

UNLOCKING THE APPARENTLY INTRACTABLE PROBLEM OF ZIMBABWE

The problem in Zimbabwe is essentially that the country cannot hold credible elections that allow the people of Zimbabwe to remove those they believe are not furthering their interests and put in power those they believe will champion their interests and correct wrongs in existence. This is the tragedy of a ruling clique that has established a ruling party to rule for ever. The tragedy in the country is traced to the creation of the sovereign state of Zimbabwe, the manner it was governed in the post independence era and the beliefs and perceptions that existed at the time about the political leadership in Zimbabwe and the governance of the country regionally and internationally. The country was liberated by arms of war ~~lets~~. The euphoria of nationhood made the people surrender their rights to a ruling clique which accepted this gift of absolute power. Any alternative viewpoint was crushed as conduct to reverse the revolutionary gains of the liberation struggle at the instance of disgruntled remnants of former colonial masters.

Internationally, to the benefit of the ruling clique, the country was projected as a model of a developing democracy which was under a democratic and pragmatic political leadership. Fundamental defects in the structures of the governance of the country, especially the potential for abuse of power that existed, were being ignored. The end result was obvious and logical.

The ruling clique established a self serving system of governance centered on terrorizing its own citizens. It was sustained and secured by the establishment of partisan national institutions firmly anchored in patronage and corruption, to control the nation and run the country in the interests of the ruling clique. The stakeholders did not timeously articulate in an effective manner what was happening in the country in a credible and effective manner. The inevitable consequences of these developments is the current situation and the events being witnessed now.

The good will extended to the country at its creation and the generous financial support that went with it inevitably brought substantial development, especially in the education and health sectors of the post war era. These credible developments were used by a ruling clique, gifted in oratory, to divert attention from their main goal, the diabolical scheme being put in place, namely, perpetual retention of power through elections which were fundamentally flawed, but, conducted and presented as open democratic elections. They spoke of one party rule through elections. It meant these sham elections which are being clearly appreciated by the world only now as sham elections. Elections supported by laws and practices assured to ensure retention of power.

A lot has been said and written about past constitutional and statutory provisions that gave the President of Zimbabwe the power to direct the running of elections and to appoint up to 20% of sitting and voting parliamentarians: the partisanship of the national press; the stifling of the independence of the judiciary; the politicisation of the army, police and civil service; the flourishing of a feared intelligence organization and the total disregard of the law when it was inconvenient to the interests of the ruling clique; the

blatant use of national resources to further the party interests of the ruling clique and the established of a partisan electoral body to run the sham elections. These features which are a compromise of the pillars of a modern democratic system, were all meant to ensure retention of political power in any eventuality, in perpetuity.

National sham elections were held regularly since 1980. These were not the normal elections which are the agreed hallmark of decency and propriety in contests for political power in a democracy. The impact of the compromise of the pillars of a modern multi party democratic state in the elections in Zimbabwe which have been noted, documented and discussed prevented the holding of credible elections all along. What is significant is that analysis of Zimbabwe inevitably led to the identification of election violence as the central problem in electoral contests in Zimbabwe. It has been continuously noted that after every election, there has been, without fail, a Presidential Amnesty to pardon all those involved in electoral violence.

The projection of violence as the central issue in elections in Zimbabwe is the main cause of misunderstandings about the electoral problems in Zimbabwe. It leaves the main feature of why violence is an effective electoral tool in Zimbabwe unaddressed. Violence during elections is found in many elections world wide. It becomes a problem as to why violence in Zimbabwe should be viewed as special. This becomes a strong argument in favour of the ruling clique which then argues that it has the support of voters as they vote for it in secret regardless of the violence. It points out that it gets its main votes from the rural areas, a constituency with a historical link with the ruling party, a former rural based guerilla movement.

The Zimbabwean voter, especially the rural voter, is subjected to an electoral environment which exposes him to the effective use of violence as an electoral tool. The tragedy is that this central issue of the electoral problem in Zimbabwe, has been articulated over the years but not highlighted and accorded its status as the central electoral issue. The nature of the violence encountered by the voter has not been sufficiently highlighted so that it is fully appreciated that it is state sponsored violence which leaves the voter exposed and without any protection from the law and the organs of the state meant to enforce the law in the country. The solution for the voter is to comply and vote as required.

In other countries, voter secrecy and observance of the law neutralizes the effect of violence on the manner a person votes. In Zimbabwe, because of the manner it is governed, as outlined above, and the way voting is conducted, the voter, especially in the rural areas, is not afforded the right to effectively vote in secret. This is the central issue in the electoral problem in Zimbabwe. A voter is exposed to a voting procedure which allows or threatens the voter with identification of the manner he voted and a system which assures retribution for inappropriate voting with no redress for him or punishment for the one who executes the post election retribution.

How the system of systematic deprivation of secrecy in the voting procedure works should be appreciated. A voter is instructed or more accurately, commanded to vote in a

particular manner at a polling station designated for him and others in his class. To ensure that the command that the voter must vote at a particular designated polling station is followed, village heads prepare registers to be marked at the polling stations. In some instances, they take the registration documents of the voter with the promise to return them to him at the designated voting station. It can then be verified that the voter presented himself for voting. To ensure that he votes and votes properly, ZANU (PF) activists are put among election officers to whom the voter must, in terms of the electoral law, (section 57) display his marked folded ballot paper before depositing it in the ballot box. During the campaign period, the voter would have been told and shown that his markings on the folded ballot paper is visible to the persons he displays the marked ballot paper to. These electoral officers would be ruling party activists who are known to the voter and they equally know the voter. The voter will be concerned with his own personal security. He cannot be thinking of whether this man will remember all that he sees. Remember, the police are partisan, there is no one to report to on his campaign experiences and what happens to him when he votes wrongly.

Disabled persons had their choice marked by another person in the past. Under this scheme, many persons with full visual capacity who are highly literate and were viewed as not sufficiently intimidated by the displaying procedure were made to claim blindness and illiteracy and had their alleged choice made for them by an election official after a public declaration of their alleged choice as provided by the electoral law. A headmaster for example, would declare blindness and illiteracy and publicly declare that he sought to vote for ZANU (PF).

It must be remembered that selective application of the law and disregard of the rule of law has left citizens without any redress.

This is a great electoral fraud in that a voter goes through the motions of a genuine ballot election, as if safeguarded by the secrecy of the ballot, when in truth and in fact, there was no genuine ballot election in progress. A genuine ballot election is one in which the voter, in secret, makes a free choice which he endorses on the official ballot paper and his vote is kept a secret forever and no one should know how he voted and he should never be rewarded or punished for voting in a particular manner. Finally and very importantly, the voter must have confidence in the integrity of the voting system, the secrecy of his vote and his permanent security in the post electoral stage. A vote cast in these circumstances is the only true vote there can be. This is what is missing in Zimbabwe.

The SADC initiated form of governance in place led to some developments that address some of the negative features of the electoral landscape. Unfortunately, they do not effectively address the issue of voter secrecy, the cardinal tool in the manipulation of the rural voter, who is the dominant voter in Zimbabwe. The Electoral Amendment Bill 2011 (Ref HB3/2011) proposed by the Minister Justice of the government in place ignores the issues and even proposes to introduce polling station based voting. This is tragedy upon tragedy.

The governance of Zimbabwe and its electoral system cannot guarantee the basic principles of a genuine vote by secret ballot. The proposed polling station based voting institutionalizes and entrances the scheme that has been used to keep the ruling clique in power. It removes even the little space there was for an enterprising and daring person to operate inside the curtain of terror. It removes completely, anonymity, the very cornerstone of secret ballot elections. Members of a polling station are known. The decision of a person to vote or not to vote is known, a total breach or disregard of his right to secrecy whether or not to vote. How persons at that polling station voted can be ascertained. Polling station based voting in the Zimbabwean context destroys voter anonymity, the secrecy of his vote and security of his integrity in the post voting era. The prospect of what happens in the post election period at the hands of partisan state organs and the absence of relief makes the voter a tool for making markings on the ballot paper for the ruling clique.

I seek to conclude by adopting what I said on many occasions on this important subject in the recent past.

The strategy for the holding of flawed elections is centered on the use of state sponsored violence to deny voters the secrecy of the ballot. They vote in fear and display their marked ballot papers to activists.

But, to accurately articulate a problem, is to solve only half of the problem. What remains is to articulate what must be done.

1. Section 57 of the Electoral Act, which provides for the display of the folded ballot paper to an election official should be repealed with immediate effect. It should be noted that it is also inconsistent with the provisions of the Constitution, especially section 23 (A), which calls for vote by secret ballot and the section of the Electoral Act which provides that no one should be shown the marked voting paper of the voter. The section providing for display serves no useful purpose. Its historical origins were to prevent ballot stuffing. This was superseded by the collation process. Before votes are counted, they are verified. Only those with the official mark are put in the heap to be considered for counting. Then, even these should be linked to the duplicates of the ballot books agreed to have been issued in the constituency. It is now not necessary to display the mark to ensure that unauthorized ballot papers are not put in the ballot box.
2. Changes brought into the electoral system by the courts and the 2007 Electoral Amendments preventing village heads from marshalling voters to polling stations and authorizing disabled persons to choose friends to assist them vote in secret should be highly popularized and implemented.
3. Polling station based voting should be vigorously resisted. Its adoption in countries not run as Zimbabwe is run should not blur the fact that it is totally inappropriate in Zimbabwe.

4. The rule of law should be upheld. There must be security for all citizens.

A new era based on respect of the law must be established in Zimbabwe. This should be evident and citizens must have confidence in the systems operative in the new era.