

## THE NEGOTIATIONS AND THE AGREEMENT ON POWER SHARING IN ZIMBABWE

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Zimbabwe is caught up in a crisis that could not be severer. Not for the first time, President Robert Mugabe demonstrated that he is not prepared to relinquish his power, even though poll results may show him up as the loser: at the presidential, senatorial, parliamentary, and local elections that were held in March 2008, the challenger, Morgan Tsvangirai, and the opposition parties united in the Movement for Democratic Change (MDC) won 47.9 percent of the vote, leaving the ruling Zimbabwe African National Union Patriotic Front (ZANU PF) behind at 43.2 percent. Violence broke out immediately, preventing the MDC from participating in the run-off election for the office of president, so that Mr Mugabe could have himself elected head of state once again.

However, international pressure on the regime in Harare was increasing, so that finally an agreement was hammered out which was mainly intended to regulate the sharing of power in Zimbabwe. It pays to take a closer look at the history of this agreement which was signed on September 15, 2008 because it reflects the complex situation in this Southern African country.

When the MDC held a meeting in a suburb of Harare together with civil-society organizations on March 11, 2007, the police intervened, arresting Mr Tsvangirai and a number of opposition activists and maltreating them severely. Pictures showing Mr Tsvangirai's injuries flashed around the world, raising a storm of outrage. Concerned at this, the Southern African Development Community (SADC) called an emergency summit. Thabo Mbeki, then president of South Africa, obtruded himself as mediator between the MDC and the ZANU PF, exhorting 'all parties' to abstain from violence, steadfastly ignoring who it was that was responsible for Mr Tsvangirai and his party being beaten up during their detention by the police.

Mr Mbeki never made a secret of his prejudice in favour of the Zimbabwean government. Speaking to the parliament of his own country in the early nineties, he said with reference to the criticism of the invasion of White farms – uttered mainly by Whites – that the 'outcry over Zimbabwe reveals that racial prejudice still persists in Southern Africa'. In March 2001, he wrote to the ANC that 'certain people in Zimbabwe and elsewhere in the world, our own country included', were using human rights as a lever 'to overthrow the government of Zimbabwe'. In 2002, at the 51st National Congress of the ANC, he described the ZANU PF as 'a liberation movement that is our ally and friend', probably alluding to the solidarity among Africa's nationalist parties.

There are three things that reveal the affinity which exists between the Mbeki government and Mr Mugabe – the 'quiet diplomacy' tactic which forbade any condemnation of the human-rights infringements committed by Mr Mugabe, the rebuttal of any criticism of Zimbabwe in international forums, and the argument that talks were going on between the embattled parties so as to defend Mr Mugabe against pressure. Mr Mbeki left no stone unturned to protect Mr Mugabe. He supported his government with funds and loans. He forbade the South African Broadcasting Corporation to criticize either the Zimbabwean president or his own Zimbabwe policy in any way. On the international stage, he systematically undermined any moves which threatened Harare with pressure or sanctions and prevented any debate about resolutions that provided for penalties. He supplied his neighbour's army with weapons, ammunition, and trainers. And when George Bush came to South Africa, he lied to him, pretending that talks were under way, and that Mr Mugabe would step down before the year was out.

When the day of the elections finally came round in March 2008, they were the freest ever in the last eight years, but they were not fair, one of the reasons being that the Zimbabwean Electoral Commission (ZEC) was controlled by the ZANU PF. Moreover, although the results were known shortly after the polling stations closed, the ZEC prevented their publication. Figures became available only in May: 47.9 percent went to Morgan Tsvangirai, 43.2 percent to Robert Mugabe, and the remaining 8.9 percent to two outsiders. The inevitable run-off election was deferred to June 27, 2008.

Meanwhile, Mr Mugabe did not hesitate to take the oath as president and let himself be treated as such at almost all the subsequent meetings of the AU and the SADC. In his own country, on the other hand, violence was unleashed: by proceeding against the MDC and its followers in the harshest possible way, the military and the militia kept them from participating in the run-off elections. Predictably, the ZANU PF presented the result that pleased it most: Mr Mugabe, so it was said, had won an 85-percent 'victory'.

When the agreement was finalized in September 2008, Mr Mugabe had made hardly any concessions. Filled largely with pious declarations, the entire 15-page document revolves around securing his presidency. The parties' declaration of their intent to resolve their differences without violence is hardly worth the paper it is printed on, for violence – exerted, of course, against the followers of the MDC – continued unabated after the agreement was signed. The provision which says that the executive branch of the future inclusive government should consist of the president, the prime minister, and the cabinet is similarly without relevance because the prime minister was not granted any substantive powers. Thus, for example, the president has the power to appoint ministers and assign their functions to them 'in consultation with the vice presidents, the prime minister, and the deputy prime minis-

ters'. However, Mr Mugabe is in no way obliged to follow any advice or recommendation submitted during such consultations. Another anomaly is the duty of the ministerial council to check whether the prime minister is 'properly fulfilling his responsibility of supervising the implementation of governmental work'. The other way around would be more natural. The only item of any significance is Article 20, which provides that the 31 ministerial departments should be shared between the MDC and the ZANU PF at a ratio of 16 to 15.

All these oddities reflect the hypocritical and cynical line followed by the ZANU PF during the negotiations. The situation is made even more explosive by Article 32 of the constitution which says that the power of legislation should rest with parliament and the president. For it is the very point of the current balance of power between parliament and the presidential legislative powers that the president cannot make laws without parliament and vice versa.

The MDC and Mr Tsvangirai apparently lack the power to secure a return to democracy and the rule of law, while Mr Mugabe's power remains uncurtailed, as the controversy over various ministries shows. The focus is not, and never has been, on the Ministry for Local Administration, one of those where the minister, not the president, is invested with substantive powers over local councils etc. Rather, it is on the Ministry of the Interior, which the MDC claims for itself, arguing that it had already left two security-relevant departments to the ZANU PF, the Ministry of Defence and the Secret Service. Yet however the question will be resolved, the fact is that not only the commissioner general of police himself but also all higher-ranking officers in the police force will be appointed by Mr Mugabe.

The question of ministerial budgets has turned into nothing short of a farce. Because of the runaway inflation, any budget estimate will become entirely irrelevant for the functioning of a ministry within weeks. It is the governor of the Reserve Bank who currently provides funds for the ministries and, by the same token, controls their policy, busily printing money to pass it on to the state. Here as elsewhere, Mr Mugabe reigns supreme: he appoints the governor as well as the supervisory board of the Reserve Bank.

Not the least respect in which the MDC is bound to feel cheated is the question of amendment 19 to the constitution, which was supposed to raise the agreement of September to the rank of national law. The draft originally presented by the MDC might have filled many of the gaps that were not addressed in the agreement, but it never got a chance.

The agreement on the so-called sharing of power in Zimbabwe is in fact a deal hatched by Thabo Mbeki which does not deprive Mr Mugabe of any of his

power. And yet – the document is such a farce that the pressure exerted by the international community on Mr Mugabe and his shady helpers is growing gradually. Moreover, the outbreak of cholera in the much-tried country has its own impact on politics, as can be seen from what is happening within the MDC itself: there are Doves who are grateful for the crumbs thrown to them by Mr Mugabe from the table of power, albeit under pressure, urging the formation of an inclusive government even though this may give them nothing more than an appearance of participation. And there are Hawks who want more than mere scraps from the hands of a tumbling dictator, ready to drop the agreement if the dictator should fail to tumble in the near future.

It is uncertain whether the Doves or the Hawks will prevail within the opposition, but it is certain that Mr Mbeki has remained true to himself: when the MDC recently rejected an SADC resolution which advised it to share the Ministry of the Interior with the ZANU PF, he reviled Mr Tsvangirai in a letter, even calling him a 'puppet of the West'. And when, shortly afterwards, the SADC ruled that Mr Mugabe's repeated forceful expulsions of White farmers from their land were discriminatory and irreconcilable with the SADC Treaty and Zimbabwe's land reform minister, Mr Mutasa of the ZANU PF, announced that it did not care a hoot for the decision, Mr Mbeki did not feel impelled to reach for his pen again.

Meanwhile, and after writing the above, it has become known that the MDC and Mr Tsvangirai have agreed with joining the unity government proposed by SADC. This, indeed, can not be seen but as an ignominious climb down since none of their former demands repeatedly declared as essential and indispensable were met. In the face of this decision, the MDC explanations that notable concessions had been made by Mugabe, sound – carefully spoken – bizarre.

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