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# The 2013 Elections in Zimbabwe: End of an Era for Human Rights Discourse?

### Cornelias Ncube

**Abstract:** This paper examines the implications of Zimbabwe's 2013 harmonised elections on the opposition's continued deployment of the rightsbased discourse to make moral and political claims against and demands of the state. Since 2000, two polarising strands of the human rights discourse – 1) the right to self-determination and 2) civil and political rights – were deployed by the state and the opposition, respectively, in order to challenge extant relations and structures of power. The acutely strained state–society relations in post-2000 Zimbabwe emanated from human rights violations by the state as it responded to challenges to its political power and legitimacy. However, the relative improvement in the human rights situation in the country since the 2009 coalition government came into office, and during and since the recently concluded peaceful 2013 elections – the flawed electoral process itself notwithstanding – suggests a need for alternative new ways to make moral and political demands of the state in the future.

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**Cornelias Ncube** is a postdoctoral fellow in African Politics and Public Policy at the School of Social Sciences, University of KwaZulu-Natal, Durban, South Africa.

E-mail: <Ncubec@ukzn.ac.za>

Zimbabwe held presidential, parliamentary and local elections on 31 July 2013. The harmonised elections ended a four-year coalition government between the Zimbabwe African National Union–Patriotic Front (ZANU–PF) and the two factions of the Movement for Democratic Change (MDC). ZANU–PF won over two-thirds of the parliamentary vote, thereby regaining control of the House of Assembly with 160 seats (compared to 97 seats in 2008). The MDC–T controlled 48 seats (99 seats in 2008), and one seat went to an independent candidate. In the presidential vote, ZANU–PF's Robert Mugabe obtained 61.9 per cent (43.2 per cent in 2008) of the vote, and the MDC–T's Morgan Tsvangirai 33.9 per cent (47.9 per cent in 2008).<sup>1</sup> This comeback by ZANU–PF was as shocking and unbelievable as the MDC–T's loss of political fortune.

The elections took place within the framework of a new constitution adopted in May 2013. Several democratic shortcomings that characterised the preparations for the elections contrasted with the peaceful environment that marked a break from Zimbabwe's post-2000 violent electoral politics, particularly since the disputed, violent 2008 elections that gave birth to the coalition government. As a result, several election-monitoring observers endorsed the elections as free, fair and credible. The Southern African Development Community's (SADC) Election Observation Mission, for instance, endorsed the elections and claimed that "a new chapter in the process of consolidation of democracy in the Republic of Zimbabwe [had] been opened" (SEOM 2013). ZANU–PF celebrated the victory as a "victory for democracy" and bragged that it had won fairly and delivered "democracy on a platter" (Mugabe 2013).

The MDC rejected the outcome and legitimacy of the elections. The MDC–T described the elections as a "huge farce" that had been "heavily manipulated" and were therefore "illegitimate" (Tsvangirai 2013). The smaller MDC faction argued that the elections were "neither fair nor free in the strictest definition of the terms" (Ncube 2013). Local civil society organisations weighed in and argued that "the processes leading up to them [the elections] do not by any stretch of [the] imagination qualify [them] as being free, fair or credible" (Zimbabwe CSO 2013). The strategy of the previous opposition to discredit the ZANU–PF regime's legitimacy in nearly every post-2000 election carried weight because of the latter's complicity in human rights abuses and violations. The peacefulness of the 2013 elections and the absence of gross human rights abuses by ZANU–PF not only during these elections

<sup>1</sup> In the 2008 elections, ten other seats were won by the smaller faction of the MDC led by Welshman Ncube, and one seat went to an independent candidate. In the 2013 elections, the Ncube MDC faction won no seats, and its paltry 2.68 per cent share of the presidential vote was the seal of rejection by the electorate.

but since the formation of the coalition government in 2009 seems to have diminished the effectiveness of the rights-based discourse as a tool to make morally and politically based demands of or claims against the state. What are the implications of Zimbabwe's 2013 harmonised elections for the continued deployment of the human rights discourse as a counter-hegemonic strategy against ZANU–PF's authoritarianism?

# Human Rights Discourse in Post-2000 Zimbabwe

A far-reaching trajectory of the human rights discourse in general predates the pre-2000, postcolonial Zimbabwean state (see Bhebhe and Ranger 2001; Ranger 2003). Post-2000 Zimbabwe has been characterised by two polarising rights claims: The first strand – associated with ZANU-PF – is rooted in the anti-imperialist movements of the twentieth century that challenged colonial powers, and demands the right to national self-determination, which should be realised when a country is sovereign enough to exploit its natural resources, such as land and minerals, without external influence. To achieve Zimbabwean self-determination, ZANU-PF violated the civil and political rights of the opposition. The second strand - associated with the MDC - is rooted in the liberal political philosophy and democratisation processes of the 1990s. It demands fair elections along with civil, political and private property rights. The MDC championed these rights in order to challenge ZANU-PF hegemony in ways that, from the standpoint of ZANU-PF, served "Western hegemony". In Gramscian language, it can be argued that the "ruling movement" (ZANU-PF, war veterans, and various land movements) belonged to the "hegemonic bloc", whilst the "opposition movement" (the MDC and human rights and civic governance movements) belonged to the "counter-hegemonic bloc" (see Gramsci 1971). This grouping of political actors into hegemonic and counter-hegemonic blocs is more of a methodological device than it is an organic delineation (Ncube 2012: 253).

# Human Rights Violations as Developmental Repression

The February 2000 constitutional referendum was a critical juncture that projected the aforementioned two strands of rights-based claims into the body politic of Zimbabwe. In that year, civil society and the MDC campaigned for the rejection of a government-sponsored constitutional draft, arguing it ignored citizens' demands for reduced presidential powers, among other pertinent issues, and that it entrenched ZANU–PF's hold on power.

The rejected constitutional draft included a clause empowering the state to take land from the minority white commercial farmers and redistribute it to the majority landless blacks. ZANU–PF linked the rejection of its constitutional proposal to the re-entry into politics of the white farming community that had remained politically reclusive since 1980. ZANU–PF framed this as an attempt by (neo)imperialists, working in conjunction with the opposition and civil society, to violate the country's right to national self-determination in respect to the government's policy of forced land redistribution.

In an effort to counteract the political influence of white farmers, shortly before the June 2000 parliamentary elections ZANU-PF amended the Land Acquisition Act, setting the stage for fast-track land acquisition and resettlement without compensation. War veterans, youth militias, landless peasants and other supporters were mobilised to invade white-owned commercial farms. Violence was unleashed on the white commercial farming community, including farm workers, civil society and the MDC and its supporters, in the name of a revolution to defend the country's sovereignty against (neo)imperialism. Focusing publicly on the issue of national selfdetermination, ZANU-PF spun all major elections as wars against (neo)imperialists. In other words, the right to "external self-determination" (against extant power relations in the global system) was prioritised over the right to "internal self-determination" (referring to political and civic rights of citizens, including that of choosing one's own government) (Vincent 1986: 80). Like the Marxists who challenged extant power relations in capitalist society and abhorred the pursuit of interests not consistent with those of the proletariat class as undemocratic (Donnelly 1989), ZANU-PF argued that the pursuit of interests not consistent with the objectives of liberation amounted to complicity in the re-colonisation of Zimbabwe. Following that logic, ZANU-PF declared that the right to national self-determination countered "Western hegemony" and expressed this sentiment through slogans such as "Zimbabwe will never be a colony again" and "The pen cannot defeat the gun". The human rights violations and repression by the state were justifiably perpetrated and ignored in the name of the greater good. Jack Donnelly calls this "developmental repression", which

is likely to be "required" (or at least extraordinarily difficult to avoid) in pursuit of what can be called *the structural task* of removing institutional and socio-cultural barriers to development and *the policy task* of assuring conformity to development plans. (Donnelly 1989: 187-188)

The implementation of developmental repression included purging the judiciary, passing repressive legislation, distributing humanitarian aid along partisan lines, arresting opposition leaders on treason charges, unilaterally withdrawing Zimbabwe from the Commonwealth and implementing the indigenisation policy that required foreign investors to cede 51 per cent of shares to locals. In addition, the use of legal and paralegal means along with military and paramilitary strategies to force Zimbabweans to conform to ZANU–PF's development vision helped it maintain its hold on power. The contradictions inherent in ZANU–PF's actions were evinced by corruption involving the appropriation of more than one farm by ruling elites; in some cases, ordinary and powerless individuals were unfairly removed from farms despite having official government offer letters. The top military brass, politicians, and top civil servants linked to ZANU–PF have been fingered in corruption scandals, in both the mining and agriculture sectors. ZANU–PF's developmental repression became nothing more than a cover-up for official self-aggrandisement.

### Human Rights as a Subversive Tool for Political Change

Despite the persuasive arguments by the ruling movement, the opposition responded to the fast-track land reform by deconstructing it as a political tool used by ZANU-PF to gain lost legitimacy and retain political power. In this deconstruction, civic and constitutional rights were prioritised over economic and social justice issues. There are two sub-strands in the deployment of the human rights discourse as a counter-hegemonic strategy by the opposition movement. The first sub-strand, according to Sachikonye, downgraded the significance of historical colonial wrongs in favour of "the sanctity of property rights and the 'rule of law''' (Sachikonye 2004: 11), voting rights, and the freedoms of assembly, association and speech. Similarly, Raftopoulos argues that civic and constitutional rights were de-linked from the broader political economy issues in Zimbabwe and the Southern African region, and that the emphasis on those rights ignored the negative effects of global neoliberalism on economic, social and political issues. As a result, the failure to strongly link these rights claims to "a strong national social base" risks "a greater likelihood of [counter-hegemonic actors] becoming extensions of international developments and passive citizens in a project beyond their control" (Raftopoulos 2010: 709).

Several reasons explain the prioritisation of civil and political rights over social and economic justice rights by the counter-hegemonic movement. The most obvious reason is that the opposition wanted to de-legitimate the ZANU–PF regime on both the international and domestic fronts, with the end goal of achieving regime change. As a result, the socio-economic rights problems tied to the land question were interpreted as nothing more than the politicisation of the land question in order to rekindle ZANU–PF's waning popularity and legitimacy. Understandably, therefore, the opposition's stated priority of strengthening civil and political rights became a potent subversive political and moral tool used by the counterhegemonic forces against the Mugabe regime; yet, this focus also became an albatross for the opposition forces following accusations – not entirely without truth – that they were in an unholy alliance with Western imperialists to derail the realisation of the equally important social, economic and cultural rights.

A critical examination of the different objectives informing the deployment of the liberal democracy discourse by the various constitutive social actors in the counter-hegemonic bloc reveals these internal contradictions. Beyond the common goal of removing the Mugabe regime from political power, the white commercial farmers within the counter-hegemonic bloc deployed the human rights discourse to advance the sanctity of property rights in order to prevent the forced acquisition of their farms for redistribution. The black actors within the same bloc deployed the human rights discourse instrumentally to provide victims of electoral and other politically motivated violence with institutional structures, norms and values to protect their claims to civil and political rights. These rights were defended at all costs, and their realisation or fulfilment was seen as the answer to the country's governance crisis. In 2008 an academic from the University of Zimbabwe outlined the primacy of civil and political rights this way:

Some people define the problem as purely political with economic, social and military consequences. Some will say the problem is economic. But we have tried to come up with economic programmes or policies, and less political programmes or policies, and the situation has not ameliorated. If anything, the situation has worsened, critically pointing [to] the undeniable fact that those who are discussing the economic question in Zimbabwe are discussing the wrong question. The question that they are supposed to be discussing is the political question, which is inevitable and necessary in our circumstances.<sup>2</sup>

Accused of being complicit in sustaining unequal power relations in the interest of (neo)capitalists, a second sub-strand in the deployment of human rights by the counter-hegemonic bloc slowly emerged and attempted to merge the two radical positions drawn from the hegemonic and the counter-hegemonic historical blocs in ways that were sensitive both to the imperatives for redistributive "social justice" and to procedural demands for "rule of law" (Sachikonye 2004). This sub-strand, except when it was driven by actors that preferred "principled engagement" with the state, was still biased toward the imperative of civil and political rights. A representative of the Zimbabwe Coalition on Debt and Development (ZIMCODD), by contrast,

<sup>2</sup> Interview with Simon Badza, University of Zimbabwe, Harare, 20 June 2008.

claimed it would "make the circle for the struggle for human rights a bit more complete in terms of linking your socio-economic rights to your political rights. Not so many people do it as a single organisation tackling all these issues".<sup>3</sup>

As a rallying point toward the realisation of these rights, ZIMCODD argues that the people of Zimbabwe have a right "to refuse payment of any odious debt accrued by a dictatorial government" (*ibid.*). Even when peppered with the language of economic and social justice rights claims, ZIMCODD's stance on debt entry rarely mentions land reform, and the reference to "dictatorial government" indirectly highlights the poor record of the state *vis-à-vis* civil and political rights and is meant to discredit the regime's "developmental repression" (Donnelly 1989: 187). As a result, many commentators challenged the counter-hegemonic bloc in order to raise awareness of its "limitations and disabling elements" so that its uncritical use of the human rights discourse does not become "the new form of imperialism" (Raftopoulos 2010: 709).

The above weaknesses notwithstanding, the deployment of human rights discourse by the counter-hegemonic bloc enjoyed some successes in the struggle for political change. The rights discourse helped to mobilise masses against the regime and garner the international community's (Western governments and their local constituencies) sympathy against the regime in the face of gross human rights violations and abuses. The regime accused the opposition of being unpatriotic and civil society of meddling in politics. According to actors in the counter-hegemonic bloc, however, the gross human rights violations on the part of the regime meant that they could not afford the luxury of preoccupying themselves with what one respondent referred to as "inconsequential patriotic sentiments and neutrality".<sup>4</sup> Discrediting the legitimacy of the regime and advocating its isolation through sanctions was justified because, as Vincent (1986: 102) argues,

campaigning for human rights should be a subversive activity, and subversion is not well done by those who are preoccupied with maintaining their apolitical credibility in the minds of the very institutions they should be subverting.

Thus, one of the successes of the counter-hegemonic bloc was the media blitz on the status of human rights in the country, which simultaneously catalysed the masses against the regime and drew the attention of the international

<sup>3</sup> Interview with Joy Mabenge, Zimbabwe Coalition for Debt and Development (ZIMCODD), Harare, 16 June 2008.

<sup>4</sup> Interview with Enerst Mudzengi, National Constitutional Assembly (NCA), Harare, 21 April 2008.

community to the crisis. Instead of being known as a bastion of peace, stability and economic development, the country became synonymous with food shortages, hunger, arrests and torture, among other travesties.

A positive political outcome of this de-legitimating process was that the regime was forced to make political reform concessions, albeit tactical (to ensure its survival). The concessions included agreeing to an SADC-mediated peace agreement that resulted in the formation of the inclusive government in 2009, after the violent 2008 elections. Simultaneously, the media blitz on human rights violations that amplified the illegitimacy of the regime kept donors interested and in a sense assisted in funding research and advocacy activities by the counter-hegemonic bloc. However, the human rights strategy abstracted actors in the opposition bloc (especially the urban-based civic groups) from constructive policy engagement with the state, even in policy areas that were less political. As a result, the entrenched positions about which rights are "primary" and which are "secondary" contributed both to a solution and to creating centres of conflict. For example, the Mugabe regime reacted to George W. Bush's proclamation that his Zimbabwe was a point on the "axis of evil" by cracking down on all anti-state sentiments. Ironically, the same international human rights covenants that the state was breaking willy-nilly also protected it from external interference.

### The Coalition Government

Before institutionalising the coalition government, the collision between the two strands of rights-based claims discussed earlier created a crisis of legitimacy and efficacy for the ruling ZANU–PF party (Masunungure 2009). The violence and human rights abuses in the 2008 elections marked the zenith of this two-pronged crisis for ZANU–PF and compelled it to enter into a coalition arrangement with the opposition. The coalition government shifted discourses and the focus of the struggle away from the arguments about ZANU–PF's crises of legitimacy and efficacy as the protagonists resolved to collectively address the issues.

Thus, from 2009 to 2013 they were preoccupied with reviving the economy and writing a new constitution that would pave the way for democratic elections, which, it was hoped, would solve the legitimacy question that the coalition government had meanwhile put on hold. Although characterised by an acrimonious relationship between the political parties, especially in the area of constitutional reform, collective success was achieved by stabilising the economy and improving service delivery, especially in the education and health sectors. According to Masunungure (2013), the performance of the coalition government "remains a reference standard for many Zimbabweans who had tasted some sanity in many facets of their life". This sanity is epitomised by the improved human rights situation in the country and a stabilising economy.

# After the 2013 Elections: A Case to Shift Discourses

A key feature of the 2013 elections was the absence of politically motivated violence, and in particular, the willingness by ZANU-PF to restrain itself from overtly tilting the elections in its favour through intimidating and committing human rights abuses against the opposition and its supporters. Instead, the elections were won by deploying the less violent "menu of manipulation" (Schedler 2002), which included restricting the opposition's access to media, disenfranchising citizens from the electoral process through a stringent (and selective) voter-registration process, coercing voters through vote-buying in the form of donations during rallies and, according to claims by the opposition, inflating votes in favour of incumbents (see Tsvangirai 2013). While these practices violated the liberal-democratic principles of freedom and fairness and clearly rendered the 2013 elections "instruments of authoritarian rule rather than 'instruments of democracy'' (Schedler 2006: 3), the absence of violence and gross human rights violations heralded a new chapter in Zimbabwean politics. Fundamentally, the peaceful 2013 elections and the political stability that had existed since 2009 seem to have curtailed the deployment of the human rights discourse to demonstrate the illegitimacy of the ZANU-PF regime.

In other words, the 2013 elections solved the crisis of legitimacy. However, the struggle to achieve efficacy continues. The overall struggle for social democracy in Zimbabwe encompassing rights-based claims to both national self-determination and civil and political rights will continue (Zhangazha 2013). Several commentators have already proposed ways to balance and realise both sets of rights-based claims (see Moyo and Yeros 2007; Raftopoulos 2006). Going forward after the 2013 elections, moral and political claims should focus on tangible pro-poor policies, particularly improved service delivery. Michael Neocosmos makes a similar case for the need to refocus the human rights discourse and argues that

the history of liberation and democratisation in Southern Africa cannot be a history of anything but [...] social and political transformation. [...] Rights discourse reduced democratisation to changing legislation and to the introduction of formal democratic procedures: Changes took place at the level of institutions, but not at the level of society. [...The human rights discourse] has major difficulties in addressing collective rights and is quite incapable of confronting *social* grievances. (Neocosmos 2002: 6, 8)

The discourse and the struggle need to shift to emphasise efficacy of service delivery for the poor masses, and this entails that the political will of the new ZANU–PF regime embrace the politics of tolerance that the coalition government has attempted to institutionalise.

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#### Die Wahlen in Zimbabwe 2013: Das Ende einer Ära des Menschenrechtsdiskurses?

Zusammenfassung: Dieser Beitrag untersucht die Implikationen der im Juli 2013 abgehaltenen Parlaments- und Präsidentschaftswahlen in Zimbabwe für den politischen Diskurs der Opposition, die den Staat weiterhin mit an den Menschenrechten orientierten moralischen und politischen Forderungen zu konfrontieren sucht. Seit dem Jahr 2000 hatten sowohl staatliche Akteure als auch die Opposition mit zwei polarisierenden Diskussionssträngen innerhalb des Menschenrechtsdiskurses - indem sie entweder das Recht auf Selbstbestimmung in den Vordergrund rückten oder die Bürger- und politischen Rechte - versucht, bestehende Machtverhältnisse und -strukturen zu hinterfragen. Die Beziehungen zwischen Staat und Gesellschaft waren in den Jahren nach der Jahrtausendwende extrem angespannt, nachdem staatliche Organe mit Menschenrechtsverletzungen darauf reagiert hatten, dass politische Macht und Legitimität der Regierung vonseiten der Opposition infrage gestellt wurden. Mit der relativen Beruhigung der Menschenrechtslage im Land seit Amtsantritt der Koalitionsregierung 2009 und im Verlauf und Anschluss der - trotz aller Verfahrensmängel - friedlichen Wahlen von 2013 steht die Opposition nun vor der Aufgabe, neue Wege einzuschlagen, um auch in Zukunft moralische und politische Forderungen an den Staat zu richten.

Schlagwörter: Zimbabwe, Wahl, Menschenrechte, Gesellschaftliche Opposition/Politische Opposition, Politische Kultur