

# ZIMBABWE IN THE RUN-UP TO THE ELECTIONS

## DISCUSSIONS ON CONSTITUTIONAL REFORM

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Since its independence in 1980, Zimbabwe has been governed as a one-party state by the Zimbabwe African National Union – Patriotic Front (ZANU-PF) under Robert Gabriel Mugabe. Mugabe is one of a group of political leaders who have been in power for a long time and who have had a significant influence on the political landscape in southern Africa. These state leaders are now coming to the end of their lives but are still clinging on to power, and it is unclear who their successors will be. As a result of international and regional pressure, a government of national unity (GNU) was formed in 2009 comprising the ZANU-PF and the opposition Movement of Democratic Change (MDC). This coalition was led by Mugabe as president, the MDC-T leader Morgan Tsvangirai as prime minister and the leader of an MDC splinter group, Arthur Mutambara, as deputy prime minister. Far-reaching political and economic reforms, along with reforms to the election system and the media, were originally set out in a governmental agreement (Global Political Agreement, GPA) but there has been little progress in implementing the agreement as the government is split and the reforms have been consistently blocked by the ZANU-PF.<sup>1</sup>

However, recently there has been some progress in the reform process: on 17 July 2012 the Constitutional Commission made up of representatives of the various government parties presented the draft for a new constitution. This now has to be reviewed by various institutions before



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1 | Beatrice Schlee, "Zimbabwe", *Dossier. Innerstaatliche Konflikte*, Bundeszentrale für politische Bildung, 1 Nov 2011, <http://bpb.de/internationales/weltweit/innerstaatliche-konflikte/54685/simbabwe> (accessed 12 Jun 2012).

it can be passed into law.<sup>2</sup> The adoption of a new constitution is an important precondition for holding new elections under the terms of the GPA.

### A STEP FORWARD IN THE REFORM PROCESS?

The Constitution Parliamentary Select Committee (COPAC) presented the ruling parties with its draft new constitution over two years later than anticipated.<sup>3</sup> Now the country's leaders need to decide whether the draft should be debated by parliament and put to the people in a referendum in its current form, or whether further amendments need to be

discussed.<sup>4</sup> If possible, the draft constitution should be put to a referendum before the end of 2012, once it has been agreed by Mugabe and Tsvangirai and accepted by parliament, where a two-thirds majority in favour is

required.<sup>5</sup> General parliamentary elections and presidential elections will not take place before 2013.<sup>6</sup> However, the GNU parties have agreed that there should be elections in around 30 constituencies this year, as the incumbent members of parliament have died. These mini general elections are attracting a great deal of interest. For one thing, they are being seen as a litmus test of the country's political stability. Many people are wondering whether the elections will be accompanied by violence and attempts of intimidation or whether they will pass off peacefully. Will there be any attempts of fraud and falsification? The other interesting issue is that the constituencies that have become available are predominantly in MDC strongholds. If the MDC were

**The GNU parties have agreed that there should be elections in around 30 constituencies this year, as the incumbent members of parliament have died.**

- 2 | Johannes Dieterich, "Mugabe lässt sich auf Reformen ein", *Badische Zeitung*, 28 Jul 2012, <http://badische-zeitung.de/nachrichten/ausland/mugabe-laesst-sich-auf-reformen-ein--62080601.html> (accessed 30 Jul 2012).
- 3 | Tichanoa Chifamba, "Zimbabwe constitutional process in final leg", *Xinhua*, 20 Jul 2012, [http://news.xinhuanet.com/english/world/2012-07/20/c\\_131728940.htm](http://news.xinhuanet.com/english/world/2012-07/20/c_131728940.htm) (accessed 20 Jul 2012).
- 4 | Dieterich, Fn. 2.
- 5 | MDC99 Information Department, "MDC 99 calls for No vote on constitution", *The Zimbabwean*, 6 Aug 2012, <http://thezimbabwean.co.uk/news/zimbabwe/59912/mdc-99-calls-for-a.html> (accessed 7 Aug 2012).
- 6 | Hans-Georg Schleicher, "Simbabwe hat neue Verfassung – im Entwurf", *Neues Deutschland*, 25 Jul 2012, <http://ag-friedensforschung.de/regionen/Simbabwe/verf2.html> (accessed 7 Aug 2012).

to win all or most of the seats, their position in parliament would be strengthened accordingly. This could have a significant impact on what is already a strained relationship between the various parties in the GNU.



Robert Mugabe governs Zimbabwe since 1980. Despite not confirmed cancer, he is still holding on to power. | Source: neal young / flickr (CC BY-ND).

The terms of the draft constitution would limit the powers of the president, which have so far been unlimited, and strengthen the rights of parliament.<sup>7</sup> In future the country's presidents would need to have the agreement of parliament before they could dissolve parliament, declare a state of emergency or declare war.<sup>8</sup> The draft constitution also requires the participation of all parties in the selection of the ten provincial governors, who in the past have been nominated by Mugabe alone. The establishment of a law enforcement body to replace Mugabe's current officials in the Ministry of Justice, and which would, according to the draft, exercise parliamentary control over the military and the security forces, would further weaken the president's position.<sup>9</sup> The maximum terms that can be served by the president and various other high-ranking officials, such as military and police chiefs – currently unlimited – will in future be limited to ten years (two terms). The MDC-T was,

7 | Dieterich, n. 2.

8 | Schleicher, n. 6.

9 | "Zimbabwe President's Party demands changes to draft constitutions, some reforms unacceptable", *The Washington Post*, 7 Aug 2012, [http://zimbabwesituation.com/aug8\\_2012.html](http://zimbabwesituation.com/aug8_2012.html) (accessed 8 Aug 2012).

however, unsuccessful in its attempts to get an age limit included, so the 88-year-old president Mugabe will in fact be able to stand for another term of office.<sup>10</sup>

Despite these changes, the lion's share of power in the state will still remain with the president. For example, the right to make appointments to some of the most important positions in the country will still be within the president's remit. Parliament will only be able to make recommendations.<sup>11</sup> Calls by Zimbabwe's civil society for a parliamentary system with a prime minister as the country's leader were not even considered.<sup>12</sup>

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The draft constitution foresees changes to the way ownership structures are regulated. White farmers, who were the victims of the country's land reforms ten years ago, will be given the right to challenge land appropriations, in so far as they were discriminatory, i.e. aimed solely at whites. However, this does not mean that the government is retreating from the "process of indigenisation" that started ten years ago with the country's land reform programme and still continues today in the mining, financial and education sectors. At the end of the day, the state is still committed to compensating the local, i.e. black African, people, for the theft of their land by white settlers during colonial times,<sup>13</sup> which basically means that they are going to continue confiscating land from white farmers and businesses in Zimbabwe.

Various aspects of civil and political rights are also to be changed. In addition to setting up a human rights and media commission, the death penalty for women and people over 70 is also due to be abolished.<sup>14</sup> The new constitution also contains plans to set up an independent electoral commission and a constitutional court. However, there is nothing in the constitution about recognising homosexuality, which is

10 | Dieterich, n. 2.

11 | Schleicher, n. 6.

12 | Markus M. Haefliger, "Illusionäre Simbabwe-Politik der EU", *Neue Zürcher Zeitung*, 25 Jul 2012, <http://nzz.ch/1.17397291> (accessed 30 Jul 2012).

13 | Ibid.

14 | Dieterich, n. 2.

still taboo in certain sections of society, in spite of ongoing debates on allowing same-sex marriage.<sup>15</sup>

There are, however, significant differences of opinion on the draft constitution amongst civil society representatives and experts, not to mention within the political parties themselves. There is no real consensus within the ZANU-PF on the new constitution. According to one member of parliament, the ZANU-PF faction is likely to give it a resounding “no” vote. It feels the draft lacks legitimacy, as the constitutional process was limited to the political parties and other interested parties were excluded.<sup>16</sup>

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However, party spokesman Rugare Gumbo had a different take on things following several days of internal party discussions. According to him, the ZANU-PF would vote against the draft in its current form because it failed to reflect the views of many of the electorate and party supporters who were able to make their views known on the draft constitution as part of an information campaign. The party’s main concerns revolve around the weakening of the presidency, especially the changes to the process for nominating the ten provincial governors, the plans to set up an independent law enforcement body and the future parliamentary control of the military and security forces.<sup>17</sup> While in recent months Mugabe has been pressing forward with plans to hold elections, even without a new constitution, party spokesman Gumbo has expressed his confidence that the disputed passages can be renegotiated in order to improve the draft, better integrate public opinion and ensure that the process of constitutional change does not grind to a halt.<sup>18</sup>

On the issue of ZANU-PF representatives participating in a re-working of the new constitution, Tsvangirai’s MDC and a smaller former opposition party insist that negotiations have now been finalised and the ZANU-PF should

15 | Sapa-AFP, “Simbabwe draft constitution a ‘flawed compromise’: analysts”, *Times Live*, 23 Jul 2012, <http://timeslive.co.za/africa/2012/07/23/zimbabwe-draft-constitution-a-flawed-compromise-analysts> (accessed 27 Jul 2012).

16 | Ibid.

17 | Associated Press, n. 9.

18 | Ibid.

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not be granted any further concessions. The MDC-T went as far as accusing some ZANU-PF supporters of trying to sabotage the talks on the new constitution. Some party members also expressed their concern that there would be a repeat of the violent and controversial elections of 2008 if the draft constitution was not accepted.<sup>19</sup> In contrast to the ZANU-PF, the MDC wing under Prime

Minister Tsvangirai takes a positive view of the referendum and is promoting the draft constitution to the public.<sup>20</sup> Finance minister Tendai Biti sees the draft as something of an improvement on the old constitution, which has been in force since independence from Great Britain in 1980.<sup>21</sup> In response to the draft constitution calling for the inclusion of a vice-presidential candidate in the presidential elections, the party nominated the deputy leader Thokozani Khupe alongside party leader Morgan Tsvangirai.<sup>22</sup>

The ZANU-PF has adopted a different approach altogether. While the leaders of the various factions within the fragmented party have been preparing to stand as vice-presidential candidates, the party spokesman, Gumbo, has said that the majority of the party would like to strike the clause in question from the draft altogether. An elected vice-president who is too ambitious and too hungry for power could bring the whole political system into disarray.<sup>23</sup> In light of the power struggles going on within the party, these fears do not appear to be without merit.

National as well as international legal experts and human rights organisations have expressed their dissatisfaction over the way human rights issues have been addressed in the draft constitution. They feel that placing restrictions on the death penalty is simply not enough. In particular they fear that the exemption of people over 70 is simply a

19 | Ibid.

20 | "MDC Urges Zimbabweans to vote 'Yes'", *Radio Voice of the People*, 5 Aug 2012, <http://www.radiovop.com/index.php/national-news/9381-mdc-urges-zimbabweans-to-vote-yes.html> (accessed 7 Aug 2012).

21 | Ibid.

22 | Ibid.

23 | Chengetai Zvauya and Xolisani Ncube, "End-game: Zanu-PF disintegrating", *The Zimbabwe Mail*, 6 Aug 2012, <http://thezimbabwemail.com/zimbabwe/12824-end-game-zanu-pf-heading-for-a-split.html> (accessed 14 Aug 2012).

way of protecting those older officials in the ZANU-PF who were responsible for terrible human rights abuses during the previous elections.<sup>24</sup> One legal expert from the University of Zimbabwe, Lovemore Madhuku, also sees the draft as little more than a compromise between the two ruling parties. He was especially critical of the decision to retain the president's significant executive powers. According to surveys, this is not what the people want.<sup>25</sup>

Civil organisations such as the National Constitutional Assembly and Zimbabwe Lawyers for Human Rights (ZLHR) have also complained about the fact that the constitutional reform process has not been steered by the people but instead mostly reflects the interests of the political parties. While ordinary Zimbabweans have been asked for their opinion on the constitution and potential amendments, several areas of concern have not been addressed. And it seems that many of the Zimbabweans questioned just followed the party line in their replies.<sup>26</sup>

### **WHAT IS THE LIKELIHOOD OF FAIR AND NON-VIOLENT ELECTIONS?**

Even if the draft constitution passes all the necessary stages by the end of the year, its acceptance does not in itself herald the beginning of a new constitutional era. There are other requirements that the state has to fulfil before the constitution can become law. For a start, all existing laws will need to be reviewed and amended where necessary to bring them into line with the new constitution. In view of the number of laws likely to be affected by the draft constitution, this could take some time. Also, some key institutions specified within the draft will have to be set up. This includes an independent executive commission and other institutions such as a national law enforcement body. The draft constitution also envisages changes to the electoral system, including the redrawing of electoral boundaries.<sup>27</sup>

24 | Blessing Zulu, "Zimbabwe's Draft Constitution Kills Death Penalty – But Only For Woman", *Voice of America*, 27 Jul 2012, <http://voazimbabwe.com/content/zimbabwes-new-constitution-abolishes-death-penalty-for-women-163074216/1476909.html> (accessed 27 Jul 2012).

25 | Sapa-AFP, n. 15.

26 | Chifamba, n. 3.

27 | Ibid.



Morgan Tsvangirai (photo) already competed against Mugabe in the presidential elections 2008. | Source: World Economic Forum (CC BY-SA).

The acceptance of the new constitution will move the divided government one step closer to the long-awaited elections, and Mugabe is no doubt wondering how he can in the process rid himself of his coalition partners in this dysfunctional government. The Government of National Unity (GNU) was formed after the last elections under pressure from the Southern African Development Community (SADC), the union of southern African states, and former South African president Thabo Mbeki in particular, in order to avoid an escalation of the conflict in the aftermath of the elections. In 2008 the people of Zimbabwe not only elected the president, but also parliament and various local authorities for a five-year term. The parliamentary elections, in which the people decided on the majority of seats in the Senate and House of Assembly, were won by the MDC-T, led by Tsvangirai. In the presidential elections, none of the candidates achieved an overall majority in the first round – Tsvangirai gained 47.9 per cent of the vote, Mugabe 43.2 per cent and an independent candidate, Simba Makoni, 8.1 per cent. In the run-off, according to the official results Mugabe was the winner with 85.5 per cent of the vote. These results were hotly disputed and were not recognised by most countries in the international Community.<sup>28</sup>

28 | CIA, "The World Factbook: Zimbabwe", <https://cia.gov/library/>



Tsvangirai had in fact been forced to withdraw from the run-off after violent attacks on his party.<sup>29</sup>

At the beginning of 2011 President Mugabe called for early elections. He wanted them to be held that year, irrespective of the outcome of the constitutional reform process. In doing so he knew he was breaking the terms of the GPA, in which it was clearly agreed that the elections would only take place once the new constitution had passed into law. However, as president, Robert Mugabe still had the constitutional right to dissolve parliament and call new elections. His political opponent, Prime Minister Tsvangirai, only agreed to hold the presidential election, as this was the only position that was disputed, and he refused to accept new general elections until a referendum had been held on the constitution.

Both sides made a lot of diplomatic efforts to gain support in the region for their own position on this issue. Members of the SADC were extensively lobbied and the SADC itself appointed a special intermediary, the South African president Jacob Zuma, to clarify the situation. The Community played a key role in the GPA negotiations and since that time it has tried to help keep the situation under control. In doing so it has been careful not to come down on one side or the other in the conflict. Mugabe's influence on the Community and its members has traditionally been very strong, a fact that became clear when the governmental leaders within the SADC effectively shut down the SADC Tribunal because of the Campbell affair. A Zimbabwean farmer had appealed to the Tribunal on a land dispute issue.<sup>30</sup> The court found against Zimbabwe, but the country did not feel it was bound by the decision, despite the fact that it was

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publications/the-world-factbook/geos/zi.html (accessed 14 Jun 2012).

29 | Andrea Jeska, "Keine Angst vor Mugabe", *Welt Online*, 4 Aug 2012, [http://welt.de/print/die\\_welt/politik/article108476827/Keine-Angst-vor-Mugabe.html](http://welt.de/print/die_welt/politik/article108476827/Keine-Angst-vor-Mugabe.html) (accessed 7 Aug 2012).

30 | Christian Roschmann and Benedikt Brandmeier, "Entscheidung über den Rechtsstaat. Gründe und Folgen des Urteils 'Mike Campbell gegen die Republik Simbabwe'", *KAS International Reports*, Sep 2012, <http://kas.de/wf/en/33.32078> (accessed 14 Sep 2012).

a signatory country to the court statutes and therefore subject to its judgements. Instead of putting pressure on Zimbabwe to comply, the SADC decided to review the court's remit and then allowed its mandate to expire. The Tribunal is now banned from hearing new cases or bringing existing ones to a close. The terms of the Tribunal judges have not been renewed and no new judges have been nominated, so the court's future is now unclear.

It was, therefore, all the more surprising when the Community finally decided to exert some pressure on Zimbabwe to complete the constitutional reform process before holding new elections. At the summit in Luanda, Angola, on 1 June 2012, the SADC underlined its call for the implementation of credible reforms before the elections, which should take place within twelve months. It put pressure on Zimbabwe to comply with SADC and AU standards and to hold free and fair elections that would be recognised both nationally and internationally.<sup>31</sup> Both sides managed to make a favourable interpretation of the outcome of the SADC summit. While President Mugabe pointed to the fact that the SADC were calling for the elections to be held within twelve months, Prime Minister Tsvangirai stressed that the Community had decided the elections should only take place once the new constitution had been implemented.

Although finalising a new constitution and holding free and fair elections were an integral part of the GPA and were reconfirmed in March 2011 by parliament in a "Roadmap to Elections", the reform process was in fact far behind schedule. The government had only implemented limited economic reforms and there had been no electoral reform of any kind. Instead, the ZANU-PF, which still controlled important areas such as the security forces (police, military, secret service), the media and the country's natural resources, effectively continued to run the country alone.<sup>32</sup> The new constitution threatened to change all this to some extent.

31 | "GPA implementation key to elections' – Zuma", *The Zimbabwe Mail*, 2 Jun 2012, <http://thezimbabwemail.com/zimbabwe/12028-implementation-of-gpa-key-to-elections-zuma-sticks-to-guns.html> (accessed 14 Jun 2012).

32 | "Zimbabwe election roadmap outlined in parliament", *Nehanda Radio*, 1 Jun 2012, <http://nehandaradio.com/2012/06/01/zimbabwe-election-roadmap-outlined-in-parliament> (accessed 14 Jun 2012).

In the meantime, the army has made it quite clear that it will only accept one winner in the elections: ZANU-PF.<sup>33</sup> To this end, it has sent members of its youth militia out into rural areas to pressure people into voting for Mugabe again.<sup>34</sup> Violence is part and parcel of everyday politics in Zimbabwe. While Mugabe continues his campaign of violent intimidation against MDC members, ZANU-PF and MDC sympathisers are regularly involved in violent clashes.<sup>35</sup> In her 2012 report on Zimbabwe, UN High Commissioner for Human Rights Navi Pillay expressed concern that the politically-motivated human rights violations seen during the last elections could be repeated. In 2008, there was clear evidence of murder, torture, looting, beatings, arbitrary arrests and expulsions being carried out during the elections.<sup>36</sup>

## ELECTION FORECASTS

Recent polls have predicted a victory for Prime Minister Tsvangirai, assuming the minimum standards for free and fair elections are in place.<sup>37</sup> Even some ZANU-PF members are predicting a defeat for the incumbent President Mugabe. They appear to have grown weary of the long-time ruler and admit they might vote for Tsvangirai.<sup>38</sup> But we should remember that there is a power struggle going on within the ZANU-PF. Even if Mugabe's power base is beginning to crumble, he still has plenty of influential supporters behind him.

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33 | Ray Ndlovu, "Zimbabwe's opposition parties ponder coalition", *Mail & Guardian*, 1 Jul 2011, <http://mg.co.za/article/2011-07-01-zimbabwes-opposition-parties-ponder-coalition> (accessed 14 Jun 2012).

34 | Graham Boynton, "Zimbabwe: Mugabe's last throw of the dice", *All Africa*, 6 Jun 2012, <http://allafrica.com/stories/201206061271.html> (accessed 14 Jun 2012).

35 | "MDC-T applauds SADC stance against Mugabe", *The Zimbabwe Mail*, 5 Jun 2012, <http://thezimbabwemail.com/zimbabwe/12075-mdc-t-applauds-sadc-stance-against-mugabe.html> (accessed 14 Jun 2012).

36 | Human Rights Watch, "World Report 2012: Zimbabwe", <http://hrw.org/world-report-2012/world-report-2012-zimbabwe-0> (accessed 20 Jun 2012).

37 | Schlee, n. 1.

38 | Jeska, n. 29.

The re-election of Mugabe as president would no doubt mean the current political situation would simply continue, but political power games, the progress of the reform process and the influence of the international community could yet play a decisive role in the outcome of the elections. An opposition coalition made up of the MDC faction and the political organisation Mavambo/Kusile/Dawn under Simba Makoni, for example, could bring in sufficient votes to beat the ZANU-PF and bring about change in Zimbabwe.<sup>39</sup> However, the relationship between these two parties can best be characterised as one of mutual disappointment and mistrust. The parties also fear efforts to establish hegemony and losing parliamentary seats to their coalition partners.<sup>40</sup> An anti-ZANU-PF coalition therefore seems unlikely. Instead it seems that the MDC-T is gearing up for the post-Mugabe era.

President Mugabe is apparently suffering from cancer. If he should die in office, either before the elections or after being re-elected, there could be a brutal battle for succession.<sup>41</sup> Internal disputes within the ZANU-PF have long been raging over who should be Mugabe's successor. Defence minister Emmerson Mnangawa is being discussed as a potential candidate, along with Vice President Joice Mujuru. However, Mnangawa, a close confidant of Mugabe, is not particularly well liked within the party and has lost a number of parliamentary votes against the MDC.<sup>42</sup>

**In 2011 there was speculation about a potential electoral pact between Mujuru and Tsvangirai that could pose a real threat to Mugabe and his potential successor Mnangawa.**

Meanwhile, the press have been speculating about potential agreements between ZANU-PF members and Tsvangirai. In 2011 there was speculation about a potential electoral pact between Mujuru and Tsvangirai that could pose a real threat to Mugabe and his potential successor Mnangawa. As she is the one most likely to be acceptable to the MDC, Mujuru faces strong opposition from the hardlin-

39 | Clemence Manyukwe, "Poll alliance faces hurdles", *The Financial Gazette*, 16 May 2012, <http://eu.financialgazette.co.zw/national-report/12683-poll-alliance-faces-hurdles.html> (accessed 14 Aug 2012).

40 | Ibid.

41 | Robert Rotberg, "Who killed Solomon Mujuru? The Mystery in Zimbabwe Deepens", *Think Africa Press*, 13 Feb 2012, <http://thinkafricapress.com/zimbabwe/who-killed-solomon-mujuru-mystery-deepens> (accessed 14 Jun 2012).

42 | Ibid.

ers within her own party. It would be difficult for her to find real support within her own party, especially since the still-unexplained death of her husband, Solomon Mujuru, the generally well-respected former leader of the guerrilla forces during Mugabe's fight for freedom and former army chief.<sup>43</sup>

Others are suggesting there might be a secret deal between Mugabe and Tsvangirai, in which they have agreed to a continuation of the current government for a further five years, irrespective of who wins the presidential election. This could even mean Mugabe retiring at the end of the year to allow his successor to stand in the presidential election. As Tsvangirai would be likely to win the election against Mugabe's successor with such a large majority that it would be impossible for the ZANU-PF to manipulate a victory in a credible way, such a deal would offer the party the possibility of staying in power even without Mugabe.<sup>44</sup> However, this scenario seems somewhat unlikely, as the current relationship can best be described as beset by violence, mistrust and the avoidance of any semblance of cooperation. At the end of the day, it would appear that a great deal now hangs on Mugabe's decision.

If he were to come to some sort of agreement with the MDC, it could result in the full and peaceful transfer of power. However, as the previous deal has not yet resulted in the creation of a new constitution nor paved the way to free and fair elections, the likelihood of change resulting from a new agreement seems somewhat remote.

In light of the constant denials regarding the state of his health and the efforts being made to hold the elections as soon as possible, it seems more likely that Mugabe will stand again, be re-elected and stay in power until he dies; that is, if he can successfully manipulate the expected election result (a victory for Tsvangirai) in such a way that it turns out to be a win for him as incumbent. While the opposition has been unable to build an effective coalition, the ZANU-PF will continue to support Mugabe despite its internal power, because he represents the key to power.

**While the opposition has been unable to build an effective coalition, the ZANU-PF will continue to support Mugabe despite its internal power struggles.**

43 | Ibid.

44 | Boynton, n. 33.



In addition to minister of defence Emmerson Mhangawa and others, vice president Joice Mujuru (here with EU ambassador Aldo Dell’Ariccia) is considered to become the successor of president Mugabe. | Source: EU (CC BY-NC-ND).

While the SADC has been able to stop Mugabe’s election plans on several occasions over the last twelve months, it remains to be seen whether he will bow to the same pressure the next time around. On the one hand, the government has been able to come closer to complying with the demands of the Community by presenting the draft of the new constitution as proof of progress in the reform process. But on the other hand, the stated desire of the ZANU-PF to see changes made to the draft makes it clear that the implementation of the constitution still faces considerable hurdles.

### **SHOULD THE EU REWARD THE REFORM PROCESS?**

In light of the progress made in the reform process by the Government of National Unity, the EU now feels obliged to partially lift its sanctions on Zimbabwe. It has praised the “steps taken by the Government of National Unity to improve freedom and the prosperity of the Zimbabwean people”.<sup>45</sup> In 2002, the EU, in conjunction with the USA,

45 | “Freiheit verbessert. EU lockert Sanktionen gegen Simbabwe”, *Frankfurter Allgemeine Zeitung*, 23 Jul 2012, <http://faz.net/aktuell/politik/ausland/freiheit-verbessert-eu-lockert-sanktionen-gegen-zimbabwe-11829334.html> (accessed 8 Aug 2012).

imposed sanctions on the country in response to the violent treatment of the opposition by the Zimbabwean government under President Mugabe and the expulsion of white farmers as part of the country's land reform programme.<sup>46</sup> Now the EU foreign ministers have agreed to recommence direct aid payments to help the civilian population. The aid money will now go directly to government agencies instead of being distributed by the UN or non-governmental organisations in the country. According to statistics from the European External Action Service, the EU and its 27 members are the biggest providers of aid to Zimbabwe, donating around 100 million euros per year.<sup>47</sup> If there is a peaceful and credible referendum on the new constitution, it is expected that sanctions imposed on the government and certain African companies could also be lifted.<sup>48</sup> Travel restrictions and asset freezes have so far been imposed on around 110 politicians and other Mugabe supporters.<sup>49</sup> Along with 11 companies, they have been accused of "undermining respect for human rights, democracy and the rule of law".<sup>50</sup> These sanctions are likely to remain in place on Mugabe and his inner circle for the foreseeable future.<sup>51</sup>

**The EU foreign ministers have agreed to recommence direct aid payments to help the civilian population. The EU and its 27 members are the biggest providers of aid to Zimbabwe, donating around 100 million euros per year.**

The effectiveness of sanctions against the country has been a matter of debate within the EU for some time. Mugabe has been able to turn the sanctions to his advantage in the form of propaganda. He has blamed them for the country's economic decline and accused the West of continuing to exercise a form of colonialism. In the past he consistently described the sanctions as illegal and is now demanding that the EU lift the sanctions unconditionally.<sup>52</sup>

His political opponent Tsvangirai has also welcomed the latest steps by the EU. He too had been calling for the sanctions to be lifted because they were having a negative

46 | Ibid.

47 | "EU bietet Simbabwe Aufhebung der Sanktionen an", *Neue Zürcher Zeitung*, 23 Jul 2012, <http://nzz.ch/1.17393688> (accessed 7 Aug 2012).

48 | N. 45.

49 | Ibid.

50 | "EU lockert Sanktionen gegen Simbabwe", *Zeit Online*, 18 Feb 2012, <http://zeit.de/politik/ausland/2012-02/eu-sanktionen-simbabwe> (accessed 9 Aug 2012).

51 | N. 47.

52 | N. 50.

impact in all the wrong areas and were providing Mugabe with a useful source of propaganda. Zimbabwe needed to shed its image as an outsider and return to the fold of the international community. In response to the announcement by the EU, Tsvangirai claimed that with international support “we should be in a position to save the country.”<sup>53</sup>

### **MUGABE’S ECONOMIC POLICY**

While the political landscape in Zimbabwe remains unstable, uncertain and unpredictable, the country’s economic situation has in fact improved since the crisis of 2008. Once known as the bread basket of the region, it was on the verge of economic collapse. Hyperinflation, foreign currency shortages, a lack of investment and import and export restrictions had brought the country to the brink of ruin.<sup>54</sup> Mugabe blamed the West in particular for his country’s decline. The situation only began to stabilise with the introduction of the U.S. dollar as the country’s official currency. Today, Zimbabwe’s economy is growing once again.<sup>55</sup>

However, recent renewed attempts by Mugabe’s party to enforce an indigenisation law have met with a hostile reaction from international companies and caused further disagreements within the Government of National Unity. The law goes back to an initiative introduced by the ZANU-PF in 2007 and passed in 2010. Under the law, at least 51 per cent of the shares in foreign-owned companies in various sectors are to be transferred into domestic ownership.<sup>56</sup> International mining companies such as the South African firm Impala Platinum, which has already sold the majority of its Zimplat shares to a Zimbabwean mining company, have given in to pressure from Saviour Kasukuwere, Minister for Youth Development, Indigenisation and Empowerment.<sup>57</sup> He had threatened the company with

53 | N. 47.

54 | Auswärtiges Amt, “Simbabwe. Wirtschaft”, [http://auswaertigesamt.de/DE/Aussenpolitik/Laender/Laenderinfos/Simbabwe/Wirtschaft\\_node.html](http://auswaertigesamt.de/DE/Aussenpolitik/Laender/Laenderinfos/Simbabwe/Wirtschaft_node.html) (accessed 9 Aug 2012).

55 | Ibid.

56 | Christian Selz, “Simbabwe macht Ernst. ZANU-PF Minister zwingen internationale Bergbaukonzerne zur Abgabe von Mehrheitsanteilen”, *Junge Welt*, 18 Apr 2012, <http://jungewelt.de/2012/04-18/032.php> (accessed 12 Jul 2012).

57 | Ibid.



compulsory expropriation without compensation. Before selling its Zimplat shares, Impala Platinum had pointed to an agreement between Zimbabwe and South Africa that banned Zimbabwe from expropriating South African businesses. In doing so, the company ran the risk that the case would escalate into a regional economic conflict, but in the end it was forced to give up the fight.<sup>58</sup>

Now Mugabe has issued a government directive giving Zimbabwe's four foreign banks a deadline for selling shares to domestic investors. The education sector, especially the private schools, along with the energy, tourism and telecommunications industries, are all due to be subjected to the principle of indigenisation.<sup>59</sup> The view is that Mugabe is using the indigenisation process to continue distancing the country from its colonial past – something which he had started with the dispossession of white farmers –, to shift economic power to the government and to ensure that the country gets a bigger share of the profits generated by foreign companies.<sup>60</sup> However, as with the controversial land reforms, which resulted in a drastic collapse of agricultural production in the country,<sup>61</sup> more economic setbacks are expected as a result of this policy. It is also considered likely that there will be an exodus of the kind of investors that are vital to the country's economy.<sup>62</sup>

**As with the controversial land reforms, which resulted in a drastic collapse of agricultural production in the country, more economic setbacks are expected as a result of the redistribution policy.**

Critics amongst the ranks of the MDC-T are keen to stress that the current campaign is politically motivated and has little to do with genuine redistribution.<sup>63</sup> At the end of the

58 | Ibid.

59 | Macdonald Dzirutwe, "Zimbabwe gives banks a year to hand over stakes", *The Namibian*, 4 Jul 2012, [http://www.namibian.com.na/index.php?id=28&tx\\_ttnews\[tt\\_news\]=98931&no\\_cache=1](http://www.namibian.com.na/index.php?id=28&tx_ttnews[tt_news]=98931&no_cache=1) (accessed 11 Jul 2012).

60 | Ulli Neuhoff, "Rückschau: Simbabwe. Langsam aus der Krise?", *Weltspiegel*, SWR, 10 Jun 2012; cf. Selz, n. 56.

61 | Neuhoff, n. 60.

62 | Gemma Ware and Frank Chikwore, "Testing time for Zimbabwe's indigenisation plan", *The Africa Report*, 14 Jun 2012, <http://theafricareport.com/index.php/news-analysis/testing-time-for-zimbabwe-s-indigenisation-plan-501813556.html> (accessed 12 Jul 2012).

63 | Alex Bell, "Zimbabwe: Govt Cracks Widen As PM Dismisses Indigenisation Plans", *All Africa*, 3 Jul 2012, <http://allafrica.com/stories/201207040242.html> (accessed 12 Jul 2012).

day, very few people in Zimbabwe have the financial means or the necessary know-how to invest in a foreign company. The ZANU-PF is hoping to use the redistribution policy to gain votes and financial resources for the upcoming elections.<sup>64</sup> It is also not uncommon for ownership to be transferred to companies that are considered more acceptable to the government, which is to say the ZANU-PF. This has been made possible by a flexible interpretation of the indigenisation laws and the practice of dealing with each case on an individual basis, something that has benefited China, the country's last real ally.<sup>65</sup>

The MDC-T for its part is keen to pursue a development policy based not on redistribution, but on the promotion of jobs and growth. While Tsvangirai and his party colleagues have been calling on companies to ignore the latest government directive issued by Kasukuwere, which they consider to be illegal as it was not approved by the Government of National Unity, the threats made by the minister responsible for indigenisation have already started to have an effect. The MDC-T is now calling for the issue to be looked at by parliament.<sup>66</sup>

**Zimbabwe currently has 90 per cent unemployment. Combating youth unemployment represents one of the greatest challenges to any future government in Zimbabwe.**

While all this is going on, local businesses continue seeking to deal with the consequences of the economic crisis. Zimbabwe currently has 90 per cent unemployment.

Combating youth unemployment represents one of the greatest challenges to any future government in Zimbabwe – especially as many young people often find an outlet for their frustration in the militant youth groups that were responsible for around 200 deaths in the aftermath of the last elections.<sup>67</sup>

Another significant problem facing the country in terms of its future economic development is the state of its infrastructure. There are regular power cuts that last for hours at a time. Many parts of the road and rail networks are in a

64 | Ware and Chikowore, n. 62.

65 | Armin Osmanovic, "Simbabwes neue 'indigene Ökonomie'", *Neues Deutschland*, 7 Oct 2011, <http://ag-friedensforschung.de/regionen/Simbabwe/indigene.html> (accessed 11 Jul 2012).

66 | Ware and Chikowore, n. 62.

67 | "Mugabe warns of youth protests in Zimbabwe", *New Era*, 14 Aug 2012, 10.

very poor state. Recently, Air Zimbabwe, the state airline, had to halt flights to neighbouring countries because of its inability to pay fuel bills, landing fees and other costs, and now the airline had to suspend all commercial flights due to a total lack of funds. The only time it flies is to transport the president and his followers.

This new direction in economical policies, although still only pending, could not only lead to an exodus of foreign investors. It could also strongly contribute to the already ongoing brain drain that has affected the country for some time now. It is estimated that about 1.5 million Zimbabwean citizens, most of them very well educated and trained, have left the country, ever since the situation has worsened.

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Most of the refugees found a new home in South Africa, but also other neighbouring countries, amongst them Namibia, are affected. Although especially the well trained Zimbabweans are welcomed by economical leaders and political decision makers in those neighbouring countries, because they are, as migrant workers, able to fill gaps in enterprises and government institutions, the riots and the uproar against Zimbabwean citizens in the townships of Johannesburg in 2010 have shown the potential of Xenophobia and social upheaval this flux of refugees entails. It obviously also weakens the Zimbabwean economy and government institutions. Should this tendency be aggravated by respective political decisions in Zimbabwe, it could have severe consequences for the whole region.

## **SUMMARY**

The future for Zimbabwe will depend in large part on the outcome of the constitutional and electoral processes. It is difficult, if not virtually impossible, to predict exactly what will happen. The peace agreement has given many people cause for hope, bringing a small amount of stability and security and giving the country some breathing space. However, the hoped-for shift in direction towards a better future does not appear to have happened. Added to this is the fact that the MDC under the leadership of Prime Minister Morgan Tsvangirai has not or has only partially lived up

to expectations. As a result, the mood amongst the people is one of tension as they wait to see what happens, of concern that the events of the past could be repeated, and lastly of hope that this will not be the case.

Whoever emerges as victor from the upcoming political battles will be faced with a daunting task. They will have to try to unite a deeply divided nation and overcome the mentality of mistrust and violence that pervades the land. They will also have to address the country's infrastructure problems, give people the chance to have a decent future and ensure that the government actually meets its responsibilities in the areas of education, social services and infrastructure. This is the only way to restore confidence in politics and politicians and ensure a peaceful future for Zimbabwe.