

HUMAN RIGHTS RECORD AND DEMOCRACY IN ZIMBABWE SINCE INDEPENDENCE: AN OVERVIEW

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‘The British cannot lecture us on human rights and democracy. It is us who brought the principle of one-man one-vote in Zimbabwe. This did not come on a silver platter but through the barrel of the gun because it was the only language that the white man could understand...’ Robert Mugabe (Paraphrased)

ABSTRACT

Human Rights and Democracy remain shrouded in hubbub in post-independence Zimbabwe. Zimbabwe got its independence from Britain in 1980 through an enduring armed liberation struggle. The consequent Lancaster House Conference guaranteed that the independence was a bargain arrangement. The leadership in Zimbabwe, led by Robert. G. Mugabe has ad infinitum used the liberation struggle as a discursive trump card to ward-off any censure on its human rights abuses and desecration of democratic principles. The Liberation struggle has relentlessly been used as a boon to get away with human rights despoliation and sacrilege of democratic precepts. This paper gives an analysis of human rights and democracy as contested concepts in Africa, in general, and Zimbabwe, in particular. The paper presents an appraisal of the human rights and democracy record in Zimbabwe drawing lessons from policies that the government has implemented since attaining self-government.

INTRODUCTION

Since its independence in 1980, Zimbabwe has witnessed a number of events that have left an ineradicable mark in as far as the human rights and democracy debate is concerned. These acts have, to a larger extent, been presided over by the ZANU (PF) government. Events that come to mind are *inta alia*, the callous massacres of more than twenty thousand innocent civilians in the Midlands and Matebeleland regions, the controversial fast track land reform programme, the conscription and

exploitation of the controversial Youth Brigade (Green Bomber), unfair and politicized food distribution, Operation Murambatsvina, The 17th Constitutional amendment, the enactment of the controversial Access to Information and Protection of Privacy Act (AIPPA), the Public Order and Security Act (POSA), the Broadcasting Services Act (BSA) (2001), the Zimbabwe Broadcasting Corporation (Commercialisation) Act (2003), and also the nature of elections since 2000. What is more, is that the elections that have been carried out during this period and their aftermaths (2000 parliamentary elections, 2002 presidential elections, 2005 parliamentary elections, and 2008 harmonised council, house of assembly, senatorial and presidential elections) have themselves been marred by widespread reports of politically motivated violence. Heavy police and military presence within communities raised questions of whether Zimbabwe, in practice, was a police state, a military state, or a civilian one. The activities of the Joint Operation Command (a combination of Police Chiefs, Army and Airforce Chiefs together with the Prison Services Chiefs) are themselves a borne of debate as to whether Zimbabwe is a democratic state or not. The above cases leave one groping for the reality of human rights and democracy in Zimbabwe.

CONCEPTUAL FRAMEWORK

The debate on the universality of human rights continues to grow as new cases of “human rights abuses” arise. The Human Rights debate has hogged the limelight since the end of the “Hitler War” of 1939-45. Appalled by the barbarism of the Second World War, the United Nations General Assembly adopted the Universal Declaration of Human Rights in 1948. From the philosophic contributions of Thomas Hobbes, John Locke, Jean Jacque Rousseau, and David Hume on the conceptualization of human rights and dignity, one can argue that human rights as presented in the United Nations Universal Declaration of Human Rights (UDHR) with its focus on the individual is basically a Western notion that nevertheless has relevance for Africa. The universalistic claim made for the Western conceptualization of human rights in the UDHR and other UN conventions presents a problem of implementation in non-Western societies, such as those in Africa and particularly as has been witnessed in Zimbabwe since 2000.

The UDHR preamble states that “...recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.” Humankind had just suffered the most destructive war in its history and tens of millions of human lives had been lost. The Nazi regime in Germany had shown the need for international guarantees against some state proclaiming an internal war against a nationality or ethnic or religious group and possibly in

full accordance with its own laws, starting systematically to annihilate the members of a certain group (Human Rights, A Case Study Post Cold, 2003). War Such a scenario has also been observed in Zimbabwe. However, the government has defended itself by claiming that it is mere vilification because of its stance to redress colonial land injustices. Mugabe has justified violence arguing it was necessary to correct past prejudices against Africans.

The concept of "democracy" is contestable. There are varied modes and models that exist in societies that can be called democracies. The most common types are, but not limited to, parliamentary democracy, representative democracy, direct and indirect democracies, and liberal democracy, to mention just but a few. All these models have been adopted in those societies to suit their conditions.

The first historically recorded democracy occurred in ancient Greek society. Athens was the most culturally brilliant of the city states of the ancient western world. A constitution produced by Solon in 594BC evolved an increasingly democratic self-government through a series of reforms between 508 and 461BC when the balance of power shifted decisively towards the citizen body and away from the aristocracy. This stage of 'peoples power' lasted 117 years until 322 BC in spite of opposition from the leading intellectuals of the day, including Aristotle and Plato. In fact, according to Anthony Arblaster, no contemporary defence of Greek democracy survives.

In Southern Africa alone there are more than five versions of democracy. If one compares democracy in South Africa, it is totally different from the Botswana scenario. Zimbabwe's democracy totally contrasts with what transpires in the Kingdom of Lesotho. The same applies to Swaziland and Malawi, Madagascar and Tanzania, the list is endless.

For the purposes of this paper, democracy is understood by to mean a form of government in which a significant portion of the governed society has a franchise to elect members of the governing body. Other observers would argue that a "true" democracy is a system of government that embraces a universal adult franchise. While flaws exist in all democratic systems of government, most advocates accept Churchill's dictum that "contemporary democracy as we know it is the least bad of all systems of government" (Bale: 2001).

ZIMBABWE HUMAN RIGHTS RECORD: THE CASES

Shortly after the attainment of its independence, Zimbabwe was plunged into a civil war that resulted in genocide (Gukurahundi) by a government that was expected to provide people with protection. This was soon after Mugabe had announced the need for a militia to "combat malcontents" in the then new Zimbabwe (<http://en.wikipedia.org/wiki/Gukurahundi>). However, there was very little civil unrest in Zimbabwe at this time to warrant the training of such a militia. Zimbabwe was in a state of undeclared civil war. As in any conflict, damage cannot be measured in deaths alone: tens of thousands of Zimbabweans were displaced from their rural homes (CCJP Report, 1997).

According to Mugabe then, in a war, forces do whatever is in their power to protect their independence gains and preserve a country's security. This goes to explain how the Mugabe government tried to justify human rights abuses on a trajectory of "state security" when in fact there was arguably no security threat to the state at the time. Joshua Nkomo, leader of the mostly Ndebele, asked why this brigade was necessary when the country already had a police force to handle internal problems (CCJP Report, 1997).

People from largely Matebeleland and Midlands were butchered with reckless abandon. The proportions of the atrocities amounted to what commentators argued became genocidal. Genocide is defined in the Convention on the Prevention and Punishment of the Crime of Genocide (1951) which Zimbabwe ratified. "These are certain acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group" (Levine: 1996). Genocide is designated as a crime against humanity under international law, whether committed in time of war or of peace (Levine: 1996). Thus, if there is to be any complete debate on human rights in Zimbabwe, justice has to prevail first. Provision is made in Article 6 of the convention for persons charged with committing genocide to be tried either by a competent tribunal in the state where the act was committed or by an international penal tribunal which has been accepted as competent by states parties to the convention (Levine: 1996). It is, therefore, correct to say until perpetrators of the 1980s genocide are brought to justice for their acts, then, human rights in Zimbabwe will remain between a dream and a nightmare.

The Fast Track Land Reform

The Land Reform in Zimbabwe provides a view of deep-seated conflict of interests and different human rights paradigms between neo-liberal forces sustained, on one hand, by the British, and on the other hand, the Pan-African forces championed by Mugabe. Obviously, to the latter, the most important thing

regarding human rights means the restitution of lost lands back to their rightful owners – Black Africans – never mind the method and consequences. According to this school of thought, the human rights issues to land reform are secondary. Colonial policies of expropriation gave white farmers colossal, gratis expanse of fertile land in what is now Zimbabwe, while rural black people were restricted to crowded “tribal reserves” of little agricultural value. From independence in 1980 until 2000, this unjust situation changed negligibly. According to the then Minister of Home affairs, John Nkomo, “Any nation that ignores this crucial resource (land) and grapples with softer issues of human rights is resting on a powder keg that can explode into a revolution” (People’s Daily, 2002). In this light the land reform program in Zimbabwe sought to empower the people and was crucial in affording them basic human rights. According to Nkomo, “It is not in doubt that human rights are not absolute since the value of a right easily vanishes once it impinges on the other.” (People’s Daily, 2002)

However, while it can be acknowledged that the need to address and redress the incongruent and race-based patterns of land occupation was long overdue, the process of speedy land redistribution was flawed, what David Moore (2002) aptly called “a process of primitive accumulation.” This process led to serious allegations of human rights violations. The fallout of the Zimbabwe program has also proved controversial, with many allegations of party politics playing a role in the distribution. (BBC) According to one Takirambudde, “Many of the people who were supposed to benefit from this reform have actually been targets of the violence,” (Zimbabwe: Abuses Plague Land Reform: 2002).

The government also failed to ensure that women, particularly married women, benefited from the land reform, despite its stated commitment to gender balance (Zimbabwe: Abuses Plague Land Reform: 2002).

Operation Murambatsvina (Restore Order)

The right to ‘adequate’ housing finds explicit recognition with an array of international instruments, including the UDHR, Article 25(1), CERD, Article 5(e) (iii), CRC, Article 27, CEDAW, Article 14 (2), among others (Leckie, 1995). Zimbabwe ratified all of these instruments. However, in May 2005, the Zimbabwean government embarked on an indiscriminate and controversial clean-up program to clear all shantytowns and unplanned backyard houses. In the process, more than 700 000 people were displaced and left homeless (UN Report, 2005). Justification of the program was premised on the need to comply with city councils’ by-laws and uprooting alleged rampant illegal activities taking place within these areas. The Western press claimed that the purpose of the evictions was to punish the urban population

for voting against ZANU-PF in the March elections and in favour of the pro-Western Movement for Democratic Change (MDC) (Slaughter, 2005). This was clearly a factor, but evictions have also been directed against the war veterans who took part in the occupations of white owned commercial farms. These people were deprived of their right to housing.

The UN Global Shelter Strategy to the year 2000 (GSS) defines the right to adequate housing as, adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure... and basic facilities, all at a reasonable cost (Leckie, 1995).

This, however, flies in the face of the subsequent Operation Hlalani Kuhle a result of international pressure on the government to hastily act to control the crisis. The matchbox sized houses built under this program have been uninhabitable, lacking legal security of tenure and culturally inadequate. The Zimbabwean government claimed that the program was an unparalleled one, being one of the most massive housing programs by a single government for its people not only in Southern Africa but also in the whole of Africa. At this point, it is safe to argue that, the Mugabe government, in instituting this program, was just groping for reason to convince the international community that in fact it was a government that cared for its people yet to the contrary was assaulting their rights with impunity.

Democracy in Zimbabwe: Perspective

Democracy is a system of government by which political sovereignty is retained by the people and either exercised directly by citizens or through their elected representatives. In such a system, there is a persistent desire for more lofty ideals of freedom, social justice, and participation in decision making. Democracy carries with it the philosophy that people can reach agreements and resolve conflicts of interest through deliberate communications rather than by resorting to violence and brute force. However, the democratic experience in Zimbabwe has been, to say the least, nightmarish. Here I shall outline the terrains on which democracy in Zimbabwe has been constipated.

Firstly, if democracy is to be measured on the number of times elections are held, then Zimbabwe can be applauded. However, elections in Zimbabwe since 2000 have been a smokescreen to legitimize an otherwise tyrannical regime led by Mugabe. Evidence abounds of election rigging, gerrymandering, and violent election conduct that has prevented opposition movements from participating in those elections

in a fair and free manner. The presidential run-off scheduled for June 27th, 2008 from which Morgan Tsvangirai, the Opposition Chief, pulled out is a glaring example and vindication of a superfluity of reports of election rigging by the regime. What makes the run-off scenario more interesting is that the whole international community through the United Nations voiced, unanimously, their dissatisfaction with the electoral processes in Zimbabwe, including both China and Russia.

Democracy also entails such virtues as accountability, transparency, rule of law, and respect for human rights, to mention a few. In Zimbabwe, what one encounters is a broken down systems of governance, corruption, and rule by law. The government has trampled on the above virtues with reckless abandon and thereby dissolving any vestiges of democracy in Zimbabwe. Even the Southern African Development Community which used to support Mugabe as a liberation war hero began to show dissatisfaction with the illegitimate government of Mugabe. Countries such as Zambia, Botswana, Tanzania and Angola for the first time came in the open criticizing an errant neighbor.

Rule by Law versus Rule of Law: AIPPA, POSA, and Amendments

Contemporary debate in Zimbabwe hinges on whether there is need for a new constitution in Zimbabwe or there be repeated modification of the Lancaster House one. On one side are the nationalists, detectably disconcerted by the massive 'No Vote' against the Constitutional Commission draft constitution of February 2000 and sentient of imminent political peril, who see no reason why 'an extra' constitution should be drafted on the feeble and parochial reasoning that it would be a squander of resources. On the other side, are the democratic forces, which for the agile argument that the process which brought about the 2000 draft was itself imperfect, patronaged, and subjective; hence, a new constitution based on a participatory process should be, as a substance of necessity and exigency, be prepared. On this question, nevertheless, the nationalists have bulldozed their vehemence through, unabated.

The question that arises out of the above is whether constitutionalism in Zimbabwe is adhered to or there is a systematized tradition of crafting laws to suit the elite. Ethics of constitutionalism are predicated on the notion of participation of the ruled and that constitutions should be made to guide governance and not vice versa. It has become routine in Zimbabwe that the affluent ruling party, in contention that they

know what is best for the people, what Zwizwai et al has called “Partocracy”, have willy-nilly tempered with the constitution and expediently introduced litigious laws.

Elections in Zimbabwe

Zimbabwe is constitutionally a republic and if democracy is to be analyzed on the terrain of elections, then Zimbabwe fits to be a full-fledged democracy. Elections in Zimbabwe have been held as and when they are due. Save for the 2000 parliamentary, 2002 presidential elections, 2005 parliamentary, and the recently harmonized parliamentary, senatorial, council, and presidential election, elections in Zimbabwe have generally been held under very free and fair conditions, albeit obvious that ZANU (PF) would win the contests. However, what brings the 2000, 2002, and 2005 elections to the human rights microscope is the magnitude and volume of violence that preceded and even followed after. To a larger extent, ZANU (PF) supporters or its sponsored militia perpetrated the violence. In reference to the National Youth Service, one Madondo said,

“They terrorized innocent Zimbabweans, brutalized opposition supporters, forced people to buy ZANU PF party membership cards and have been implicated in politically motivated murders over the last three years. During the drought and food shortages of 2002 and 2003, they played enforcers of government policy – attacking overcharging retailers, arresting people in possession of scarce commodities, confiscating goods and stopping opposition supporters from getting food aid. They are the Green Bombers, Zimbabwe’s government controlled and supported youth militia. In return for their services, they are rewarded with immunity from prosecution and with jobs in the military and police forces”(Africa files, 2006).

Furthermore, Madondo noted that,

“It soon became obvious that the NYS was a guise to create a ready human bank for militia recruitment. By July 2003, weapons training had been included in the curriculum and the programme had become indisputable recruitment turf for the Green Bombers. Indeed, perhaps the most frightening aspect of the program is its militarism. The program is run by retired Zimbabwe National Army Brigadier General. Instruction during training is provided by military personnel, war veterans and ex-dissidents, linking the programme to the liberation war and to the

atrocities committed in Matabeleland and Midlands provinces by both the military and dissidents”(Africa files, 2006).

In addition, the government maintained a very tight grip, instituting bottleneck structures to the holding of elections in Zimbabwe. The other two national elections, the presidential election in 2002, and the parliamentary elections in March 2005, were not free and fair. There were reports of fraud and improper participation of security forces in counting and tabulation of ballots, restrictions on access to voter education, irregularities in voter registration, limitations on the opposition's ability to campaign, and continued restrictions on speech, press, and assembly are vivid examples of the stifling of the electoral process (Bureau of Democracy, 2006).

The 2008, harmonised presidential, parliamentary, senatorial, and council elections provide an interesting paradigm to democratic practice in Zimbabwe. For long defending himself and the government as democratic, Mugabe faced defeat and proved to the entire world, that he was, by withholding the presidential results for more than a month. The government, according to the Zimbabwean, became a de facto military Junta (www.thezimbabwean.co.uk). For the first time, ZANU-PF lost control of parliament. ZANU PF through its leverage over the Zimbabwe Electoral Commission, demanded a recount in 23 constituencies which went on despite that they were unconstitutional. This, despite that a court petition by the opposition against the 2002 presidential results was still decomposing and putrefying in a court of law without any action.

Harrowing Experience: The Gender Scope

The impact of the various negative policies implemented by the government has not been homogenously felt by Zimbabweans. In fact, there have been varying degrees of traumatic experiences between women and men. Here I don't intend to present binary lines of female and male and, therefore, posture that they were affected in the same way according to those categories, but I submit that young boys and young girls, older males and older females, and various classes of people were affected differently.

To start with, there is no qualm that women and children are the most vulnerable in most crises in the third world. Zimbabwe is no exception. The measure to which women and children have suffered, as a result of the above-discussed policies, is of inconceivable extent and a good number of the cases are

undocumented. It is a greater number of those women whose houses were destroyed, whose vending places were also destroyed. In other words, they lost both their homes and their incomes.

According to M.J Osirim,

“... The economic crisis has been joined by a political crisis which marks the first major challenge to the Mugabe regime since independence. In addition to the very harsh toll that the economic and political problems have had on poor and low-income African women in particular, especially those involved in subsistence agriculture and the micro-enterprise sector, black women in Zimbabwe have also experienced an escalation in violence committed against them, by both individuals and the state. Such violence cannot be solely understood as physical abuse, but as a phenomenon that takes on a myriad of forms, including the economic and the psychological...” (<http://web.africa.ufl.edu/asq/v7/v7i2a8.htm>).

While the Mugabe government has been posturing on empowerment, it has not benefited the majority of the needy women, but most of the activities have violated against and traumatized a majority of women in Zimbabwe. Such actions as, but not limited to, the Gukurahundi, Operation Murambatsvina, Price Blitz, Fast Track Land Grab, and election violence since 2000 has arguably taken a toll on women of various walks of life than on any other groups. The sting of the economic and political crisis described above, have had a greater bearing on women in Zimbabwe, both rural and urban. It is, therefore, my contention that women’s rights in Zimbabwe since independence have remained between a dream and a nightmare.

CONCLUSION

From the foregoing, the human rights issues in Zimbabwe are an unfinished business and need attention of both regional and international community. The regional community could assist by not cuddling dictatorial tendencies of any government, revolutionary, or democratic movement. Democracy in Zimbabwe, rather than progressing and evolving into a stronger institution, is being destroyed by the very people who gave birth to it (so called war veterans) under the guise that they are consolidating it. It is safe to postulate that while the Zimbabwean situation is a political stalemate with its erstwhile colonizer, it is equally a case of failed management, a system averse to change, that can not learn from its diverse talent and that wants to protect its own power at whatever cost. The cost unfortunately has been human rights abuses and profanity of democracy.

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