

*University of Witwatersrand, JHB*

Department of International Relations

Master's Thesis

Student Name: Zandile Bhengu

Student Number: 0414965d

Supervisor: Prof. Gilbert Khadiagala

**Topic: The Role of SADC Mediators in Zimbabwe: Exploring the process behind the breakthrough**

### Declaration

This serves as a declaration that this work has not been plagiarized and that it belongs to the author. No part of this paper has been published elsewhere. The name of the author is \_\_\_\_\_, student number \_\_\_\_\_.

Date \_\_\_\_\_

Signature \_\_\_\_\_

**Acknowledgements**

My passion for peace diplomacy has inspired me to want to contribute to the already existing literature on negotiation and mediation as important instruments of peace diplomacy. I dedicate this paper to my family and friends for their undying support throughout my academic years. To my little sister Zodwa Bhengu who is studying her first year LLB at Wits, you may not understand it now, but you played a big role during my writing and I hope I have set you a good example to let nothing limit your ambitions

My sincere gratitude goes out to my supervisor, Prof. Gilbert Khadiagala, who believed in me when I had doubts in my abilities. I would not have done this without your help. You have been and continue to be a father to many of us; I will always be indebted to you.

Last but not least, to the University of the Witwatersrand, this has been a home to me, a stage for me to test my abilities and inspired me for the better. My department and faculty staff has been amazing in supporting us realize our dreams as young academics

## Table of Content

### Chapter one

Introduction.....	1
1.1 Rationale.....	4
1.2 Limitation and scope of study.....	6
1.3 Theoretical framework.....	7
1.4 Mediators as impartial third-parties.....	9
1.5 Accepting mediators.....	11
1.6 Timing of mediation.....	12
1.7 Pre-negotiation phase.....	14
1.8 Attributes of a mediator.....	20
1.9 Chapterisation.....	24

### Chapter two

2.1 Elections and democratization in Africa.....	26
2.2 International Conventions recognizing free and fair election.....	27
2.3 Understanding democracy.....	28
2.4 Elections in Zimbabwe.....	31
2.4.1 2002 Elections.....	33
2.4.2 2005 Elections.....	34
2.4.3 2008 Elections.....	37
2.8 Electoral Laws reform.....	38
2.9 ZEC as the organizer of the elections.....	40
2.10 Observers and monitors.....	42
2.11 The results.....	43

### Chapter Three

3.1 Previous interventions by different bodies.....	46
3.2 What were the constraints in dealing with Zimbabwe? .....	49
3.3 Land reform.....	49
3.4 Historical ties between the ANC and ZANU-PF.....	51
3.5 Defense of sovereignty.....	52
3.6 Weak opposition.....	52
3.7 Commonwealth responds to Zimbabwe's crisis.....	53
3.8 European Union.....	58
3.9 US.....	59
3.10 How sanctions crippled the Zimbabwe economy.....	60
3.11 South Africa.....	61
3.12 SA approach to land reform in Zimbabwe.....	64
3.13 Violence on the MDC in 2007.....	66
3.14 SADC appoints Mbeki.....	68
3.15 Was Mbeki the right choice? .....	69
3.16 What were the objectives of the mediation? .....	71
3.17 Negotiations begin.....	71
3.18 Was the mediation successful? .....	72
<b>Chapter Four</b>	
4.1 The power-sharing deal.....	74
4.2 The election and its aftermath.....	74
4.3 SADC responds.....	75
4.4 AU intervenes.....	76
4.5 Way forward.....	77
4.6 Balance of power.....	78

4.7 Talking about the negotiation.....	78
4.8 Was there a need for mediation.....	80
4.9 MDC negotiated.....	82
4.10 ZANU-PF negotiated.....	82
4.11 The signing of the MOU.....	83

## **Chapter Five**

5.1 Analyzing the process behind the power-sharing deal.....	89
5.2 The issue of quiet diplomacy.....	89
5.3 Constraints that facilitated the negotiations.....	90
5.4 Downside of the mediation.....	91

## **Introduction**

The end of Cold War has been characterized by the increasing intrastate conflict around the world with Africa accounting for a large number of these conflicts. When the quest for

ideological influence was brought to an end after the fall of the Berlin wall, Africa became of less strategic importance to the West. The long standing issues which had been delayed by the Cold War became the cause of conflicts in various parts of Africa. The fall of communism meant that democracy was becoming widely acceptable as a system of governance. This system allows citizens to elect their leaders through free and fair elections, and these are used to measure the extent of maturity of democracy in a particular country. However, not all elections have been a practice for power transition in all regions. Elections have been used as an instrument to ignite conflicts. Zimbabwe was not immune to this; elections in this country have at different times resulted in state-sponsored violence. In principle, Zimbabwe was founded on the principle of multiparty politics as articulated in the Lancaster Agreement. However, President Robert Mugabe has enjoyed more than two decades of unbroken power. The policies he adopted to secure his rule, such as constitutional amendments and the, invasion of commercial farms where farmers were not willing to give up their farms without compensation, have resulted in economic hardship. This combined with a crumbling health infrastructure as well as social instability has led to political instability. By all accounts President Mugabe and his party, the Zimbabwe African National Union (ZANU PF), were responsible for the civic mobilization and the emergence of the opposition party the Movement for Democratic Change (MDC). The situation in Zimbabwe was exacerbated by the political intolerance of the ruling party towards the opposition. The extenuating circumstances, under which the people of Zimbabwe had to live, attracted the attention of international as well as regional actors to intervene to prevent Zimbabwe from slipping into anarchy.

The main actors in Zimbabwe's political arena are the MDC and the ZANU-PF. The two parties ceased to see each other as political opponents competing over people's votes but saw each other as enemies. These circumstances made it impossible for dialogue to take place between the parties involved. There was a total lack of communication between the two parties which necessitated the presence of a third party to create a platform for reconciliation. It was due to this incapacity that different actors became interested in playing this role without achieving

notable success. South Africa had been pressured to intervene due to its role as a strategic player in the region. The former South African President, Thabo Mbeki, was even criticized for his limited intervention in Zimbabwe which was labeled as “quiet diplomacy”. South African government intervened in Zimbabwe, both at state and party level, long before the conflict attracted international media attention. The role of South Africa in Zimbabwe will be examined later in this thesis. It was only in 2007 that the Southern African Development Community (SADC) assumed the role of mediator to the conflict in Zimbabwe under the facilitation of Thabo Mbeki. After eight years of stalemate, crumbling economy, expulsion from the Commonwealth, and sanctions by the United States and the European Union, the conflict in Zimbabwe transformed itself to allow negotiations to take place. Negotiations were opened in July 2008 between the ruling party, ZANU -PF and the two factions of the MDC, MDC-Tsvangirai and MDC led by Mutambara.. This followed the Presidential run-off elections in 2008, where Mugabe was the sole candidate, after the MDC leader, Morgan Tsvangirai, pulled out at the last minute due the state-sponsored violence against his supporters.

However, the big question is what was behind the breakthrough? This thesis focuses on the diplomatic intervention and, the extent to which it had impetus to break the impasse in the Zimbabwe conflict. It explores the impact that mediation, as a form of peace diplomacy, had in bringing about a resolution to the long standing conflict. It takes into account the fact that mediation competes with other forms of intervention such as military intervention, economic and political sanctions, and so forth. Literature on mediation has recently acknowledged the entry point as an essential part of mediation. “There is little doubt that the preferred mode of entry is one where all the parties involved in a dispute approach a particular agency or person to assist them.”<sup>1</sup> Maundi<sup>2</sup> asserts that, more often than not, scholars of conflict resolution have concentrated on roundtable negotiation when discussing mediation, leaving out entry point. He is of the view that without due regard to the entry point of the mediators, one will not be able

---

<sup>1</sup> Anstey, M, Practical Peace-making: A Mediator’s Handbook, Juta&Co, Ltd, Cape Town, 1993,p55

<sup>2</sup> Maundi,M, Zartman,I, Khadiagala,G,Nuamah,K, Getting in: Mediators’ Entry into the settlement of African Conflicts, Washington D.C, USIP Press, 2006, p3



to give full analysis of the subject<sup>3</sup>. Quoting John Stedman, he emphasizes that “mediators need to know the conditions that facilitate negotiation, the barriers that negotiations face, and how these barriers can be overcome effectively”<sup>4</sup>. Khadiagala<sup>5</sup> asserts that a process of searching for a mediator begins prior to negotiations. It is usually not an easy task to find a mediator who is acceptable to both parties to a conflict. In most cases, governments are reluctant to accepting third-party intervention because it weakens their positions. It portrays them as incapable of managing their own affairs. Such a case was Kenya whereby “the entry of mediators was complicated by a legacy of national pride that had accumulated in the years of years of relative political stability”<sup>6</sup>. Usually the party (s) that is in opposition to the government is most likely to accept mediators because they are the most to gain in such a situation. For a mediator to be accepted by all parties, he/she needs to have their trust and confidence. Especially, if the would-be mediator has close ties with the government or is perceived to be closely aligned to one or other party involved in the mediation, the concerned party may feel that, he/she is likely to push for a solution favourable to the government. The impartiality of a mediator will be discussed as one of the factors to be considered when parties accept mediation. It is important to note that the definition of mediation is sensitive to sovereignty, a right protected by the Treaty of Westphalia. Even the United Nations, which is widely accepted as an international body that governs states, protects this right and prevents its members from interfering in the internal affairs of a state.

Some scholars have argued that for mediation to take place, the parties with diverging views must reach a point at which reaching an agreement depends on them contribution equally to the mediation process. At this time, each party to the mediation sees itself as having power over the other. Zartman states that ‘negotiation takes place when stalemates occur, when a decision is impossible by other means, and when the parties have equal stalemating power; and negotiation is a joint decision-making process in which both parties are necessary to the

---

<sup>3</sup> Ibid

<sup>4</sup> Ibid

<sup>5</sup> Khadiagala, G, “ Forty Days and Forty Nights of peacemaking in Kenya”, Journal of African Elections: Special Issue: Kenya, EISA, Johannesburg, 2008,p8

<sup>6</sup> Zartman and Touval (1985), International Mediation in Theory and Practice ,Boulder, CO, Westview Press, p9

decision or, otherwise stated, in which each party has a veto power'<sup>7</sup>. Very often in recent history of negotiation, adversaries find it hard to come to the table without expecting their will to prevail. This has increased the need to have a third party mediating or/and facilitating the whole process. Third parties are not always independent and impartial bodies, they have to possess certain features accompanying their role. This thesis argues that mediation is an instrumental tool for peace diplomacy. This study will be looking at the role of mediation in bringing about the resolution of conflict. It argues that without capacity, competence, influence and credibility of a mediator, the mediation is likely to not succeed. Thus, it will discuss the conditions and factors that made the SADC intervention successful.

The school of conflict resolution presents different theories as to what brings about peaceful resolutions to conflict. However, scholars of conflict resolution assert that negotiation is not as challenging as pre-negotiation. During this period, the mediator requires certain skills to convince adversaries that they need to come to the table to resolve issues. Once the process of searching for and accepting mediation is concluded, the real task begins. The mediator is now faced with the task of facilitating communication between the disputing parties. This is often the hardest part of mediation. One cannot help inferring that a mediator needs to possess certain attributes in order to be able to succeed. Saunders notes that "persuading parties to a conflict to commit to a negotiated settlement is even more complicated, time-consuming, and more difficult than reaching agreement once negotiations have begun"<sup>8</sup>. It is at this stage where adversaries still believe that their interests should prevail in the negotiations before they can take the whole process seriously. In the present case, the Mbeki-led SADC mediation was faced with this problem of getting ZANU PF and the two factions of MDC to commit to the negotiations. One of the main problems faced by the mediator was the hardline positions taken by both parties, each claiming legitimacy of leadership of Zimbabwe. They were both arguing that the negotiation should be based on their status as the democratically elected government of the country, from the two elections that took place in 2008. This research will be exploring this process, and provide an understanding as to what leverage the mediator

---

<sup>7</sup> Zartman, I.W., "The Negotiation process", SAGE, London, 1977

<sup>8</sup> Saunders, H., "We need A Larger theory of negotiation: the importance of pre-negotiation phases", Negotiation Journal, Vol.1, 1985, p23

enjoyed in this conflict. It will be looking at the obstacles which the mediator had to overcome to get the parties to the negotiating table. It argues that 'whatever the substance of efforts to break the impasse, progress toward negotiation requires working with the politics of decision making on each side'.

## **Rationale**

Noting with appreciation the effort that the African leaders have made in dealing with intrastate conflict through mediation, this thesis emphasizes the need for third-party intervention in African conflicts. The role of the SADC mediators in Zimbabwe resulted in a power sharing deal that was signed by the leaders of the opposition and the ruling party. It brought to an end the conflict evoked by the March 28 as well as the June 29, 2008 elections. A government of national unity was formed through this deal. However, the Zimbabwe story has not been given enough attention as to what influenced the deal. The media, and the western media in particular, have continued to report on the developments of the Zimbabwe conflict since its early stages. Violence has been the prominent feature in the Zimbabwe politics. Journalists have also reported on how President Mugabe and ZANU-PF have manipulated security and police organs of the state to achieve their own political ends. However, the story has been one-sided, and as in all conflict situations, there is always more than one side to the conflict. The issue of violence will be discussed later in this thesis.

It should be noted that the parties who presented diverging views and who were staunch adversaries before, managed to reach an agreement that binds them to work together to help rebuild Zimbabwe. A lot has been said about Zimbabwe and the mediation process; however, there is a lack of analysis as to what was behind the deal. In my analysis of the mediation, I have not overlooked the most essential aspects of mediation as laid out by Stedman, "that mediators need to know the conditions that facilitate negotiation, the barriers that negotiations face, and how these barriers can be overcome effectively"<sup>9</sup>. It is only after contextualizing these challenges in the Zimbabwe situation, that one can measure the success of the mediation. It is

---

<sup>9</sup> Stedman, Stephen, "Negotiation and mediation in Internal conflict" Lynner Reinner

important to note that negotiations begin way before roundtable negotiation itself. The mediator consults with disputants to remove obstacles to negotiations before beginning the task of moving towards a negotiated settlement. Saunders discusses five factors that he identifies as obstacles to negotiations namely: “defining the problem; producing a commitment to a negotiated settlement; arranging a negotiation; the negotiation, and implementation”<sup>10</sup>.

This thesis investigates the process of mediation from the pre-negotiation phase to conflict resolution as a result of a settlement reached. It will examine the extent to which the mediators are accountable, and the influence they have over the parties. It is important to understand the impediments that the mediators are faced with during the negotiations in order to understand their role. This research takes into account that the nature of negotiations is that they are held behind closed doors. By so doing, there is the risk that citizens will feel “robbed of democracy” and feel that there is a lack of accountability and transparency as the process is perceived. Civil society expressed concerns about the secrecy of the Zimbabwe negotiations. This is in contrast to the Kenyan negotiations, in which mediators ensured that the interests of all Kenyans were taken into account ‘through a wide consultative process with multiple constituencies’<sup>11</sup> during the pre-negotiation phase.

This thesis seeks to apply international theories of mediation and to give a better analysis of the Zimbabwe conflict. It will take into account the fact that attributes agreed to by different scholars of intrastate conflict mediation also depend on the circumstances of each case. The examination of the Zimbabwe conflict will determine the extent to which these theories fit the case. By so doing it aims to contribute to the growing literature on mediating African conflicts. The power-sharing deal in Kenya has set a precedent in Africa whereby conflict stemming from elections has led to and could continue to produce power-sharing compromises. It is the intention of this thesis to examine the benefits and dangers of this conflict resolution trend. As much as there has quite extensive literature on mediation, an African perspective of intrastate conflict mediation is lacking. Thus, this research will try and reverse this deficiency.

---

<sup>10</sup>Saunders, OpCit, p

<sup>11</sup> Khadiagala, G, OpCit, p15

## **Limitation and Scope of Study**

Negotiation is a complex process. It varies from the choice of the mediators, their acceptance, and the series of negotiations. This study will be focus on the role of the SADC mediators in the Zimbabwe negotiation process that started in July 2008, after the contested elections. Negotiation raises a lot of questions such as: who invites the mediators and when should the mediation commence? What influences their decision to accept the mediating role? A discussion of SADC's first formal intervention in Zimbabwe to facilitate negotiations between the disputants is included in this thesis. Since 2001, there were a number of unsuccessful interventions by different bodies. An interrogation will be conducted to give an understanding of what led to their failure. With an understanding that negotiation takes place behind closed doors, this thesis will look at how the Zimbabwe mediation was conducted and the impact that the local environment had on the whole process. Due regard will be paid to developments that took place during the negotiations and their impact on the whole process. It takes into account that peace diplomacy, more often than not, competes with other kinds of interventions. However, it will focus on mediation as an essential tool for conflict resolution. Noting the complexity of the Zimbabwe story, this study will be limited to diplomatic interventions and more specifically, the SADC intervention since 2007. Theories of conflict resolution that will be used to explain the outcome will be selected from those that deal with entry point, to pre-negotiation phase and reaching the outcome. The following questions will guide this research:

1. What are the conditions and factors necessary for a successful mediation?
2. What factors do mediators have to take into account during the negotiation process?
3. What are the constraints in mediating African conflicts?
4. What are the characteristics of a good mediator with a potential for success?
5. Why do adversaries accept some mediators and not others?

## **Theoretical Framework**

Over the past century, the concept of negotiation advanced with the growing need for states to work together. International relations have moved from imperialism through territorial wars to multilateralism. The emergence of international as well regional organizations proves that states have become more dependent on one another. States are now supporting peace world peace through international treaties that they sign and ratify. The change in the dynamics of conflict, from interstate to intrastate conflict, necessitates more engagement in the process of mediation to help bring peace in the internal affairs of a state. Negotiation has been the widely accepted mode of conflict resolution. Mediation is a form of third-party intervention into disputes, directed at assisting parties to find their own mutual acceptable settlement<sup>12</sup>. In the case of intrastate conflict, it is usually between government officials and the representatives of the opposition or rebel groups. Negotiation is a form of diplomacy required in conflict resolution, but it needs other forms of diplomacy to succeed. This research will explore other forms of diplomacy or other steps in the mediation process.

A notable scholar of negotiation, Zartman<sup>13</sup>, asserts that parties need to reach a hurting stalemate before they can consider the art of negotiation as a process to find a solution. He speaks of translation of zero-sum mentality to positive mentality<sup>14</sup>. This theory suggests that adversaries have to realize that a solution can no longer be achieved individually and that they have to work towards a common solution. When the parties realize that they need each other to find a solution, and that they have to soften their position to allow reciprocity of concessions, they are said to be moving from zero-sum to positive mentalities. Negotiation is a complex process that, more often than not, requires an intervention by an independent third-party. Parties need to be desperate to invite a mediator, as it was pointed out earlier that. It affects the country's sovereignty. Sometimes mediators are not invited by the parties concerned, but the leverage they have, such as close proximity in the conflict gives them authority. There are lots of factors that need to be considered before inviting a mediator.

---

<sup>12</sup> Anstey, M, OpCit, p1

<sup>13</sup> Zartman, IW, OpCit, p

<sup>14</sup> Zartman,

Scholars of negotiation suggest that the impartiality of a mediator is an important factor to be considered when identifying a mediator.

Saadia Touval raises two vital questions about mediation namely: why does a mediator choose to mediate? Why do adversaries accept the mediation?<sup>15</sup> Both these questions are essential for the analysis of pre-negotiation phase. There is a growing consensus among scholars that third parties mediate because they have a certain interests to protect. Mitchel<sup>16</sup> observes that the “neighbor mediator, normally a government or regional organization, seek to preserve regional stability by preventing the effects of the conflict spreading to neighboring countries”<sup>17</sup>. He further observes that “neighboring countries exhibit clear and realistic understanding of the tendency of major and long-lasting conflicts to draw in other governments, so that rapid settlement of the dispute is seen as a way of preventing the internationalization of regional disputes”.<sup>18</sup> This view resonates well in the Zimbabwe context in that the Mbeki-led mediation had interests to protect. For SADC as a bloc, it had to prove the authority and effectiveness of the organization, based on the principle of ‘African solutions for African problems’. This organization enjoyed proximity and legitimacy because Zimbabwe is within its jurisdiction and is a member. Its legitimacy came from the SADC principles enshrined in the organization’s constitution. South Africa was faced with the spill-over effects of the conflict in Zimbabwe. As a pioneer of the New Partnership for Africa’s Development (NEPAD), South Africa had to assume such a role to prove that it did not support poor governance, although the timing of the intervention is questionable.

### **Mediators as impartial third parties**

Scholars of conflict resolution have observed that in a conflict, not everyone who intervenes is impartial. More often than not, mediators intervene because they have a certain interest to

---

<sup>15</sup> Touval, S, 1993, “Gaining Entry to Mediation In Communal Strife”, In The Internationalization of Communal Strife ed. M. I. Midlarsky. London & New York: Routledge.

<sup>16</sup> Mitchel, CR, “The Motive for Mediation” in New Approaches To International Mediation, Greenwood Press, 1988, p13

<sup>17</sup> Ibid,p39

<sup>18</sup> Ibid,p40

protect, as indicated above. Thus, 'the traditional view of mediators as impartial third parties has long been recognised as an inadequate characterization in situations where third parties have interests and the power to influence outcomes'<sup>19</sup>. When interveners seeking to advance their interests through bargaining are said to have possessed bargaining power. There are those who try and impose their solution onto the parties through coercion. In order to have a better understanding of an intervener's interest, this chapter has followed the work of Watkins and Winters<sup>20</sup> who have distinguished between two types of interventions namely: transactional and embedded. Transactional refers to interveners with no prior relations with the parties in adversity; their intervention is based on a 'once off' basis. While the latter is usually affected by the conflict and they tend to be biased towards the outcome. The reason for their intervention is said to be based on the view that mediation will minimize the cost of continued conflict.<sup>21</sup>

They observe that when interveners are biased in the sense of seeking to protect their interests by preventing spill-over effects, that they are thereby seeking to achieve a resolution more favourable to their allies, they are embedded<sup>22</sup>. The choice of South Africa's former President Mbeki as a mediator was viewed as controversial by some. An official<sup>23</sup> at the Economic Community of West African States argued that he (Mbeki) had too much respect for President Mugabe and that Mugabe took him as a son as Mugabe and Mbeki's father, Govan Mbeki, were from the same generation of the struggle. He added that the "efficacy of a sitting head of state presents a conflict of interest between their duties as heads of states and as mediators"<sup>24</sup>. He argued that, because of his position as a head of state, he was not able to be firm against another head of state, and this therefore compromised his neutrality.

The role of embedded interveners does not end with reaching an agreement or a resolution. Even after the agreement has been reached, these interveners continue to engage with the parties to assist with the implementation of what was agreed upon. This was a problem in the SADC mediation when Mbeki was ousted by his ruling party in his country and lost his position

---

<sup>19</sup> Zartman and Touval, *OpCit*, p253

<sup>20</sup> Watkins and Winters, "In Theory: Intervenor with Interests and Power", *Negotiation Journal*, Vol.13, No.2, April 1997

<sup>21</sup> *Ibid*, p121

<sup>22</sup> *Ibid*

<sup>23</sup> In interview in Johannesburg, South Africa, 19 November, 2008

<sup>24</sup> *Ibid*



as a president. His role as a mediator was questionable now that there was a new president who also chaired SADC. Due to the rise of issues in the implementation and interpretation of the power-sharing deal, the mediator had to go back and give clarity on the clauses of the document. Watkins and Winters assert “it is difficult to avoid remaining involved as interim agreements give rise to the need for ongoing enforcement and new issues become the focal point for the ongoing struggle between the contending parties”<sup>25</sup>. This holds for Zimbabwe, with the parties conflicting over how ministries should be shared between the ruling party and the two factions of the MDC.

Literature suggests that mediators need to possess certain power in order to advance their influence over the contending parties, namely facilitative, bargaining and coercive power. “They are facilitative if they can influence disputants because of their status, legitimacy, process management skills and interpersonal persuasiveness; bargaining if they offer parties incentives; and coercive if they possess ability to impose and enforce terms of the settlement unilaterally”<sup>26</sup>. However, the classical roles of mediators do not hold in recent history of mediation due to overlapping of roles. Watkins and Winters are of the view that interveners will first use facilitative powers to achieve settlement. If this fails, they consider bargaining and then finally resort to coercive power<sup>27</sup>. The rationale is that conflict evolves and different stakeholders may be involved. Thus, the need for a more effective mechanism arises at different stages of the conflict.

### **Accepting mediators**

There is general consensus among scholars that mediation must be accepted by the contending parties in order for the outcome they help produce to be accepted. Research suggests that “contending parties’ perceptions of interveners’ interests and power have an impact on the functions third parties can perform in disputes”<sup>28</sup>. For the purpose of this research, this chapter will look at the role of a mediator with facilitative power, due to the belief that SADC enjoyed

---

<sup>25</sup> Watkins and Winters, OpCit, p123

<sup>26</sup> Ibid

<sup>27</sup> Ibid

<sup>28</sup> Watkins and Winters, OpCit p124

such power in Zimbabwe. The functions of a mediator with facilitative power are as follows: “enhancing and shaping communications among disputants; persuading the parties to make concessions; enabling the parties to save face by coordinating mutual concessions absorbing anger or blame; and serving as a witness to agreement”. Disputants tend to favour mediators that possess bargaining power because they can compensate their concessions. This is usually the case where parties feel pressure from the people they represent. Carrots used by the mediator are used to justify the concessions they (the parties) make. Disputants often view concession as an epitome of surrender. Bargaining helps the mediator to move the disputants from this mentality. The nature of mediation is based on the mediator’s ability to assist disputants reach a resolution which they are unable to achieve on their own. Watkins and Winters’ evaluation of the Gulf War provides evidence that “disputants tend to view settlement as illegitimate and feel free to violate its terms unless there are credible threats are used to enforce them”<sup>29</sup>. During the negotiation, commitment is not always guaranteed from the disputants. A mediator with coercive power can enforce commitment from all the parties due to fear of the repercussions should there be divergence. Watkins and Winters reached this conclusion, highlighting the importance of the mediator to allow flexibility in shifting roles according to the evolution of the conflict<sup>30</sup>.

Touval points out that the definition of mediation in the intrastate conflicts constitutes an infringement of sovereignty and interference in the internal affairs of a state<sup>31</sup>. It is on these grounds that rejection of mediation can be based. Article 2(7) of the United Nations Charter protects the right of sovereignty of its member-states and intervention without invitation is a violation of this right. However, on many occasions this right has been violated without the UN protecting it. Membership to international and regional organizations can compromise the right to sovereignty. The African Union is obligated by its Charter to intervene in the countries of member states in a case of human rights violation. Membership of Zimbabwe in SADC placed an obligation on SADC to intervene and bring political, as well as economic peace, in Zimbabwe.

---

<sup>29</sup> Ibid,p132`

<sup>30</sup> Ibid

<sup>31</sup> Touval, S,OpCit, p256

Touval asserts that where governments are party to a conflict, accepting mediation may epitomize surrender and acceptance of equal status to the opponents<sup>32</sup>. In Zimbabwe, the ZANU PF was reinstated by the widely condemned run-off elections in which Mugabe was the sole candidate. Agreeing to negotiate with the opposition, could be argued to be the government's epitome that it saw itself as an equal partner to the MDC. Another interesting point Touval<sup>33</sup> puts forward with regard to accepting or rejecting mediation is the issue of costs and benefits of mediation. The weaker party is usually the first to accept mediation because "some involvement by a third party is better than none"<sup>34</sup>. While the stronger party, usually the government, is likely to reject because of the status it enjoys. However, the costs of continued conflict are a considerable measure to the parties' decision to accept or reject mediation. It is agreed that, "the stronger disputant will not willingly accept an intervener who is both biased and has coercive power, but may be open to accept an ally of the weaker party who has resources to offer as compensation"<sup>35</sup>. There are several reasons why disputants accept mediation, but what is an important to bear in mind are the repercussions of accepting or rejecting of the mediation.

### **Timing of mediation**

Research shows that intervention that takes place at the early stage could fail. Once the conflict has reached a certain stage, it has a potential to attract various third parties. Ripeness theory suggests that early intervention could prove to be ineffective due to the level of conflict. The parties' will to resolve conflict on their own individual terms should be exhausted. Intervening when adversaries still believe that they can come up with a solution unilaterally may prove to be unsuccessful. Zartman and others believe that for the intervention to be successful it must coincide with stalemates<sup>36</sup>. As noted above, this is the point at which both parties to the conflict have realized that they need each other to find a resolution. One may ask why then invite a third party to help find a solution? Why can't the adversaries sit down and put their

---

<sup>32</sup> Touval, S, *Mediation in the Yugoslav Wars: The Critical Years, 1990- 1995*, New York, Palgrave, 2001, p 11

<sup>33</sup> Touval, p266

<sup>34</sup> Watkins and Winters, *OpCit*, p135

<sup>35</sup> Watkins and Winters, p135

<sup>36</sup> Zartman, I.W, "The Negotiation process", London, SAGE, 1977

concerns forward and reach an agreement? The consensus reached by scholars of conflict resolution is that stalemates may occur, but a mediator will still be necessary to help mend the relationship between the disputants. Usually, agreements require a compromise between the parties. The tensions accumulated during the conflict makes it difficult for the parties to trust each other, thus, inviting a facilitator of communication becomes important.

“The Structuralist school places considerable importance on the dynamics of conflict and the interests of parties, arguing that mediated interventions that are not timed to coincide with hurting stalemates run a real risk of failure.”<sup>37</sup> This school also emphasizes a need for a strategy of peace making and mediation in order to know how to create stalemates.

An understanding of the dynamics of the conflict cycle can help create stalemates, thereby, determining the entry point. While the socio-psychological approach supports the view that early intervention is important due to the belief that once relations have deteriorated, because violence and attitudes are embedded in “we-they” images of the enemy, it becomes more difficult for the mediator to move the parties to change their perceptions<sup>38</sup>. The dynamics of the conflict will determine when to intervene. In Zimbabwe, previous interventions by different mediators proved to be unsuccessful because the conflict was not ripe for intervention, and little if any, tactics were used to create stalemates. Although the country was under sanctions by the United States and Britain for quite some time, it failed to create stalemates.

### **Pre-negotiation phase**

Zartman and Berman have divided the process of negotiation into three stages namely: the pre-negotiation stage, the formula stage, and the detail stage.<sup>39</sup> Pre-negotiation stage can be described as a time when the mediator holds side meetings with the adversaries to draft the agenda. Zartman describes this as “a learning process that allows the parties to readjust their perceptions toward each other, toward the mediator, and toward the conflict.”<sup>40</sup> In intrastate conflict, it is during this time that the mediator will sort to convince the belligerents to come to

---

<sup>37</sup> Crocker, Hampson and Aall, “Herding Cats: Multiparty mediation in A complex world”, Washington, USIP, 1999,p22

<sup>38</sup> Ibid,p25

<sup>39</sup> Berridge, G.R: Diplomacy: Theory and Practice, Prentice Hall, Upper Saddle River, New Jersey, 1995,p119

<sup>40</sup> Zartman,IW, “The Problem”, in Getting, Maundi, M, USIP, Washington DC,2006,p3

the negotiation table and agree to a cease fire. The nature of these meetings is informal. Although, accepting a mediator is a symbol of agreeing to negotiate, parties do not always face each other with ease. It should be borne in mind that these adversaries have developed certain perceptions about each other and the level of trust is very low. Thus, maintaining hardliner positions is likely to happen. Agreeing to negotiate does not mean agreeing to a solution, but to a process where it is hoped to bring about a solution.

Drafting an agenda is a form of negotiation on its own. The nature of this stage makes it difficult for some scholars to accept it as pre-negotiation because negotiation begins with consultation. The notable difference between this stage and the second one lies in the formality of negotiation. Saunders summarizes pre-negotiation as a “whole range of activity conducted prior to the first stage of formal substantive or around-the-table negotiation”<sup>41</sup>. According to this definition, these activities are aimed at achieving an agreement on three issues namely; the agreement or outcome hoped to be achieved, the agenda, and the manner in which negotiation will be conducted. <sup>42</sup>The first stage provides the purpose of the negotiations. When the parties agree to negotiate, this symbolizes their acceptance of a mutually hurting stalemate. The parties are now agreeing that negotiating is the only way out of this hurting stalemate. Prior to this, parties believe that they can have their way through military imbalances, and therefore, a need to negotiate is not significant. However, recognizing a need to negotiate does not mean that parties will automatically sit at the table and negotiate. It is the duty of the third-party to convince the parties to commit to a negotiated settlement, without weakening their positions. “Third-parties may be calling for gestures of good will but stepping up the antagonist’s flank from domestic hard-liners”<sup>43</sup>. Powerful mediators have the ability to create stalemates, thereby, pushing the parties to accepting mediation. In the Zimbabwe case, the Western powers can be argued to have helped create stalemates, through economic and political sanctions. When the parties realized that the economy had reached astronomical heights, it propelled them to move towards the negotiating table. ZANU PF had power as a ruling party

---

<sup>41</sup> Saunders,H, “We need A Larger theory of negotiation: the importance of pre-negotiation phases”, *Negotiation Journal*,Vol.1,1985,p

<sup>42</sup> Ibid

<sup>43</sup> Touval, S, Zartman, IW, *OpCit*,p121

and as a party that had some degree of control of the security and police apparatus, but the power was not enough to enable it to function in a dead economy. Its international relations were weak and affected its economy since it could not access international funding. Thus, the MDC had the potential to save the economy because it enjoyed good relations with the West from whom it received funding.

On the other hand, the MDC could not help with the recovery of the economy without political power. From this it becomes clear that both parties were blocking each other's solutions. As Masungure, a Professor at the University of Zimbabwe, commented prior to the negotiations saying, "dialogue is unavoidable and inevitable. Neither of the parties has a solution to the country's structural problems on his own. Tsvangirai may have the legitimacy but he does not have political power. While Mugabe's legitimacy may be questionable, he has the means to remain in power."<sup>44</sup> The analyses have overlooked the essential element of political science, and that is power politics. As the conflict evolved, there have been power shifts which shaped its history.

When the parties accept that a hurting stalemate exists and that it could only be resolved through negotiation, it is argued "to be the beginning of true negotiation"<sup>45</sup>. As Saunders has noted that pre-negotiation can be more difficult than reaching an agreement once the negotiation have commenced, this stage is crucial. It is worth noting that this preparation period does not take place in a 'political vacuum'; there are other developments that may impede the negotiations. This was the case in South Africa during the Convention on Democratic South Africa, whereby the violence that took place in some parts of the country, almost disrupted the elections. It is, therefore, essential for the parties to be domestically secure, in terms of security by state organs. If this is not the case, there is a likelihood that the concessions already made can be reversed as parties feel they are being taken advantage of. In Zimbabwe, during the pre-negotiation phase, there were reports of disturbing occurrences, both domestically and internationally. Domestically, there were reports of alleged state

---

<sup>44</sup> Mike Nyoni, "Tsvangirai faces critical choices", [ReliefWeb](#), July 08, 2008

<sup>45</sup> Ibid

sponsored violence that took place with MDC supporters being massacred country wide that they had to seek refuge in the South African embassy<sup>46</sup>. Internationally, the European Union, through its chair, declared that it would not accept any Zimbabwe government if it is under the leadership of Morgan Tsvangirai<sup>47</sup>. This hardened the ZANU position against what it perceived as Western imperialism. At the same time it, delayed the transfer of power by the Mugabe government through the mediation process. While SADC was trying to find a solution to the situation in Zimbabwe, the European Union and its allies were escalating the conflict through the crippling of the Zimbabwean economy with economic sanctions<sup>48</sup>. The impact that these sanctions had on the conflict will be examined later in this thesis.

It is noted that “pre-negotiations are most likely to succeed if incidents that cause public alarm are avoided”<sup>49</sup>. Although it is important that such incidents should be avoided throughout the negotiations, the pre-negotiation stage is of utmost importance. The reason is that during this time, parties are still very sensitive about concessions they will make and the levels of trust are very low. Major incidents can convince parties that negotiations are a waste of time, thereby resorting to their previous positions. However, this may be hard to avoid, especially if these incidents are external. In Zimbabwe reports of the alleged state-sponsored violence against the MDC members and leaders are an example of incidents that caused public alarm. The images shown by the Western media indicated the decline of the rule of law. This made it difficult for the mediator to get the negotiations started. Domestically, not everyone supports negotiations. Some groups will deliberately cause such incidents to cause the negotiations to break off. For example, such was the case in South Africa, whereby a pro-Afrikaans group of protesters invaded the World Trade Center where the negotiations were held.<sup>50</sup>

There are several reasons as to why these incidents should be avoided including: “they put pressure on the leaders to increase their demands; they also give them a pretext, if they want

---

<sup>46</sup> Banya, N, “Zimbabweans seek refuge at South African embassy”, <http://www.reuters.com/article/idUKWEA029220080625>, 25 June 2008

<sup>47</sup> Reuters, “Mbeki rejects EU call for Tsvangirai to rule”, [http://www.rfi.fr/actuen/articles/103/article\\_863.asp](http://www.rfi.fr/actuen/articles/103/article_863.asp), 02 July 2010

<sup>48</sup> Stolberg, Sherly G and Celia W. Dugger, “Zimbabwe Faces Wider Sanctions under Bush Plan”, [http://www.nytimes.com/2008/06/29/world/africa/29diplo.html?\\_r=1](http://www.nytimes.com/2008/06/29/world/africa/29diplo.html?_r=1), 29 June 2008

<sup>49</sup> Ibid, p123

<sup>50</sup> Goldstone Commission : Events at the World Trade Centre June 1993, [http://www.anc.org.za/ancdocs/history/transition/gold\\_worldtrd.html](http://www.anc.org.za/ancdocs/history/transition/gold_worldtrd.html)

one, to avoid or break off initial contacts with the other side”<sup>51</sup>. The duties of a mediator are also limited by the stability of domestic affairs where parties’ interests are at stake. The condemnation of Mugabe by the African Union members at the AU Summit in Egypt, hardened his position on the negotiations, as well as increased his demands. Although Mbeki tried to convince his fellow leaders about the progress of the talks, Tsvangirai’s faith in Mbeki’s mediation deteriorated. This was evidenced by a request to the AU and SADC on an expanded mediation team, consisting of the “envoy that brokered a deal in Kenya”<sup>52</sup>, as a condition for his party to come to the negotiating table. As it was noted earlier, a mediator who possesses persuasion skills has an advantage. The more persistent the mediator is, the more likely he/she will be able to bring the parties back to the negotiating table.

Part two of the pre-negotiation stage is the agenda. The parties need to agree on the issues that will inform the negotiations. This ranges from small to more complicated issues. It is widely recommended that parties put issues of common interest that they agree on, at the top of the agenda. It is believed that when parties agree on smaller issues, it provides a platform for compromise on more complicated issues. This was reflected in the Zimbabwe negotiation in the Memorandum of Understanding. In most cases, parties link issues to get the other party to concede on issues that are in their interest, through putting opponent’s sensitive issue as a condition for their bargain. “Such was the case with the American proposal, first made in early 1980s, that the South African withdrawal from Namibia and Cuban as well as the ANC withdrawal from Angola should be linked. The assumption being that the withdrawal of one would be the price for the withdrawal by the other”<sup>53</sup>. It is worth noting that parties differ on the importance of issues to be discussed. Some issues will be important to one party and should be discussed, while the other feels it should not be discussed. “However, when the agenda is being constructed a party which knows that it will never get the other to agree to inscription of a specific item, may strive to secure a vague agenda in order to be able to bring up the issue in which it is interested once the real talks get under way”<sup>54</sup>. Such was the case in

---

<sup>51</sup> Touval, S, Zartman, IW, OpCit, p124

<sup>52</sup> Radebe, Hopewell, Business Day, 18 April 2008

<sup>53</sup> Touval, S, Zartman, IW, OpCit, p124

<sup>54</sup> Webster, 1961, p62



Zimbabwe with regard to the land question. The MDC was expected to put it on the agenda as one of the pressing issues, while ZANU PF tried to avoid discussing this issue since it was its policies on land that exacerbated the situation in the first place. Parties usually put issues of their interest on the agenda in the expectation that they will have to give some concessions while receiving similar concessions from the other party(s). The problem arises when the other party does not concede as expected and this may take the negotiations back to square one. It takes the skill of a mediator to be strong enough to ensure that parties keep to the agreed concessions. Such was the case in the Lancaster Agreement where the mediator, Lord Carrington, was strict on going back to issues already sealed.

As soon as there has been an agreement on the agenda, the last part of the pre-negotiation phase is the procedure for the negotiations. Berridge<sup>55</sup> lists four factors guiding the procedure for negotiations, namely: format, venue, level and composition of delegations and timing. On the format of talks, one is looking at whether the talks will be a face-to-face between the leaders or through their representatives. Using the Congress on Democratic South Africa (CODESA) example, the presence of the leaders was necessary to avoid delays in reaching agreement due to the parties have to go back and consult with the principals of their party. Working Committee Two delayed the whole conference because the National Party delegate took a hard-line position to resist pressure from his opponents, stating that he had to consult with the party president, F.W. De Klerk before he could agree to the proposals on the table.

The venue for the negotiations must be in an environment conducive to all parties and where there will be fewer disruptions. The international relations trend has been that negotiations are held under the auspices of an international or regional organization, sometimes in the country of conflict, but mostly outside the country so that the parties are taken out of their conflictual environment. It is important that negotiations must maintain secrecy. The venue at which they are held must allow enough secrecy that only what the parties agree to publicize will be known to the public. Leaking of information may lead to it being used for propaganda purposes by either one or the other party to cause instability. The secretive nature of negotiations is

---

<sup>55</sup> Berridge, G.R,1978,p113

understandable, but transparency can help prevent media speculations and the assumptions. As mentioned in the Rationale, the issue of secrecy can also be perceived in a negative light. For example the secrecy of the Zimbabwe negotiations was widely criticized and different opinions were voiced regarding the issue of the right of the public to know the contents of the negotiation. The press only knew that they were held somewhere in Pretoria and not the exact venue. However, the point has been made that one or other of the parties perceive the media as having a record for “blowing things out of proportion” and thereby causing unnecessary public protests, that this was one of the reasons for the secrecy of the meetings. “Some venues are chosen for negotiations because either they are by convention or by law they are neutral ground”<sup>56</sup>. Pretoria is the capital of South Africa and was convenient for the mediator, former President Mbeki, who at the time still had to perform his duties as the president of the Republic of South Africa. As both parties are based in Zimbabwe, the choice of venue firstly required them to travel to South Africa and secondly they both enjoyed neutrality of the venue. The environment in South Africa was neutral and away from incidents that could be brought by those opposed to negotiations. However because the spill-over effects of the Zimbabwe conflict were felt in South Africa as witnessed by the xenophobic attacks which took place in South Africa in May 2008. Many victims were from Zimbabwe seeking refuge in their neighboring country, these attacks, to some extent, negated the neutrality of the venue. In the next chapters, this topic will be discussed further

The level and composition of delegation looks at the number of representatives per party and how they will engage in the negotiations. Sometimes the delegation comprises working groups who are tasked with dealing with specific issues and then report back to the negotiation table. The SADC led mediation comprised delegations from ZANU PF, as well as the two factions of the MDC. As the leaders of the parties did not take part in the roundtable negotiations, delegates had to report back to their principals in Harare. This impacts on the process as it causes time delays. In the Zimbabwean case, when the talks reached a deadlock, Mbeki

---

<sup>56</sup> Touval, S, Zartman, IW, OpCit, p129

reported that he was giving the parties two weeks to think through the offer that he be given the post of Prime Minister, while Mugabe retained the Presidency. In reality both parties took more than the scheduled time. This illustrates the necessity for offers made in the negotiation process to have a set timeframe as this indicates to the parties the seriousness about reaching an outcome. While in some case the complexity of issues makes it extremely challenging for negotiations to be concluded within the set timeframe, setting a timeframe is useful for guideline purposes. The aim of negotiating is to find a solution suitable to all parties to a conflict. In essence the value of using negotiation as a form of resolving conflict is that the parties “own” the process as they seek and agree on their own solutions with the assistance of an impartial mediator. Thus, timing is crucial to a successful negotiation successful. “The possibility that favorable circumstances are unlikely to last forever argues for a prompt start-but pressing for this may suggest weakness.”<sup>57</sup> Timeframes assist in creating these circumstances.

### **Attributes of a mediator**

“Effective mediators are often driven by the desire to redress almost impossible situations in which combatants are incapable of finding solutions on their own”<sup>58</sup>. Mediators aim to help adversaries reconsider their positions and attitudes towards the conflict. The intervener must seek to redirect parties towards areas of common interests rather than diversity. Kressel and Pruitt point out that, a “mediator’s power as a dispute resolution device lies precisely in its capacity to help deal with the problems created by dispute selection and elaboration and therefore in its capacity to deescalate the conflict.”<sup>59</sup> Among the many functions of the mediator, Carnevale and Pruitt add “shuttling between parties who cannot or will not meet, interpreting statements made by parties who do not understand each other, encouraging trust or suggesting agreements that do not require trust, allowing a proud party to concede to the

---

<sup>57</sup> Touval, S, Zartman, IW, p134

<sup>58</sup> Journal of Election: Kenya

<sup>59</sup> Kressel, Pruitt, 1989

mediator instead of the other party...”<sup>60</sup> Cooks<sup>61</sup> notes that mediators run a real risk of being used as a scapegoat by the disputants.<sup>62</sup> This was the case in Zimbabwe where the MDC kept questioning Mbeki’s impartiality each time the negotiations hit a deadlock. If this is the case, what skills should the mediator then, possess? Research shows that the most important role of the mediator is to act as a communicator between the disputants. This idea comes from an understanding of conflict as “the breakdown of communications, with parties becoming locked in a situation they cannot escape simply because they dare not contact each other directly.”<sup>63</sup> This is rather a passive role of a mediator. Facilitation of communication is essential, but a mediator can play a more active role such as being a formulator. “Mediators must be capable of innovative thinking that is not possible for the parties to the conflict, constrained as they are by their commitments”.<sup>64</sup> The mediator must be able to see beyond the surface of the conflict. It is suggested that mediators need to add the qualities of creativeness and invention to the communicator’s traits of tact and empathy, and must seek to discover the parties’ real and basic interests, and their component ingredients.<sup>65</sup> Mediators with facilitative power are said to possess little, if any power, over the parties since they are not in a position to punish the parties should they fail to honor the agreement.

As it was mentioned earlier, disputants prefer mediators who possess the power to hold them accountable to the agreements reached by the parties. Thus bargaining power also becomes essential. They can use persuasion to get the disputants to rethink solutions and areas of compromise. This method was used by Mbeki throughout his mediation in Zimbabwe. Even during the negotiations, he refrained from imposing a solution on the Zimbabweans. This method was widely criticized both regionally and internationally. ‘Quiet diplomacy’, which was a term used to explain South Africa’s position toward Zimbabwe, was viewed as non-engagement. The international audiences expected Mbeki to condemn Mugabe in public to show dissociation with him. The so called ‘megaphone diplomacy’ could be argued to have not

---

<sup>60</sup> Carnevale, Pruitt, 1992, p533

<sup>61</sup> Cooks LM, “Putting Mediation in Context”, *Negotiation Journal*, Vol. 5, No.3 April, 1995, p 98

<sup>62</sup> Ibid

<sup>63</sup> Touval, S, Zartman, IW, *OpCit*, 126

<sup>64</sup> Ibid, p127

<sup>65</sup> Ibid

been applicable in the Zimbabwe case, due to the failure of the sanctions by the EU, Commonwealth and the US to achieve a solution. The division among AU members over the issue would have presented problems to South Africa. This debate around the diplomatic stance taken by SA over Zimbabwe will be discussed in the next chapters.

It was noted earlier that a mediator should be able to use stalemates to his/her advantage as this will emphasize the importance for negotiation. A third role that the mediator plays is that of the mediator as a manipulator. This is viewed as a structural role in the sense that the mediator empowers him/herself with bargaining power. In this situation both parties believe that the mediator will form a partnership with either of them should mediation breakdown.<sup>66</sup> Such was the case in the Lancaster negotiation that resulted in the independence of Zimbabwe, whereby Lord Carrington “threatened diplomatic recognition of Mugabe’s opponents if he proved less compliant than what they were.”<sup>67</sup> Pruitt observes that when the conflict is ripe, it is easy for mediators to apply light tactics as compared to unripe conflict. In Zimbabwe, Mugabe still believed that he could win in the field, thus Lord Carrington had to manipulate Mugabe’s allies to put pressure on him into accepting the agreement. This tactic was mentioned earlier as important in creating stalemates.<sup>68</sup>

Mediators are encouraged to always maintain their role as mediators, so that they can facilitate parties to come up with solutions. However, they should be able to switch roles, from facilitating to bargaining should there be a need to do so. Nelson Mandela used this power when mediating the conflict in Burundi when he threatened the adversaries that he would quit if they did not sign an agreement within the agreed time. Although he was criticized for being “inflexible, stubborn and impervious to any advice or any external influence on his management of the peace process”<sup>69</sup>, his pressure brought results. Thus, a mediator with bargaining power has the potential to succeed. Research shows that self-confidence and self-

---

<sup>66</sup> Touval, S, Zartman, IW, OpCit ,p129

<sup>67</sup> Pruitt, D. G. (2000). The tactics of third-party intervention. *Orbis: A Journal of World Affairs*, 44, 245

<sup>68</sup> Ibid,p248

<sup>69</sup> Simkin, Willian, quoted in Lieberfield, D, “Nelson Mandela: Partisan and Peacemaker”, *Negotiation Journal*, July, 2003,p242

efficacy are desirable attributes for mediators. William Simkin notes, that “sufficient personal drive and ego, qualified by a willingness to be self-efficacious is a desirable quality in a mediator”.<sup>70</sup> Oettingen adds that “perceived self-efficacy correlates with raised aspirations, reduced fear of failure, and improved problem-focused analytic thinking.”<sup>71</sup> Another interesting quality worth noting is propensity to trust if it induces reciprocation, because mediators do rely on the trust of the disputants.<sup>72</sup> This quality is usually associated with high ethical standards as well as moral behavior. Lessons that can be learned from the troika that mediated in Kenya is that patience, persuasion and tenacity are important skills for a mediator. “Kofi Annan had the capability to shame, threaten and harangue the parties at decisive moments”<sup>73</sup>. He did not restrict himself to being a facilitator of communication. Benjamin Mkapa, the former Tanzanian President, added forthrightness and also firmness. While Graça Machel, with her international experience, was armed with feminine stamina and sharpness and succeeded in disarming the parties at crucial phases of mediation<sup>74</sup>. These are essential attributes for mediation.

As mentioned in the preceding paragraphs firmness by the mediator is crucial to the mediation process. The combination of attributes that each member of the troika brought the process as well as inclusion of strong elder statesmen, gave the mediation power and authority. This was the case in Kenya; it would have been difficult for the disputants to reject mediation. Lieberfield stresses the importance of “fundamental belief in human values and potentials, tempered by the ability to assess personal weaknesses as well as strengths”<sup>75</sup>. Boulie, quoted in Lieberfield, emphasizes empathy, the ability to understand others’ point of view,<sup>76</sup> as being necessary for successful mediators. A mediator who understands how parties feel about issues can always adjust his/her approach during the process of mediation to allow sufficient time accordingly. The ability to define the problem will help the mediator to allow flexibility when necessary. However, firmness is important to ensure that parties stick to the terms of the process.

---

<sup>70</sup> Ibid,p233

<sup>71</sup> Ibid,

<sup>72</sup> Ibid

<sup>73</sup> Journal of Africa Election, OpCit, p13

<sup>74</sup> Ibid

<sup>75</sup> Lieberfield, OpCit, p233

<sup>76</sup> Ibid,p234

This chapter has defined negotiation as a process whereby two or more adversaries, after reaching a stalemate in a conflict, come together to the negotiation table and make concessions from their positions in pursuit of a common solution. The theory of “hurting stalemates” was argued to be essential for the transformation of conflict. This theory suggests that adversaries need to move from zero-sum attitudes to positive mentalities. This comes with the realization that the solution can no longer be attained individually, but that parties need each other to find that common solution. This theory holds when contextualized in the Zimbabwe scenario in which negotiation was agreed to when the political rivals realized that they needed each other to find a solution. It was held that although the MDC had legitimacy based on the March 2008 general election and the support of the western countries who promised to assist MDC to revive the economy; Mugabe and his ZANU –PF still had political as well as military power. The power imbalances in Zimbabwe led to the negotiations mediated by the former South African president Thabo Mbeki.

Mediation was defined as process in which a third-party is invited to facilitate a dialogue between disputing parties who cannot do it on their own. It was also argued that mediation by definition causes an infringement of sovereignty. Acceptance of a third-party intervention by the disputants compromises the sovereignty of their country. This presents a problem in gaining entry in intrastate conflict. The most important aspects of mediation are that a mediator must be accepted by all disputants and the mediator must be impartial. The body or individual who wishes to intervene in a conflict must be trusted by all parties involved. If one party does not accept a mediator, they are not likely to take any instruction from them; neither will they be prepared to give any concessions. The impartiality of the mediator does influence their acceptance to certain extent. A mediator must not pursue any interest in the conflict since their mediation is likely to influence their desired outcome. However, it was suggested that mediators always have interests, even if it is for the greater good, such as regional stability. South Africa and SADC were found to have had an interest in mediating the conflict in Zimbabwe. For the former, avoiding spillover effects and championing its idea of an African Renaissance and economic development, through the NEPAD and other mechanisms, made it essential to ensure good governance through the creation of democratic spaces. And for the

latter, it had to prove its effectiveness as an established regional body that upholds its principles on democratic elections and good governance.

This introduction discussed different kinds of mediators and SADC mediation can be said to have been of facilitation in nature. This was due to Mbeki's role as a communicator than an imposer of a solution. Throughout the mediation he maintained his position of facilitating a process that enabled the Zimbabweans to find their own solution as Zimbabweans and he continued to invite other external actors to follow suit. This introduction also held that negotiation involves three different stages namely: pre-negotiations, round-table negotiation, and reaching an agreement. It argued that getting the parties to come to the table was the most difficult part of negotiation process.

## **Chapterization**

*Chapter one* discusses the theories of mediation and negotiation. *Chapter two* gives the background to the conflict including a discussion of the 2002 and 2008 elections dating back to the Constitutional referendum in 2000. *Chapter three* then looks into the previous interventions by different bodies and, eventually that of the Southern African Development Community (SADC). *Chapter Four* discusses the power-sharing deal. It gives a narrative and chronology of the events as they unfolded in 2008. It also offers an analysis of the mediation process. Chapter five evaluates the global political agreement (GPA) and discusses the constraints as well as progress made since the agreement was signed. It makes some recommendations as well.



## **Chapter Two**

### **Elections and democratization in Africa: The Zimbabwe case**

Elections are often seen as a yardstick for democracy as they are said to help institutionalize a democratic system of governance. However, in Africa, elections have not delivered on the promise of democracy that is: the strengthening of democracy and its institutions, the power to choose leaders through the ballot, peace and stability as a result of consensus reached through majority voting, and economic development. Some have argued that democracy is a foreign concept in Africa and therefore its implementation was bound to be problematic. History has provided clear evidence of independent leaders who fought imperialism and adopted democracy as a new system of governance. The very same leaders amended the rules to cling to power, and this led to calls for violent removals. When it comes to democracy, there is no one-size fit all rule. "Democracy is meaningless if does not take into account the cultural diversity, religion, history, and sociology of the society in question."<sup>77</sup>

African states in particular, share a history of colonialism and this concept of democracy has had to redress the old structures of the colonial society and reflect the new order based on equality before the law, respect for basic human rights and, maintenance of the rule of law. Democracy in Europe cannot be implemented the same way as in Africa due the different historical backgrounds. African leaders inherited colonial authoritarian states which did not recognize human rights and majority rule as important. Their main duty was to transform these states to consolidate democracy and its institutions to reflect the new order. However, what we saw in many African countries, including Zimbabwe, was the replacement of personnel and not necessary the transformation of institutions that governed under the old system. The state retained its authoritarian nature and therefore failed to deliver on the promises of democracy. Zimbabwe was not immune to this scenario, in the sense that the violence that took place during the Smith regime continued to define Zimbabwe's political nature. The Matabeleland uprisings, shortly after Zimbabwe came into being, and which lasted until a Unity Accord was signed in 1987 between ZAPU PF led by Joshua Nkomo and the ZANU-PF led by Robert Mugabe,

---

<sup>77</sup> Matlosa, K, "A Comparative Analysis of SADC Mediation Role in Post-Election Conflicts in Lesotho and Zimbabwe" in (eds)Matlosa, Shale, Khadiagala, *When Elephants Fight* , Forthcoming, EISA, Auckland Park, 2010,

was a clear scenario that the violent nature of the Zimbabwean state had not been transformed.

The Constitution did not become the supreme law of the country since the Prime Minister could entrench himself into the position of a president. Professor Tawana Kupe<sup>78</sup> is of the view that African leaders adopted a system of democracy without having a full understanding of its meaning. He argues that these leaders had no idea of the kind of democracy they wanted, as a result, they ended up adopting a system they did not believe in, that is an electoral democracy. He adds that when the system proves to not favor them, they turn against it and substitute ballots for bullets. They support democracy for as long as it sustains their power<sup>79</sup>. This chapter will discuss the electoral process in Zimbabwe with an understanding that it resulted from failure to transform the state from a colonial state to a democratic state, which has led to election-related conflict in this Zimbabwe.

### **International Conventions recognizing free and fair elections**

Mazonge suggests that a constitution should be an agreement among all people on how they are to be governed. Any constitution must answer two main questions: How do political rulers come into power? How do they leave office? The answer to both questions is: free and fair elections in a multiparty democracy should determine entry into and exit from political office.<sup>80</sup> There needs to be an agreement on the framework on how to implement this. Importantly, the people must agree on the kind of electoral system they want in place. There are three most used electoral systems that countries normally choose from namely: proportional representation, first-past-the-post, and the mixed system. Whichever system a country chooses must ensure “fair electoral practices; proper representation; accountability; inclusiveness; transparency and; tolerance and respect for diversity.”<sup>81</sup> Reynolds and Reilly add that the electoral system should:

---

<sup>78</sup> Kupe, T Dean of Humanities at the University of the Witwatersrand, Johannesburg

<sup>79</sup> Kupe, T, Interview at the University of the Witwatersrand, Johannesburg, 16 November 2009

<sup>80</sup> Madzonga, P and D. Mashingaidze, “Introduction”, Towards Electoral Reform in Zimbabwe, EISA, ,Johannesburg, 2007, p1

<sup>81</sup> Madzonga, P and D. Mashingaidze, OpCit, p2

- Ensure a representative parliament;
- Make elections accessible and meaningful;
- Provide an incentive for conciliation;
- Facilitate the creation of a stable and efficient government;
- Encourage cross-cutting political parties and;
- Promote parliamentary opposition.<sup>82</sup>

There are international and regional conventions that are aimed at promoting democracy and respect for political rights of citizens to which Zimbabwe is a signatory. Article 21 of the United Nations Declaration of Human Rights of 1948 provides that; everyone has a right to participate in their country's government through democratic spaces; the right to equal access to public service and; base this on universal suffrage. The African Charter on Human and People's Rights of 1963 also enshrines these rights in Article 13 Article 25 (a) and (b) of the 1966 International Covenant on Civil and Political Rights (ICCPR) concurs with the previous statutes. Article 7 of Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), concurs with the UNDHR to obligate its members to eliminate all forms of discrimination against women in the political and public life. Article 5 of the Convention on the Elimination of all Forms of Racial Discrimination (CERD) states: 'in compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law.'<sup>83</sup>

Apart from the above international Conventions to which Zimbabwe is a signatory there are generally accepted universal standards for free and fair elections which apply to every democracy. The UNDHR recognizes free and fair elections as basic human rights and the following are the accepted standards governing these: "an appropriate legal and constitutional framework for elections; an appropriate administration and financial framework for the conduct of elections; freedom of movement; freedom of association/ assembly; freedom of

---

<sup>82</sup> Reynolds A and Reilly B, *International IDEA Handbook of Electoral System Design*. Stockholm: Sweden, 2002

<sup>83</sup> Madzonga, P and D. Mashingaidze, *OpCit*, p7

expression; voter registration; right to vote; secret ballot; counting and results tabulation; transparency, monitoring and observation; challenges to election results and; reasonably balanced field.”<sup>84</sup> The United Nations is guided by these principles and, therefore, Zimbabwe, as a signatory to this Declaration, is obliged to abide by them. The African Union seeks to evaluate governance systems in African countries. NEPAD is one mechanism aimed to assist these countries to strengthen democratic participation and governance. “The NEPAD Heads of State forums are meant to monitor and assess the progress of African countries in adherence to their commitment to achieving good governance and social reform.”<sup>85</sup> The African Peer Review Mechanism (APRM) which functions under NEPAD, is meant to ensure that policies and practices of participating states conform to agreed on political, economic and corporate governance values, codes and standards contained in the Declaration of Democracy, Political, Economic and Corporate Governance.<sup>86</sup> However, as the requirement is that countries need to voluntarily agree to participate in the APRM before they can be subjected to the review, this does not make it very effective since countries can choose not to become a member, as is the case with Zimbabwe?

### **Understanding democracy**

Dr Khabele Matlosa asserts that democracy can be understood to mean “just procedural and limited to electioneering (a la electoral democracy)”<sup>87</sup> as its minimum approach. Secondly, he defines democracy as “institutional dimensions with emphasis on promotion and protection of civil and political rights (a la liberal democracy) beyond sheer electioneering.”<sup>88</sup> This definition resonates well in Southern Africa in countries where democracy is said to have been consolidated. Too many in the SADC region, have understood democracy to mean the enjoyment of political rights and the establishment of institutions fundamental to consolidating democracy. However these democracies have not yet yielded economic benefits to ordinary citizens.

---

<sup>84</sup> Madzonga, P and D. Mashingaidze, OpCit, p8

<sup>85</sup> Ibid, p13

<sup>86</sup> Madzonga, P and D. Mashingaidze, OpCit

<sup>87</sup> Matlosa, K, “The Role of SADC In mediating post-election conflict”, Paper presented at the EISA Symposium, Johannesburg, South Africa, 17 November 2009

<sup>88</sup> Ibid

The highest level of democracy has the “socio-economic characteristics that transcend electioneering and civil and political rights mantra (a la social/developmental democracy).”<sup>89</sup> This definition of democracy is yet to deliver to the African people. The colonial states inherited by the African leaders have not made it possible to give economic meaning to the concept of democracy<sup>90</sup>. What is common about these definitions is that they make elections a central point. Although elections are instrumental to democracy, they are not an end in themselves but a means to an end. Dr Brigalia Bam, the chairperson of the Independent Electoral Commission of South Africa (IEC),<sup>91</sup> asserted that voting is just a single note in an orchestra of democracy. Free and fair elections, freedom of expression, equality before the law and due process are all aspects of democracy that we should not forget<sup>92</sup>.

Elections do not necessarily amount to democratic culture and practice. Various other determinants are also essential such as multipartyism, constitutional engineering and the rule of law, gender inclusivity in the governance process, electoral system designs and reforms, transparent and accountable management of national affairs including elections themselves, responsive and responsible conduct by political parties, constructive management of various types of conflict and the form and content of external assistance for democracy.<sup>93</sup> In Zimbabwe, elections have been held periodically as stipulated by the constitution. This country has an independent judiciary which is not always favorable to the government or the ruling party. Like any country, it has experienced problems in its past elections, but the most important point is that holding of elections has been a step towards the right direction. However, “the stark reality on the ground reveals the extent to which regular elections, that have marked Zimbabwe’s electoral democracy since 1980, have not in fact not deepened democracy.”<sup>94</sup> This means that democratization is a process which begins way before the first

---

<sup>89</sup> Matlosa, K, OpCit

<sup>90</sup> Mafefe, A, Democratic governance and new democracy in Africa: Agenda for the future, Presented at the African Forum for envisioning Africa held in Nairobi, Kenya, 26- 29 April 2002, p11

<sup>91</sup> Brigalia Bam is the chairperson of the Independent Electoral Commission of South Africa, IEC, 2004

<sup>92</sup> IEC, IEC announces final results in South African poll,

[http://www.elections.org.za/news\\_get.asp?press=0&NewsID=420&Opt=&Data=&RecNum=21](http://www.elections.org.za/news_get.asp?press=0&NewsID=420&Opt=&Data=&RecNum=21), 25 April 2009

<sup>93</sup> Olaleye, Wole, “Negotiating the Impasse: Challenges and prospects for democratization in Zimbabwe”, EISA, 2004, Johannesburg, South Africa, ix

<sup>94</sup> Olaleye, Wole, OpCit, xi

transitional elections and is a continuous process. The challenge now for Zimbabwe is for the country to nurture and consolidate democratic governance - a process which depends very much on complex and interrelated institutional and political processes.<sup>95</sup> In South Africa the Constitutional Assembly was established specifically with the responsibility for drafting the final Constitution before the 1994 multiparty elections. An Interim Constitution was adopted to guide the democratic process paving the way to the elections. The South African example shows how democracy is broader and goes beyond just elections. Elections are just another component of democracy. The question then arises: Why pay so much attention to elections? Particularly as elections have resulted in election-related conflicts in Africa. These conflicts have reversed the gains made under democracy, especially, economic gains. Thus, discussions on elections become essential to ensure the smooth transfer of power.

Matlosa suggests that weak institutions make governance rotate around individuals, and then democracy becomes a personality cult which makes it to become highly conflictual with the conflict trends crossing boundaries into violence.<sup>96</sup> From this statement, it becomes clear that elections have move from being democracy-centered into power struggles between individuals. When this happens, leaders end up seeing themselves as being above the political parties that they represent, and this may result in their being removed by violence. One view that has been given a lot of attention elsewhere is that the state in Africa is a means of wealth accumulation due to weak economies. Clinging to power has been associated with holding onto the wealth of the country. According to Boas, "politics in Africa are a game played out on a marginal site, beyond institutionalized regulations in a Western bureaucratic sense", while others maintain it to be a "typical extra-legal contest for political and economic domination between elites and politicians."<sup>97</sup> Matlosa argues that the "conflict becomes even more intense and violent during elections as stakes are raised higher with the contestation for state power and resources as well as politicization of social identity and cleavages."<sup>98</sup> In 2002, SADC countries adopted the

---

<sup>95</sup> Ibid,

<sup>96</sup> Matlosa, K, OpCit

<sup>97</sup> Good, K. (2005), 'The lie inside the African miracle', *USA/Africa Dialogue*, No. 460. Available at [www.utexas.edu/conferences/africa/ads/460.html](http://www.utexas.edu/conferences/africa/ads/460.html) Accessed on 8 August 2006.

<sup>98</sup> Matlosa, K, OpCit,

Regional Indicative Strategic Development Plan, which resulted from the recognition by SADC leaders that they have common political values through democratic, legitimate and effective institutions.<sup>99</sup> Therefore, the SADC Parliamentary Forum was established comprising 37 members of parliament from both ruling and opposition parties in the SADC region. This body has taken an interest in election observation and the electoral processes.<sup>100</sup> In as much as the SADC countries have tried to consolidate democracy in their respective countries, the issue of dominant party democracies has posed a problem. In most SADC countries, the ruling parties have stayed in power since the inception of democracy in their respective countries. Multiparty democracy has not taken its firm effect in this region.

There is still a set of extremely dangerous conflations between the ruling party, the state, and national identity. These conflations are justified by the assertions that the only authentic ruling party is the one with liberation movements credentials (ZANU-PF in Zimbabwe, the ANC in South Africa, Frelimo in Mozambique, and SWAPO in Namibia), or that the only authentic form of government is traditional e.g. Swazi monarchy.<sup>101</sup> The opposition parties in the region have not fully developed into alternative governments to the ruling parties. However, this notion of being voted for because of liberation credentials was challenged in the Zimbabwe elections of 2005 and 2008, in which the opposition challenged the ruling party and won the election but failed to achieve the required two-thirds majority required for the Presidential election respectively. EISA has described democracy to “constitute a set of values, principles and practices, and as involving the quality of relationships not simply between states and their people, but between people themselves.”<sup>102</sup> There is an argument that colonialism did not die and is still living in Africa. This view emerges from how African governments rule, and of the grave consequences of militarization, militias and the blurred boundaries between the state’s legal and extra-legal activities.<sup>103</sup> The incorporation of the war veterans in Zimbabwe is such an

---

<sup>99</sup> Madzonga, P and D. Mashingaidze, OpCit, p15

<sup>100</sup> Ibid

<sup>101</sup> Seirlis, JK, Walking a tightrope: EISA and the challenges of democracy 1996 – 2007, EISA, Johannesburg, South Africa, 2008, p35

<sup>102</sup> Seirlis, JK, OpCit, p19

<sup>103</sup> Ibid, p37



example. The following section will look at the elections in the post- 2000 Zimbabwe. It will discuss the extent to which these have shape the political future of Zimbabwe.

## **Elections in Zimbabwe**

The establishment of the SADC Parliamentary Forum was expected to provide a platform for members of parliament (MPs) to discuss governance issues, as well as to give more legitimacy to the Observer Mission Report because of its collective nature. It was also in response to the disagreement about the legitimacy of the 2000 elections in Zimbabwe by different Mission reports. The SADC ECF was established as a forum for the electoral management bodies (EMBs) and it produced a document in 1998 that entails common standards for successful elections, and these are:

- The creation of a legitimate representative government;
- The establishment of an independent, impartial and generally accepted electoral authority;
- An electoral process that reflects best practice principles;
- The existence of a level playing field;
- The need for certain minimum social, political and human rights standards before, during and after the elections.<sup>104</sup>

EISA's mission report on the 2000 Zimbabwe elections held that Zimbabwe failed to meet any of the ECF's five requirements for a successful election due to the following: the country's multiple electoral authorities were state-appointed rather than independent and nonpartisan; the electoral process was marred by, among other problems, secrecy around and secret irregularities in the voters' roll as well as last minute changes to the electoral rules; the playing field was far from level given that President Robert Mugabe's ruling party had disproportionate access to and coverage in the state-owned media.<sup>105</sup> Accordingly, SADC failed

---

<sup>104</sup> Launch conference of the SADC Election Commissions Forum (ECF)

<sup>105</sup> Seirlis, JK, OpCit, p39

to uphold its own principles of holding a successful election. This sent out a negative message to the world that SADC lacks integrity and negated all that it stands for, namely: good governance, credible elections, credibility of its observer mission, are among others. This was an issue raised by the Commonwealth in its 2002 Observer Mission Report held that the pre-election environment in Zimbabwe was not conducive for a free and fair election. This was in contrast to the SADC and South African Observer Mission reports which held that they were free and fair and reflected the political will of the people of Zimbabwe. Former South African President, Thabo Mbeki, defended his stance not to recognize the findings of the Commonwealth Observer Mission stating that it failed to spend enough time in Zimbabwe. He also raised the point that the Commonwealth had not considered the Observer Mission reports of SADC and the South African government.

Dennis Kadima<sup>106</sup>, asserted that the experience of internal debates about Zimbabwe's elections dramatically reinforced the need for a set of regional principles and guidelines to give credibility and direction to election monitoring and to ensure the integrity of elections.<sup>107</sup> It was for this reason that the Principles for Election Management, Monitoring and Observation (PEMMO) were developed and adopted in 2003. This is a joint document developed by EISA and the SADC ECF. The PEMMO stipulates provisions for pre-election, Election Day and the post-election period. It also includes code of conduct for the observers. The document is different from the other regional principles and guidelines in that it includes recommendations for best electoral practice. It includes recommendations on for the inclusion of women in politics and election, as well as considers the impact of electoral systems in reflecting inclusivity of the choice of the electorate and it also looks at the constitutional and legal requirements for a credible and legitimate election.<sup>108</sup> However, this document is not enforceable. This limitation is common in the African continent, where instruments of the various bodies with regard to election guidelines lack legality. In Zimbabwe, the government took note of the SADC principles that, in the parliamentary elections, translucent ballot boxes should be used, the poll should be

---

<sup>106</sup> Seirlis, JK, OpCit, p40

<sup>107</sup> Ibid, p41

<sup>108</sup> Seirlis, JK, p43

conducted in one day, and an independent electoral commission should be appointed in addition to the existing state-appointed and controlled election bodies.<sup>109</sup> AT the same time the government chose to leave out other requirements outlined in the SADC principles. The limitation of SADC to hold countries accountable for failure to uphold agreed principles and guidelines compromises the legitimacy of its observer mission.

### **2000 Elections**

The 2000 elections were marked by unprecedented levels of violence and intimidation; partisanship by the law enforcement agencies and the public media whose statements blatantly indicated their support for the ruling party; lack of transparency in some of the operations of the RGE and the Election Directorate, particularly with regard to the provision of information in their control relevant to the elections; and the furore over the accreditation of election monitors and observers.<sup>110</sup> As a result, most observer missions could not declare the elections free and fair. The government accredited those who were considered to be friends with the ruling party, and did not accredit those missions whose outcome could not be guaranteed. The elections were held in the wake of a constitutional referendum which rejected the ruling party's constitutional recommendation. The mood of bitterness which marked these elections resulted in with the breakdown of law and order. Violence perpetrated by the government security agencies left the ordinary citizens feeling unprotected, the government's disregard of court orders compromised the credibility and independence of these institutions. The environment could not be said to have been conducive for a free and fair election.

### **2002 election**

The 2002 elections took place in what can be considered an unhealthy political climate. The MDC had just won the constitutional referendum, with the ruling party resorting to violence against MDC supporters. The result of the 2002 elections reflected a changing environment. While they indicated that Mugabe still had power; for the first time since independence they

---

<sup>109</sup> Ibid

<sup>110</sup> Madzonga, P and D. Mashingaidze, OpCit, p62

also showed that he had lost quite a lot of his popularity and support. The unbroken power enjoyed by the ZANU-PF for 20 years was now being challenged. The ruling party resorted to using its power to regain its support and to silence the opposition. "The election was more a personal quest for power than a constitutionally mandated process for the election of leaders. The essential conditions for free and fair elections did not exist."<sup>111</sup> The ruling party and the war veterans threatened to not accept anyone without war credentials to rule Zimbabwe. This was an indication that conflict would erupt should the MDC win the election. "The Zimbabwean politics were so polarized that whatever the result of that election it was unlikely to bring durable peace to the country."<sup>112</sup>

Organized and party-sanctioned violence was a central feature of the pre-election period. It is well documented that most of this violence was perpetrated by the ruling party with little of it attributable to the MDC. The Public and Security and Order Act which was promulgated at the beginning of the campaign period, was invoked against the opposition party and not the ruling party.<sup>113</sup> This Act stipulated that four days' notice should be given to the police ahead of any intended meeting or rally. There were incidents whereby the MDC would comply with the law, only to find that it would be revoked later on. The state security organs were biased in the way they treated the two political parties. The failure by these organs to maintain their independence allowed ZANU-PF to see itself as a state party, with election results confirming its rule. The playing field was not level for a successful election. The "history of violent politics in Zimbabwe was the reason why some observers declared that the parliamentary elections of June 2000 and the presidential election of February 2002 were not free and fair."<sup>114</sup>

It was noted earlier on that the 2000 and 2002 elections were marked by political violence, mostly coming from the ZANU-PF. During this period, the MDC still believed that they could remove the ZANU-PF by violent means. This came from a statement by Tsvangirai after the

---

<sup>111</sup> Madzonga, P and D. Mashingaidze, *OpCit*, p64

<sup>112</sup> *Journal of African Elections: Special Issue on Zimbabwe's 2005 General Election*, EISA, Vol.4, No.2, October 2005, p27

<sup>113</sup> *Ibid*, p65

<sup>114</sup> *Special Issue on Zimbabwe's 2005 General Election*, *OpCit*, p27

MDC lost the parliamentary election saying that, “if Mugabe did not step down peacefully, the MDC would remove him violently.”<sup>115</sup> Tsvangirai and his MDC party knew that they did not have enough power to confront Mugabe, and this led to many in Africa believing that he would rely on assistance from the Western power that were also against Mugabe. There were numerous attempts by the MDC mobilized to pursue this idea, and the most notable one was the one that took place in June 2003, dubbed ‘the final push’. These elections also failed to meet the regional standards of a successful election. In as much the violence came from both sides, the ruling party had the backing of the state security organs and the military. The playing field was not level as per the SADC requirement.

## 2005 Elections

The 2005 elections were widely declared to have been peaceful, credible and reflecting the will of the Zimbabwean people. This election served as a test for the electoral reforms that were implemented in 2004 as a result of the pressure from SADC. These reforms were in line with the SADC Principles and Guidelines Governing Democratic Elections, as they included:

- The establishment of a five-person Zimbabwe Electoral Commission (ZEC);
- The establishment of an ad hoc electoral court/tribunal within six months of elections;
- The reduction of polling days from two to one;
- An increase in polling stations as well as the abolition of mobile polling stations;
- The use of visible indelible ink;
- The replacement of wooden ballot boxes with transparent boxes.<sup>116</sup>

“The Zimbabwean government opened up the airwaves for campaigns by all political parties and even dismissed the much hated Jonathan Moyo from the Ministry of Information and from ZANU-PF.”<sup>117</sup> The ZANU-PF government had been able to dismiss criticism by international

---

<sup>115</sup> Journal of African Elections, OpCit, p27

<sup>116</sup> Journal of African Elections: Special Issue on Zimbabwe’s 2005 General Election, EISA, 2005, p56

<sup>117</sup> Nyago., Kintu. “Mugabe Wise to Drop Prof. Moyo”, *The Monitor*, Kampala, 14 January, <http://allafrica.com/stories/printable/200501130733.html>

players of it past electoral conduct.<sup>118</sup> Despite these findings, instead of encouraging a positive way forward, the anti-Mugabe group were said to have shifted their focus to manufactured evidence of vote rigging, trying to incite violent protest against the results, even when the leadership of the MDC declined to challenge the results.<sup>119</sup> Choice Ndoro<sup>120</sup> was of the view that repressive legislation and partisan institutions put in place to govern the previous two elections were perpetuated, with new personalities, new names and invigorated allegiance to the ruling party. Although she agrees that the violence was reduced, she maintains that the repressive legislation designed to favor the ruling party was not dismantled.<sup>121</sup> It can be argued that albeit the reforms were in place, that ZEC was not independent at all, hence following the mediated settlement a totally new ZEC has been put in place.

What distinguished this election from the previous ones were the reduced levels of violence during the election. The one way to explain this improvement on the levels of violence could be the fact that the political parties campaigned against violence. "Both the MDC and ZANU-PF sent constant messages to their supporters that the leadership would not tolerate any form of violence."<sup>122</sup> This enabled supporters from both political parties to hold their meetings and rallies next to each other with no intimidation or confrontation. However, due to expectations of violence, there was imaginary violence in the minds of many who did not want to accept that Zimbabwe had learnt its lesson from the isolation and that it could hold a credible election.<sup>123</sup>

Norman Mlambo<sup>124</sup> observed that even though Kofi Annan welcomed the elections as peaceful, bully countries such as the United States, through its former Secretary of State, Condoleezza Rice, labeled Zimbabwe an outpost of tyranny, while the British press demonized Jack Straw

---

<sup>118</sup> Journal of African Elections, OpCit, p56

<sup>119</sup> Timberg, Craig, "Opposition leader won't fight results of Zimbabwe election", *The Washington Post*, 4 April, <http://seattletimes.nwsource.com/cgi-bin>

<sup>120</sup> A member of the Department of Politics and Administration at the University of Zimbabwe.

<sup>121</sup> Journal of African Elections, p74

<sup>122</sup> Journal of African Elections, p31

<sup>123</sup> BBC News <http://news.bbc.co.uk/2/hi/africa/7336372.stm> 09 April 2008

<sup>124</sup> Dr Mlambo is a Researcher and Head of the Peace and Security Research Unit at the Africa Institute of South Africa

and Prince Charles for shaking hands with Mugabe. He questioned the issue of double-standards applied to Africa, sighting how the elections in Afghanistan and in Iraq, which took place under military occupation with bombs exploding everywhere and dozens of people being killed on the polling days, were seen as a step in the right direction by the international democracy activists.<sup>125</sup> This concern becomes valid when one considers how the 2008 March elections were seen as free after the victory went to the MDC. The elections in Africa are free for as long as the outcome reflects the wishes of the western powers.

According to Archbishop Pius Ncube, the situation that led to the 2005 presidential elections was far from being violence free. He went on to that the government was using its control over food supply to bribe the electorate. Young boys were recruited to torture and intimidate anyone suspected to be opposing the Mugabe government. The President allegedly warned these groups that they would be responsible if the ZANU-PF was defeated in the 2005 election.<sup>126</sup> The analysts, including the opposition leaders, overlooked the quality of electoral reform; they were satisfied with the announcement by the government. Their failure to question how the reforms were going to affect the next election and only raised their dissatisfaction, validates the view by Tawana Kupe that democratic rules are only as good as the put African leaders in power. As soon as a desired outcome is not achieved, they will not accept the result and use democratic institutions as a scapegoat. There were concerns about the media bias in favor of the ruling party.

The presence of international observers brings some sort of assurance to the electorate that the outcome will reflect the will of the people. In countries known for vote rigging, international observers “may help prevent fraud during the balloting and counting process and can report to the international community on the overall fairness of an election process.”<sup>127</sup>

Why then were the observers not accredited in Zimbabwe? The first answer may be found in “Blair’s announcement, in response to a question in parliament that he intended to bring about

---

<sup>125</sup> Journal of African Elections, OpCit, p32

<sup>126</sup> Nguben tombi, Nandile, “South Africa’s foreign policy towards Swaziland and Zimbabwe”, SAIIA, South Africa Yearbook on International Affairs 2003/4,p9

<sup>127</sup> Journal of African Elections, OpCit ,p85

a regime change in Zimbabwe.”<sup>128</sup> This was also confirmed by its ally, the United States. Another reason may be that Britain, regarded as the number one enemy of the ZANU government by Mugabe, is a prominent member of the European Union as well as the Commonwealth. Their integrity could not be guaranteed without suspicion that they would push the British agenda. This view makes sense when one considers how Zimbabwean government had no problem inviting political neutral countries, such as South American, Asian and Caribbean, to come observe their elections. The Zimbabwe scenario raises a question of who holds accreditation for African elections. Anyone would expect the answer to be regional as well as international bodies to which Zimbabwe is a member. Zimbabwe holds membership at SADC, African Union and the United Nations. The European Union lost its credibility as a neutral Observer when it advocated for regime change together with the United States. The SADC did not do much either on credibility in that it contradicted itself many times in its findings about the Zimbabwe situation. In as much as SADC declared the elections in that country as free and fair, as well argued that the SADC Principles and Guidelines were followed, it later admitted that the existing legislative framework and electoral conditions did not meet such criteria. Although it has been argued that amendments were made to the electoral laws to meet the SADC criteria, it also appears that these were minor and insignificant changes.

## **2008 Elections**

The 2008 elections were a combination of Presidential and Parliamentary elections. This was unusual in Zimbabwe as these elections are usually held separately. The elections took place on the 29 March following a deadlock in the negotiations between the main political parties in Zimbabwe, mediated by the SADC under the facilitation of Thabo Mbeki. The outcome of this election was bound to shift the power positions in the negotiation process. Indeed, having the MDC winning majority of the votes in the legislature, albeit by a narrow margin, changed the political scene of Zimbabwe, as it meant. This meant that the power-sharing deal would have to be based on the outcome of this election. However, the unfolding of post- election events reflected a different scenario from what many had predicted. This will get more attention in the

---

<sup>128</sup> Ibid



following chapters. This election diverted attention from the election as an “event” to a “process”. This was due to the fact that the previous elections in Zimbabwe resulted in conflicting reports being produced by different observer missions. Therefore, this election was to test the implementation and compliance with the SADC as well as global standards of successful elections.

The March elections started off on a controversial political footing in that they bore the stamp of being premature, rushed and inappropriate, given the ongoing negotiations mediated by SADC.<sup>129</sup> The main trigger for mediation was the widespread ZANU-PF assaults on the opposition in early March 2007. The SADC Heads of States met in Tanzania on the 29<sup>th</sup> March 2007, and appointed Mbeki to mediate in Zimbabwe. “The objectives of the negotiations were to establish conditions conducive to holding of free and fair parliamentary elections in Zimbabwe in 2008 and to ensure that all concerned accepted the outcomes of the elections and the measures to be implemented to facilitate a legitimate election”<sup>130</sup>. The negotiations made progress with agreement on substantive issues being made, such as amendments to electoral, media and security laws, a draft constitution, and issues concerning violence, sanctions, land and food aid. Because of the unwillingness of the ZANU-PF to relax political restrictions, the negotiations were deadlocked. The ZANU-PF exacerbated the situation by unilaterally declaring the election date.

### **Electoral Laws reform**

The main amendments were the Broadcasting Services Act (BSA), Access to Information and Protection of Privacy Act (AIPPA) and the Public Order and Security Act (POSA). These amendments were meant to create political space for the opposition party which had not enjoyed a level playing field in its participation in the previous elections in Zimbabwe. These amendments were in addition to other important enacted legislations of the early to mid-2000s that were also aimed at creating more political space.

---

<sup>129</sup> EISA Election Observer Mission Report: Zimbabwe, 2008, pxii

<sup>130</sup> EISA Election Observer Mission Report, p9

AIPPA scrapped the accreditation of journalists, which removed the criminalization of practicing journalism without license. These changes were replaced with section 78 which lists the privileges of accredited journalists and section 79 which deals with the procedures for accreditation. The amendment to POSA meant that appeals against the banning of a march were no longer decided by the executive authority, but by a magistrate. There was an additional requirement to this amendment, the submission of detailed lists of people holding a march to ensure that people are charged as an individual in case of defiance and not the whole party as before. BSA amendments included that the Broadcasting Authority of Zimbabwe would in future consist of twelve members appointed by the president after consultation with the Minister of Information and the Committee on Standing Rules and Orders.

In brief, these amendments opened the airwaves and relaxed requirements for setting up broadcasting houses. However, it is argued elsewhere that these changes had little, if any, impact on the 2008 elections. The Constitution of Zimbabwe 18<sup>th</sup> Amendment included the standard for measuring the legitimacy of freedoms, and arguably that would be in the national interest.<sup>131</sup> The laws adopted by the government in the past resulted in the state owning most of the public media.

There were many other institutional frameworks and provisions aimed to guard against any inconsistency that might arise during and after the election. The Electoral Act made provision for the presidential run-off in its Section 110(3) which stipulates:

“Where two or more candidates for president are nominated, and after a poll taken in terms of subsection (2) no candidate receives a majority of the total number of valid votes cast, a second election shall be held within twenty-one days after the previous election in accordance with the Act.”<sup>132</sup>

---

<sup>131</sup> EISA Election Observer Mission Report, OpCit, p18

<sup>132</sup> Ibid

Section 3(1)(a) of the second schedule to the Electoral Act states that:

“Subject to subparagraph(2), after the number of votes received by each candidate as shown in each constituency return has been added together in terms of subparagraph (3) of paragraph 2, the Chief Elections Officer shall forthwith declare the candidate who has received –(a) where there are two candidates, the greatest number of votes; to be duly elected as President of the Republic of Zimbabwe with effect from the day of such declaration.”<sup>133</sup>

### ***ZEC as the organizer of the elections***

Some have argued that these provisions were only applied in favour of President Mugabe and the same would not have been introduced had Mugabe won the March election. The Zimbabwe Electoral Commission was in charge of organizing the election despite receiving consistent criticism for being partisan and lack of autonomy.

The ZANU-PF unilaterally pronounced the 29 March 2008 as the election date without facing any challenge from the ‘supposedly independent electoral commission’. The ZEC remained accountable to the ruling ZANU-PF at the expense of the opposition. “ZEC did not challenge ZANU-PF upon the latter’s demand for a re-count of votes outside of the legally prescribed period.”<sup>134</sup> Although ZEC is responsible for the accreditation of observers, the Ministry of Justice enjoyed sole authority over the accreditation. There were arguments that these processes, along with the Ministry of Justice’s delayed accreditation of approximately 8000 domestic observers, were selective, discriminatory and shrouded in a cloud of secrecy.<sup>135</sup> Its lack of authority over the 2008 election was also seen when the ZEC was stopped from releasing the results, and had the Central Intelligence Organization taking over the role of

---

<sup>133</sup> EISA Election Observer Mission Report, OpCit, p19

<sup>134</sup> EISA Election Observer Mission Report, p23

<sup>135</sup> Ibid

guarding and managing the process, as well as the ballots, in the between-count period.<sup>136</sup> The 2008 elections proved the inefficiency and lack of power of the ZEC with clear evidence of ZANU-PF exercising control over this body. The ZANU-PF could be said to have been both a referee and a player during the election. The ZEC's lack of independence was problematic in determining whether or not the election was free and fair. It was easily manipulated and controlled by the ruling party and, thus, its findings could not be said to represent the will of the people.

It has been noted earlier that the environment prior to the election was a peaceful one. "Unlike in the previous elections, the campaign period was generally characterized by freedom of assembly, freedom of association, freedom of movement and freedom of speech, which could generally be exercised without undue hindrance."<sup>137</sup> The voters were free to show which political party they supported without intimidation. The Electoral Commission is obligated to encourage the electorate to register and vote prior to the holding of an election. Although the ZEC had arranged registration through the use of mobile registration centers, there were reports arguing that it had not truly taken the task of voter registration seriously. Voter registration was undertaken with little transparency and was also selective.<sup>138</sup> There were concerns about ghost voters. Voters who had been registered for the previous elections and who had subsequently died prior to the 2008 election, were not removed from the voter's roll. This phenomenon is not exclusive to Zimbabwe. In many countries, voters' rolls include voters who have died. The number eligible of voters did not correspond with the revised 2008 voters roll.

The 2008 elections saw a growing number of political parties with the ZANU-PF and MDC remaining the key players. The major political development to be noted with both these parties is that they went to the election divided. However, the results showed that the splits had little

---

<sup>136</sup> Ibid

<sup>137</sup> Ibid, p27

<sup>138</sup> Zimbabwe Human Rights NGO Forum, 2008, p13

impact on the electorate's choice of leadership, with both these parties still receiving the majority of votes. The split in the MDC took place in 2005 with disagreement on whether or not to contest elections for the Senate. This resulted in two factions of the MDC, namely MDC-T and MDC-M. On the other hand, the ZANU-PF SPLIT came over the succession of Mugabe. Simba Makoni announced his contestation of the presidential election on the 5<sup>th</sup> of February 2008, causing a further split on the ZANU-PF side.<sup>139</sup> During the campaign, the state media remained pro-ZANU-PF. Media coverage recorded by ZEC indicated the following:

- On the television, there was a total of 240 relevant items- 157 on ZANU-PF, 80 on the MDC, 5 on MDC Mutambara and 8 on Makoni; 15 on government in the context of the elections and 8 on the ZEC; and
- On Radio Zimbabwe's four radio stations, there was a total of 773 news bulletin items, with, for example, 166 on ZANU-PF, 23 on MDC Tsvangirai; 8 on MDC Mutambara, 4 on ZDP and 12 on Makoni; also 14 on ZEC, 6 on government departments in relation to relations, 6 on civil society. ZEC noted that there were minor variations across the radio stations<sup>140</sup>

In any democracy, big parties are likely to attract more media attention as opposed to smaller parties. This could be attributed to the fact that the party in power usually draws more coverage as there is greater interest by the public to find out what would happen if they were to lose that power. In almost all SADC countries since independence, the ruling party has held power with only a few displaying a regime change. As it is obvious that when you lose power there is a regime change. "Election day's expressions of political choice thus contrasted with the unevenness of much of the pre-election period and the turmoil of the post-election period."<sup>141</sup>

---

<sup>139</sup> EISA Observer Mission Report, OpCit, p34

<sup>140</sup> ZEC 2008b. Briefing to the SADC-Electoral Forum, 26 March 2008. Harare

<sup>141</sup> EISA Observer Mission Report, OpCit, p46

## Observers and monitors

EISA maintained that accreditation was granted to organizations and countries considered to be friendly to Zimbabwe. The majority of these observers were directly invited by the government, and yet, according to the Electoral Laws Amendment Act of 2007:

No individual other than a chief elections agent or election agent or polling agent, may observe any election, or be permitted to enter and remain at any polling station or constituency centre as an observer, unless such person is accredited as an observer by the Observer's Accreditation Committee before the commencement of the poll.

This Committee is established by the ZEC, with the function to accredit both international and domestic observers<sup>142</sup>. The personnel in this committee had close ties with the ruling ZANU-PF party, and therefore compromised its credibility as an independent body. "The main observer missions were the Pan African Parliament (headed by the Honorable Marwick Khumalo), SADC which included the South Africa mission, COMESA, the AU (headed by the former Sierra Leone President, Ahmed Tejan Kabbah), China, and a range of other smaller missions."<sup>143</sup> By all accounts, the process of inviting observers was very selective. SADC has always been lenient to, while China has been a notable ally, to Zimbabwe.

In a statement issued by the Pan African Parliament, the counting took place on the day of the elections, just after the completion of the election. It is however, interesting to note that the recount took place more than two weeks after the elections. This followed the demands by the ZANU-PF against the results in 23 constituencies, and this recount contradicted the provisions of Section 67A of the Electoral Act which gives ZEC the authority to order a re-count of votes at any polling station, either on its own initiative or at the request of a candidate or political party contesting the election, if the Commission has reason to believe that a miscount occurred that might affect the result. The Commission's decision to order, or not to order, a re-count is not

---

<sup>142</sup> Ibid, 49

<sup>143</sup> EISA Observer Mission Report, p50

subject to appeal.<sup>144</sup> Because the completed results were posted outside every polling station, it was easy to ascertain which party had won the election even before the results were officially announced by the Electoral Commission. The ZEC took a month before it announced the results which created the perception by many that the results were tampered with. “The time of waiting for the results of electoral challenges and re-counts became the space for security force deployment to try and reverse the March result.”<sup>145</sup>

The Zimbabwe’s 2008 March election was significant in that for the first time ZANU-PF was challenged with the MDC taking the lead. It was expected that the party which had ruled since independence was not just going to hand over power to the opposition on demand by the electorate. It had to come up with means to sustain its power, even if it meant manipulating the electoral laws to its advantage. This validates Kupe’s assertion that electoral democracy is favored as long as it sustains leaders in power, but is rejected when the result demands regime change.

### ***The results***

The most notable thing about the March 2008 election was the withholding of the results by ZEC beyond the stipulated as well as reasonable period. The announcement of the parliamentary results was done in a way that the winner was not clear cut. The MDC won the majority of the votes but failed to get fifty plus one percent as required by the Constitution. During this time, the diplomatic pressure was mounting from both locally and internationally and there were instances of pressure put on the ZEC to release the results including:

- The Extra-Ordinary SADC Summit of Heads of States and Government of 12 April 2008, convened by the late President Levy Mwanawasa of Zambia and the then SADC chairperson;

---

<sup>144</sup> Electoral Laws Amendment Act, Act No. 17 of 2007. Harare

<sup>145</sup> Moyo, J, 2008, “Zimbabwe Crisis? What crisis?” Panel discussion. The Critical Thinking Forum. 23 April

- MDC shuttle diplomacy around Africa and other destinations to build support for the release of the results;
- Former UN Secretary-General Kofi Annan on 19<sup>th</sup> April 2008 questioning whether African leaders were doing enough to help Zimbabwe resolve a rather dangerous situation; and
- UN Secretary-General Ban Ki-moon discussing the crisis with other African leaders at a UN trade meeting in Ghana<sup>146</sup>

SADC put more pressure on Zimbabwe in its statement following the Summit which read:

‘The Summit urged the electoral authorities in Zimbabwe that verification and release of results are expeditiously done in accordance with due process of law. It also urged all the parties in the electoral process in Zimbabwe to accept the results when they are announced. By due process of law the Summit understood it to mean that: (a) the verification and counting must be done in the presence of candidates and /or their agents, if they so wish, who must all sign the authenticity of such verification and counting, (b)SADC offers to send an Election Observer Mission who would be present throughout such verification and counting.’<sup>147</sup>

There was clear evidence that the ZANU-PF had access to the results before they were even announced officially. Its appeal for a re-count was set aside by the High Court. However, the ZEC went ahead and overturned the MDC victory in Bikita, with the re-count showing ZANU-PF as a new winner.<sup>148</sup> This act by the ZEC was both illegal and unconstitutional. The calm and peaceful environment that had prelude the March election was turned into a ‘typical Zimbabwe story’ of violence. The post-March election was marked by violence from both the ZANU-PF and MDC. The demand for the re-count was viewed by many as “a diversion technique by ZANU-PF to buy time for the deployment of security forces around the country to launch its run-off

---

<sup>146</sup> EISA Observer Mission Report, OpCit, p59

<sup>147</sup> SADC. 2008b. Communique. 20 April 2008. Lusaka. <http://www.eisa.org.za/WEP/zim2008poste.htm>. 17 April 2008

<sup>148</sup> EISA Observer Mission Report, OpCit, p61



campaign.”<sup>149</sup> It was during this period that the SADC mediators could have staged a serious intervention. Instead, Mugabe was left to take Zimbabwe into further ruins.

When the results were finally announced on the 2<sup>nd</sup> May 2008, the presidential results recorded that the MDC received 47.87% of the votes, ZANU-PF 43.24%, with the remainder split among the smaller parties. The parliamentary elections recorded that MDC received 47.62%, ZANU-PF 47.14%, and MDC Mutambara 4.83% of the vote, clearly indicating that MDC received the highest number of votes. The presidential run-off, which Mugabe contested unchallenged after Tsvangirai pulled out sighting violence and intimidation as unbearable, declared Mugabe the winner with 90.22% of the votes.<sup>150</sup>

The run-off presidential election was held in a violent environment not at all conducive for a free and fair election. After the March 2008 elections, the rule of law had no place in Zimbabwe. These elections cannot be said to have contributed to democracy in any way in Zimbabwe. This is contrary to the view that was held earlier about how elections are a yardstick for democracy. Given this view it puts Zimbabwe into the category of being a young and fragile democracy. The democratic institutions are in the hands of the ruling ZANU-PF, and while the electoral laws opened the space for political participation, the practice prove different as outlined above. Matlosa described this as the lowest definition of democracy which practices elections while the democratic institutions are in place.

## ***Conclusion***

This chapter has discussed democracy and its practice in Zimbabwe over the last decade. It looked at the post 2000 elections in an attempt to establish a relationship between elections and democracy. The conclusion that can be drawn is that electoral democracy has not been successful in Zimbabwe with its elections marked by high levels of violence. The laws enacted have been aimed at entrenching the ruling ZANU-PF and assisted it to stay in power. Where opposition challenged the ruling party, it responded by using violence and intimidation on

---

<sup>149</sup> Masungure, E, 2008. <http://www.iwpr.net>. 8 May

<sup>150</sup> ZEC. 2008d. Range of occasional press statements and general announcement on results. <http://www.zimbabweelectoralcommission.org.zw>

opposition leaders and their supporters. While this thesis supports the view that elections are a necessary step in the democratic process, elections alone do not guarantee the institutionalization of democracy. In Zimbabwe, elections have been manipulated by ZANU-PF to hold on to power. It emerges that 'a cause for concern with Zimbabwe is that despite the efforts that have been made (and continues to be made) by SADC region to shift from authoritarian rule to multiparty rule.'<sup>151</sup> It was noted earlier that the electoral history has been marked by violence. Thus, a more inclusive and more representational government is needed to address this political intolerance in Zimbabwe.

## **Chapter Three**

### **Previous interventions by different bodies**

This chapter argues that the mediation process began at the right moment given that conflict had escalated creating stalemates to force the parties to the negotiating table. South Africa is argued to have shown interest in the conflict, long before it was mandated to mediate under

---

<sup>151</sup> Shale, V, "Operation Murambatsvina: The Dynamics and Escalation of Zimbabwean Intra-state Conflict", in African Journal on Conflict Resolution, Vol.6, No. 2, Accord, South Africa, 2006, p113

the leadership of Mbeki. This chapter will discuss the role played by SADC in trying to rescue Zimbabwe. It takes into account initiatives by other organizations and individual countries. The role of the Commonwealth to which Zimbabwe is a member will be examined here. Under the theme 'African solutions for Africa's problem', the role of the African Union will be discussed. Last but not least, the leading role played by South Africa as a neighbor, economically, culturally and politically tied to Zimbabwe will be examined in this chapter.

The situation in Zimbabwe had its build up from many events in the past. It was only in 2000 that the detrimental effects of the regime on the economy, politics and the people of Zimbabwe became visible to the region and to the broader international community. Prior to 2000, Zimbabwe, like other African states, had a duty to redress the historical imbalances. 'Accordingly, it allocated large resources to sectors such as education, health and rural development'.<sup>152</sup> It provided access to basic needs to the poor and marginalized by the previous system. This was applauded by many and Robert Mugabe attained more merits as the liberation hero.

The government made large investments in rural farming to subsidize farmers to produce adequate food and to afford to sell their surplus to generate more income. The education sector was also among the major focal points. The government managed to achieve quality education from primary to tertiary level with resounding success. The government managed to subsidize most consumable products to ensure their availability to the poor who could not afford high prices. All of these initiatives came directly from the state's budget and led to a deficit later on. It was allegedly due to the above mentioned that the government started to miss its payments to the international financial institutions. However, the international financial institutions (World Bank and international monetary fund) did not come to the rescue of Zimbabwe, with the media stating that it was due to its defaults on payments owed to them. This was exacerbated by the land policy introduced by President Mugabe and the payments to

---

<sup>152</sup> Mbeki, T, "Region unites to support Zimbabwe's effort at progress", **Volume 1, No. 33** • 7 - 13 September 2001

the war veterans who demanded their share in governance. The signs of a crumbling Zimbabwean economy started to show even before the 2002. The government decided to seek finance from both internal and international bodies to continue to finance these programs rather than shut them down. This came at the time when SADC was promoting development in the Southern Africa. It had to prove its relevance and capability as a sub-regional organization in promoting economic development.

In 2001, the SADC held a Summit which was aimed at addressing the situation in Zimbabwe. The findings were that land redistribution largely contributed to Zimbabwe's problems. There was an urgent need to find a regional solution to this issue. There was a consensus that Zimbabwe needed a speedy economic recovery, a legitimate land reform program and a stable political environment. SADC took it upon itself to bring the Zimbabwe issue to the international community. "It was of the view that the international community should assist the people of Zimbabwe to achieve these objectives by pursuing the pledges that were made in the past to help finance a programme of land and agrarian reform".<sup>153</sup> SADC made it clear that it was against the illegal invasions of farms and insisted on a more legal and peaceful manner of land transfer. These efforts were aimed at maintaining a democratic Zimbabwe that respected the rule of law and the independence of the judiciary and press. The Summit agreed that the economic and political problems faced by Zimbabwe were of a domestic nature, which required a united national response by all sectors of the Zimbabwean society.

SADC believed that it had to prevent a similar situation from recurring in other countries in the region. "It was subsequently decided that the first visit should be carried out by the Heads of State of the countries that were chosen in Blantyre to constitute the SADC delegation to Zimbabwe".<sup>154</sup> This intervention demonstrated that from an early stage that SADC showed interest in the Zimbabwean situation. These efforts by the SADC happened in conjunction with those of the commonwealth. An official at the Economic Community of West African States (ECOWAS) argued that "intervention should have been much earlier when patriotism was still a

---

<sup>153</sup> Mbeki, T., OpCit,

<sup>154</sup> Mbeki, T., OpCit

common feeling among Zimbabweans, at the time when Mugabe was still negotiating with the British.”<sup>155</sup> He argued that the timing of the intervention was not right because the economy was already destroyed. He added that SADC intervened because it was criticized for its failure to resolve its problems.<sup>156</sup> There were calls for a firmer intervention by

In the previous chapter, it was mentioned that intervention constitutes an infringement of sovereignty. Although SADC has the power to intervene, in this instance chose dialogue as the most effective means of intervention. This could have been motivated by the fact that there was a dispute about the dispute. This body saw land as the cornerstone of the conflict for which Britain was equally responsible, while the Western powers blamed the conflict on the bad economic policies of the ZANU-PF led government. These different understandings of the Zimbabwe crisis made it difficult to have an effective mediation as the economic recovery also depended on the confidence of the western powers in Zimbabwe.

The timing of the intervention was criticized by Ade Adefuye, who argues that SADC should not have ignored the voices of the minority, referring to the MDC, adding that “the body should have made Mugabe see the damage he was causing to the country, and this was done too late.”<sup>157</sup> However, this argument is one sided, as it subscribes to the belief that MDC and its leader were blameless. Although Mugabe was in control, the MDC did not do much persuade the EU and its allies to remove the economic sanctions imposed on Zimbabwe. When a country is under siege, all stakeholders need to put aside their differences and work together to find a solution. However, this was not the case in Zimbabwe. SADC attempted to find a solution to the Zimbabwe crisis by engaging with both the international community to raise funds for the land reform program, and the Zimbabwean leaders prior to the Mbeki-led intervention.

Following the theory of hurting stalemates, early intervention by any other body would not have succeeded. This is due to the fact that the MDC still believed it could attain power through the ballot, while ZANU-PF and Mugabe wanted to prove to Britain and its allies that they will

---

<sup>155</sup> Interview held in Johannesburg, South Africa, 18 November 2008

<sup>156</sup> Ibid

<sup>157</sup> Interview in Johannesburg, South Africa, OpCit

never colonize it through the MDC, which it (Zanu-PF) perceived to be pushing the British agenda in Zimbabwe.

*What were the constraints in dealing with Zimbabwe?*

There is a growing consensus among both political analysts and academics that, because most of the governments in southern Africa are still led by liberation movements, there is a tendency among these governments to protect one another and that they are wary of supporting the West over their own counterparts based on the principle of solidarity. When the land invasion took place in Zimbabwe, it brought fears among SADC leaders that the same situation might take place in their respective countries. This was due to the fact that many of these countries, especially South Africa and Namibia have not dealt with the land question in their respective countries. The liberation movements have not been able to live up to the freedom promises made to their people. Most importantly, they were seen as supporting Mugabe because of their failure to publicly oppose him. SADC governments feared that the west was targeting liberation movements beyond Zimbabwe. As it has been noted that most of these governments are led by liberation movements, this was a worrying factor for the ruling parties in SADC. "Colonialism might be a distant memory in the West and the world at large, but it is still widely felt in most if not all parts of Africa."<sup>158</sup> Most of Africa's problems some analysts argue, still point back to colonialism. It is however unfortunate that most commentators speak of African problems as being created by the irresponsible governments through their bad economic and political decisions. Redressing political as well as economic problems created over centuries in just a few decades with limited budgets is practically impossible.

### **Land reform**

The land question has been ignored when discussing the crisis in Zimbabwe. Commentators often described the conflict as an economic crisis. Edward Lahiff<sup>159</sup> asserts that up until 1999, with the outbreak of farm occupations in Zimbabwe, governments in the region tended to use

---

<sup>158</sup> ICG Africa Report No. 52, Harare, 17 October 2002

<sup>159</sup> Lahiff, E, "Zimbabwe's turmoil: Problems and Prospects", Ed: Richard Cornwell, 2003, ISS, Pretoria, South Africa

the land question to assert their credentials in the political sphere, but were unwilling or unable to translate this political rhetoric into significant action in the economic sphere<sup>160</sup>. He further argues that the Zimbabwe issue reflected the balance of power in the region and the inclinations of the ruling parties, but also the importance of the land question to the mass of the electorate. He points out the civil war in Mozambique, the fast paced jobless growth in South Africa, and a general deterioration in the conditions for small-scale agriculture, tied to deregulation of markets and globalization as resulting from the land question in the region<sup>161</sup>. The urgency of translating land reform from being a political issue to an economic means to the masses in the region has generated support for land reform in Zimbabwe. Most leaders in the region identify with Mugabe on the need to give land back to the people from whom it was forcefully taken; they see it as genuine liberation. However, they do not necessarily agree with how it was executed in Zimbabwe by the ruling party.

At the same time, many of these leaders believe that Britain also needs to take responsibility for the failure of land redistribution in Zimbabwe. Mbeki expresses his frustration over how London did not fulfill its end of the deal as agreed at Lancaster in 1979. He was pointing to the fact that even though in the 1979 Lancaster negotiations, land was the main issue; Britain did not bother to come up with a solution. Instead, it ensured that “the land dispossession carried out by the settler colonial “kith and kin” through the barrel of the gun had to be sustained”<sup>162</sup>. One can argue that South Africa was no exception as during the negotiations that led to the multiparty democratic elections in 1994, the introduction of the Sunset clauses, agreed to between the liberation movements, mainly the African National Congress and the apartheid government led by F.W De Klerk, protected the right to property of the very people who used brutality and even killed to acquire such land. More than it was a threat to the landless in South Africa, land reform in Zimbabwe threatened white interests both in South Africa and abroad. The position taken by most African leaders expressed their individual frustrations over the colonial states they inherited.

---

<sup>160</sup> Ibid,p78

<sup>161</sup> Ibid

<sup>162</sup> Mbeki,T, “ We will resist the upside –down view of Africa” Vol.3,No.49, 12-18 December 2003

### *Historical ties between ANC and ZANU-PF*

African countries share a common history of colonialism by European powers. Most of these countries attained their independence during the 1960s. At the era of independence, democracy was still perceived as a foreign concept on the continent. There was a consensus among the leaders of the first wave of independence that African economies would function better under socialism. Although there are still those who are of this view, it proved to be a disaster. Countries in the southern region did not enjoy the same experience as the rest of the continent. These countries were further subjected to what was called “colonialism of a special type”, because it was internal colonialism by settlers who were now citizens in these respective countries. It is for this reason that the problems, such as the land question, became so complex and difficult to deal with. Zimbabwe, former Southern Rhodesia, was internally colonized by a settler colonial regime led by Ian Smith through a unilateral declaration of independence (UDI) in 1965.

South Africa was also declared a Republic in 1910 from its colonial master, Britain. However the formation of the union excluded the majority of the population, mainly African and it was only in 1994 that the majority of the population attained their freedom. Namibia achieved its independence in 1988 from South Africa through a negotiation between the United States of America and the government in Pretoria. Mozambique was no different to the above mentioned countries, gaining its independence from Portugal in 1974. It became a norm to accommodate liberation movements during their military training to overthrow their oppressive governments. These were FRELIMO from Mozambique, ANC from South Africa, SWAPO from Namibia, ZANU –PF from Zimbabwe, and etc. Mugabe is still viewed as a liberation hero by his counterparts from the region. His political rhetoric that Britain is trying to colonize Zimbabwe once again and that he is fighting such imperialism has earned him more credentials from both within the SADC region and the continent.

### *Defense of sovereignty*



President Mugabe warned that interference in Zimbabwe would trigger a domino effect of cross-border intervention<sup>163</sup>. Recent history of conflict resolution shows that African leaders prefer resolving their own crises without any outside intervention, especially from the West. In Kenya in 2007, when conflict erupted as a result of the disputed election, the leaders of all parties in were reluctant to accept outside mediation as they saw it as a surrender of their sovereignty. Countries in Africa are more open to regional bodies being more empowered to address such issues and are being well received in conflicted areas, rather than international bodies. An intervention by the West with limited influence from Britain might have been accepted by the Zimbabwean government. However, international bodies that showed interest in the Zimbabwean crisis had Britain as one of the most influential members such as the Commonwealth, the UN Security Council, the G8 and the European Union. However, these different institutions were not unanimous as to the kind of intervention required regarding Zimbabwe. Their response towards the Zimbabwe crisis will be examined in this chapter.

#### Weak opposition

Many regional leaders were and still are wary of the MDC as being a puppet of the British. This view is based on the allegation that its main source of funding comes straight from Britain. Its stance on land reform was not clear; hence it did not provide a better alternative to the ZANU-PF. The split within the MDC did no better than to raise “more suspicion on its capability as an alternative to ZANU-PF.”<sup>164</sup> There seemed to be a growing regional support for the Arthur Mutambara’s formation of the MDC.

#### **The Commonwealth response to Zimbabwe’s crisis**

The International Crisis Group observed that divisions over Zimbabwe created embarrassing public debates within the international organizations such as participation in a cricket

---

<sup>163</sup> ICG Africa Report, “Zimbabwe: The Politics of National Liberation and International Division”, Report No.52,17 October 2002

<sup>164</sup> ICG Africa Report, “Zimbabwe: Danger and Opportunity”, No.60, 10 March 2003

championship, diverted attention from serious issues.<sup>165</sup> This led to international games that were played in Zimbabwe between Australia, England and Zimbabwe not being marketed and not televised despite the International Criminal Court (ICC) decision to not ban Zimbabwe cricket from participating in these games. A deep division was again seen among the Commonwealth troika over whether Mugabe should continue to be excluded from the organization, with South Africa and Nigeria pursuing the lifting of sanctions.<sup>166</sup> When it met in Coolumb, Australia in 2002, the Commonwealth Heads Of Governments Meeting (CHOGM) charged a Troika made up of the Chair of the Commonwealth, the Prime Minister of Australia, and the Presidents of Nigeria and South Africa, to take action on Zimbabwe, in the event that the Commonwealth Elections Observer Team made a negative finding about the 2002 Zimbabwe Presidential elections. This was the full extent of the mandate given to the Troika.<sup>167</sup>

Mbeki recalls that the then Chair of the Commonwealth, Australian Prime Minister Howard, insisted that the Troika should meet six months earlier than it had decided, which it did out of respect for his position as Chair of the Commonwealth.<sup>168</sup> The reason he stated for this urgent meeting was for the troika to impose additional sanctions on Zimbabwe, for which it had no mandate. This was opposed by South Africa and Nigeria who decided that the troika would meet at the end of the year as originally planned. South Africa and Nigeria engaged with Zimbabwe on a state level outside the Commonwealth. It was reported that the 'South African and Nigerian Foreign Affairs Ministers visited Harare to meet with the government officials to the exclusion of the opposition and the civil society from January 20-23, 2003'<sup>169</sup>. This was followed by Obasanjo and Mbeki meeting in South Africa, where the former insisted on helping Zimbabwe out of its situation thereby avoiding an unduly and unnecessary criticism and antagonistic approach to Zimbabwe.

---

<sup>165</sup> ICG Africa Report, "Zimbabwe: Danger and Opportunity", No.60, 10 March 2003

<sup>166</sup> Ibid

<sup>167</sup> Mbeki, T, OpCit

<sup>168</sup> Ibid

<sup>169</sup> ICG Africa Report, OpCit

Obasanjo stated that ZANU-PF would negotiate with the MDC as soon as the latter dropped its court case contesting the legitimacy of the March 2002 election.<sup>170</sup> This statement read together with the visit by the two countries Foreign Affairs Ministers to Harare showed which side their governments were taking in the Zimbabwe situation. At this stage they seemed to be pursuing the opposition to surrender to the ruling ZANU-PF. Their impartiality was questionable as third party mediators in the conflict. Obasanjo later wrote to the then Commonwealth chairperson, John Howard of Australia to “cancel their troika meeting with the belief that Zimbabwe’s suspension would expire automatically, following their (Mbeki and Obasanjo) assessment that the rule of law had been restored, land seizures had ended, the land redistribution was successful, and that the Mugabe government was easing up on its press restrictions.”<sup>171</sup> Howard decided to call an international press conference to express his disagreement with South Africa and Nigeria, and called for more sanctions to be imposed on Zimbabwe. According to Mbeki, “this both destroyed the Troika and put in question the democratic principle of decisions by majority.”<sup>172</sup> He was advised by the majority of the troika to get a mandate from the heads of governments of the Commonwealth, and that the troika did not have such mandate. He then tasked the Secretary of the Commonwealth to consult with the heads of governments with regard to the imposition of more sanctions on Zimbabwe. The Report of the Secretary found that:

some member governments take the view that it is time to lift Zimbabwe's suspension from the councils of the Commonwealth when the one-year period expires on March 19 2003. Some others feel that there is no justification for such a step and that there is in fact reason to impose stronger measures. However, the broadly held view is that Heads of Government wish to review matters at CHOGM in Nigeria in December 2003 and that the suspension of Zimbabwe should remain in place pending discussions on the matter at CHOGM. The members of the Troika have now concluded that the most appropriate approach in the circumstances is for Zimbabwe's suspension to remain in place until. CHOGM in December 2003.”<sup>173</sup>

---

<sup>170</sup> ICG Africa Report, OpCit

<sup>171</sup> Ibid,p10

<sup>172</sup> Mbeki,T, OpCit

<sup>173</sup> Ibid

However, this report was questioned by a number of heads of governments, especially the usage of the phrase “broadly held view”, expressing their reservations considering that some heads of states were not consulted and the ones consulted were made to believe that the troika was pushing for additional sanctions. There were allegations that the findings of the Report had been tampered with, and that it did not represent the view of the majority due to the fact that the majority of the heads of governments did not support the continuity of the sanctions beyond the one year they were originally agreed to be in place. Speaking on behalf of the majority of the Commonwealth members, Mbeki pointed out “that the Zimbabwe government has never been given the possibility to respond to the report of the Commonwealth Observers, contrary both to the principles of natural justice and the rules of the Commonwealth itself.”<sup>174</sup> He felt that South Africa and other members of the Commonwealth were not obliged to agree with the Report presented by the Commonwealth Observer Team which produced results contrary to the South African and SADC Observer Missions. His justification for this view was based on the fact that the South African Observer Mission comprised a civil society majority, which is expected to be impartial and that it dedicated more time than the Commonwealth Team.

The report by the South African Observer Mission stated the following:

"It appears that the will of the people was demonstrated to a degree reflected by the number of people who came out to vote and who did get an opportunity to vote. The turnout at the polls and the number of people who voted was second only to the first election following the liberation of Zimbabwe. This view must be seen in the context of the obstacles and problems that characterized the pre-election period that is described boldly and frankly in the body of this report. The (Observer) Mission is, therefore, of the view that the outcome of the elections represents the legitimate voice of the people of Zimbabwe."<sup>175</sup>

It further stated that when the troika met in London in 2002, it was only restricted to the findings of the Commonwealth Team despite the fact that there were other credible reports by

---

<sup>174</sup> Mbeki, T, OpCit

<sup>175</sup> SA Election Observer Mission Report, Zimbabwe, 2002

people who spent more time in Zimbabwe to ensure the smooth running of the elections. Mbeki states that the troika “had no mandate to consider the substance of this Report and never did. Neither did the Abuja CHOGM, though it decided to continue the suspension of Zimbabwe, on the untested assumption that the Commonwealth Observer Report was correct in its conclusion.”<sup>176</sup> He further expressed his concern about the importance of land in the Zimbabwe crisis and how it had been sidelined by both the Commonwealth and international community except for when the rights of the former owners and food shortages are at issue.<sup>177</sup> The Zimbabwe crisis managed to divide the Commonwealth into a Black and White Commonwealth; with the White component led by Britain supporting sanctions while the Black component opposed sanctions. This division was detrimental to the future of the organization in that members might find themselves supporting one another according to racial lines.

In the aftermath of the 2002 Commonwealth Heads of Government Meeting in Australia, the (British) Guardian's correspondent, Seamus Milne, wrote: “Since Blair's ministers began openly to champion the cause of the white farmers who made up the backbone of the former Rhodesian regime - while denouncing the black leadership which defeated it as 'uncivilized' - British interference in Zimbabwe has been ceaseless. He went further to say, there are only two possible explanations for Britain's role. One is a racist concern for the privileged white minority. The other is that, unlike Zambia and Kenya, Mugabe is no longer playing ball with the west's neo-liberal agenda and talking, credibly or not, of taking over private businesses and a return to socialism. That cannot be tolerated and, in the new world order, the US now appears to have subcontracted supervision of Africa largely to the former colonial powers, Britain and France”.<sup>178</sup>

Quoting Reagan in his book called “Diplomacy”, Mbeki asserts that some, within Zimbabwe and elsewhere in the world “treat human rights as a tool” for overthrowing the government of Zimbabwe and rebuilding Zimbabwe as they wish. In modern parlance, this is called regime

---

<sup>176</sup> Mbeki, OpCit

<sup>177</sup> Mbeki, T, OpCit

<sup>178</sup> Mbalula, F, “COSATU and Zimbabwe: Signalling left, Turning Point”, Volume 4, No. 45 • 12—18 November 2004

change.”<sup>179</sup> SADC with the support of Uganda, expressed its displeasure after the Abuja Summit. The Report stated the following:

*“We also wish to express our displeasure and deep concern with the dismissive, intolerant and rigid attitude displayed by some members of the Commonwealth during the deliberations. The Commonwealth has always operated on the basis of consensus. We fear that this attitude is destined to undermine the spirit that makes the Commonwealth a unique family of nations. This development does not augur well for the future of the Commonwealth.”*<sup>180</sup>

Although South Africa stood out as the country that had more influence on the Zimbabwe crisis but continued its engagement through quiet diplomacy, the Commonwealth did not do much either. The body imposed sanctions on Zimbabwe and the result of those sanctions did not prove to be effective in resolving the crisis rather it contributed to the economic hardship which killed thousands. It also highlighted the divisions among its members and gave Mugabe more power through the support caused by the division. The organization failed to unite to solve the crisis in Zimbabwe.

## **European Union**

The EU did try to mediate the conflict but it was rather seen as a party to the conflict due to the interest it had in Zimbabwe. The EU’s reaction to the crisis was strongly influenced by the paradigm of good governance, a prerequisite for development aid and trade privileges as it was agreed in the Cotonou agreement signed between the EU and the ACP countries. Thus, the crisis raised expectations of the European public, together with the need to stick to the rules set in the agreement. Zimbabwe became a test for good governance for both NEPAD and Cotonou agreement.<sup>181</sup> It was allegedly after the failure of constructive dialogue in terms of Article 96 of the Cotonou framework, followed by an attempted but abortive election observation mission in 2002, that the EU finally imposed the “smart sanctions” on Zimbabwe. These included a travel ban and freeze of overseas assets imposed on Mugabe and his cronies.<sup>182</sup>

---

<sup>179</sup> Mbeki, T, OpCit

<sup>180</sup> Mbeki, T, OpCit

<sup>181</sup> Afrika spectrum 39, Institut fur Afrika- Kunde, Hamburg, 2004, p251

<sup>182</sup> Afrika spectrum 39, Institut fur Afrika- Kunde, Hamburg, OpCit,

However, some unexpected developments took place with France and Portugal inviting Mugabe to attend multilateral heads of state and government meetings in 2003. "France invited him to the Franco-African Summit on the 19- 22 February while Portugal invited him to the summit of the EU leaders and their African, Caribbean and Pacific (Cotonou Agreement) partners in April, in Lisbon."<sup>183</sup> United Kingdom and Germany wanted to oppose these decisions by the two EU countries formally but feared that by so doing, they would refuse the renewal of the sanctions on Zimbabwe and Italy and Greece were likely to join France and Portugal. National interest became a stumbling block for this regional organization in its approach to Zimbabwe. Although unity was maintained in its approach to Zimbabwe, these acts by France and Portugal brought some tensions in their relationship with Britain in particular. " The EU Summit was postponed due to conflict of interest between African leaders and some members of the EU namely, U.K, Sweden, Germany and others over Mugabe's attendance."<sup>184</sup> It is worth noting that Britain's leadership against Mugabe only worked to his advantage because it helped his propaganda that the Zimbabwe crisis was a colonialism issue.<sup>185</sup> Also that the EU's moral ground to cut ties with Mugabe, deadlocked the important relations between this organization and the Zimbabwe. Mugabe's anti-colonial agitation skillfully put a strain between the EU members and damaged EU- SADC and EU- ACP relations.<sup>186</sup> Germany and Netherland's support of Britain against Zimbabwe was expected considering that they both have an interest in South Africa and Namibia on a similar issue.

#### United States of America

The Bush administration supported a more tough action against Zimbabwe and was of the view that South Africa was a strategic country to work with. In the beginning, President George Bush was in support of South Africa's quiet diplomacy with Zimbabwe because he believed it had the advantage of pursuing continued dialogue. Although the US kept saying its intervention in

---

<sup>183</sup> ICG Africa Report, OpCit,p11

<sup>184</sup> ICG, OpCit,p12

<sup>185</sup> Ibid

<sup>186</sup> Weiland, H,(2003), EU sanctions against Zimbabwe – a predictable own goal. Martin Holland(ed):Common Foreign and Security Policy: the first ten years (2<sup>nd</sup> Ed.), Continuum, London, 2004, 127

Zimbabwe was limited to the 'smart sanctions' imposed on president Mugabe and his allies, these were actually economic sanctions. Its strategy in Zimbabwe was three-fold: "to maintain pressure on the Mugabe regime, to strengthen democratic forces, and to provide humanitarian aid for those left vulnerable by poor governance".<sup>187</sup> By pressure on the Mugabe regime, it was done through the expansion of international and bilateral support of sanctions. "It sponsored public events that presented economic and social analyses discrediting the government's excuses for its failed policies."<sup>188</sup> In an interview with BBC, the former deputy Secretary of state, Barry Lowenkron, for the first time the US publicly admitted to be working for regime change in Zimbabwe. The Zimbabwean government has argued that the Zimbabwean economy began to take its toll after the implementation of the *Zimbabwe Democracy and Economic Recovery Act* by the US. This claim was used as a cover for the mismanagement of the funds by the regime.

### South Africa

Despite, and because of apparent failure of their own response to the crisis, the Western world increasingly turned their attention n to South Africa.<sup>189</sup> South Africa is the closest neighbor to Zimbabwe and the two countries share historical, economic and cultural ties. Although, the West encouraged South Africa to take tough action against Zimbabwe, Mbeki chose to engage through quiet diplomacy. The critics of this approach argue that Mbeki failed to put his principles of NEPAD to test when Zimbabwe crisis erupted. The failure of this approach to yield quick fix to the Zimbabwe crisis, earned Mbeki major criticism and more people, from both within South Africa and the abroad, proposed sanctions on Zimbabwe. The Western governments were called upon to "massively step up pressure and to play hard ball with Mbeki in order to achieve a change in South Africa's foreign policy."<sup>190</sup>

Speculations began about why Mbeki chose quiet diplomacy towards Zimbabwe. Some were of the view that he was supporting Mugabe behind closed doors because he believed in similar policies for South Africa in the future. This was despite his assurances to South African and to

---

<sup>187</sup> Interview with Barry Lowenkron, the then US Secretary of state.BBC Brazil

<sup>188</sup> Ibid

<sup>189</sup> Institut fur Afrika- Kunde,OpCit,

<sup>190</sup> Institut fur Afrika- Kunde,p252



the rest of the world that South Africa would not go the Zimbabwe route. Criticism from the internal opposition also mounted giving Mbeki a hard time to engage with Harare through diplomatic means. The then leader of the Democratic Party (now the Democratic Alliance), Tony Leon asserted that “the ANC was really interested in reform in Zimbabwe, or in democracy or human rights.”<sup>191</sup> According to Nontobeko Hlela<sup>192</sup> “the Democratic Party of South Africa, especially, has exploited the Zimbabwe issue for political gain, using this issue to incite South African citizens and to attempt to discredit Mbeki’s government by playing on the fears of its white constituents.”<sup>193</sup> The ANC has been criticized for allowing historical ties blind their perspective of the Zimbabwe reality. It is true that the ANC was harbored by ZANU –PF during its liberation struggle but it had its headquarters in Lusaka. However, recent history proves that “blood chains” between the respective governments are rather weak. This stems from both of these countries being regional rivals, and the personal ties between their leaders are characterized by animosity rather than friendship.<sup>194</sup>

In order to understand South Africa’s foreign policy to Zimbabwe, one needs to go beyond the allegations of misinformation and silent support propagated by anti-Mbeki groups. There was acknowledgement of a shared history between these two southern countries earlier in this chapter. Martin Adelman<sup>195</sup> notes that the settler colony history may be similar but it differ substantially in time frames. He further notes that despite the end of apartheid, the former enemy did not become a friend. South Africa became a notable rival to Zimbabwe in terms of political influence and economic development. The IMF recorded trade growth between the two countries, with South Africa benefiting more. “During the 1990s, the trade balance shifted from roughly 1:2 to almost 1:7 in South Africa’s favor. However, both countries continued to protect their respective industries. Already in 1992 SA decided not to renew the 1964 preferential trade agreement, which translated into a tripling of tariffs for goods from

---

<sup>191</sup> Ibid

<sup>192</sup> Hlela,N,(2002) Domestic constraints and challenges to South Africa’s foreign policy in South Africa: (Ed)Buthelezi, S/ le Roux, E: South Africa since 1994. Lessons and Prospects, Pretoria, Africa Institute of South Africa,p137

<sup>193</sup> Ibid

<sup>194</sup> Adelman, Martin, OpCit

<sup>195</sup> Ibid, p255

Zimbabwe. This had huge detriment to the Zimbabwean textile industry. Zimbabwe responded by imposing a 100% tariff in 1999. The trade war between the two countries was ended with the signing of the SADC Free Trade Agreement in 1999.”<sup>196</sup>

The appearance of Nelson Mandela as the liberation hero in 1994 outshone Mugabe’s stature he had earned in the making of Zimbabwe in 1980. The region also welcomed South Africa under the leadership of Mandela with warm hands. Mbeki continued from what Mandela had already achieved and further pursued the ideas of regional stability through the integration of economies. This gave Mugabe competition on a personal level. Zimbabwe and Swaziland are the notable countries that experienced decline in their economies due to the rise of the new democratic South Africa. Zimbabwe had enjoyed destination of foreign direct investment in the region over the years. However, a free South Africa redirected those investments to Zimbabwe’s detriment. Martin recalls that the tensions between Harare and Pretoria began to be felt by the rest of the region. Their struggle for political dominance forced SADC to find a “compromise between the two powers by naming Mandela SADC chairman and Mugabe, who was the last chairman of the now defunct Front Line States group, chairman of the newly established SADC Organ on Politics, Defense and Security (OPDS).”<sup>197</sup> A year later, at the Malawi SADC Summit, Mandela and Mugabe clashed over the role of OPDS and its chairman, with Mugabe denying responsibility to report to the SADC Summit. Mugabe saw OPDS as independent from SADC and that did not augur well with Mandela that he threatened to resign as chair if Mugabe did not changed his behavior, and finally declared the OPDS as illegitimate.<sup>198</sup>

Chris Landsberg described the relations between Harare and Pretoria, by the end of Mandela’s term, as ‘Cold War.’<sup>199</sup> This was due to the fact that Mugabe led forces to intervene in the Congo war to assist the government there under the banner of SADC with authority from the

---

<sup>196</sup> Adelman, M, OpCit,

<sup>197</sup> Ibid,p257

<sup>198</sup> Adelman, M, OpCit

<sup>199</sup> Landsberg, C,(2002) *The Impossible Neutrality? South Africa’s foreign policy in the Congo war.* in John Clark, F. (ed) *The African Stakes of the Congo war.* Basingstoke, Palgrave, 169

organization. Unlike Mbeki, Mandela publicly criticized Mugabe's decision and stated that South Africa preferred a negotiated settlement. Mandela's guts to publicly criticize Mugabe have been viewed as 'a very rare occasion in African politics and an indication of the diplomatic rift between the two countries.'<sup>200</sup> It is not surprising that when Mbeki came to power he adopted a much quiet diplomatic approach towards Harare because the relations were already deteriorating between the two countries. Adelman warns against the misinterpretation of quiet diplomacy as new friendship or quiet support, but must rather be seen as 'a constructive engagement strategy with clear aims.'<sup>201</sup>

### *South Africa's approach to land reform in Zimbabwe*

When the crisis erupted between 1997 and 2000, South Africa's policy was that of constructive engagement in the hope to find a solution for Zimbabwe. During this first phase of the crisis, the ANC through its whip Tony Yengeni stated that "South Africa's position was that the key to the solution of the problems faced by Zimbabwe was a speedy resolution of the land question."<sup>202</sup> In 1998, South Africa intervened in Zimbabwe to mediate the growing tensions between Zimbabwe and the United Kingdom over land reform. This and other factors led to the conference at which the international community, including the EU, the UN and the USA, agreed to contribute finances to the land redistribution programme in line with the Lancaster House agreement. Mbeki notes that these pledges did not materialize because "the British government could not find a mere £9 million to buy 118 farms, which purchase had been agreed at the international conference. These would have been used to resettle the war veterans who had begun to occupy farms owned by the white "kith and kin", continuing a struggle for the return of the land to the indigenous majority, which had started at the end of the 19th century."<sup>203</sup> It is due to their own failures that the Western governments have continued to blame South Africa for not taking a much robust position towards Zimbabwe. The western media together with the South African media, managed to divert attention from the

---

<sup>200</sup> Adelman, OpCit

<sup>201</sup> Ibid, p259

<sup>202</sup> Yengeni, T, The Situation in Zimbabwe. Speech at the National Assembly of South Africa, 27 February 2001

<sup>203</sup> Mbeki, T, OpCit

failure to honor international agreements by the western world to African leadership's failure to force Mugabe to be accountable to the African treaties to which Zimbabwe is a signatory.

Mbeki asserts that after realizing the failure by the UK and the UN to keep their promise, South Africa then managed to get pledges from the international community other than the UK to assist in Zimbabwe. Even this 'collapsed in the intricacies of the UN bureaucracy, although there were willing sellers and willing buyer and the necessary fund.'<sup>204</sup> The inevitable happened; the farms were taken forceful by the war veterans. Had the farms been bought as agreed, this could have been avoided. However, South Africa did not stop its engagement with the interested parties in Zimbabwe. Unlike the international community, South Africa's interest in Zimbabwe has always been that of finding a solution to the crisis more than its credibility as Mugabe's opponent. In Mbeki's words, "our poverty and underdevelopment will never serve as reason for us to abandon our dignity as human beings, turning ourselves into grateful and subservient recipients of alms, happy to submit to a dismissive, intolerant and rigid attitude of some in our country and the rest of the world, towards what we believe and know is right, who are richer and more powerful than we are."<sup>205</sup> South Africa always avoided to be seen as a puppet to the West, especially, with regard to the Zimbabwe situation. Mbeki's foreign policy stood on five pillars which Lansberg describes as: consolidating the African agenda, South-south co-operation, North-South Dialogue, Strengthening bilateral relations, and a global agenda with the aim of promoting global governance in the areas of political and security issues, and socio-economic issues.<sup>206</sup> When analyzing South Africa's foreign policy to Zimbabwe, it is important to note that Mbeki's approach has always been in line with his agenda of African Renaissance. His critics have maintained that he failed considerably to enforce his own agenda of African Renaissance

---

<sup>204</sup> Mbeki, T, OpCit

<sup>205</sup> Ibid

<sup>206</sup> Lansberg, C, South Africa's Global Strategy and Status, FES Briefing Paper, 16 November 2006,p2

The previous interventions in Zimbabwe did put pressure on the government of the day to relax electoral laws as to allow the opposition more political space. Sanctions works as a punitive measure to show that the world was not supportive of the regime practices. The suspension of Zimbabwe from the Commonwealth further discredited Mugabe and his men in the international arena. The engagement of the ANC in Zimbabwe both at the party and government level meant that Mbeki was better placed as a mediator because he understood the dynamics of the conflict. Essop Pahad argues that “Mbeki, unlike others, took time to study the situation in Zimbabwe and his approach took that into account”<sup>207</sup>. When Mbeki was mandated by SADC he already knew what needed to be done in Zimbabwe.

#### *SADC appoints Mbeki*

The international community was alarmed by this act of violence, so was the rest of the African continent. The SADC viewed the situation and realized that both parties were responsible for how things had turned out in Zimbabwe. Jakaya Kikwete, the Tanzanian president who was also the chairperson of SADC, said “at the end of it all, our conclusion has been accusation and counter-accusation, confrontation and counter-confrontation is not the answer. The answer is dialogue. The government and the opposition have differences, and these differences are not such that they cannot be sorted out at the roundtable.”<sup>208</sup> This view was also held by Thabo Mbeki in 2002, when stated that “the people of Zimbabwe have a common responsibility to ensure that theirs is a peaceful and democratic country, in which the people enjoy human rights and protection under the rule of law. This is an outcome we must support”<sup>209</sup>. It was against this backdrop that the SADC appointed the then South African president to take the initiative of mediating between the two parties. Mbeki was appointed under the assumption that the disputants in Zimbabwe had confidence in him.

---

<sup>207</sup> In an interview at The Thinker on the 10<sup>th</sup> February 2010

<sup>208</sup> In an interview with Baffour Ankomah, New African, Ibid, 13

<sup>209</sup> Mbeki, Thabo, “Chance for Zimbabwe to turn over a new leaf”, Volume 2, No. 12• 22 - 28 March 2002

The negotiations were aimed at discussing their differences, but most importantly “how to get to a situation in Zimbabwe where democratic dispensations function, how to get to free and fair elections taking place the following year.”<sup>210</sup> Mbeki was going to be the point of contact but SADC would remain the owner of this process and it entrusted a troika to work with Mbeki who would be reporting to the SADC about the progress of the dialogue. Mbeki had been long involved in Zimbabwe through his policy widely known as quiet ‘diplomacy’. His policy towards Zimbabwe was that the political crisis in that country could only be solved by the political parties of Zimbabwe. He urged SADC and the international community to support the decision of the Zimbabwe once it was reached because it would be a reflection of what Zimbabweans want. South Africa’s intervention in Zimbabwe had long been called for by the international community. *The Financial Times* reported that “Mr. Mbeki and the SADC need to intervene in Zimbabwe to help the country save itself from further economic and political strife and possible civil war”<sup>211</sup>. It continued to blame SADC and South Africa for being responsible for the collapse of Zimbabwe due to their non-intervention. It therefore, urged the SADC and South Africa to intervene in Zimbabwe before it became failed state.

#### *Was Mbeki the right choice?*

The choice of Mbeki as mediator was a controversial one. He was seen as being too close to Mugabe due to Mugabe being the last independence president. Mark Gevisser, in *Mbeki: A dream deferred*, stated that his relationship with the Zimbabwean President is personal, and it is “undoubtedly” affecting the talks Mr Mbeki is chairing between Mr Mugabe's government and the opposition. He continued to say that although Mbeki believed Mugabe should leave, he was not the right person to facilitate the power transfer. He questioned whether Mbeki would be as cold and as hard-nosed as he needs to be as a mediator. He then concluded that Mbeki would be unable to bring enough pressure to bear on Mugabe to force him to some sort of

---

<sup>210</sup> Ibid

<sup>211</sup> Rotber Robert I. "Saving Zimbabwe: Only Intervention by the Country's Neighbours Can Prevent Catastrophe in the Forthcoming Elections." *Financial Times*, January 18, 2002

resolution. The opposition doesn't have any trust in him and the government doesn't fear him enough to listen to his hard words.<sup>212</sup>

This view was addressed by Watkins and Winters<sup>213</sup> when emphasized a need for a mediator to poses three powers for a successful mediation namely: facilitative, bargaining and coercive. This, they argue helps to get parties to concede and ensure that the terms of agreement are not violated when the mediator has coercive power.<sup>214</sup> Ade Adefuye, also supports the view that Mbeki was too close to Mugabe as he saw him as a father. He continued to say Mugabe enjoyed too much respect from Mbeki; as a result, Mbeki was not as objective as he should have been. He even suggested that a retired African nationalist such as Mandela could have made a better mediator, or even a non- African should have been considered.<sup>215</sup> Contrary to this view, Tawana Kupe, argues that Mugabe would not have allowed a non-African to mediate in his country due to his non-imperialism rhetoric. He states that Mbeki held power which no other had because of his status as a president of one of the economic powerful and influential countries in Africa.<sup>216</sup> Adefuye's argument cannot be validated as Mbeki managed to broker the deal that led to the unity government.

John Tesha, highlights the problem of appointing a sitting president to mediate, as clashing with his daily duties as a head of state<sup>217</sup>. This view was also shared by Graça Machel, who stated that mediation is an intensive process which can be time consuming. The mediator must be available for unexpected events. A president might not have time to do consultation with all stakeholders because of his duties as a statesman. Therefore, a retired president and other elder statesmen are the right people for this task.<sup>218</sup> Although this might be true in some circumstances, it did not apply to Mbeki. He spent most of his presidency outside South Africa. Africa had been his main priority since he assumed office. His mediation in Zimbabwe was still

---

<sup>212</sup> Berger, Sebastien, "Too close to Mugabe to be an effective mediator", 13 November 2007

<sup>213</sup> Watkins and Winters, "In Theory: Intervenors with Interests and Power", *Negotiation Journal*, Vol.13, No.2, April 1997

<sup>214</sup> Ibid, 223

<sup>215</sup> In an interview in Johannesburg, South Africa, 19 November 2009.

<sup>216</sup> In an interview at the University of the Witwatersrand, Johannesburg, 23 November 2009

<sup>217</sup> In an interview in Berlin, German, 26 April 2009

<sup>218</sup> In an interview at the Conference on The Promise of Leadership, Johannesburg, March 2009

in line with his pursuit of African Renaissance based on economic development, regional integration, peace and stability and promotion of good governance. He had been involved in many conflict resolution initiatives in African, and Zimbabwe was just part and parcel of his mission.

However, Moeletsi Mbeki, was skeptical about his appointment. He believed he would not succeed to convince Mugabe to relinquish power to the opposition. "I don't expect that very much will come out of any mediation effort by the South African president or by anyone else for that matter. The reality is that Mugabe will not accept to relinquish power because he could be prosecuted afterwards. And there is no amount of negotiation that Mugabe will accept that will get him out of power."<sup>219</sup> It is important that a mediator enjoys confidence from all parties to the dispute. "In theory, a potential mediator will not gain access to a conflict without the consent of the parties, nor will invited intermediaries be automatically involved in mediation without their prior consent to play such a role."<sup>220</sup> In this case, both parties accepted him not because they had confidence in him, but his appointment was a directive from the Africa Union and SADC.

### *What were the objectives of the mediation?*

The above section stated that the objectives were to allow the disputants in Zimbabwe to table their difference in order for them to reach a political compromise. The short-term goal was to pave way for free and fair election, through necessary electoral laws reform. For Mbeki, the negotiations were aimed to assist the Zimbabweans to find a solution that would reflect the will of the people of Zimbabwe. He maintained this position throughout the negotiations. He was against an imposed solution because it would be an infringement of the Zimbabwe sovereignty.

### *Negotiations begin*

---

<sup>219</sup> Chesal Robert, "Mbeki as a mediator: a mere window-dressing", Radio Netherlands Wereldomroep, 04 April 2007

<sup>220</sup> Maundi, MO, IW. Zartman, G. Khadiagala, K. Nuamah, "Getting In: Mediators' Entry into the settlement of African Conflicts", USIPP, Washington, D.C, 2006,p6



Negotiations, begun in mid-2007, managed to achieve agreement on a package of constitutional, electoral and other reforms at securing freedom of speech, assembly and expression, which were passed rapidly and unanimously by the Zimbabwean parliament in December 2007. Reforms included restructuring the composition of the houses of parliament (with the House of Assembly expanded and made wholly elective), the abolition of the delimitations Commission and the transfer of its functions to the Zimbabwe Electoral Commission (ZEC), a curtailing of the powers of the security forces and the abolition of many restrictions on the media, on public demonstrations.<sup>221</sup> Negotiations continued, with the MDC demanding that a new constitution be adopted, the elections be delayed beyond March 2008 and that the delimitation of constituencies and registration of voters undertaken by the ZEC be revisited; ZANU-PF wishes to keep to the March date so as to reduce the opportunities for the opposition to reorganize and campaign in the new more open political climate and to ensure that the preparatory work of ZEC done thus far is not subjected to public scrutiny.<sup>222</sup> In March 2007 the central committee of ZANU-PF resolved to harmonise elections in the country and to hold parliamentary elections due in 2010 concurrent with the presidential elections.<sup>223</sup> However, both parties agreed that the date for the elections was going to be set by both parties when they were satisfied that the necessary conditions were fulfilled to hold a free and free election. ZANU-PF violated this term by unilaterally declaring the 29 March 2008 as the elections date. Thus, the negotiations were deadlocked.

### *Was the mediation successful?*

To begin with, the objectives were clear as stated above, the main one being the holding of a peaceful, free and fair election in 2008. This compared to the previous elections was the most successful for Zimbabwe and SADC. The MDC was highly mobilized and ready for the elections, and this was evident from the outcome of the elections. This election was a turning point in the

---

<sup>221</sup> Zimbabwe Election Support Network (ZESN) 2008 "Pre-election Update No. 1: 24 November to 14 December 2007", [www] [http://www.zesn.org.zw/newsflash\\_view.cfm?nfid=12](http://www.zesn.org.zw/newsflash_view.cfm?nfid=12)

<sup>222</sup> Ibid

<sup>223</sup> Brown, R & Saunders, C 2007 "Zimbabwe: Recent History" IN Frame, I (ed) *Africa South of the Sahara* 2008, Europa Publications, 1287-1295.

Zimbabwe history where by the opposition almost overthrew the ruling ZANU- PF. This was despite the fact that Mugabe had called for a snap election, hoping to catch the opposition off guard. The ZANU-PF's strategy back-fired when the results proved otherwise. This strategy had been used by the ruling party to hold an election when the opposition was still busy focusing on the amendment of electoral laws and the issue of violence. The mediation was successful in as far as the meeting of the objectives was concern, holding of a credible election.

The problem came with the tabulation of the results, in which ZANU-PF refused to accept the result before it was released. In chapter one, Mbeki was classified as an embedded mediator, thus, his role would and did not end with the holding of elections. Contrary to this view, SADC failed to pressure Mugabe to release the results within a reasonable time. They allowed him to buy time, until a month later. The process of balloting its self was a success. Little, if any, violence was experienced during this period. However, election process should take into account the release of results as part of an ongoing process. This delay in release of the result had negative implications for the overall success of the mediation

This chapter has argued that previous interventions by different actors in Zimbabwe contributed to the SADC mediation success. Some could be argued to have contributed negatively in terms of sanctions, while others contributed positively through pursuing dialogue between the Zimbabwe political stakeholders. It was a combination of many efforts that created a stalemate and ripened moments for successful mediation. The suspension of Zimbabwe by the Commonwealth hardened Mugabe's stance and resulted in Zimbabwe terminating its membership from the organization. The EU also sent a strong signal to Zimbabwe leadership by imposing sanctions on Mugabe and his close allies after dialogue proved ineffective. The chapter interrogated the appointment of Mbeki and held that he was the right person for the job, despite skepticism by other influential analysts and commentators. The US response towards Zimbabwe promoted awareness of the bad governance and human rights violations perpetrated by ZANU-PF.

## **Chapter Four**

### *The power-sharing deal*

This chapter discusses the unfolding of the 2008 events in Zimbabwe which led to a power-sharing deal signed by three main political parties in Zimbabwe in the presence of the SADC appointed mediator Thabo Mbeki. This chapter discusses the power-sharing agreement that was signed by the political leadership of Zimbabwe to end the political as well economic crisis which had crippled the country for almost a decade. It examines the manner in which SADC as

well as the continental mother-body (the African Union) handled the conflict in Zimbabwe. It argues that power politics is what informed the SADC mediation at the expense of the electorate and democracy in Zimbabwe. As a result, the future of democracy in this country and the region at large could be a fragile one.

Following its controversial March 2008 general elections, Zimbabwe found itself in uncharted territory. The Movement for Democratic Change had won the general election that was held on the 29 March 2008, against the ruling ZANU-PF which had enjoyed power for 28 years of unbroken power since independence, but failed to get the necessary majority required for presidency. This required a run-off presidential election between the two opponents so that the winner could get absolute majority. Although, the 2008 elections were said to have been free and fair, the events that followed after the general elections were marked by violence. Despite this increase of violence, the ZANU-PF went ahead and pronounced a date for the presidential run-off election on the 29 June 2008. President Robert Mugabe contested in this election unopposed and pronounced himself the winner and president on Zimbabwe. The opposition party, the MDC pulled out from the rerun sighting violence and intimidation on its leadership and supporters as unbearable.

The events that took place between the counting and announcing of the results were a clear indication that elections were not a solution to the political crisis in Zimbabwe. A different strategy was needed by SADC. SADC-appointed mediator, Mbeki, was reported to have gone to Zimbabwe to discourage Mugabe from going ahead with the run-off election which was scheduled to take place in June. His effort was not taken seriously by the Harare government; the presidential run-off went ahead, with Mugabe contesting alone after Tsvangirai had pulled out sighting violence and intimidation against the MDC's leadership and supporters as the reasons. Transfer of power through the ballot had proven to be inapplicable to Zimbabwe. SADC and the AU started to sing a different tune from what was the initial objective of the mediation. Mbeki was reaffirmed as the SADC mediator at the SADC Communiqué by the AU, UN and SADC. It was time for Mbeki to acknowledge the task given to him by the regional

organization and to move away from his quiet diplomacy approach. Throughout the years, quiet diplomacy meant persuasive engagement at a minimal level. A different approach was needed. His denial of crisis in Zimbabwe compromised his impartiality as a mediator since this view was shared with the ruling ZANU-PF.

In his capacity as the facilitator appointed by the SADC, Mbeki had the power to denounce the presidential run-off election and base the power-sharing negotiations on the outcome of the March election. The mediator needs to possess coercive power. Mbeki did not exercise the power wielded to him by the three powerful organizations, SADC, UN, and AU. The view expressed earlier, on how African Renaissance was the driving force behind Mbeki's approach towards Zimbabwe, should not be seen as a justification for failure to exercise the leverage South Africa enjoyed over Zimbabwe. Therefore, Zimbabwe became a test for what African leaders said they believed in. It was Mbeki's dream to see SADC at least, and Africa at most, prosper economically and politically through his New Partnership for Africa's Development's (NEPAD) principles. Unfortunately, Mugabe, through his manipulation of solidarity of the African continent, took advantage of Mbeki's dream.

### *Balance of power*

It should be noted that Mbeki held delicate power on his personal capacity. He was weakened by the intraparty politics within the ANC back in South Africa. The Polokwane Conference challenged his power as an individual, when his rival Jacob Zuma defeated him at the party's presidential election. The view held earlier that Mbeki's presidential duties did not clash with his SADC mediation a duty is challenged here. He was now preoccupied with his internal affairs. Of course, Mugabe was watching the decline of Mbeki's power and took advantage of the opportunity. Mugabe knew that Mbeki believed in home-grown solutions based on his famous 'African solutions to African problems', hence, his non-imperialism rhetoric. The ZANU-PF government has been relying on Chinese aid for years now. Both Zimbabwe and South Africa are good trading partners to China. But between the two countries, China would go with South Africa had Mbeki persuaded the Chinese government to cease funding the Mugabe regime as his part of taking a tough stance against Mugabe and his party. This view is shallow in that

China does not consider human rights as a priority. It had an interest to protect and South Africa could not have done much to influence China. Where South Africa could, it did exert pressure on China. For instance, South Africa turned away a ship carrying arms from China to Zimbabwe with the belief that they. Again, this power was compromised by the western countries that kept pushing that he takes a tough action against Zimbabwe. He would be viewed as defying his idea of African Renaissance by taking instructions from western countries. He was now stuck in the middle.

### *Talking about the negotiations*

The negotiations took a different shape after the presidential run-off that resulted in Mugabe inaugurated as a president of the country. This country had been without a proper cabinet since the March election. Now the negotiations were aimed at achieving a power-sharing accord between the Zimbabwean main political parties. The MDC faction led by presidential candidate Morgan Tsvangirai and a smaller grouping led by Arthur Mutambara began preliminary discussions on Thursday, the 5<sup>th</sup> of July 2008 with officials from Mugabe's ruling ZANU- PF under the auspices of South African mediators in Pretoria, the South African capital. The pre-negotiation meeting came with many changes; Tsvangirai refused to participate in the Mbeki-mediated negotiation "unless the mediation mechanism is changed, no meaningful progress can be made toward resolving the Zimbabwe crisis."<sup>224</sup> These were the terms and conditions of the negotiations from the MDC:

- The immediate cessation of violence and the withdrawal and disbanding of militia groups, paramilitary camps and illegal road blocks. All structures and infrastructure of violence must be disbanded. Amongst other things, war veterans, youth militia and others encamped on the edges of our cities, towns and villages need to be sent home and be reintegrated into society.

---

<sup>224</sup> The Times, "UN Campaigning to sideline Mbeki's role", 4 July 2008

- The normalization of the political environment, including the release of the more than 1 500 political prisoners, cessation of political persecution and allowing the currently besieged MDC leadership to conduct business and travel without hindrance
- The reinstatement of access by humanitarian organizations to the people of Zimbabwe in order to provide food, medical and other critical services throughout the country.
- Parliament and Senate must be sworn in and begin working on the people's business.
- The mediation team is expanded to include an AU permanent envoy.<sup>225</sup>

These talks were adjourned without reaching an agreement. Tsvangirai stated that the MDC's pre-conditions could not be met over-night; hence, no agreement was reached by the negotiators<sup>226</sup>. The violence perpetrated by the government still took place and the mediation team was not added. But the ZANU-PF through state media said an agreement on the negotiations framework would be reached soon. This was aimed to put pressure on the MDC to reach an agreement soon because it would be viewed as not keen to reach a solution to the Zimbabwe crisis. A South African newspaper, "The Sunday Independent, said the negotiating parties would sign an agreement to guide "intensive talks" that would begin in Harare on Wednesday and run until the end of July. The talks would focus on the formation of an inclusive government."<sup>227</sup> On the 15<sup>th</sup> of July, *The Star* reported that the Zimbabwean rivals were locked in talks in Harare, the previous night, putting the finishing touches to a draft document intended to pave the way for power-sharing negotiations to begin later that week.<sup>228</sup> It was 24 hours before the signing of the MOU and the MDC still insisted that it would not sign because it did not believe that its concerns would be addressed before the signing of the document. The MDC insisted on this position forgetting that ZANU-PF had its own game plan. It was clear that

---

<sup>225</sup> The Zimbabwe Times, "MDC insists there is no dialogue between Zanu PF and itself", 8 July 2008

<sup>226</sup> Ibid

<sup>227</sup> Banya, Nelson, Zimbabwe talks in stalemates, July 13, 2008, <http://africa.reuters.com/top/news/usnL13349132.html>

<sup>228</sup> *The Star*, Talks about talks stutter as MDC demands end to violence 15 July 2008

the demands were not going to be met in time, and the ZANU-PF government was going to go ahead with the naming of the cabinet which would destroy the negotiations. The MDC actually had limited choice in this situation. ZANU-PF enjoyed an upper hand during this period.

*Was there a need for mediation?*

The first round of negotiations was about the creation of political space and peaceful environment for a free and fair election scheduled to take place in 2008. That was achieved and the elections were held but the outcome was not accepted by the parties that contested in the elections. As a result, the pre-election climate was now marked with violence. The second round of negotiations had to end the political violence which defined Zimbabwean politics. But the interesting question is: why did the parties agree to negotiate again? The results were known and the SADC and the AU could have easily enforced them, since the elections were held under their auspices, giving them more credibility. The late Zambian president, Levy Mwanawasa and the Botswana president Ian Khama supported the view that holding an election was going to bring a resolution in Zimbabwe. Even Tsvangirai urged Mbeki that the negotiations should reflect the will of the Zimbabweans as expressed in the March elections. He stated that “creativity, leadership and vision are essential in this delicate stage. We need a government that transfers power to the elected representatives of the people to carry out the people’s mandate for change.”<sup>229</sup> He added that “We knew negotiations would be difficult, but a resolution that represents anything other than the will of the Zimbabwean people would be a disaster for our country. We are committed to a solution that recognizes that the people spoke on the 29th of March 2008 – a solution that ensures tangible deliverables are put on the table of Zimbabweans. A solution must thus put the people first, not leadership positions and titles.”<sup>230</sup> Was this the case? Did the people of Zimbabwe become part to the power-sharing equation? These questions will be answered later in this paper.

---

<sup>229</sup> The Zimbabwe Times, “Tsvangirai’s passport seized at airport”, 14 August 2008

<sup>230</sup> Ibid



But the answer to the ultimate question: was there a need for mediation, is a definite yes. The above shows how the MDC and ZANU-PF had become worlds apart, with neither of the parties wanting to compromise. The MDC's stance was that any resolution should be based on the outcome of the March election; while ZANU-PF insisted on its recognition as a legitimate government of Zimbabwe. Both parties wanted to rule Zimbabwe exclusively. It was against this backdrop that an external body was essential to move these rivals from 'zero-sum mentality to positive mentality'. This theory, advanced by Zartman<sup>231</sup>, suggests that a mediator should transform the conflict from all-or-nothing mentality into parties realizing the urgency of working together towards a common goal or solution. "The objective of the intervention is not to assist either party to gain outright victory over its adversaries, but to break the impasse and bring the parties to a level where they would be able to settle for a win-win outcome."<sup>232</sup> The recovery of the economy depended on both parties working together. But how does this happen in country where violence has been the order of the day, where state security organs have been used to perpetrate violence against citizens, and where the government has failed to honor every agreement made with the opposition? Trust becomes an issue. It should be borne in mind that these people were not negotiating for the first time; in fact, this was a continuation of the negotiation that was deadlocked by the ZANU-PF's infidelity. A mediator was necessary to facilitate the dialogue between the parties since it required compromise. Adversaries feel safer to concede to a mediator than their opponent because it can be justified to the supporters and not be seen as a sign of surrender.

### *MDC negotiated*

It became clear to the MDC that transfer of political power with a ballot was rather difficult given the power ZANU-PF enjoyed over the state institutions, including the Zimbabwe Electoral Commission. Another election was likely to result into violence if it did not sustain the ZANU-PF political power. Secondly, the economy was not getting any better and it was clear that foreign aid could only start flowing in if the MDC was in power, as the European Union (EU) kept saying.

---

<sup>231</sup> Zartman, OpCit, p29

<sup>232</sup> Maundi, M, OpCit, p5

All the mechanisms it had applied seemed to be ineffective, the sanctions by the international community only crippled the economy and Mugabe was immune to them. Thirdly, negotiating with the ZANU-PF did not mean that the battle was over; it was a strategic decision to influence the system from within. And last but not least, the violence had become unbearable. The power imbalance caused by the support enjoyed by the ZANU-PF from the military and all the state security organs had put the MDC at the disadvantage position. But over and above, it had to avoid state collapse due to militarized politics and the inflation running at six digits. The MDC had all the necessary legitimacy but lacked power because all state institutions were aligned to the ZANU-PF. Without this power, the MDC could not function in Mugabe-led Zimbabwe. Therefore, negotiation was necessary to save the country and the people of Zimbabwe.

### *ZANU-PF negotiated*

Scholars of peace diplomacy agree that 'ripe moments' are necessary for successful negotiation. This theory suggests that parties in a dispute agree to negotiate when they realize that a solution cannot be achieved individually, but that they need the other party for a joint solution.<sup>233</sup> Reality is Mugabe did not lose his power. He still holds his power even to date. The theory of ripe moments did not hold in Zimbabwe. Ripe moments strengthened Mugabe, as a result, he got a better deal from the negotiations. He came out a recognized president of Zimbabwe by the same forces who had been advocating for regime change in Zimbabwe. There were two factors that influenced Mugabe to negotiate: economy and recognition. The former is debatable in a sense that his regime had survived almost a decade under international sanction, window-dressed as 'smart sanctions'. These may have crippled the Zimbabwean economy, but his was a struggle for maintenance of his power. He drew most of his power from the military and other state security organs. Mugabe lost an election to Tsvangirai in March 2008 as a signal that he was no longer popular among the people he ruled. However, his loss of popular support amongst the electorate should not be confused with losing absolute power. The latter and real reason why he agreed to negotiate was to regain recognition. Over the years, Mugabe had become irrelevant in international relations, and an epitome of dictatorship. Professor Kupe

---

<sup>233</sup> Zartman, IW, "The Negotiation process", SAGE, London, 1977, p232

agrees that “recognition is important for power”.<sup>234</sup> Mugabe’s re-election was widely condemned within the international community, thus the need to regain that confidence. ZANU-PF tempered with the results of the March elections which led to the one-man presidential run-off, and at the end of the negotiations, the power-sharing deal depended on him for implementation. The power imbalance in Zimbabwe was and still is the reason why durable peace cannot be achieved.

### *The signing of Memorandum of Understanding (MOU)*

This was the first positive step taken by the adversaries in Zimbabwe political crisis to end violence and find a peaceful resolution. The MOU set the terms and conditions on which the negotiations would be based and its main aim was the establishment of an inclusive government. The signing of the MOU epitomized the commitment the Zimbabwean parties were making towards the negotiation. It addressed the key concerns from all parties that hindered the process to finding a solution. “For ZANU-PF, the key issues relating to sanctions, the land question and external interference were included as agenda points. For the MDC, the issue of security of its members, the prevention of violence, calls for the stop of hate speech, as well as the role of SADC and the African Union (AU) as underwriters and guarantors of the global political agreement seem to have allayed their major concerns.”<sup>235</sup> The MOU did not specify the kind of government that was going to be formed in the completion of the negotiations; it was left to the substantive negotiations. “There were calls for a government of national unity such as the call made by the AU at its 11th Ordinary Session in Sharm El Sheik, Egypt. Others, including the MDC, supported by Kenyan Prime Minister Raila Odinga, called for a transitional government with a limited time frame and with responsibilities such as drafting a new constitution, security reforms, and holding elections.”<sup>236</sup> Mugabe was for a unity government in order to allow himself another term in power. This document restricted the

---

<sup>234</sup> In an interview at the University of the Witwatersrand, Johannesburg, 23 November 2009

<sup>235</sup> Saki Mpanyane, “The first step towards the deal in Zimbabwe”, ISS, 24 July 2008

<sup>236</sup> Ibid

negotiations to a two-week process. The mediator was clearly over ambitious to set this timeframe as the political situation in Zimbabwe had turned violent.

The signing of the MOU indicated willingness of the parties to work together under the facilitation of the mediator. Saadia Touval states that “when the government itself is a party to the conflict, acceptance of outside mediation carries a bargaining disadvantage. It implies that it recognizes its opponents as being equal in status, entitled to present their point of view to an outside body, regardless of the government’s claim to exclusive jurisdiction over the citizens living in its sovereign territory. Placing internal opponents of a government on an equal footing with the regime implies that the opponents’ claims are no less legitimate than those of the government.”<sup>237</sup> As to how valid this was in Zimbabwe, it depends from which angle one approaches the Zimbabwe situation. One view is that, ZANU-PF led the government when going to the negotiations. “Legally speaking, President Mugabe was the elected leader of the country because he was sworn in according to the laws of the land, whether there was violence or no violence, Tsvangirai pulled out of an election he was supposed to contest, four days before it was held<sup>238</sup>.” Therefore, it was a compromise from the ZANU-PF side to agree to negotiate with the opposition because it was now placed on equal foot with the MDC. A contrary view will be that the MDC was the one that compromised its position as a legitimate government as per March 2008 election outcome. Hence, it was reluctant to accept the SADC mediation led by the former South African president. Before the second round of negotiations, the MDC had the legitimacy but lacked the power. Whether or not Touval’s analysis applied in Zimbabwe is a matter of perspective.

The next chapter evaluates the extent to which the SADC mediation efforts were successful in Zimbabwe. It analyses the barriers and conditions that facilitated the negotiations and how these were addressed by the mediator. It reaffirms the position taken earlier on that mediation

---

<sup>237</sup> Touval, Saadia, *Mediation in the Yugoslav Wars: The Critical Years 1990-1995*, New York, Palgrave, 2002, p11

<sup>238</sup> *IRIN News*, Talking about the talks about talks, July 16, 2008, <http://www.irinnews.org/report.aspx?ReportID=79286>

is instrumental for conflict resolution. Also, it is a summary and conclusion of the main argument from this thesis.

## **Chapter FIVE**

### *Beyond the agreement: Implementation process*

This last chapter evaluates the global political agreement, the gains and constraints experienced with regards to implementing it. The global political agreement which was signed in September 2008 by the three main political parties, the MDC-Tsvangirai, MDC-Mutambara and ZANU-PF, led to a government of national unity. The agreement aimed to address the following: restoration of the economy and the rule of law; removal of sanctions; land question; media reform; draft

new Constitution; and promote national healing. This chapter evaluates the GPA and recommends some guidelines for the future.

September 2010 marked the second year since the signing of the GPA and yet not much has been done with regard to its implementation. The implementation process has been stalled by disagreements over the allocation of cabinet ministries, with ZANU-PF appointing most key ministries to maintain its control over the state security. While ZANU-PF managed to secure National security, Defense, Foreign Affairs, Lands and Rural Resettlement, Justice and Legal Affairs, to name a few<sup>239</sup>, Mugabe still refuses to swear Roy Bennet as the Deputy Minister of agriculture even though the charges against him have been withdrawn. This has led to unequal distribution of power in Zimbabwe parliament.

#### *Violation of the GPA*

Mugabe and his party ZANU-PF have made serious infringements on the GPA since it was signed. Article 6 of the GPA stipulates that a Select Committee should be set up by Parliament within two months of the inception of the new government, which will be mandated to draft the new Constitution in consultation with all the stakeholders. This process has been stalled and no there is yet no draft of the new constitution in place. “The political rivalry within the inclusive government has seen attempts by parties to narrow the constitution-making process to serve their political interests.”<sup>240</sup>

Sixteen months into the unity government, there are still unresolved issues with regard to status of the Reserve Bank governor Gideon Gono, and Attorney-General Johannes Tomana who are blamed for fuelling hyperinflation through printing money in order to shore up Mugabe’s regime, while the latter is blamed for presiding over the prosecution of human rights and opposition activists.<sup>241</sup> Mugabe still maintains that there will be no discussion over these

---

<sup>239</sup> All Africa.com, Zimbabwe Cabinet February 2009 <http://allafrica.com/stories/200902240632.html>, 24 February 2009

<sup>240</sup> Maseng, J, Country’s Inclusive Government, All Africa.com, <http://allafrica.com/stories/20100708972.html>, 8 July 2010

<sup>241</sup> Kisiangani, E, “Zimbabwe’s inclusive government: A tentative assessment”, *Global Insight*, Institute for Global Dialogue, Issue 89, August 2009

posts. This amounts to another violation as the GPA states that the President, in consultation with the Prime minister, must choose the cabinet. He appointed them unilaterally.

Article 20 clauses 20.1.4a and (b) state that the prime minister chairs the Council of Ministers and is the deputy chairperson of cabinet and also exercises executive authority. This has not been the case in Zimbabwe as Tsvangirai has been disallowed to demonstrate this authority; instead Joice Mujuru and John Nkomo (the two vice presidents) alternate with the chairing of the cabinet.<sup>242</sup> Under this very same clause, the Prime Minister is supposed to oversee the formulation of government policies by the cabinet, and the ministers are required to report and are accountable to him. Mugabe violated this on January 25, 2010 when he issued a written order for all ministers to report to the vice-presidents and their permanent secretaries, but not to Tsvangirai on the execution of government business.<sup>243</sup> Mugabe claimed all the key ministries, accommodated most of his allies to prevent further splits, while Tsvangirai is left to be a ceremonial Prime Minister. Mugabe's intentions are not yet clear and this can have a detrimental impact on the economy, as the removal of sanctions will be delayed. And these sanctions "have proven to be counterproductive because they have left Zimbabwe in a state of social, economic and political collapse prior to the formation of the inclusive government."<sup>244</sup>

ZANU-PF heads the Land Affairs Ministry and this could mean further delay on land reform policies. Land is one of the key issues that continue to haunt Zimbabwe after so many years. Failure to address this may delay reconciliation and economic recovery. Furthermore, "a number of generals have reportedly built up substantial landholdings as a result of farm seizures meant to assist the poor"<sup>245</sup>. It is no wonder ZANU-PF is opposed to implementing the GPA as it requires a transparent and comprehensive land audit.<sup>246</sup> Moreover, it will delay restoration of full productivity on all agricultural land which one of the stipulations of the GPA.

---

<sup>242</sup> Maseng, J, Country's Inclusive Government, All Africa.com, <http://allafrica.com/stories/20100708972.html>

<sup>243</sup> Ibid

<sup>244</sup> Ibid

<sup>245</sup> Maseng, J, Country's Inclusive Government, All Africa.com, <http://allafrica.com/stories/20100708972.html>

<sup>246</sup> Ibid

Further delays on the implementation and continued disagreements over ministries can only mean more political and economic instability in Zimbabwe. This has the potential to cause one or more signatory of the GPA to pull out of the unity government. ZANU-PF is likely to end up being the sole governing party in Zimbabwe should these violations continue. The GPA can be argued to have created two centers of power as opposed to the unity government it was meant to create. The unequal distribution of political power has the potential to reverse the achievements of the SADC mediation, which is the creation of political platform to plan and decide on the future of Zimbabwe. The GPA provided Zimbabweans with hope but the implementation and its success depends on the political leadership of Zimbabwe.

### *Policy recommendations*

- The implementation of the GPA should take priority over the allocation of ministries. This will mean that all parties fast track the constitution process and prepare Zimbabwean for the next election.
- GNU should consider shifting policies on sanctions and financial support to reflect the pressing need of the people of Zimbabwe rather than political personalities<sup>247</sup>
- Both parties need to realize that none of them holds unilateral control of government institutions and therefore, cooperation is key to the success of the unity government.<sup>248</sup>

### *Evaluation of the mediation*

Diplomacy in its nature is about constructive engagement through dialogue. It can be understood to mean “that the intervening party will not humiliate or attack in public either or any of the parties to the conflict and there is not moral grandstanding; that punitive measures are taken off the table, and are not an option; and finally, talking and dialogue are used to seek an agreement between the warring parties.”<sup>249</sup> This approach was applied in Zimbabwe by both South Africa and SADC. The justification for this theory would be that South Africa’s liberation

---

<sup>247</sup> Kisiangani, E, OpCit

<sup>248</sup> Maseng, J, OpCit

<sup>249</sup> Kennan, G, ‘Containment Then and Now’, Foreign Affairs, Vol. 65, No.4, 1987



was achieved through dialogue. Thus, dialogue has informed South Africa's approach to conflict resolution. This thesis argues that persuasive dialogue was successfully applied in Zimbabwe and the signing of the power-sharing deal was the proof. Many will agree that, over time, this policy seemed ineffective in addressing the crises in Zimbabwe, but eventually the results were positive. The MDC and the ZANU-PF came to terms with the fact the solution to the country's problems required their partnership. The criticism of this policy might have been influenced by the fact that South Africa did not publicly criticize Mugabe and his regime.

Mbeki was seen as agreeing with what the government in Harare was doing. The reality is, "Mbeki spoke a lot on Zimbabwe, and he made it clear that he disapproved of how land was addressed in Zimbabwe in Mugabe's presence."<sup>250</sup> Throughout his term, Mbeki was never an advocate of public diplomacy, his approach to Zimbabwe was an extension of his domestic policy. According to Pahad, Zimbabwe and its citizens was a priority to South Africa over its international popularity. It became important for South Africa to resolve the crises to avoid Zimbabweans from flooding to South Africa.<sup>251</sup> The one thing that Mbeki understood well was that criticizing Mugabe in public did not impact on Zimbabwe. Therefore, persuading him behind closed doors became more effective.

### *Constraints that facilitated the negotiations*

The politics in Zimbabwe were highly militarized making violence a greater stumbling block. The military had made its position clear that it would not be under the leadership of Tsvangirai, a leader with no liberation credentials. ZANU-PF enjoyed the support of the security force and the mediator was aware of this problem and that it would create greater instability if Tsvangirai became president after the government of national unity was formed. It was noted earlier that the mediator needs to know the barriers and conditions that facilitate negotiations, and how to overcome them effectively. Both the parties were committed to the negotiations but they both

---

<sup>250</sup> Interview with Dr Essop Pahad, The Thinker, Midrand, 10 February 2010

<sup>251</sup> Ibid

wanted to lead the new government. A deal that did not put Mugabe as president would remain shaky and lead to instability caused by the security apparatus. On the other hand, extending Mugabe's terms would not be reflecting the will of the majority of the Zimbabwean people expressed in March elections. Continued conflict would not rescue the economy. Saving the economy is both parties' interest. Both parties could no longer resist the effects of the world's lowest economy but who holds power set the parties apart. The MDC had to be part of the government since losing is not good for attracting support.

### *Downside of the mediation*

The ultimate outcome of the mediation was a success in that the conflict it was meant resolved was resolved and the violence decreased. However, the SADC allowed Mugabe too much time to turn a legitimate event into irrelevant. SADC failed to intervene when they realized that results were not issued within a reasonable time. They failed to pressure Mugabe and his ZANU-PF to comply to the electoral laws of Zimbabwe. The March results, which are believed to have been won by the MDC, proved that ZANU-PF had lost support even from its major constituency. It needed plan B to regain the legitimacy by withholding the results in preparation of the presidential run-off it had set up. One may wonder why Mugabe insisted on holding this election after Tsvangirai had pulled out. The answer is quite simple. It was essential that he holds an event similar to the legitimate event in order for him to be protected by the Zimbabwe electoral laws, even though the elections were not legitimate themselves. He wanted to wipe the success of the MDC in the first round elections. The Memorandum of Understanding was signed which set the terms and conditions for the negotiations. "The MOU, underwritten by the SADC, had barred Mugabe from convening Parliament or forming Cabinet while talks were underway and said the Zimbabwean leader could only take such action with the consent of the other parties to the dialogue."<sup>252</sup> However, when the parties reached a deadlock over who was going to lead the new government, Mugabe went ahead and chose cabinet without the MDC. He was again allowed to call the shots because there were no punitive measures taken against him.

---

<sup>252</sup> Mail and Guardian, 27 August 2008

Many have argued that the SADC mediation was far from becoming a success due to the vulnerable deal it produced. It is true that the ZANU-PF did not stick to the agreement; it resisted relinquishing power to the MDC. The mediator was there to facilitate the deal leading up to the government of National Unity. The implementation and success of the deal rests with the parties to the deal. It would be unreasonable to measure the success of the deal by looking at how the government duties were executed. The matters arising after the signing of the deal should be treated as a domestic affair, ZANU-PF and the MDC are now both members of the Zimbabwean cabinet and their cooperation is required to solve the problems confronting Zimbabwe. Success of the mediation needs to be measured against its initial objectives.

### *Recommendations*

- SADC needs to send a strong message to its member states that undermine treaties endorsed by this body. This will prevent parties from violating agreements without punishment.
- Persuasion might have worked in Zimbabwe, but SADC needs set mechanisms that will prevent further election-related violence that leads to power sharing being a quick-fix in its intervention.
- SADC leadership should avoid displaying weakness by not agreeing on how to handle regional conflict. The division caused by the Zimbabwe crisis delayed intervention and showed that SADC is not ready to act as a collective.

### **Bibliography**

#### *Books*

**Afrika spectrum 39, Institut für Afrika- Kunde, Hamburg, 2004**

**Berridge, G.R: Diplomacy: Theory and Practice, Prentice Hall, Upper Saddle River, New Jersey, 1995**

**BROWN, R & SAUNDERS, C 2007 "Zimbabwe: Recent History" IN Frame, I (ed) *Africa South of the Sahara 2008*, Europa Publications, 1287-1295.**

Crocker, Hampson and Aall, "Herding Cats: Multiparty mediation in A complex world", USIP, Washington, 1999

Hlela, N, (2002) Domestic constraints and challenges to South Africa's foreign policy in South Africa: (Ed) Buthelezi, S/ le Roux, E: South Africa since 1994. Lessons and Prospects, Pretoria, Africa Institute of South Africa

Khadiagala, G, " *Forty Days and Forty Nights of peacemaking in Kenya*, Journal of African Elections: Special Issue: Kenya, EISA, Johannesburg, 2008

Lahiff, E, "Zimbabwe's turmoil: Problems and Prospects", Ed: Richard Cornwell, 2003, ISS, Pretoria, South Africa

Lansberg, C, (2002) The Impossible Neutrality? South Africa's foreign policy in the Congo war. in John Clark, F. (ed) *The African Stakes of the Congo war*. Basingstoke, Palgrave

Madzonga, P and D. Mashingaidze, "Introduction", Towards Electoral Reform in Zimbabwe, EISA, Johannesburg, 2007,

Maundi, MO, IW. Zartman, G. Khadiagala, K. Nuamah, "Getting In: Mediators' Entry into the settlement of African Conflicts", USIPP, Washington, D.C, 2006

Mitchelle, CR, "The Motive for Mediation" in New Approaches To International Mediation, Greenwood Press, 1988

Nguben tombi, Nandile, "South Africa's foreign policy towards Swaziland and Zimbabwe", SAIIA, South Africa Yearbook on International Affairs 2003/4

Olaleye, Wole, "Negotiating the Impasse: Challenges and prospects for democratization in Zimbabwe", EISA, 2004, Johannesburg, South Africa, ix

Reynolds A and Reilly B, *International IDEA Handbook of Electoral System Design*. Stockholm: Sweden, 2002

Seirlis, JK, *Walking a tightrope: EISA and the challenges of democracy 1996 – 2007*, EISA, Johannesburg, South Africa, 2008,

Touval, Saadia, *Mediation in the Yugoslav Wars: The Critical Years 1990-1995*, Palgrave New York, 2002

Touval, S, 1993, "Gaining Entry to Mediation In Communal Strife", In *The Internationalization of Communal Strife* ed. M. I. Midlarsky. London & New York: Routledge.

Weiland, H,(2003), *EU sanctions against Zimbabwe – a predictable own goal*. Martin Holland(ed):*Common Foreign and Security Policy: the first ten years (2<sup>nd</sup> Ed.)*, Continuum, London, 2004

Zartman and Touval (1985), *International Mediation in Theory and Practice* ,Boulder, CO, Westview Press

Zartman,IW, "The Negotiation process", SAGE, London,1977

#### Interviews

Adefuye, Ade, In an interview in Johannesburg, South Africa, 19 November 2009.

Kupe, T, In an interview at the University of the Witwatersrand, Johannesburg, 23 November 2009

Machel, Graça, In an interview at the Conference on The Promise of Leadership, Johannesburg, March 2009

Tesha, John, In an interview in Berlin, German, 26 April 2009

Leonard, In an interview in Rosebank, South Africa, 18 November 2009

#### *Journals*

Badza, Simon, "*Zimbabwe's 2008 elections and their implications for Africa*", *African Security Review* Vol. 17 No 4

Barry Lowenkron, in an interview *New African*, BBC Brazil, Summer 2007

Cooks LM, "Putting Mediation in Context", *Negotiation Journal*,April,1995,

*Journal of African Elections: Special Issue on Zimbabwe's 2005 General Election*, EISA, Vol.4, No.2, October 2005

**Journal of African Elections: Special Issue on Zimbabwe's 2005 General Election, EISA, 2005**

**Lieberfield, D, "Nelson Mandela:Partisan and Peacemaker", Negotiation Journal, July, 2003**

**Mbalula, F, "COSATU and Zimbabwe: Signalling left, Turning Point", Volume 4, No. 45 • 12—18 November 2**

**Mbeki, T, "Region unites to support Zimbabwe's effort at progress", Volume 1, No. 33 • 7 - 13 September 2001**

**Mbeki, Thabo, "Chance for Zimbabwe to turn over a new leaf", Volume 2, No. 12• 22 - 28 March 2002**

**Mbeki,T, " We will resist the upside –down view of Africa" Vol.3,No.49, 12-18 December 2003**

**Africa Research Bulletin Vol.No.6, August 8,2002**

**Ndlovu-Gatsheni, Sabelo, "The Nativist Revolution and Development Conundrum in Zimbabwe", *Occasional Paper Series: Volume 1, Number 4, 2006***

**New African: Zimbabwe Special Issue, Summer 2007**

**Pruitt, D. G. (2000). The tactics of third-party intervention. Orbis: A Journal of World Affairs, 44**

**Saunders,H, "We need A Larger theory of negotiation: the importance of pre-negotiation phases", Negotiation Journal,Vol.1,1985**

**Watkins and Winters, "In Theory: Intervenors with Interests and Power", Negotiation Journal,Vol.13,No.2, April 1997**

**Yengeni, T, The Situation in Zimbabwe. Speech at the National Assembly of South Africa, 27 February 2**

*Press*

**Berger, Sebastien, "Too close to Mugabe to be an effective mediator", 13 November 2007**

**Chesal Robert, "Mbeki as a mediator: a mere window-dressing", Radio Netherlands Wereldomroep, 04 April 2007**

***Movement for Democratic Change***, African Union resolution on Zimbabwe disputable, 02 July 2008

Rotber Robert I. "Saving Zimbabwe: Only Intervention by the Country's Neighbours Can Prevent Catastrophe in the Forthcoming Elections." *Financial Times*, January 18, 2002

The Times, "UN Campaigning to sideline Mbeki's role", 4 July 2008

The Zimbabwe Times, "MDC insists there is no dialogue between Zanu PF and itself", 8 July 2008

*The Star*, Talks about talks stutter as MDC demands end to violence 15 July 2008

The Zimbabwe Times, "Tsvangirai's passport seized at airport", 14 August 2008

ZEC 2008b. Briefing to the SADC-Electoral Forum, 26 March 2008. Harare

#### *Internet sources*

Banya, Nelson, Zimbabwe talks in stalemates, July 13, 2008, <http://africa.reuters.com/top/news/usnL13349132.html>

Borger, Julian, "African Union calls for national unity government in Zimbabwe", *The Guardian (UK)*, July 02, 2008 <http://www.guardian.co.uk/world/2008/jul/02/zimbabwe>

Good, K. (2005), 'The lie inside the African miracle', *USA/Africa Dialogue*, No. 460. Available at [www.utexas.edu/conferences/africa/ads/460.html](http://www.utexas.edu/conferences/africa/ads/460.html) Accessed on 8 August 2006.

Irin, "Zimbabwe: What now from SADC", JOHANNESBURG, 18 April 2008

EISA 2008 Interim Statement, 31 March. <http://www.eisa.org.za/pr20080401.htm>

IRIN News, Talking about the talks about talks, July 16, 2008, <http://www.irinnews.org/report.aspx?ReportID=79286>

IEC, IEC announces final results in South African poll, [http://www.elections.org.za/news\\_get.asp?press=0&NewsID=420&Opt=&Data=&RecNum=21](http://www.elections.org.za/news_get.asp?press=0&NewsID=420&Opt=&Data=&RecNum=21), 25 April 2009

Masungure, E, 2008. <http://www.iwpr.net>. 8 May

Mike Nyoni, "Tsvangirai faces critical choices", ReliefWeb, July 08, 2008

Nyago., Kintu. "Mugabe Wise to Drop Prof. Moyo", The Monitor, Kampala, 14 January, <http://allafrica.com/stories/printable/200501130733.html>

SADC. 2008b. Communiqué. 20 April 2008. Lusaka. <http://www.eisa.org.za/WEP/zim2008poste.htm>. 17 April 2008

Timberg, Craig, "Opposition leader won't fight results of Zimbabwe election", The Washington Post, 4 April, <http://seattletimes.nwsource.com/cgi-bin>

ZEC. 2008d. Range of occasional press statements and general announcement on results. <http://www.zimbabweelectoralcommission.org.zw>

Zimbabwe Election Support Network (ZESN) 2008 "Pre-election Update No. 1: 24 November to 14 December 2007", [www] [http://www.zesn.org.zw/newsflash\\_view.cfm?nfid=12](http://www.zesn.org.zw/newsflash_view.cfm?nfid=12)

#### *Occasional papers*

ICG Africa Report, "Zimbabwe: Danger and Opportunity", No.60, 10 March 2003

Ikome, F, Paper presented at the EISA Symposium, Johannesburg, 17 November 2009

Lansberg, C, South Africa's Global Strategy and Status, FES Briefing Paper, 16 November 2006

Matlosa, K, "The Role of SADC In mediating post-election conflict", Paper presented at the EISA Symposium, Johannesburg, South Africa, 17 November 2009

Moyo, J, 2008, "Zimbabwe Crisis? What crisis?" Panel discussion. The Critical Thinking Forum. 23 April

Mpanyane, Saki, "The first step towards the deal in Zimbabwe", ISS, 24 July 2008

#### *Legislation*

Electoral Laws Amendment Act, Act No. 17 of 2007. Harare



**Launch conference of the SADC Election Commissions Forum (ECF)**

*Reports*

**EISA Election Observer Mission Report: Zimbabwe, 2008**

**ICG Africa Report, "Zimbabwe: The Politics of National Liberation and International Division", Report No.52,17 October 2002**

**SA Election Observer Mission Report, Zimbabwe,2002**