ³¹ This includes Zimbabweans living outside the country for the purposes of study and other related reasons.
- ³² The crisis of legitimacy extends to the presidency of Mr. Mugabe, his government's actions and policies. It brings into serious dispute the regional political leadership's commitment to democracy and political pluralism.

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- ³³ The publicity given to the arrest in mid-May of one war veterans' leader on charges of extortion (he is alleged to have demanded that Asians should surrender their land) indicates how few such arrests there have been.
- ³⁴ UK *Observer* 26 May 2002.
- ³⁵ Justice Gubbay suggested in his address that any legislation to compulsorily expropriate land would be restrictively interpreted by the Supreme Court. President Mugabe suggested that if he was unhappy with the government he should resign .A nastier exchange occurred following a letter written by several senior judges to the president protesting against the conduct of the executive in the Mark Chavunduka et al case.
- ³⁶ This is both a slight improvement and backward step compared to the Harare Commonwealth Declaration, 1991. Paragraph 2 of the Declaration emphasised the fact that the state parties were a voluntary association of sovereign independent states, each responsible for its own policies .The main modus operandi of the Commonwealth is set out as consensus building, sharing of experience and consultation. However, on the other hand NEPAD falls short of the explicit affirmation in the Harare Declaration of Human Rights of a civil, social, economic and political nature. NEPAD is vague in its 'democracy and governance' provisions, unlike the Harare Declaration which explicitly commits to 'democracy, democratic processes and institutions, the rule of law, independence of the judiciary, just and honest government, fundamental human rights, non-discrimination, equality for women etc '.
- ³⁷ The irony in all this is that the main proponents of NEPAD failed to enforce these very same values in their mediation in the Zimbabwean crisis .In fact, the South African government view that despite the infractions detailed above the Zimbabwean election was valid betrays a seeming absence of political will to transform NEPAD into a reality. Paradoxically Zimbabwe represents a violation of all the values and norms propounded in NEPAD such as 'transparency, accountability, integrity, respect for human rights and promotion of the rule of law'.
- ³⁸ See Paragraphs 79 to 85 NEPAD document.
- ³⁹ The related initiative of silent diplomacy by President Thabo Mbeki of South Africa also failed .In fact, having in its diplomatic endeavours, the South African government then treacherously declared that the Zimbabwean presidential poll was "legitimate". This is a curious betrayal of the basic principles of NEPAD by its main proponent .It shows the absence of political will to transform the rhetoric into reality.