

# A Nation in Dire Straits: Law, Politics and the Crisis in Zimbabwe

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## 1. Introduction

### 1.1 *Zvakapressa* in Zimbabwe

When Zimbabweans say “*Zvakapressa*” they are describing the terrible state of their circumstances but at the same time this Shonglish<sup>1</sup> word reveals a certain creative quality about the people, which helps them to cope during hard times. It symbolises from a linguistic perspective, how people manage to make use and balance both the local and the foreign. Having been brought up in Zimbabwean society, I am familiar with the way in which we sometimes make fun of our own hardships, how we create jokes about things in ways that elsewhere might be considered rude and disrespectful. I profess no expertise in sociology but I sometimes think that this capacity to laugh and even smile about our tough circumstances helps us cope with the difficulties. I suppose it also explains how we tend to have such durable stress and hardship absorbers so that when in any other society people would have revolted we are still taking more.

*Zvakapressa* in Zimbabwe - things are very difficult. Looking at the political and socio-economic landscape, it is easy to appreciate why a whole generation will grow having known only conditions of poverty. What appeared to be a blip at the bridge between this and the last millennium has become a permanent scar that will define the character and behaviour of generations to come.

### 1.2 In the Footsteps of Basker Vashee

Before I proceed, I would like to express my heartfelt gratitude to the organisers of this event for inviting me to present this Inaugural Lecture, to honour a great man who dedicated his life to scholarship and the welfare of mankind. As a young generation Zimbabwean who tasted freedom because of the efforts of men and women such as Basker Vashee, I feel honoured to be here, presenting this lecture in his honour. When I received the invitation, it was totally unexpected but a pleasant surprise nonetheless. It was said that they had seen in my work a new generation of

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<sup>1</sup> A word that combines the use of both the local Shona and English languages.

Zimbabwean intellectuals, keen to chart a progressive way and new kind of politics. There are so many dedicated Zimbabweans out there, wishing to be heard and I was happy to take this opportunity. We in Zimbabwe are very keen to tell our story and we are also dedicated to generating ideas to shape the future of our country. I have learnt of Basker Vashee's work and contributions towards Zimbabwe and I am proud to share the same origins with a great intellectual and activist. I was only two years old in 1977 when he became Director at this Institute – I am sure he would be proud to know that a younger generation of Zimbabweans has taken the torch and will carry on from where he left. Let me now turn to the substance of my lecture, which is dedicated to the memory of Basker Vashee.

### 1.3 Purpose and Perspectives of the lecture: Principles and Values

The purpose of the lecture is not to demonise the ruling ZANU PF party and government or to laud the opposition forces such as the MDC and Civil Society Organisations but to present what I consider to be an objective assessment of the current political situation, highlighting the key challenges that the project for democratization faces and offer views on the construction of a vision on how to extricate Zimbabwe from the current difficulties.

I am under no illusions that I have perfect answers to the problems we Zimbabweans face as a nation. I have written and spoken in different forums and each time I have been preoccupied by the desire to participate in mapping a better future for my country<sup>2</sup>. In looking at the situation I am not swayed by the political actors but by the desire to promote individual freedom in all respects. I am wary of backing any specific individuals because rightly or wrongly I am very sceptical of politicians as a tribe. The trouble with politicians is that you can back one today and tomorrow he will perform a spectacular somersault and you are left bare and looking stupid.

Rather, I prefer to stand on my permanent interests: points of principle and values. That is also why one of my principal arguments has always been that true change lies at the core of society – that is, at the individual level; the ordinary men and women that make up society more than at the level of political leadership. The political leadership comes in different forms and appearances and unless members of society accept the demands of change in the way they conduct their affairs at the basic level the type of change that everyone seeks will remain a distant dream. Political leaders come and go, each time making their promises – but society remains. I place the real obligation for change at the doorstep of each individual member of society. That, for me, is how they take ownership of the process of change – by taking responsibility.

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<sup>2</sup> I shall make references to a number of my articles to enable the reader to get my full and detailed views on some of the issues that I will raise in this article. There is so much to write about, time and space will not permit me in this current context. Most of my articles have been published on the website to which I contribute my views and ideas on a regular basis: [www.newzimbabwe.com](http://www.newzimbabwe.com)

## 1.4 From Where I Stand: Insider-Looking-In

I speak and comment about Zimbabwe from the vantage position of both an insider and outsider – an insider because I have spent much of life in Zimbabwe and an outsider because I have spent the last few years of my professional life outside Zimbabwe. I am familiar with the way we see ourselves internally and also with the way in which we see ourselves from the outside. I am also aware of how the world looks at us. So in essence my views are shaped by this position of being an Insider-Looking-In. I have been looked at as a Zimbabwean and I have looked at fellow Zimbabweans from a distance. I like to think that such a position, far from being confusing, gives one a chance to develop a balanced opinion of the subject under observation.

I am particularly impressed by this opportunity because many Zimbabweans and myself often express reservations about everyone but Zimbabweans writing and speaking about ourselves as if we have no capacity to communicate our feelings, thoughts and positions on the issues that affect us. It is not because we are incapable – very often it is because we never get the opportunities to do so.

## 1.5 A Battered and Tired Economy

It is common knowledge that Zimbabwe is a country in deep crisis and I do not want to spend much time and space repeating a lot of what is already in the public domain. Zimbabwe has a very tired economy. The statistics are staggering. Hyperinflation is running at more than 1000 per cent. Unemployment is more than 80 per cent and according to the World Bank GDP has contracted by about 40 per cent in the last 6 years alone. There is shortage of food and about 90 per cent of the people are living below the poverty datum line. Life expectancy stands at around 35 years. I will recount a personal testimony to illustrate the lived experience of the fall of a nation.

*I graduated from the University of Zimbabwe in 1997 and landed a beautiful job in a large Harare law firm. It was all that I had dreamt of when I decided I would become a lawyer. To be sure, I had never contemplated doing anything else or going somewhere other than to become a top Harare lawyer. I remember my great friend Tapiwa Muzvondiwa boasting while still in law school, that in a few years time people would refer to him as a “Harare lawyer and businessman”. We had high hopes and dreams. Tapiwa is now in London practising his trade. From time to time we talk about what could have been. But hope has not dissipated yet.*

*A lifelong student of history, I always carry a small suitcase that bears important episodes of my life – letters, photographs, old books – anything that might remind me of the past, because I love memories. I was going through my case recently when I discovered an old pay-slip from 1998. It showed I was earning a 9 000ZWD per month, which by all accounts was an excellent salary for a first professional job. That salary liberated me to live on my own in a new apartment. It enabled me to live a relatively comfortable lifestyle befitting a bachelor. I was even able to relieve my parents of the burden of paying school fees for my siblings. And*

*yes, the clan in the village could expect a few dollars as well. Today however, 9 000 ZWD is not enough to buy a loaf of bread which costs ten times that amount. I will leave the rest to your imagination, if you can bear it.*

But what has caused such a dramatic downfall of one of the most beautiful African countries, which before the demise was one of the leading economies on the continent?

## **2 Demands of the Neo-Liberal Policies and Pressures of Social Justice**

### **2.1 Short-Term Triggers and Deep-Seated Roots**

A lot has been said of the problems bedeviling Zimbabwe but the current crisis has both immediate triggers and deep-seated roots. However, the immediate triggers often receive the most attention. These include the farm invasions since the year 2000, which resulted in the forcible eviction of commercial farmers and consequently a breakdown in the agricultural sector. They also include the general hostile human rights and security situation, which has driven away potential investment, tourists and caused Zimbabwe to have an unfavourable international profile. There is also corruption and cronyism within the government and ruling party. Overall, there have been poor economic policies and mismanagement – incompetence to put it starkly. There have undoubtedly been a plethora of factors that have triggered the economic meltdown most of which centre on mismanagement of the political situation by the government.

A balanced assessment of the Zimbabwe situation cannot however discount the long-term problems whose genesis precedes the current crisis. I characterize these problems as emanating from a struggle between the demands of market reforms and the pressure to promote social justice. A failure to balance these demands over the years by the ZANU PF led to massive difficulties, which gave birth to the current crisis. As I will elaborate later, this central problem is a continuing one, which will require the attention of any new government. I shall endeavour to explain this phenomenon.

### **2.2 Primitive Accumulation and the Culture of Impunity**

When Zimbabwe gained independence in 1980, it enjoyed a relatively strong economy. Years of sanctions during the latter stages of colonialism had given rise to growth in innovation and vibrant import-substitution industries. However, the legacy of colonialism always meant that the balance was tilted in favour of the minority white community. It is within that context that we must also understand

the imbalance in the land ownership system. Most of those that had been marginalized expected to have a share of the economic cake. The government led by the then Prime Minister Robert Mugabe publicly espoused the ideals of socialism but privately pursued capitalist dictates. One suspects that while keen to put up a show of solidarity with the general citizens, the ministers were also secretly admiring and coveting the white community privileges.

There was, one could say, ideological confusion but from that period we also see the leadership beginning to engage in the process of primitive accumulation. The ruling ZANU PF party abandoned its Leadership Code, a set of principles by which they sought to govern the conduct of the leadership<sup>3</sup>. Needless to say, it was hardly followed, as each leader sought to gain the best advantage. True to Franz Fanon's predictions, the pre-occupation was to step into the shoes of the former white masters and not really to change anything for the generality of the people<sup>4</sup>.

It must also be recalled that the crushing of political dissent has its roots in this period – characterized by what are today referred to as the Matabeleland Massacres but to which most people and countries around the world were happy at the time to turn a blind eye. When one considers the blatant use of violence at the time, and the silence of the majority in the face of such calamities, it becomes easier to appreciate how the culture of violence and impunity has grown to be part of the political culture in Zimbabwe. People have grown up knowing that opponents are supposed to be silenced and one easy way to do so is to inflict pain. The silence of the majority encouraged impunity – something we see again today and more worryingly even in opposition politics. The abnormal, as the late Professor Masipula Sithole would put it, became normalised.

### 2.3 Lancaster and the Land Issue: A Lost Opportunity

I am also critical of the constitutional arrangements that were made at the Lancaster House Constitutional Conference in 1979<sup>5</sup> especially in relation to the arrangements over land ownership. Perhaps it is easier to say this with the benefit of hindsight removed from the contextual circumstances of the time, but in my view the arrangements over land simply postponed a problem rather than seeking to solve it. The problem was inequality in land ownership and instead of putting in place clear mechanisms and processes to resolve it (other than the “willing buyer willing seller” basis, a free market idea which frankly was never going to completely resolve the problem), Lancaster postponed it by simply entrenching in the Bill of Rights a provision protecting the right to private property. Given the primacy and political

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<sup>3</sup> A copy of the **Leadership Code** can be observed at <http://www.insiderzim.com/Zanu-Pf%20Leadership%20Code.html> It among other things prohibited wealth accumulation.

<sup>4</sup> **The Wretched of the Earth** – chapter entitled **The Pitfalls of National Consciousness**

<sup>5</sup> The independence of Zimbabwe was negotiated at this Conference after nearly a decade of the war of liberation.

sensitivity of the land question, it is not surprising that Section 16<sup>6</sup> of the Constitution of Zimbabwe became one of the most bitterly contested clauses in the Bill of Rights – not only in the courts of law but also in parliament and in extra-legal forms such as the land invasions that took place with the consent of the government.

What is worse in my view is that the failure to put closure to this issue and consequently the perpetuation of land inequality provided the present government with a perfect and convenient platform to launch their campaign based on the rhetoric of Pan-African agenda and social justice, thereby gaining an ear and the sympathy of fellow African governments and people around the world who are also sympathetic to the cause of social justice<sup>7</sup>. What these supporters do not appreciate is that given the manner in which the land acquisition has been done, it has been a convenient pretext for the leadership's pursuit of primitive accumulation and therefore that there is no real social justice for the generality of the citizens. If Lancaster had dealt with the land problem more conclusively, the current government would not have had a claim on the ground of land imbalances.

#### 2.4 Structural Adjustment Programme and Social Collapse

Having said that, the fall of the Berlin Wall and the disintegration of the USSR in the early 1990s caused changes on the global political landscape and in the case of Zimbabwe, changed the way in which the government of Zimbabwe government had played its game during the Cold War. Also, the global powers began to change their tactics in the post-Cold War era. Faced with problems of economic stagnation characterised by rising unemployment and lack of investment after the first decade of independence the socialist rhetoric had to give way to the Western ideas of free-market capitalism. Consequently, the government accepted the IMF-WB led economic reform programme known more commonly in Zimbabwe by the acronym "ESAP" - economic structural adjustment programme.

This package came complete on the foundation of the ideals of liberalization, deregulation and open markets. Indeed, it also included prescriptions for cuts in social spending, privatization, retrenchments and other cost-cutting measures. However, the demands of the free market economic agenda did not feed into the agenda of social justice. Indeed life for most ordinary people began to deteriorate in the 1990s as a result of these economic policies, to which the government, with an eye of maintaining its popularity through the rhetoric of social justice, paid only half-hearted attention.

Also notable is that attempts to redistribute land after the expiry of the ten year period of the entrenchment of the right to private property in the Bill of Rights were thwarted through legal process. In my view what they saw as legal impediments must have caused some frustration on the part of the State. Indeed, while most

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<sup>6</sup> That is the clause that provided for the protection of private property.

people tend to focus on the recent hostility against judges, as early as the 1990s politicians began to make hostile statements critical of the judiciary, whom they saw as protecting the existing economic order through the interpretation of property rights in ways that appeared to maintain the status quo<sup>8</sup>. It appears to me that the government began to see the law as an impediment but it also saw it as a means for justifying and legitimising its agenda. The law is relevant to the government only when it facilitates the deployment of its power and not when it limits its powers. That is why despite its actions in the last 6 years, the government has always tried to change the law as justification.

## 2.5 War Veterans - Threat and Opportunity

As more people descended into poverty while the government lacked any solutions for its difficulties, those who could constitute themselves into social and political groups began to seek attention from the government. The largest and most vocal of those was the veterans of the liberation struggle who began to demand a share of the spoils of independence. This was in part because the generality of the veterans perceived that only those in government positions among their comrades had actually reaped benefits while they had gained very little. Their vociferous demands represented a threat to the position of government but in that threat the ruling party also saw an opportunity. The government gave in to their demands paying a massive 50 000 ZWD to each veteran plus other monthly benefits (all of which was unbudgeted) but also gained a loyal constituency, to which they would turn when it came to the challenge of clinging on to power in the year 2000. Add to this the Congo Misadventure<sup>9</sup>, which gobbled funds in a war that we could hardly afford. Unsurprisingly, from the end of 1998, with these massive expenditures, the currency began to fall dramatically<sup>10</sup>. The rest of the story of the farm invasions led by the veterans and agricultural decline is now common knowledge.

Suffice to state in a nutshell that the government was faced with the challenge of promoting economic progress and simultaneously having to promote social justice. Through a combination of incompetence, corruption and poor judgment it failed both tasks. In trying to promote market reforms in the 1990s it paid lip service to social justice and I also think that the sponsors of these policies – the IMF and WB also take a measure of the blame for the failure of ESAP and its effects on the condition of the people. Much has already been written elsewhere about the poor application by the Bretton-Woods institutions of ill-suited neo-liberal policies in developing and emerging economies. It is easy to blame Mugabe and his

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<sup>8</sup> President and Mugabe and his ministers were critical of the judiciary after court judgments in the early 1990s upholding the right to private property.

<sup>9</sup> Zimbabwe joined the war in Congo, a conflict that involved several African countries such as Rwanda, Uganda and Namibia. It came at a considerable cost, both to human life and economically.

<sup>10</sup> It must be noted that a War Victims Compensation Fund established earlier had been fraudulently looted by several top politicians who had claimed large amounts on the back of what they described as massive disabilities. Ironically some of them claiming 98% disability were still ministers in government!

government for everything that is wrong about Zimbabwe but I also think that if we must find solutions to problems our diagnosis must reveal all the agents responsible for the general ailment. In trying to talk the language of social justice post-2000 the government ignored the demands of economic progress, throwing out of the window all known tools of economic management. In any event, a combination of corruption and poor management has meant that there is really no social justice as the leadership retains most of the productive land, although without using it productively<sup>11</sup>.

## 2.6 Destruction of the Agricultural Architecture

The biggest failure of the land redistribution is that due to the chaotic implementation, it destroyed the whole legal, financial and technical architecture upon which commercial agriculture was built. The government had not planned any replacement and whatever it has tried to do through the Reserve Bank for example has been ad hoc and prone to corruption. Therefore the privileged few who have got the best land have failed to use it to full capacity. A country that was self-sufficient and exported food has become a land of the destitute. Instead of promoting social justice, the policies have caused greater social injustice – with the poor getting poorer and the privileged few getting richer through corruption and taking advantage of the situation. They say outside South Africa, no other country in Africa has the biggest fleet of the latest models of Mercedes Benz – and this in a country where 90 % of the population cannot afford three square meals a day.

## 2.7 MDC, Social Justice and Neo-Liberal Forces

The MDC holds itself out as a social democratic party and claims to be a party for the poor people, implying therefore that the agenda of social justice is at the core of its programme. However, we have also seen signals that the MDC needs to build cosy relationships with the likes of the IMF and World Bank implying that it may not escape the force of neo-liberal policies at the heart of the Washington Consensus. They talk the language of liberal economic policies – seeking the ear of capital. In my opinion, the MDC is therefore likely to face the same conundrum – having to meet the demands of free market economics, which is largely pro-Corporate power and at the same time having to meet the demands of social justice, especially for people who have suffered so much and are expecting a lot. The question then is whether the opposition understands and appreciates the complexities of this problem of balancing neo-liberal policies on the one hand and social justice on the other hand. One thing for sure is that the opposition must be aware of these dynamics and must therefore have a clear plan for balancing the twin demands if real change is to emerge in Zimbabwe. The jury is still out on that point.

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<sup>11</sup> The government has lately begun to admit failures (albeit reluctantly) in the wake of low levels of production although they often blame drought for the woes. It also admits that high-ranking officials have grabbed more than a fair share of the best land.



### 3 The Current State Political and Non-Political Actors in Zimbabwe

I now turn to the current circumstances obtaining in the country, focusing specifically on the main political and civil society actors. I wish to highlight the challenges facing these actors and their place in the process of democratisation in Zimbabwe. I will concentrate on three main constituents – the ruling ZANU PF, the main opposition MDC and the Civil Society sector.

#### 3.1 ZANU PF

ZANU PF is the governing party whose history goes back to the liberation struggle in the 1960s and 70s. Today it is an amalgamation of two parties – ZANU PF of Mugabe and PF ZAPU of Dr Joshua Nkomo, the two main parties of the liberation war era<sup>12</sup>. ZANU PF has been in power for the last 26 years. And President Mugabe has been the sole leader during the whole period<sup>13</sup>.

##### 3.1.1 Crisis of Legitimacy

Over the last six years ZANU PF has been faced with a crisis of legitimacy emanating mainly from the disputed parliamentary and Presidential elections that have taken place during that period. It has been declared the winner of most relevant elections but its victories have been vigorously contested both internally and externally on the basis of fraud and violence. This has led to the country being ostracized in the country in the international community consequently cutting its credibility and lines of economic support, which every country needs for survival in the increasingly globalizing world. The main problem is that as indicated earlier, ZANU PF has failed to find solutions to the country's economic problems. It has also failed to accept that solutions lie in resolving the political crisis that has engulfed the country in the last six years. Its response to challenges from other actors has been largely to use both legal and extra-legal means to remain in a dominant position. The main charge has been its failure to uphold democratic principles and its tendency to thwart human rights and basic freedoms when faced with challenges.

##### 3.1.2 Struggle for Succession and Factionalism

While the party presents a picture of unity under the current conditions, it has become common knowledge that it is facing internal contradictions and challenges centring mainly on the thorny question of succession of President

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<sup>12</sup> The two parties merged in 1987 Unity Accord, after years of conflict in the post-independence era, which period saw the massacre of thousands of people in Matabeleland and Midlands provinces constituted mainly by the Ndebele people.

<sup>13</sup> The Office of the President held by Rev. Canaan Banana between 1980 and 1987, was ceremonial

Mugabe's leadership. While President Mugabe is under pressure, the party is clearly having problems in finding a way towards his successor. Even at this late stage (Presidential elections are due in 2008, unless the party changes the country's constitution again t extend President Mugabe's tenure to 2010, which is no an impossibility), there is no obvious candidate. ZANU PF needs to maintain its grip on power in order to secure post-retirement immunity and protection for its leadership. The former minister of information, Professor Jonathan Moyo, now an independent MP has given us an insight into the nature of the succession problem in ZANU PF<sup>14</sup>. The most prominent manifestation of the battles within ZANU PF was the so-called Tsholotsho Declaration in which Moyo was implicated. The Tsholotsho Declaration has become the metonym for the internal divisions in ZANU PF - pitting those seeking to change the form of leadership and those intent on maintaining the status quo or extending it in some way.

What we know however is that loyalty is very important in ZANU PF. Loyalty to the party and the leadership overshadows all other concerns, including human rights and democracy. When it suits the demands of the leadership, the constitution can be changed and democratic principles can give way. This is why despite the internal contradictions there is limited publicity of these divisions from within ZANU PF itself. I do not know whether it is good or bad but one thing you have to give them is that from a leadership perspective there is a version of discipline and loyalty that you do not find in other political and civil society actors in Zimbabwe. It could be argued that it is both its strength and weakness because while it may good for stability, they suspect that it is enforced through fear and therefore is unsustainable beyond the present leadership.

### 3.1.3 Can ZANU PF Change?

However, despite its endemic problems there are reasons that the opposition forces can discount ZANU PF at their own peril. Like it or not ZANU PF does have its core support - people who will do anything to support it despite its many imperfections and despite their own suffering under the current difficult climate. It may be difficult to understand why but there are people who support it. It this is their democratic choice, which all pro-democracy citizens must respect and tolerate. But there is another important question that people have been discussing - Can ZANU PF change? It arises from the view that there are some good, well-meaning and progressive elements in ZANU PF, who given the chance, could reform the party.

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<sup>14</sup> The account is divided into three parts:

**Tsholotsho saga: the untold story(1)** available at [http://www.prof-jonathan-moyo.com/Tsholotsho\\_saga\\_the\\_untold\\_story.php](http://www.prof-jonathan-moyo.com/Tsholotsho_saga_the_untold_story.php)

**Tsholotsho saga: the untold story(2)** available at [http://www.prof-jonathan-moyo.com/Tsholotsho\\_saga\\_the\\_untold\\_story2.php](http://www.prof-jonathan-moyo.com/Tsholotsho_saga_the_untold_story2.php)

**Tsholotsho saga: the untold story(3)** [http://www.prof-jonathan-moyo.com/Tsholotsho\\_saga\\_the\\_untold\\_story3.php](http://www.prof-jonathan-moyo.com/Tsholotsho_saga_the_untold_story3.php)

It is difficult to predict whether the party can change in the wake of any new leadership. I do not think that it can change under the current framework because its survival in power depends largely on its present character. However, it is possible that a new kind of leadership might wish to effect change because its long-term viability – whether as a ruling party or in opposition depends on its ability to change. Some people have even argued that a reformed ZANU PF will present a stronger challenge to the opposition but despite opportunities for change, ZANU PF has resisted change. The major point of concern is the culture that it has created and nurtured over a long period of time.

The culture of loyalty enforced by any means including violence, the culture of intolerance to dissent, the culture of corruption and cronyism – this is the culture that is ZANU PF's main challenge as an organization and as a brand in the political and social landscape<sup>15</sup>. It cannot be resolved by engaging the best PR consultancy in the world – it can only be solved by clear and substantive change within its ranks. My personal view is that a reformed ZANU PF is good for Zimbabwe because even if the opposition gets into power, the country will benefit greatly from a strong and critical opposition. Good governance is based on accountability and having a strong opposition that provides robust and credible critical assessment is useful for this purpose. So personally, I hope ZANU PF reads the winds of change and effects changes within its ranks.

## 3.2 MDC

### 3.2.1 Post-Independence Resistance in Zimbabwe

While it is often said that the MDC has provided the greatest challenge to ZANU PF since independence, my personal view is that such a statement requires some qualification. This is because before the MDC there have had other parties that have provided great challenges to ZANU PF namely PF ZAPU prior to its absorption within ZANU PF in 1987. PF ZAPU presented a great challenge to the ruling party culminating in the notorious massacres in Matabeleland in the 1980s. That brutal response could only have been made against a very strong and credible challenge. So when people today talk about the MDC being the greatest challenge to ZANU PF, they must not discount the fact that there were others who posed similar challenges long before the MDC was formed in 1999. For the benefit of those who have been made to believe otherwise, the story of post-independence resistance in Zimbabwe did not start with the MDC in 1999. Zimbabweans in different forms and numbers have always had issues against the ruling establishment and have expressed on occasions via PF ZAPU, the

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<sup>15</sup> A leading MP at the time, Dzikamai Mavhaire suffered the wrath of ZANU PF disciplinary machinery when he publicly for Mugabe's ouster. He spent years in the political wilderness. Also it is widely believed that Edison Zvobgo was never quite forgiven for making it known that he had ambitions to become president after Mugabe.

Zimbabwe Unity Movement (ZUM), etc. The likes of Margaret Dongo spent years as lone but vocal opponents in the ZANU PF dominated parliament<sup>16</sup>.

The reason I mention this point is to remind those with selective memories who tend to ignore the gravity of history and trace the history of resistance to 1999 and thereby conveniently pursue politics of exclusion on the grounds that if one was not part of the MDC he or she therefore lacks any claim to any leadership within the struggle for democracy. I also believe that had the world at the time reacted in the same way as it has done in response to the current crisis, the process of democratisation might have begun earlier. I suppose the global politics and economics of the time did not permit similar international attention. But as with Rwanda in 1994, the world sat by and ignored the tragedy unfolding in Zimbabwe and worse still showered the Zimbabwean leadership with praise and adulation.

### 3.2.2 A Party Divided

Notwithstanding the above, the MDC is the current major force in opposition, alongside civic society organizations. However, at present the MDC stands divided into two distinct factions – one led by Morgan Tsvangirai and the other by Arthur Mutambara. Brian Raftopolous has given a detailed account of the split and the circumstances surrounding this episode in the history of the MDC<sup>17</sup>. David Coltart a leading MDC MP and member of the old National Executive made attempts to mediate between the two factions, with a view to reaching an amicable settlement, including divorce if necessary. The idea was to avoid confusion of the two parties using a single name and to divide the resources without having to go through the courts of law, which because of fears of a compromised Judiciary it was thought that it would give power to ZANU PF to decide the fate of the strongest opposition party. These attempts failed indicating the refusal of some leading members of the MDC to engage in constructive conflict resolution, which is what the majority of the people seem to prefer<sup>18</sup>. The split also confirms what some of us had indicated earlier – that the party represented a lot of conflicting interests, which is not calibrated, would lead to rupture at some stage<sup>19</sup>.

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<sup>16</sup> ZANU itself had internal critics, who have sadly dwindled over the years. The likes of Malunga, Nzarayebani, Mavhaire spring to mind.

<sup>17</sup> Raftopolous B and Alexander K “**Reflections on democratic politics in Zimbabwe**” available at <http://www.kubatana.net/html/archive/demgg/060430brka.asp?sector=OPIN>

<sup>18</sup> David Coltart has given a detailed account of his failed efforts at mediation, which should give more light on some of the impediments in Zimbabwe’s march towards democracy. See “**The reasons why I cannot join the Tsvangirai faction**” available at <http://davidcoltart.com/archive/2006/147>

<sup>19</sup> For a more detailed critique of the MDC refer my article entitled “**The Pitfalls of Opposition Politics in Zimbabwe**” published at <http://www.newzimbabwe.com/pages/thirdforce11.12923.html> also available at <http://www.kubatana.net/html/archive/opin/050728am.asp?sector=OPIN>

Recent events indicate that the faction led by Tsvangirai currently enjoys greater support on the ground and it is fair to say that Mutambara's faction faces an uphill task to win space from the Tsvangirai faction. Time, the magician, will tell. Observers suggest that although Mutambara espouses important and valuable core principles and values, he demonstrated poor political judgment in joining a faction rather than pursuing a united front from the onset. Opponents of Tsvangirai in the MDC have charged that he exhibited dictatorial tendencies by rejecting the decision of a collective-decision making process in relation to participation in the 2005 Senate elections. On their part Tsvangirai supporters argue that he did what was necessary to reflect the will of the majority. What is clear is that there is lack of a common understanding of the kind of democracy that they are seeking in the MDC. Also worrying are emerging indications of tribal divisions, which could harm national cohesion.

### 3.2.3 A ZANU PF culture in the MDC - Continuity and Change

Most people however agree that the MDC is much stronger in unity than it is as a divided entity. Some commentators have warned that internal cannibalism will further destroy the MDC<sup>20</sup>. However there does not seem to be the sufficient political will among some of the leadership to promote this unity, which is necessary in order to achieve the greater objective. Egos, it seems, stand in the way of unity. In my opinion, circumstances show that the greatest problem is that the pursuit of power appears to have replaced the greater idea of building a democracy.

What is more important are the implications of this split on the democratic movement. There is a worrying trend of the replication of ZANU PF culture in the relationship between the two MDC factions, especially in terms of intolerance to dissent and diverse views, the use of violence and intimidation, manipulation of tribal differences and general disregard for constitutional rules. Especially worrying is the tendency to promote a dictatorship of the majority and the suppression of minorities – the very strategies that the MDC was formed to fight against. Democracy has been reduced to merely a game of numbers – ignoring the other key values and principles that make up the sustainable culture of democracy. The emergence of this intolerant culture has caused some people to start reviewing their position in relation to the MDC. The problem is that alternatives are limited and there is therefore a core swing vote waiting to be convinced by whomsoever espouses and practices the ideals and principles that they support and cherish. People question: Does the MDC have the capacity to effect real change, beyond the change of personnel in leadership of Zimbabwe? This question seems to be growing in magnitude with each passing day.

And there is also a risk that the external supporters of the MDC who have assisted with financial lifelines during the formative years are also beginning to

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<sup>20</sup>“MDC must contain internal cannibalism – Kagoro” available at <http://www.newzimbabwe.com/pages/senate186.14140.html>

review their positions, given the frustrations arising from recent developments leading to and including the split. Once the external allies begin to lose confidence in the party, it will increasingly find it very difficult to organise effectively. A political party with insufficient funding is doomed, especially when it is in the opposition.

### 3.3 Civil Society Organisations

#### 3.3.1 A vibrant Civil Society sector

The late 1990s witnessed the emergence of a number of key civil society organisations concerned mainly with advancing the human rights agenda. One could say these organisations became the mid-wives at the birth of the MDC<sup>21</sup>. Among them were the NCA, which organised the campaign for a new Constitution, the Zimbabwe Lawyers for Human Rights, the Zimbabwe Women's Lawyers Association. Prior to the emergence of these organisations, there had been a few human rights bodies such as ZimRights and a number of gender-based campaign groups such as Women's Action Group. Later other umbrella organisations emerged, including the Zimbabwe Human Rights NGO Forum and Crisis in Zimbabwe, among many others.

One observation is that the proliferation of civil society organisations in the recent past possibly demonstrates raised levels of activity and general awareness among the citizens. There is no doubt that men and women involved in civil society organisations have done a great deal to raise the levels of awareness of civil and political rights and also enable mass participation in the political processes. A lot of effort has been invested in humanitarian projects, to alleviate the effects of the economic meltdown and political violence. Civil society organisations have also been at the forefront of raising international awareness about the problems faced by Zimbabweans. It is safe to conclude, that together with the opposition political parties, civil society organisations have played a crucial role in the recent history of Zimbabwe.

Nevertheless, there are some serious shortcomings in relation to civil society organisations at both conceptual and practical levels, which stand in the way of progress unless they are fully addressed.

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<sup>21</sup> Refer to an interesting report/analysis by Gumbo H. "**Civil Society in Zimbabwe: A Report From the Front Lines**" ZimInymedia July 2002 available at <http://www.globalpolicy.org/ngos/role/globalact/state/2002/07zimb.htm>

### 3.3.2 Civil Society Organisations and Political Space

The first problem is the unnecessary competition for political and non-political space<sup>22</sup>.

This occurs at two levels:

**First**, civil society organisations compete for space among themselves. They have to win the hearts and minds of the citizens and the donor community. The result is a duplication of activities, each organisation doing the same as the other but each attempting to demonstrate that it is different and better. The economies of scale and scope that could arise from coming together to pursue the same goal have been lost in the process.

**Second**, civil society organisations are also engaged in competition for space with political organisations. For strategic reasons, civil society organisations have tried to present themselves as apolitical notwithstanding the fact that the issues with which they are concerned are clearly political. However, one concern is that from an organisational point of view, the civil society sector has robbed the political sector of great talent. Being a leader of civil society is a safer and more attractive option for people who would otherwise have been at the forefront of participating and organising politically. Because of the uneven political landscape in Zimbabwe, forming and sustaining a political party is very difficult. Often they have to resort to external assistance. Because CSOs also depend on the same external sources for assistance, there is yet more unnecessary competition.

Worse however, is that while awareness in relation to rights has been raised general citizens may tend to identify with civil society organisations than with the political party. To the extent that citizens sometimes have to choose between political and apolitical organizations, this competition for space has caused confusion. Personally, I do not think that Zimbabwe can afford to have the luxury of people who describe themselves as apolitical. The notion of apolitical organisations tends to draw people away from politics, whereas in fact battles are won and lost on the political field. It doesn't matter if a CSO has millions of members if that CSO cannot present a candidate for elections on the political front. In my view, great effort has been spent on CSOs but more of the resources should be invested in the political organisations.

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<sup>22</sup> I have previously written on the problems of CSOs and the competition for political space. Refer to "**Zimbabwe's civil society, and diminishing political space**" at [http://www.kubatana.net/html/archive/opin/050809am.asp?sector=CACT&range\\_start=301](http://www.kubatana.net/html/archive/opin/050809am.asp?sector=CACT&range_start=301) also available at <http://www.newzimbabwe.com/pages/magaisa3.12956.html> but see also opposing view from Moyo K. "**Zimbabwe's civil society vital to democracy**" available at <http://www.newzimbabwe.com/pages/magaisa4.12960.html>

### 3.3.3 “Do as we say, not as we do”

Another problem with CSOs is that they have failed to live by the principles that they espouse. First, they are prone to the charge of being elitist because they tend to concentrate their activities in urban areas and even then, their meetings and conferences are often held at posh hotels and conference centres, far away from the general citizens. The leadership is also often drawn from the elite middle class. Part of the problem is that CSOs have become employers first and servants of the people second. The wonderful salaries and perks that come with the job attract most leaders from the professions. It is clear that not everyone in the CSOs is therefore the cause – but for the wealth opportunities that the positions bring. The allegations of corruption and lack of accountability have also posed threats to the credibility of CSOs. The greed and competition for resources has had a largely negative effect on the nature of CSOs hence the many unnecessary and wasteful divisions<sup>23</sup>. It is not uncommon that once a leader loses office in an NGO he goes on to form another one. Unfortunately donors buy into their project proposal and consequently Zimbabwe has a lot of organisations doing the same things. They cannot even mobilise their membership, if they have any, in order to carry on a united protest.

### 3.3.4 Replicating the Monster

Worse however, is when CSOs begin to replicate the behaviour of the political organisations that they are fighting to change. This has happened for example, when constitutions of CSOs are changed on the basis of following the will of the people, something that ZANU PF and the government has done in the past. The NCA has recently amended its Constitution amid controversial circumstances, with allegations flying around that the amendments were designed to allow Dr Madhuku to remain in power. As a body that has been fighting for a new Constitution, people have begun to doubt whether it still has the moral authority to challenge President Mugabe and ZANU PF in the wake of the controversial amendments. Whatever the merits of the amendments the NCA ought to have taken into account the current context and refrained from appearing to replicate ZANU PF's behaviour. It is clearly a PR disaster and they have some way to win back the faith of those that had invested their trust in them as an organisation dedicated to democracy.

These are worrying times in light of the fact that the disregard of rules is also part of the problem that has divided the MDC. People ask: what then is the difference between the CSOs and political organisations whose culture and

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<sup>23</sup> See report/analysis by Gumbo H. “Civil Society in Zimbabwe: A Report From the Front Lines” ZimInymedia July 2002 available at <http://www.globalpolicy.org/ngos/role/globalact/state/2002/07zimb.htm> He says in part, “This is compounded by the newly flamboyant living style of the civil society leadership. They must always have the latest cars etc. One woman at a meeting said Nhasi tinoisa wedu. Tigopota tichikwira maPajero iwayavo.(This Shona expression means, that today we will elect our own so that we can also enjoy these Pajeros) ...”



practices they have been fighting against. There is also the danger of citizens losing all confidence in both the political and apolitical process, resorting instead to extra-legal means to achieve their objectives. Leaders of CSOs and political organisations must come to terms with the fact that they cannot be in power forever and that they can still serve society very well, even after their terms of office have run their course. Donors must also take an audit of their activities and question whether their funding to organisations is really causing any change or simply perpetuating self-defeating behaviour.

## 4 The Future: Building Sustainable Democratic Culture

### 4.1 Keeping both the government and opposition in check

The primary concern of this paper is to advocate for the cultivation of a democratic and constitutional culture – embracing the spirit of constitutionalism, respect for the individual not only by the state but between individuals. I take the view that fighting tyranny requires not just criticism of the tyrant but also close scrutiny of those who claim to take over. I therefore deliberately take a critical approach toward the opposition forces, not because we oppose them but because we recall that the mistakes that we have made before in relation to leaders was giving too much praise without holding them to account. We therefore take the view that the best way to prepare the opposition for government is to critique their claims and require them to build a culture of accountability. Democracy is an attitude, it is behaviour and it is a way of life – you do not just change into a democrat once you gain office – our argument is that the culture must begin from the very early stages. On their part we expect the opposition to be receptive to positive criticism, to accept intellectual input and to be tolerant to diversity. If they cannot do it while in opposition, what chances are there that they can change when they are in power, with the state apparatus at their disposal?

### 4.2 Managing Multiple Competing Interests

In mapping a future for Zimbabwe, one must acknowledge the fact that there are various, often conflicting interests that require attention. Most of these interests came together in the form of the MDC in 1999 and I have previously argued that failing to hold these interests together has been one of the shortcomings of the opposition party<sup>24</sup>.

The largest group are the poor people in both rural and urban areas. Of course, the numbers of poor people have skyrocketed in the last few years. These people need to return to their normal standard of living. They want employment, access to food and

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<sup>24</sup> See Magaisa A “**The Pitfalls of Opposition Politics in Zimbabwe: On Why the MDC is Struggling**” at <http://www.kubatana.net/html/archive/opin/050728am.asp?sector=OPIN>

economic stability. They want an affordable lifestyle comparable to what they were used to prior to the current crisis. The farmers who lost their land want either the restoration of their property rights or fair and adequate compensation. The new farmers may also want to retain the property that they have taken. There are others who feel they were unfairly deprived of access to land who will also demand their fair share. But overall, every one wants to see agricultural production rising to previous levels<sup>25</sup>. Can the drive towards economic efficiency co-exist with the demands of social justice? Can wealth creation through agriculture be done simultaneously with wealth redistribution?

There are thousands of people who suffered severe injuries and lost many relatives during the Matabeleland atrocities in the 1980s. Along with those who have also suffered in the current crisis they too demand a healing process. People in various regions have complained of underdevelopment – they too demand attention when change comes. Workers will want job security and adequate legal protection. But companies will also demand more relaxed operating environment. Foreign companies look at Zimbabwe and see the untapped but abundant wealth. But they will also demand incentives and legal exemptions to bring in their investments. Indeed while the local populations will demand greater protection of human rights, foreign companies will demand relaxation of laws in order to promote investment.

The truth is that the future of Zimbabwe, like that of so many developing countries is more complex than appearances often suggest. Those who are looking for immediate change in their circumstances once Mugabe leaves will have to re-consider their views and accept that there is going to be a long way of hard work and sacrifices ahead. Zimbabwe has been set back 20 years. It will need that and more to recover. Only a leadership that has a good grasp of these complexities can address the competing interests. The leadership must have a good understanding of the local, which is hard enough but they must also be ready to handle the powerful external factors, which can be more tricky and challenging.

### 4.3 Short-Term and Long-Term Approaches

There are at least two discernible lines of approach within the opposition movement.

First, there is what I define as a **short-term consequential approach** under which the main point of change is the removal of President Mugabe and his government. Under this approach, this departure is largely perceived as opening the gateways to prosperity. The second, **long-term comprehensive approach** reflects a more wide-ranging, long-term change and sees the departure of President Mugabe as a necessary but not only signal of change in the country. The departure of Mugabe is just part of the process, not of itself the advent of prosperity. A common theme in both approaches therefore is that President Mugabe and his party have seen better days and must retire.

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<sup>25</sup> Magaisa “Reviving Commercial Agriculture in Zimbabwe” available at <http://www.newzimbabwe.com/pages/magaisa17.13764.html>

The biggest problem with the popular short-term approach however is the idea that it does not matter what it takes to defeat Mugabe, even if it means using the dictatorship of the majority with the opposition ranks. This is the reason why the dominant opposition now exhibits a tendency to silence minorities, even through use of violence and intimidation. What this approach fails to take into account however is that in order to build a stronger democracy for the future, the opposition must of necessity uphold the principles from the start. It does not take into account the risk that a change in leadership personnel will not necessarily deliver substantive change.

The second approach focuses on more comprehensive change, which is likely to take longer and will extend beyond the change of leadership. This school of reasoning is not popular because it does not promise immediate change. This is understandable in a climate in which people are feeling the pain of deprivation and oppression. However, the reality is that change will take much longer than most people expect.

#### 4.4 Legal Rules and the Constitution

Also change is not depicted by mere rule changes as is often promised by opposition politicians. That the Constitution needs to be changed is not in doubt but it is erroneous to create the impression that once the Constitution is changed then everything will fall into place. It is wrong to promise that the repeal of bad laws is the simple panacea for Zimbabwe's ills of poor governance and oppression. In this regard I have argued before that the Constitution in Zimbabwe is not necessarily the main problem but that what matters is the attitude, behaviour and culture of the individuals towards each other and institutions in society. It is easy to blame rules, but rules are only as good as the people who apply them.

I have argued that in fact even in its current form, the Constitution has served some very useful purposes when interpreted differently especially by the pre-2000 judiciary<sup>26</sup>. The problem is when people refuse to change their behaviour and attitude towards the law, others and institutions. You can have the best Constitution in the world but if the people charged with upholding it do not perform their role the piece of paper remains inconsequential. It is worthless to have a Constitution when the requisite culture of constitutionalism is non-existent. This is the case in Zimbabwe at present where the Constitution is regularly amended in order to justify the use of state power, not to put limits on such powers<sup>27</sup>. Similarly, people must be prepared to defend the Constitution. But when people consent, either actively or passively, to the changes in the Constitution that undermine the core values of a sustainable democracy, they can have no one to blame for their problems.

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<sup>26</sup> Magaisa A "**Zim Constitution not the primary problem**" available at <http://www.newzimbabwe.com/pages/magaisa22.13947.html>

<sup>27</sup> Magaisa A, "Zimbabwe: Constitution without Constitutionalism" available at <http://www.newzimbabwe.com/pages/senate18.13087.html> and also at <http://www.kubatana.net/html/archive/opin/050902am.asp?sector=DEMGG>

#### 4.5 Democracy – Just a Game of Numbers?

Some people think that democracy is simply about numbers – that it is about the majority being in charge and the minorities being subservient and having no voice whatsoever. This explains why in today's politics people are more concerned with how many people attend a particular rally and not about the substance of the speeches and discussions at meetings. It is numbers that matter, substance comes second. There is more emphasis on quantity at the expense of quality. People forget that even Hitler won an election. Numbers of course do matter in distinguishing the winners from losers. But when numbers alone become the determinants of where we are going and how our democracy is evolving then clearly there is something missing. It seems to me that besides the numbers Zimbabweans should also consider how far we have moved on the other finer aspects that define and constitute the necessary democratic culture. These include, the tolerance, the diversity, protection of minorities, non-violence, respect for rules, etc. In reality, the Constitution and rules can be made in one day but the relevant culture that we need for a sustainable democracy requires longer. It needs patience but we must set the necessary conditions to nurture it.

#### 4.6 Positive Strategy: Union of Pro-Democracy Forces

The task of overcoming the current regime requires by and large the union of pro-democracy forces in Zimbabwe. There is a tendency among those that have the most support to believe that they can go it alone but in reality, they will almost always falter against the might of ZANU PF, which has the state machinery at its disposal. When engaged in a battle one does not need to be involved in other squabbles as is happening now in respect of the MDC. In true style of throwing the baby together with the bathwater people have a tendency to dismiss ideas coming from the likes of Professor Jonathan Moyo<sup>28</sup> who has of late been making commentaries on the Zimbabwe situation. My view is that there is nothing wrong with accepting ideas when they are well made and especially when they make sense no matter what people think about the source.

I refer in particular to a recent lucid assessment of the state of politics in Zimbabwe<sup>29</sup> in which Professor Moyo made two key points that resonated with my own ideas: **First** that if the opposition is to make headway against the incumbent regime it needs to fight as a united bloc. The example of Kenya cited in that article is apt. In Kenya, despite multi-party politics coming in the early nineties, they were only able to dislodge the ruling KANU in 2002, after uniting under the umbrella of the Rainbow Coalition. In terms of economies of scale and scope the argument for a united front makes strategic sense, especially given the failure to counter the fraudulent electoral victories in the last six years. **Second**, he argued, as some of us

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<sup>28</sup> Former Minister of Information in recent years.

<sup>29</sup> Moyo J. "Beyond Budiriro: The state of politics in Zimbabwe" available at <http://www.newzimbabwe.com/pages/senate193.14202.html>

have done before, that the opposition necessarily needs to incorporate some of the progressive elements from the ruling ZANU PF. The MDC's failure to attract some major figures from within the ruling establishment has been one of the major handicaps in the struggle. While it is widely believed that the MDC won the general elections the fact remains that ZANU PF remained in power having been declared the winner. The major question to occupy the opposition therefore ought to be what it is that it must do to succeed regardless of ZANU PF's machinations. This is where the cooption of progressive ZANU PF elements becomes a significant.

To beat a cunning opponent such as ZANU PF a party needs inside information and support from certain key organs of the state. In any transition, a lot of people feel threatened by change and if they are in charge of certain key arms of the state, they will naturally take sides with the one who promises stability and protection. Having some key progressive figures from ZANU PF in the opposition ranks could give some measure of comfort and reassurance to such key figures. In addition, the need for institutional memory requires that you retain certain elements that have been within the system for purposes of transition. Again in this case the example of the cooption of certain KANU figures into the Rainbow Coalition in Kenya is a fair example.

## 5 Conclusion

Finally, this paper sought to dissect the high-level dynamics obtaining on the Zimbabwean political landscape with a view to advocating a certain kind of politics for sustainable democracy. My major concern is whether and to what extent there is enough substantive change that is necessary to nurture a sustainable democratic culture. I see the current struggle as a mere phase in the long process of transition. Indeed the fruits of the struggle may never be realised in our generation but it takes the current generation to make sacrifices to prepare a better future. I conclude by making the following points, which have formed the main thematic lines of this paper:

### 5.1 Democratic Culture

- 5.1.1 Zimbabwe needs to focus on nurturing a long-term democratic culture, defined not simply by numbers but by the respect for key values and principles. Democracy defined only by reference to numbers, in the absence of core values including protection of minorities against majoritarian oppression will be remain defective.
- 5.1.2 The MDC is a stronger party when the two factions are united. I see one as providing the passion and the other as providing the reason. Better still, the union of opposition forces is likely to present better results in the struggle for democracy particularly in respect of the short-term goal of dislodging the current regime.

- 5.1.3 The CSOs need also to get their act together and exploit the economies of scale and scope. I would rather there is greater participation in the political process but if they have to remain relevant they must live by the word they preach. On their part, the donors who provide the financial lifeline for these CSOs could do well to promote greater unity and avoid the current duplication. Donors must also be careful not to perpetuate the culture of impunity by funding organisations that clearly violate the principles for which they are supposed to be safeguarding and promoting.
- 5.1.4 Finally, the importance of a reformed ZANU PF cannot be underestimated. It has been a formidable organisation with a huge historical pedigree whose main weakness has been the refusal and inability to change. There is no doubt that there are some well-meaning people in the party. The question is whether they have the will and drive to promote change. Whether as a ruling party or in opposition, a reformed Zimbabwe could do well with a strong and reformed ZANU PF.

## 5.2 Last Word: Democracy as a way of life

It is worth recalling that democracy is a way of life. As such, there is no single day when Zimbabweans shall wake up to proclaim that they have captured democracy. We are judged by our behaviour and actions everyday, whether we are in opposition or in the ruling party. Even the so-called great democracies of the world cannot claim to have achieved the perfect version of democracy. We all know that they falter from time to time. But we have to try in our own way, to make the democratic march, because it is in the effort that we measure whether or not we are on the correct path. Right now, I fear that we have met a barrier in Zimbabwe, and we have taken a detour ... we have to find our way back to the right path.

Thank You.