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Author(s): Sara Rich Dorman

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*NGOs and the Constitutional Debate in Zimbabwe: from Inclusion to Exclusion**

SARA RICH DORMAN

(University of Edinburgh)

Two competing processes of constitutional reform occurred in Zimbabwe between 1997 and 2000. In 1997, the National Constitutional Assembly (NCA), led by churches, NGOs and unions, was formed and initiated a constitutional debate. In 1999, the ZANU(PF) government of Robert Mugabe attempted to reclaim the debate by launching a Constitutional Commission (CC) with a mandate to consult Zimbabweans and draft a new constitution, to be voted on in a plebiscite in February 2000. The governmental process was unprecedented in its participatory and inclusive nature. Opposition politicians, NGO activists and church people were included alongside ZANU(PF) stalwarts. At the same time, the rhetoric used against those in the NCA who rejected the invitation to participate grew increasingly exclusionary and intolerant. The ruling party was, in this period, beset by revelations of scandals, financial crises and declining social services. The constitutional debate was, at least in part, an attempt to regain control of political discourse, even as the state's ability to provide services was weakened. Instead, the public consultations provided a platform for the articulation of devastating critiques of the regime's political and economic policies in public meetings that were covered extensively in the media. The government's defeat in the referendum, in which voters rejected the draft constitution, legitimated the existence of organisations and ideas outside the hegemony of the ruling party/state. The voting public (albeit a largely urban selection of the potential electorate) affirmed the claims made by the NCA to speak and act outside the remit of the state. This rejection of the way in which politics had been done since independence set the stage for the violent and coercive politics of 2000 and beyond.

Introduction

The constitutional debate in Zimbabwe between 1997 and 2000 provides a window through which to examine the ambiguity and complexity of state–society relations. A detailed study of the politics surrounding the constitutional debate enables us to understand better the nature and context of Zimbabwe's current political crisis. The process that led to the constitutional referendum in February 2000 catalysed a significant shift in rhetorical and coercive politics. While the regime's rhetoric and strategies became more intense and often violent, strong continuities with earlier post-independence politics were also evident. The constitutional debate provided a forum in which quite significantly more open political debate took place than at any previous time. A regime previously based on de-mobilisation

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and de-participation attempted to respond to demands from 'civil society' by capturing the process of inclusive consultation. Significantly, it almost succeeded.

The Politics of Inclusion: 1980–1997

Zimbabwe's politics in the 1980s greatly resembled that of other nationalist regimes in Africa after independence. The ruling party sought to consolidate the coalition of social forces that had supported it during the liberation war, and to expand its coalition to incorporate groups that had remained outside – supporters of Muzorewa's UANC and the internal settlement, ZAPU, and even the former Rhodesian Front – on its own terms.¹ Nationalist politics throughout Africa has tended to be a politics of coalition-building, that is, incorporative or inclusive, requiring a careful balancing of disparate forces under the nationalist banner.² Like the much earlier *de jure* and *de facto* single parties in West and East Africa, ZANU(PF) was actually a party *unifié* (unified party) rather than a party *unique* (single party).³

While this coalition-building was typified by the demobilisation of social forces, it was not lacking in conflict. ZANU(PF) war veterans perceived themselves as central to the nationalist coalition, but found themselves sidelined by the regime's concern to uphold the interests of newer allies – commercial farmers and business. Norma Kriger has detailed the ways in which government officials used piecemeal financial incentives to derail their potentially destabilising protests in the 1980s.⁴ More coercively, opposition political leaders who did not acknowledge ZANU(PF)'s leadership were accused of collusion with South Africa or other enemies, and were imprisoned or forced into exile.⁵ At the apogee of its violence, ZANU(PF)'s attempts to quash its nationalist rival ZAPU degenerated into a genocidal attack on civilians in Matabeleland, as well as ex-ZIPRA combatants, leaving thousands dead, disappeared or tortured.⁶

The regime's politics was rhetorically supported by a discourse that emphasised reconciliation and unity, development, and nationalism, in a complex mixture of policy and symbolism. In order to achieve the goal of 'development' all groups had to work together in 'unity' under the umbrella of the ruling party. Churches, unions and other groups were reminded again and again in official speeches that inclusion was the route to peace and prosperity.⁷ The undoubted importance of bringing development to the new nation and the successes of developmental policies reinforced and legitimised the regime's message. As Raftopoulos says, 'the nature of [ZANU(PF)'s] hegemonic position was characterised by a

1 On the nationalist movement's drive for unity before independence, see T. Ranger, 'Legitimacy, Civil Society and the State in Africa' (First Alexander Visiting Professor Lecture, University of Western Australia, 2 December 1992); B. Raftopoulos, 'Civil Society, Governance and Human Development in Zimbabwe' (unpublished ms., n.d.).

2 S. Trapido, 'African and Afrikaner Nationalism' (unpublished ms., June 2001). Aristide Zolberg's analysis of Sékou Touré's thinking about unity also continues to have relevance: A. Zolberg, *Creating Political Order: The Party States of West Africa* (Chicago, Rand McNally, 1966), especially pp. 44–7.

3 J. Linz, *Totalitarian and Authoritarian Regimes* (Boulder, Lynne Rienner, 2000), p. 229, citing W. J. Foltz, *From French West Africa to the Mali Federation* (New Haven, Yale, 1965), p. 143, citing Leopold Senghor.

4 N. Kriger, 'The War Victims Compensation Act', *Journal of African Conflict and Development*, 1 (2000).

5 See for instance, *Herald*, 18 April 1984, 18 October 1982, 16 November 1982.

6 Lawyers' Committee for Human Rights, *Zimbabwe: Wages of War* (New York, LCHR, 1986); ZimRights, *Choosing the Path to Peace and Development: Coming to Terms with Human Rights Violations of the 1982–1987 Conflict in Matabeleland and Midlands Provinces* (Harare, ZimRights, 1999); CCJP/LRF, *Breaking the Silence, Building True Peace. A Report on the Disturbances in Matabeleland and the Midlands, 1980–1988* (Harare, CCJP/LRF, 1997).

7 *Herald*, 26 January 1981, 6 November 1981, 13 November 1981, 27 January 1982, 28 January 1982, 29 January 1982, 2 March 1982, 10 March 1982, 1 May 1982, 3 May 1982.

popular level of consent, and a distinctive coercive strain, which sought to enforce a particular strategic unity'.⁸

Turning to the main focus of this study, NGOs seem to have been exempt from this public hectoring – perhaps because most were already recognised as being 'on side'. The Zimbabwe Council of Churches, perceived as pro-UANC because of its acceptance of the Internal Settlement, was an exception, but was quickly brought into line.⁹ The cosy relationship between NGOs and churches did not entirely survive the government's armed intervention in Matabeleland, which drastically curtailed NGO operations. Nevertheless, while a few NGOs protested at the violations of civil liberties, others ignored the crisis.

The emergence of labour and students from an ideologically and materially linked relationship with the ruling party during the Willowgate scandal and the one-party state debate, led the state to introduce legislation designed to weaken these movements.¹⁰ When similar legislation – the Private Voluntary Organisations (PVO) Act – was brought in to regulate NGOs in 1995, few organisations offered criticism. In 1995, the then General-Secretary of the Zimbabwe Council of Churches told me, 'I am not really very worried about it ... the basic welfare operations will remain the same ... so I am not going to spend my time and my energy trying to look at the dots and the full-stops ... What difference does it make?'¹¹ Even when a grassroots NGO for women was banned under the new legislation a year later, many NGOs were reluctant to take action. NANGO, the government-recognised National Association of NGOs, was at this point labouring under a several million dollar debt and haemorrhaging staff. It was unable, and unwilling, to organise NGOs or assist them in lobbying the state.¹² Attempts to organise NGOs in protest against the PVO Act, or around other issues, were met with a chorus of concern that NGOs should not engage in these actions save through officially recognised channels. As I have discussed in more detail elsewhere, NGOs valued the benefits of inclusion and were reluctant to challenge the regime.¹³

Yet, by 1997, a series of economic and political events set the stage for a remarkable shift in NGO attitudes towards 'politics'. At this point, the government's 'developmental' credibility was at its weakest. In addition to the collapsing health and education systems, a series of damaging public sector strikes and evidence of systematic high-level corruption, the government's acquiescence to war veterans' demands for substantial pensions led to a rapid devaluation of the Zimbabwe dollar in November. The rapidity and severity of the subsequent economic crisis was unprecedented and fundamentally destabilised the coalition of forces around ZANU(PF). The war veterans who had demonstrated outside the President's residence, taken over court rooms and looted the ZANU(PF) party headquarters, were briefly mollified by pension pay-offs in late 1997. But this decision threw the economy into chaos, and distanced the business and farming communities. The 'officially recognised' Zimbabwe National Liberation War Veterans' Association seemed determined to re-make itself as a political player. Yet the rhetorical and material resources

8 Raftopoulos, 'Civil Society, Governance and Human Development in Zimbabwe'.

9 *Herald*, 10 November 1981, 16 November 1981. See also C. Hallencreutz, 'Ecumenical Challenges in Independent Zimbabwe', in C. Hallencreutz and A. Moyo (eds), *Church and State in Zimbabwe* (Gweru, Mambo Press, 1988), p. 267.

10 N. Tengende, 'Workers, Students and the Struggle for Democracy: State—Civil Society Relations in Zimbabwe' (PhD thesis, Roskilde University, 1994); F. Schiphorst, 'Strength and Weakness: The Rise of the Zimbabwe Congress of Trade Unions and the Development of Labour Relations, 1980–1995' (PhD thesis, University of Leiden, 2001).

11 Interview, Murombedzi Kuchera, 11 September 1995.

12 S. Rich, 'The State of NGOs in Zimbabwe: Honeymoon Over?', *Southern Africa Report*, 12, 3 (June 1997), pp. 17–20.

13 S. R. Dorman, 'NGOs and State in Zimbabwe: Implications for Civil Society Theory', in B. Beckman, E. Hansson and A. Sjögren (eds), *Civil Society and Authoritarianism in the Third World* (Stockholm, PODSU, 2001).

which the weakened regime could draw on were limited: 'the only major resource available to the state as a basis of patronage, employment creation, and a potential source of capital accumulation, [was] the land'.¹⁴ As a result, when the combined forces of churches, unions, NGOs, farmers and business threatened the regime between 1997 and 2000, it catalysed the final breakdown of the coalition and marked a very public manifestation of the regime's weakening ability to hold together its 'auld alliance'.

A New Initiative: the Growth of the NCA

In May 1997, the Zimbabwe Council of Churches (ZCC) called a series of meetings for NGOs, churches and unions interested in working on the constitution. This group became the nucleus of the National Constitutional Assembly (NCA). The initiative started with two staff members of the Justice, Peace and Reconciliation office, Tawanda Mutasah and Deprose Muchena, both 'veterans' of student politics as well as of earlier NGO coalitions. Initial funding for the period June 1997 to June 1998 was provided by the German social democratic NGO, Friedrich Ebert Stiftung (FES).¹⁵ The budget was later supplemented with funding from Oxfam, HIVOS, the Friedrich Naumann Foundation, and the embassies of Denmark, the Netherlands, Canada, Australia and Sweden.¹⁶ A provisional taskforce was headed by Morgan Tsvangirai, representing the Zimbabwe Congress of Trade Unions (ZCTU). A steering committee was chosen which included representatives of particular constituencies, including NGOs, the ZCTU and youth groups, as well as individuals acting in the role of 'consultants', primarily lawyers and academics.¹⁷

The NCA was the largest – and most disparate – coalition of groups to come together around policy issues in Zimbabwe. It comprised over 100 NGOs, community associations and trade unions, as well as an indeterminate number of individual members.¹⁸ In addition to its large taskforce of nineteen members, it also created an advisory committee of ten members and legal, disciplinary, media and information, finance and management, gender and youth committees chaired by taskforce members, all of which had six to eight members. Unlike earlier *ad hoc* NGO coalitions, the NCA had a budget and a secretariat to administer it, albeit based within the ZCC.

The NCA premised its work on a critique of the Lancaster House constitution, emphasising the multiple amendments subsequently made by the ZANU(PF) government. Many of these were perceived as 'panel-beating', i.e. as designed to render constitutional laws that the Supreme Court had ruled unconstitutional.¹⁹ This meant that the NCA had to revisit many of the key political issues of the past decades. Morgan Tsvangirai highlighted the lack of 'public scrutiny and accountability' in the legislating of amendments, and linked them to the 'abuse of power ... personality cults, and lack of transparency in our governance'.²⁰ As Masipula Sithole sagely observed, the NCA was formed more in reaction to the creation of the Executive Presidency in 1987, than to the Lancaster House constitution.²¹

14 Raftopoulos, 'Civil Society, Governance and Human Development in Zimbabwe'.

15 Research notes, 28 May 1997 and 11 June 1997. See also, *inter alia*, NCA, 'The NCA: First Interim Report', 3 July 1997, and T. Mutasah, 'Building a Representative and All-inclusive Constitution: Proposals and Strategies', in ESS, *Tolerance in Zimbabwe: Towards a Political, Cultural and Constitutional Basis*, report of a workshop held in Harare, 28 May 1997.

16 'NCA annual report', 1998.

17 B. Kagoro, 'The Evolution of the NCA', *Agenda*, 2, p. 1; research notes, 11 June 1997; 'The NCA: First Interim Report', 3 July 1997.

18 Personal communication, Brian Raftopoulos, 2 August 2001.

19 The phrase 'panel-beating' is borrowed from Dr John Makumbe, speaking at 'Public Meeting: Establishing a Constitutional base for Democratic Practice: Lessons from South Africa', Harare, 28 May 1997.

20 M. Tsvangirai, 'Welcome Address at the National Conference on the Zimbabwe Constitutional Debate Project', Kadoma Ranch Motel, 6 September 1997.

21 M. Sithole, 'Minister with Many Portfolios and the NCA', *Agenda* (April 1999).

Simply by bringing up the issue of the constitution and encouraging public debate, the NCA catalysed and regularised a debate that, until then, had had no formal place in the public domain.

The NCA capitalised on both the latent critique of the government and the newly expanded independent media. Despite the sense of crisis rapidly emerging in 1997, public criticism of government policies had remained the domain of a few activists and newspaper columnists. However, using the framework of the constitution, which was described by NCA members as a 'non-political' way of talking about the exercise of politics, the NCA rapidly gained momentum. The ZCC's presence as organiser was particularly valuable in legitimating the process. Some participants wanted the NCA to be a free-standing body, autonomous from the ZCC, but were told that 'we need an umbrella ... the church is always considered impartial. If we have ZCC as our umbrella no one will say we are being political'.²² Even an outspoken human rights activist suggested that, 'There is risk of a boycott or attack if not under ZCC ... [T]he ZCC umbrella is strategically a good one'.²³

Although the NCA's main agenda was supposed to be grassroots education about constitutional issues, during 1998 a more typical NGO agenda of urban-based meetings was pursued.²⁴ Much effort and resources went into the thematic discussions of land, business, youth and women's issues, topics that attracted wide participation, including that of at least one Cabinet Minister. At the same time, the NCA prepared materials and trained facilitators to undertake the nationwide 'conscientisation' programme. In its series of pamphlets entitled 'Debating the Constitution', the NCA addressed issues using cartoons, designed to be used in workshops by facilitators. The booklets addressed the issues of citizenship, the constitution, finance, principles of democracy, the declaration of rights, the executive, parliament, the judiciary and other services.²⁵ These cartoons combined realistic situations with humour and the occasional didactic message. Six hundred facilitators – 60 in each province – were trained to hold district-level meetings, using the booklets to elicit feedback from participants.²⁶ In its newspaper advertisements, the NCA similarly used graphics effectively in stimulating debate about the role of parliament *vis-à-vis* the executive.²⁷ By 1999, it was ready to go to the nation.

In 1998, the NCA had also organised protests against the authoritarian Public Order and Security Act, and the Zimbabwean military intervention in the Democratic Republic of the Congo (DRC). These protests were unpopular with some leading members of the NCA and drew the critical attention of the regime.²⁸

The Government Changes the Rules of the Game

The government launched its own Constitutional Commission (CC) in March 1999.²⁹ While there had been suggestions that the NCA process would feed into the government's proposed commission, and talks were held between the two groups, they could not reach agreement on the issue of guaranteeing the commission freedom from presidential interfer-

22 Research Notes, Constitutional Assembly Meeting, Kadoma, 7 September 1997.

23 *ibid.*

24 'NCA evaluation report', n.d., p. 14. Also see, 'Evaluation of Strategic Process', NCA Annual Report, 1998, pp. 40–41.

25 NCA, *Debating the Constitution* (series of 11 booklets) (1999).

26 Two images from these booklets are reproduced in Dorman, 'Inclusion and Exclusion', p. 291.

27 Two of these advertisements are reproduced in Dorman, 'Inclusion and Exclusion', p. 292.

28 For a more detailed discussion see S. R. Dorman, 'Rocking the Boat? Church NGOs and Democratization in Zimbabwe', *African Affairs*, 101 (2002), pp. 87–88.

29 On the launch of the government's CC see *Herald*, 23 February 1999, 15 June 1999; *Sunday Mail*, March 1999. On the NCA's reaction see *Standard*, 2 May 1999; *Independent*, 2 April 1999.

ence.³⁰ While the government promised that a referendum would be held to ratify the draft constitution, reports of previous Commissions of Inquiry had not been made public.

Unlike the NCA, the CC emphasised not the amendments to the constitution, but that the post-independence constitution had been written by a small group in the United Kingdom for the Lancaster House conference. The CC's goal was thus often described as a 'home-grown' constitution. Minister Eddison Zvobgo said, 'we are not amending the Lancaster House constitution but moulding it in our own image as you cannot have a nation which breathes the historical experiences of another nation'.³¹ Aware of the need for transparency, the CC went far beyond any previous commission in Zimbabwe in using paid advertisements and press releases to outline exactly how it would function. The CC launched its consultation by printing a document entitled 'Constitutional Issues and Questions'. It raised a series of questions ranging from the criteria for Zimbabwean citizenship, the optimum voting age and the separation of powers, to the death sentence and abortion. Much the same sets of questions – in English, Ndebele and Shona – were asked in newspaper advertisements which invited further participation in the process.³²

The Commission's chair was Justice Godfrey Chidyausiku, who had recently chaired the investigation into the looting of the War Veterans' Compensation Fund. The Anglican Bishop of Harare, Jonathan Siyachitema, Professor Walter Kamba, the former Vice-Chancellor of the University of Zimbabwe, and Mrs Grace Lupepe sat as vice chairs. Kamba chaired the Co-ordinating Committee which had two sub-committees – Administrative and Finance, chaired by academic and publisher Ibbo Mandaza, and Media and Information, chaired by academic turned politician Jonathan Moyo. Of the 395 Commissioners, 150 were MPs. The remainder were described as representing interest groups, but this included chiefs (presumed to be ZANU(PF)), mayors (at that time all ZANU(PF)) as well as a wide range of opposition politicians, church people and NGO representatives. This mix of ZANU(PF), opposition and non-aligned commissioners was quite unprecedented, but it was still interpreted by some as over-representing ZANU(PF). Opposition politician Margaret Dongo for instance accused the commission of duplicating the structures of ZANU(PF). She argued that 'three-quarters are the ruling party's politburo, central committee members, provincial chairpersons, and so-called indigenous business persons aligned to the party'.³³

Like the NCA, the CC appealed for donor funding. While it is not entirely clear how much they received, their projected budget was Z\$300 million. The CC was reported to have received Z\$22.8 million from the Ford Foundation, and Z\$19 million from the Kellogg Foundation, channelled through Ibbo Mandaza's SAPES Trust.³⁴ Bilateral funding also came from South Korea (Z\$380,000), Canada (Z\$4 million) and Australia (Z\$1.2 million).³⁵ The United Nations Development Programme facilitated donations of Z\$20 million from the Netherlands, Sweden, Norway and Denmark.³⁶

30 B. Peta, 'NCA and Government Discuss the Way Forward', *Agenda*, 6 (November 1998); *Herald*, 26 March 1999; B. Raftopoulos and G. Mazarire, 'Civil Society and the Constitution Making Process in Zimbabwe: NCA 1997–2000', in K. Fayemi and S. Moyo (eds), *Evaluating the Constitutional Process in Zimbabwe* (forthcoming), pp. 6–10.

31 *Herald*, 4 March 1999.

32 For example, five tabloid pages in English in the *Daily News*, 5 August 1999; three broadsheet pages in English in the *Herald*, 5 August 1999; three broadsheet pages in Shona in the *Herald*, 21 August 1999; two of these advertisements are reproduced in Dorman, 'Inclusion and Exclusion', p. 293.

33 *Herald*, 6 May 1999.

34 *Herald*, 24 August 1999, 20 September 1999; *Sunday Mail*, 3 October 1999; *Daily News*, 7 October 1999; *Mirror*, 8 October 1999.

35 *Herald*, 6 August 1999, 14 August 1999, 6 October 1999.

36 *Herald*, 6 October 1999.

Divide and Rule: the Politics of Polarisation

The formation of the Constitutional Commission led, as no doubt intended, to some quite serious divisions within Zimbabwe's nascent opposition, as some individuals and groups chose to be incorporated into the state process, while others remained outside. Against the background of the government's implicit corporatist approach to NGOs, churches and unions, the opportunity to continue to work within the system was attractive to many organisations. However, as rivalry between the CC and the NCA became more pronounced, members of the NCA became more assured in their determination not to cooperate with, and therefore lend legitimacy to, the government's initiative.

In response to the Constitutional Commission, the NCA hosted a three-day People's Constitutional Convention, which proposed the launching of an alternative 'people-driven' constitution-writing process.³⁷ The NCA resolved that its members could not also be Constitutional Commissioners.³⁸ However, several well-respected individuals previously aligned with the NCA did become commissioners. Law lecturer Ben Hlatshwayo and commentator Lupi Mushayakarara both moved from the NCA to the CC. Mushayakarara became chair of the CC sub-committee on the pillars of democracy. Hlatshwayo emphasised that his decision to join the CC was only taken after 'it became clear that there was indeed commitment on the part of the government to maximum representation'.³⁹ Professor Heneri Dzinotyweyi, of the Zimbabwe Integrated Programme (which later became a minor opposition party) and Dean of the Faculty of Science at the University of Zimbabwe, who chaired the CC's sub-committee on the executive organs, said:

Boycotting the process creates unnecessary antagonism. We also have our own suspicions but it is better to confront the issue than confront each other There is no balance in the commission yet but we hope the NCA and opposition parties will come and work from within.⁴⁰

The split between the NCA and the CC also reinforced tensions that had emerged earlier between the ZCC and the NCA. Conflict had first manifested itself in October 1998, when the ZCC withdrawal from the march against Zimbabwe's intervention in the Congo war led the remaining marchers to be dispersed and tear-gassed.⁴¹ In November, the NCA severed its links with its founder organisation by moving to new offices. After the launch of the CC in March 1999, the ZCC withdrew from its membership of the NCA. The ZCC felt that its valued neutrality was being violated by the increasing politicisation of the NCA. At the same time, however, several church leaders associated with the ZCC became prominent members of the CC.⁴² The Anglican Bishop of Harare became the CC's Vice Chairman and his cathedral refused to let the NCA hold meetings on its premises, even though individual parishes and parishioners actively supported the NCA.⁴³

Other organisations faced similar dilemmas. The Catholic Church was divided, with the Catholic Commission for Justice and Peace (CCJP) remaining within the NCA and several of its staff members playing high profile roles. The CCJP's nominal superiors, the Zimbabwe Catholic Bishops' Conference (ZCBC), supported the government's Commission and called for priests and the laity to make representations to it.⁴⁴ The Zimbabwe

37 'Declaration and Resolutions of the 1st People's Constitutional Convention', 18–20 June 1999; *Daily News*, 20 April 1999.

38 Resolution passed at the Harare NCA Assembly, 13 April 1999.

39 *Herald*, 6 April 1999. See also *Financial Gazette*, 20 May 1999.

40 *Independent*, 7 May 1999.

41 *Sunday Mail*, 1 November 1998.

42 For a more detailed discussion of the relation between churches and the NCA, see Dorman, 'Rocking the Boat?'

43 *Financial Gazette*, 13 August 1999, 9 September 1999.

44 *Financial Gazette*, 5 August 1999, 13 August 1999; *Daily News*, 7 August 1999; *Standard*, 8 August 1999.

Human Rights Association (ZimRights), which was at a particularly weak juncture due to deep organisational divisions, was pressured by the newly elected chairman to pull out of the NCA. Members over-ruled this step, and insisted on remaining within the NCA.⁴⁵ The Zimbabwe Lawyers for Human Rights held a referendum, in which a majority of members advocated staying with the NCA, while a substantial minority did not.⁴⁶ The women's movement was reported to be particularly divided, although it eventually formed a coalition to promote women's constitutional interests within both the CC and the NCA.⁴⁷

The long-term impact on the Zimbabwean academic community – similarly divided by alternate loyalties – remains to be seen. The Southern Africa Political and Economic Series (SAPES) Trust, whose director Ibbo Mandaza was a Constitutional Commissioner, channelled donor funds to the Commission, which were overseen by Sam Moyo, another prominent academic. A row about the alleged misappropriation of funds contributed to the increasing polarisation between SAPES' weekly *Mirror* newspaper which, along with the government-owned *Herald*, took a strongly pro-CC line, and the rest of the independent press, which was equally strongly pro-NCA.⁴⁸

The CC Outreach Programme and the Referendum

As these organisational struggles suggest, the formation of the CC led to a more combative relationship between NGOs and the regime, which manifested itself in the discussion of the Constitution. In August 1999, the Constitutional Commission began a programme of 5,000 meetings, organised by eight provincial teams. While the independent press took great pleasure in detailing low turnouts at some Constitutional Commission meetings, many people did address the commissioners, and with great forthrightness.⁴⁹ As a prominent NCA activist ruefully acknowledged: 'we told people to boycott [the CC hearings] but now they are enjoying voicing their opinions'.⁵⁰ In an intriguing front-page story in the *Herald*, it was reported that in Tsholotsho, villagers said that they could not speak freely to commissioners until after the CIO (Central Intelligence Organisation) was disbanded.⁵¹ Meetings with students were also particularly prone to conflict.⁵² The Constitutional Commission claimed to have organised 4,321 public meetings which were attended by 556,276 individuals, as well as 700 special *ad hoc* meetings attended by 150,000 people. In addition, the Commission received 4,000 written submissions and had sixteen programmes on Radio 1 (English); 55 programmes on Radio 2 (Shona and Ndebele); two programmes on Radio 3 (English); 70 programmes on Radio 4 (minority languages – Tonga, Venda, etc.); as well as 31 programmes on ZBC TV.⁵³ Zimbabweans in South Africa and the UK were also consulted.

Despite the Commission's nationalist emphasis on the flawed Lancaster House constitution, participants emphasised instead the reforms of 1987, which had brought in the

45 *Chronicle*, 26 July 1999; interviews, Munyaradzi Bidi, 13 September 1999; Peter Maregare, 13 September 1999; Paul Themba Nyathi, 16 September 1999; David Chimhini, 4 October 1999.

46 *Standard*, 2 August 1999; interview, Beverly Hargrove, 28 September 1999.

47 *Daily News*, 24 January 2000; *Standard*, 2 February 2000; interviews, Thoko Matshe, 30 September 1999; Selina Mumbengegwi, 6 October 1999.

48 *Daily News*, 7 October 1999; *Financial Gazette*, 7 October 1999; *Mirror*, 8 October 1999; *Sunday Mail*, 10 October 1999.

49 For example, *Financial Gazette*, 19 August 1995; *Daily News*, 18 August 1999, 20 August 1999.

50 Interview, Paul Themba Nyathi, 16 September 1999.

51 *Herald*, 13 September 1999.

52 *Financial Gazette*, 5 August 1999; *Daily News*, 22 September 1999; *Herald*, 4 September 1999, 18 September 1999.

53 Plenary Statement by Justice Godfrey Chidyausiku, Constitutional Commission 3rd plenary, 22 October 1999.

executive presidency, and linked the growing political and economic crisis clearly to the constitution. Just as the 'non-political' NCA had sparked a most political debate, the CC hearings provided a forum in which ordinary Zimbabwean citizens were able to criticise explicitly the government's policies. The contributions to the hearings revealed a thorough understanding of the political manipulation that had occurred in elections and day-to-day politics. The Commissioners heard demands that all MPs and cabinet ministers be elected not appointed, that the post of Provincial Governor be abolished, that the size of the legislature be reduced, that parliament be given responsibility for the budget and more power in general, that presidential powers be reduced, that political party financing be reformed, that an independent Electoral Supervisory Commission be appointed.⁵⁴ Commissioners accused people of using the meetings 'as a platform to present ... complaints about the economic problems they are facing, while others think the meetings are held to source their views of the present government and the ruling party'.⁵⁵

In October, the CC held a three-day plenary meeting at which, in addition to each provincial team reporting back, special interest groups and political parties also presented their positions. The proceedings were broadcast on ZBC and reported in both the state and independent press. It was at this point that a clear divergence emerged between the proposals from the opposition parties, interest groups and the general public, and the presentation from ZANU(PF), which encompassed an executive presidency as well as a prime minister.⁵⁶ The Commission's attempt to create a draft constitution after all this publicity was prone to conflict.⁵⁷ The provincial reports were broadcast publicly and reported in detail in an eleven-part series in the *Herald*. The coordinating committee was tasked with compiling these reports into a draft constitution for debate by the entire CC. This second plenary meeting at the end of November was originally scheduled for one day, but debate extended into the following days.⁵⁸ Finally, on the third day, Chidyausiku called a halt to debate and declared the draft adopted.⁵⁹ The promised referendum was scheduled for February, and the NCA and the CC began to campaign for 'No' and 'Yes' votes respectively.

The 'No' campaign argued that the final draft did not reflect the provincial and thematic committee reports. Chisaka's useful analysis suggests that it was at the level of the executive that 'people's views were either distorted, ignored or rejected'.⁶⁰ Most of the cases where strongly expressed views were not reflected in the final draft concerned the limitations on the powers of the executive and the separation of powers between the executive and legislative branches. For instance, seven out of ten provinces favoured a non-executive president as head of state and an executive prime minister as head of government. The CC's draft constitution retained the existing executive president and added a prime minister. Eight provinces wanted the president to have the power to declare a state of emergency or a state of war only after consulting parliament. The draft constitution gave this power to the president in consultation with the prime minister. Seven provinces said that parliament should have fixed term limits, but the CC gave the president the power to dissolve parliament as he saw fit. As Chisaka suggests, 'the majority views of those

54 For example, *Herald*, 24 August 1999, 25 August 1999, 24 September 1999.

55 *Herald*, 25 August 1999.

56 *Independent*, 29 October 1999.

57 *Independent*, 26 November 1999.

58 *Independent*, 26 November 1999; *Herald*, 29 November 1999, 30 November 1999.

59 *Financial Gazette*, 2 December 1999.

60 C. Chisaka, 'Did the Constitution Correctly Interpret the Views of the People?', *Social Change*, 50 (June 2000), p. 3.

consulted clearly wanted a governmental system that was accountable to them through their elected representatives in parliament ... but this was denied them by the commission.⁶¹

The very public failure of the draft constitution to reflect the content of people's submissions to the Commission in the course of their hearings led to particularly dramatic rejections of the draft.⁶² Unsurprisingly, it was criticised by those outside the process, who emphasised that the retention of an executive president was against the people's wishes, and that it retained a large assembly and made no restrictions on the size of the cabinet.⁶³ More damagingly, it was also criticised from within. Commissioners were particularly critical of the undemocratic way in which the draft had been rushed through their final session.⁶⁴ Lupi Mushayakarara convinced 24 commissioners to sign a petition against the draft.⁶⁵ She subsequently launched an unsuccessful legal battle to have the draft reconsidered and the referendum postponed.⁶⁶ In the weeks that followed, several commissioners switched sides and urged a 'No' vote.⁶⁷ In one of the most high-profile defections, Bishop Ambrose Moyo, of the Evangelical Lutheran church, resigned from the CC in December 1999 on the grounds that the draft constitution did not reflect the views of the people, that the commissioners had had no time to study or debate the draft, and that 'there was no democracy in the manner in which the chairman ... processed both the Draft Constitution and the Final Report of the commission'.⁶⁸

The draft was also criticised by some of those who were expected to support the government – ZANU(PF) and the war veterans – because it did not provide a framework to expedite the land reform process, although both groups nonetheless advocated a 'Yes' vote.⁶⁹ In a last ditch effort to win over voters, the President gazetted some 'corrections and clarifications' to the draft constitution, the main effect of which was to introduce a substantive new clause that permitted the state to compulsorily acquire agricultural land, and obliged Britain as the 'former colonial power' to compensate farmers.⁷⁰

Who Represents the People?

The NCA–CC debate catalysed a broad set of questions about the role of NGOs, trade unions and individual citizens, and their relationship to the state. The existence of the NCA challenged the previously dominant rhetoric and practice of the state, which presumed that it must initiate and control such consultations. The NCA was tagged as political, foreign-funded and anti-unity because it challenged this premise. In language reminiscent of 1980s nation-building, the NCA was accused of failing to support 'national consensus-building'⁷¹ and of disrupting a 'national process' when it refused to take part in the CC.⁷² In response,

61 Chisaka, 'Did the Constitution Correctly Interpret the Views of the People?', p. 19. See also *Financial Gazette*, 2 December 1999, and 'NCA Vote No' supplement inserted in the *Financial Gazette*, the *Independent*, the *Standard*, the *Daily News*, the *Eastern Star* and the *Dispatch*, 4 February 2000, which details 'what the people wanted' versus 'what the commission wrote'.

62 *Daily News*, 21 January 2000, 27 January 2000.

63 *Herald* 10 December 1999, 11 December 1999, 16 December 1999.

64 *Financial Gazette*, 2 December 1999.

65 *Financial Gazette*, 2 December 1999; *Herald*, 30 November 1999.

66 *Herald*, 9 February 2000, 11 February 2000; *Daily News*, 11 February 2000.

67 *Chronicle*, 27 January 2000.

68 *Chronicle*, 8 February 2000.

69 *Herald*, 17 December 1999; ZNLWVA (Zimbabwe National Liberation War Veterans' Association), 'The 'NO' Vote to the Draft Constitution: Which Way Forward?', 15 February 2000.

70 'Don't be misled — read for yourself; draft constitution for Zimbabwe; corrections and clarifications', advertisement inserted by Constitutional Commission in the *Mirror*, 28 January 2000. Also see GOZ, 'Departmental Draft: Constitution of Zimbabwe', n.d. (c. December 1999); GOZ, 'Draft Constitution for Zimbabwe: Corrections and Clarifications, n.d. (c. December 1999).

71 *Financial Gazette*, 30 September 1999.

72 *Independent*, 21 May 1999. See also *Herald*, 22 June 1999, 5 July 1999.

the NCA emphasised its demand for a 'stabilising and unifying constitution-making process'.⁷³ The issue of which process was the more legitimate dominated much of the rhetoric. Each side accused the other of being less inclusive.

The Constitutional Commission launched its public campaign in mid-July with a two-page advertisement entitled, 'The New Democratic Constitution ... And a Few of the Questions That You Might Be Asking'. Using a question and answer format, the advertisement addressed the issues of what the commission was, how commissioners were chosen and, most tellingly, 'Is the Constitutional Commission in competition with the NCA?' The answer was:

The Commission is not in competition with the NCA or any other group or individual. Unlike bodies like the NCA and other membership groups like political parties, the Commission is a non-partisan body determined to hear and listen to all the views of the people of Zimbabwe and through their organisations such as the NCA ... What the Commissioners will not do is be dragged into a debate or situation that confuses changing the government with changing the constitution ... the Commission will take into account even the views of those groups or individuals who are critical of the Commission.

These arguments were replicated in a set of advertisements in which the NCA and CC squared off against each other. The NCA asked, 'will the new constitution be about our rights ... or theirs?'; 'the new Constitution is for all of us ... so why can't we all have a say in it?' The CC held: 'They say that you should boycott your national process and withhold your views on the new constitution ... The Constitutional Commission's outreach programme is giving all Zimbabweans a chance to have their views heard and recorded'.⁷⁴

The NCA was also attacked for representing foreign or colonial interests. Representatives of the CC repeatedly suggested that a 'No' vote was tantamount to a 'Yes' vote for the Lancaster House constitution, and implied that the NCA was in favour of the Lancaster House constitution.⁷⁵ Foreign Affairs minister Stan Mudenge asserted on ZBC television that 'foreign governments' were working against the constitutional reform process.⁷⁶ Jonathan Moyo was quoted as saying, 'this stupid bunch of protesters is being paid and used by overseas donors who do not want to see anything good coming out of this country'.⁷⁷ He held that, 'this country would run a high risk of being a non-transparent donor's republic'.⁷⁸ An editorial in the *Mirror* claimed, 'The NCA has no local content and is therefore a myth, an international myth about Zimbabwe'.⁷⁹ Ironically, as we have already seen, both the NCA and the CC were donor-funded.⁸⁰

The inclusion of many NCA officials and members in the leadership of the new opposition party, the Movement for Democratic Change, launched in September 1999, led to accusations that the NCA was merely a front for opposition politics:

the new discourse on the quest for an all embracing democratic constitution was suddenly entangled and confused with the old quest for political power pursued under the auspices of an array of failed political parties ... [T]he NCA strategy has been based on a ... premise that the process of constitutional reform should be used along with the current economic crisis in the country to change the government.⁸¹

73 *Financial Gazette*, 13 August 1999.

74 These advertisements appeared extensively in Zimbabwe's newspapers. Two typical advertisements are reproduced in Dorman, 'Inclusion and Exclusion', p. 294.

75 Commissioner Walter Kamba, ZTV evening news, 16 January 2000; *Herald*, 18 January 2000.

76 ZTV news, 15 January 2000, as reported in Media Monitoring Project of Zimbabwe Update, 2000/2, 18 January 2000.

77 *Independent*, 25 June 2000.

78 *Financial Gazette*, 30 September 1999. See also, *Herald*, 26 May 1999.

79 *Mirror*, 19 November 1999.

80 *Sunday Mail*, 3 October 1999; *Herald*, 20 September 1999; *Mirror*, 8 October 1999; *Independent*, 13 August 1999.

81 *Independent*, 2 July 1999.

Does the NCA still exist? Yes and no depending on what you mean by the NCA. The answer is no if what is meant by the NCA is the organization that was almost formed not too long ago as a loose affiliation of civil society groups, churches, trade unions, academics and human rights lawyers who said they were committed to promoting a non-partisan civic education in favour of democratic constitutional reform. But the answer is yes if by the NCA is meant the de facto secretariat and fundraising arm of the Movement for Democratic Change. That is why the NCA is the first name of the MDC whose full name is NCA-MDC.⁸²

The electorate's rejection of the Constitutional Commission's draft in the February referendum, with a vote of 54 per cent against 44 per cent in favour, implicitly answered many of these questions.⁸³ The NCA did represent the opinions of the majority of those who participated in the plebiscite, and was therefore a publicly legitimated voice.

After the Referendum: the Politics of Exclusion

The constitutional debate opened up discussion on a set of issues that had not previously been open to debate while the referendum result legitimated the participation of a new range of actors outside the state. The debate had provided a new platform from which demands could be made, but it also revealed a lingering attachment to engagement with the state on the part of many significant players. If the referendum result had gone the other way, and if the draft had reflected more of people's concerns it likely would have passed, and we might have seen the re-hegemonisation of the ZANU(PF) party-state. Instead, we saw a shift from the tactics of inclusive to exclusive nation-building. The discursive inclusivity of the old order was, of course, never complete. Groups that were judged to be too independent or too political had always felt the wrath of the state. But now treatment, which had hitherto been restricted to political opponents such as the ZAPU 'dissidents' of the 1980s, began to be extended to all non-ZANU(PF) members, nuns and priests, teachers, whites, farm workers (judged to be foreigners) and urban residents. The upcoming parliamentary elections, expected to be held in March, and postponed until June 2000, created a sense of urgency within the regime.

A statement released by the Zimbabwe National Liberation War Veterans' Association (ZNLWVA) soon after the referendum, revealed the thinking behind the programme that was to emerge:

As the liberation war veterans of this country, we have done our best to promote the 'YES' vote on the constitutional Draft, not because the Draft favoured our position on all aspects, but because we realised the importance of the draft as being *the land issue*.⁸⁴

The veterans took issue with the longevity of many of the cabinet ministers, the tendency towards corruption within government, and the weakness of ZANU(PF) as a party. In particular, they noted that:

the main factor we see as contributing to the NO result is the weakness of the Party's provincial structures, the reluctant mood, the failure to change with the times ... [T]his weakness of the Party structures has watered down our revolutionary aspirations and has proved beyond doubt the *decay within us* and that necessary and immediate steps should be taken *to unify all revolutionary groupings of ZANU(PF) and consolidate the pillars upon which our support and power rests*.⁸⁵

The rebuilding of the party's coalition commenced immediately with the farm invasions,

82 *Financial Gazette*, 30 September 1999.

83 *Daily News*, 17 February 2001.

84 ZNLWVA, 'The 'NO' Vote to the Draft Constitution: Which Way Forward?', 15 February 2000. Emphasis in the original.

85 ZNLWVA. 'The 'NO' Vote'. Emphasis in the original.

later to be called the fast-track resettlement programme and, more evocatively, the third *chimurenga*.⁸⁶ After the June elections, violence moved into urban areas and was increasingly perpetrated by the army and police, not by war veterans alone.⁸⁷ This strategy was then complemented by raids on businesses and NGOs, purportedly in defence of workers' rights.⁸⁸

The rhetoric of this period revolved around the liberation war and the nation-building process. Referring to white farmers, the late Border Gezi, the governor of Mashonaland Central, said, 'They now don't appreciate the benefits of the reconciliation policy because we want to redistribute land to the people'.⁸⁹ President Mugabe accused supporters of the MDC of siding with 'the Europeans and the British'.⁹⁰ He argued that, 'this land, this Zimbabwe, is a sacred inheritance from our forefathers. It was the *casus belli* of our armed liberation struggle ... [S]o we say hands off, Britain, hands off!'⁹¹

NGOs and foreign donors were particularly suspect because of their funding for the NCA and their commitment to election monitoring and civic education. In June 2000, limited numbers of foreign observers were allowed to scrutinise the polls, while local NGOs and church monitors were obstructed by red tape.⁹² It was made increasingly clear to NGOs that they had no place in the 'political' spectrum. Their foreign funding was alleged to be undermining stable democratic processes.⁹³ International donors alleged to be supporting the MDC were also threatened.⁹⁴ In 1999, NGOs were accused of 'trying to create political figures out of the opposition'.⁹⁵ By the time of the 2000 elections, this had become more explicit: 'NGOs should leave politics to locals'.⁹⁶ This led to a ban on churches and NGOs conducting civic education in the lead-in to the presidential elections.⁹⁷ Local government officials were also warned against working with NGOs. According to a newspaper report, the Minister of Local Government, Public Works and National Housing:

warned the councils against accepting money from non-governmental organisations, which had political agendas ... [A] number of NGOs with political agendas had invaded rural areas to promote their own agendas ... A number of NGOs were being used to campaign for MDC in rural areas ... 'Some of these organisations come to you with a packaging which looks good but the contents would be satanic. Do not accept such type of assistance.'⁹⁸

The operations of some international NGOs were disrupted when they were invaded.⁹⁹ Others were accused of helping to create artificial food shortages and of distributing MDC propaganda and party cards with food.¹⁰⁰ Non-ZANU(PF) affiliated war veterans, organised in 2000 as the Zimbabwe Liberator's Platform (ZLP),¹⁰¹ were similarly excluded from public discourse or portrayed as illegitimate representatives of the ex-fighters.

Yet this politics was not just exclusionary. Neither the resettlement programme nor the

86 *Sunday Mail*, 22 April 2001.

87 *Financial Gazette*, 22 February 2001; *Daily News*, 3 March 2001, 5 March 2001; *Independent*, 9 March 2001.

88 *Daily News*, 28 March 2001, 9 April 2001, 12 April 2001, 13 April 2001, 24 April 2001, 25 April 2001; *Financial Gazette*, 5 April 2001, 20 April 2001, 26 April 2001; *Independent*, 12 April 2001; *Sunday Mail*, 22 April 2001.

89 *Herald*, 3 March 2000.

90 *Financial Gazette*, 5 April 2001.

91 *Herald*, 19 April 2001.

92 *Herald*, 19 June 2000, 21 June 2000; *Daily News*, 21 June 2000; ZCC, '2000 Parliamentary Election Report'.

93 *Herald*, 28 February 1997.

94 *Herald*, 13 September 1999; interview, Georg Lemke, September 1999.

95 *Herald*, 21 July 1999.

96 *Herald*, 10 July 2000.

97 *Africa Church Information Service*, 13 July 2001.

98 *Herald*, 16 July 2001.

99 *Standard*, 13 May 2001; *Globe and Mail* (Canada), 5 May 2001; *Financial Gazette*, 26 April 2001; *Daily News*, 25 April 2001.

100 *Sunday Mail*, 8 July 2001.

101 *Financial Gazette*, 25 May 2000; *Daily News*, 28 November 2001.

interventions in labour relations were simply attempts to terrorise land owners and business people. They were also about creating support amongst land-poor rural people and unemployed or poorly remunerated urban families. Promises were made in 1999 and 2000 that reparations would be forthcoming for victims of the Matabeleland conflict.¹⁰² Parallel actions were mounted to discredit, sideline or re-incorporate those groups whose access to non-state resources rendered them potentially autonomous from the state. Thus the increased mobilisation around issues of land and labour led to the targeting of white farmers and businesses. The rhetoric of reconciliation was replaced by a rhetoric that claimed that these whites had not reciprocated the offer of reconciliation made to them. They were, instead, the 'real enemy'.¹⁰³ In a BBC interview, Mugabe said: 'Yes, some of them are good people, but they remain cheats. They remain dishonest. They remain uncommitted even to the national cause'.¹⁰⁴

The Commercial Farmers' Union (CFU), which had been close to ZANU(PF) until the 1998 land designations, wavered between attempting to maintain its position of non-confrontational interaction with government ministries and using the courts to seek redress, reflecting the presence of two camps within its membership. MDC members pressured the CFU to pursue legal action against the unconstitutional land seizures. Other groups of farmers, notably tobacco growers who produced mainly for export, emphasised the economic realities, and urged the farm community to seek ways of compromising with the ruling party.¹⁰⁵ Angus Selby reported a senior tobacco farmer as having said that 'the sooner ZANU was re-elected the sooner the industry could get back to the business of farming'.¹⁰⁶ After several months of negotiation, in November 2001, the CFU and the state launched the Zimbabwe Joint Resettlement Initiative. As part of this initiative, farmers consented to the purchase of over 500 farms, comprising over one million hectares, and promised to contribute inputs to new settlers and to support them in ploughing the soil.¹⁰⁷

The regime also set out to politicise the previously relatively apolitical state apparatus.¹⁰⁸ It began sidelining independent judges and replacing them with those more acceptable to the regime. Chief Justice Gubbay was forced to resign after coming under attack for rulings challenging land acquisitions and for overturning a presidential decree that banned candidates defeated in the June election from contesting the results in court.¹⁰⁹ Other senior judges were encouraged to resign by the Attorney General. Those targeted included not only four white High Court judges (Smith, Blackie, Gillespie and Devitte), but also the Supreme Court judges (Sandura, Muchechetere, Ebrahim and McNally), only one of whom was white.¹¹⁰ While several judges resisted the pressure, others resigned, often citing 'personal reasons'.¹¹¹ Many senior judges were also approaching retirement age, and

102 *Herald*, 16 October 1999; *Mail & Guardian*, 18 October 1999; *Mirror*, 24 March 2000, 13 October 2000; *Daily News*, 8 January 2001.

103 *BBC*, 14 December 2000.

104 *Standard*, 22 October 2000.

105 Personal communication, Angus Selby, 30 October 2001; *Daily News*, 18 August 2000; *Mail and Guardian*, 19 May 2000.

106 A. Selby, 'Differentiating Commercial Farmers: Land Reform in Zimbabwe' (MPhil thesis, University of Oxford, 2002), p. 83.

107 *UN Integrated Regional Information Network*, 25 May 2001; *Daily News*, 27 July 2001; *Herald*, 6 September 2001; CFU, 'GoZ/ZJRI Implementation Launch', 2 November 2001.

108 Human Rights NGO Forum, 'Politically Motivated Violence in Zimbabwe, 2000–2001', July 2001, especially sections 5 and 6.

109 *Financial Gazette*, 8 March 2001, 14 December 2000; *Daily News*, 9 January 2000, 3 March 2001, 3 February 2001, 28 February 2001, 31 December 2001; *Herald*, 31 January 2001, 28 February 2001; *Independent*, 26 January 2001; *Standard*, 7 January 2001.

110 *Standard*, 11 February 2001, 18 February 2001; *Daily News*, 14 February 2001, 23 February 2001; *Independent*, 16 February 2001; *Herald*, 22 February 2001, 23 February 2001.

111 *Independent*, 1 June 2001; *Herald*, 15 May 2001, 3 January 2002; *Daily News*, 6 October 2001.

resigned at 65, rather than extending their terms for another five years. When the remaining judges refused to resign, the number of Supreme Court Justices was increased from five to eight, with three judges promoted from the High Court.¹¹² The appointment of High Court Justice Chidyausiku as Chief Justice, presumably as a reward for his work on the Constitutional Commission, above the more senior judges of the Supreme Court suggested that this was not so much a racial purge as a party political one.¹¹³ Chidyausiku, a former ZANU(PF) minister, chaired several politically sensitive commissions, and had a record of ruling in favour of the ruling party, rulings that were frequently overturned by higher courts.¹¹⁴ The lawyer Ben Hlatshwayo was also rewarded for his vocal support of the Constitutional Commission with an appointment to the High Court.¹¹⁵

In 2001, membership of the police, army and public service was also politicised. As JoAnn McGregor demonstrates for Matabeleland, 'the ruling party has tried to insert itself within and gain more control over the local state at district and provincial levels'.¹¹⁶ Throughout the country, those who were thought not to be sufficiently loyal to ZANU(PF) were sidelined or forced out of local government and the prison service under pressure from the party hierarchy.¹¹⁷ Police officers were purged and removed from positions of authority.¹¹⁸ Army officers were similarly warned against supporting the MDC.¹¹⁹

Urban workers and white business people were also obvious targets, because of their support for the NCA and the MDC. In addition, the overwhelming urban vote for the MDC revealed to ZANU(PF) that they had lost the support of many workers. As President Mugabe said to the ZANU(PF) Central Committee in July 2000:

With all price controls done away with in the spirit of liberalisation; with our policies and programmes generally failing or being quite slow to yield positive results; with all our safety nets simply failing, it was difficult to see how the Party would ever escape the winter of urban discontent and the harsh political verdict that this brings about in electoral terms. Little wonder then that the bulk of the support and vote for the opposition came from urban or peri-urban dwellers, chiefly from among the unemployed or frustrated youths ... that a significant part of the opposition leadership draws from the trade union and tertiary student leadership ... [that] ... the most trenchant criticism against the Party emanated from both the high and low-density suburban dwellers.¹²⁰

The anti-business and pro-labour campaigns coalesced into an attempt to intimidate white business owners and to regain the sympathy of urban voters and counteract the influence of the ZCTU.¹²¹ This took the form of an attempt to gain control of the ZCTU, sanctioning war veteran involvement in labour disputes, and the re-invigoration of a splinter umbrella union.

ZANU(PF) first moved to position supporters within the ZCTU during elections to fill vacancies caused by the resignations of leaders who joined the MDC. These power

112 *Herald*, 27 July 2001; *Daily News*, 18 September 2001.

113 *Standard*, 20 May 2001; *Daily News*, 3 October 2001; *Independent*, 5 October 2001.

114 *Daily News*, 20 September 2001, 21 August 2001; *Standard*, 24 June 2001; *BBC*, 9 March 2001; *Independent*, 16 February 2001.

115 *Standard*, 4 March 2001; *Daily News*, 25 June 2001.

116 J. McGregor, 'The Politics of Disruption: War Veterans and the Local State in Zimbabwe', *African Affairs*, 101 (2002), pp. 9–37.

117 *Daily News*, 6 March 2001, 12 March 2001, 14 March 2001, 6 October 2001, 31 October 2001; *Financial Gazette*, 1 March 2001; *Mirror*, 2 March 2001.

118 *Standard*, 28 January 2001, 25 February 2001, 11 March 2001; *Daily News*, 26 September 2000, 16 January 2001, 13 April 2001; *Financial Gazette*, 14 June 2001; *Sunday Mail*, 10 June 2001.

119 *Daily News*, 29 May 2001; *Financial Gazette*, 24 May 2001, 19 July 2001; *Independent*, 1 June 2001; *Herald*, 1 June 2001; *Standard*, 23 September 2001.

120 Address by the First Secretary and President of Zanu(PF), Cde R. G. Mugabe, At the Forty-third Ordinary Session of the Central Committee, 21 July 2000.

121 *Financial Gazette*, 5 March 2001.

struggles signalled the continuation of earlier conflicts within the leadership of the ZCTU. Even before the elections, some within the ZCTU had tried to align with the ruling party, by adopting its proposed social contract – which Tsvangirai's faction had rejected – but this attempt was foiled by the union leaders.¹²² The social contract advocated by the ruling party was intended to put an end to labour disputes and stay aways, and to return labour relations to a more consensual framework. As the ZCTU's election approached, key individuals campaigned aggressively.¹²³ ZANU(PF) was alleged to have paid membership dues for unions in arrears so that they could vote.¹²⁴ In the end, however, the pro-MDC slate won.

In early 2001, workers who felt that the ZCTU was not responsive were encouraged to forward complaints to a newly formed ZANU(PF) labour committee. War veterans, now apparently led by the upstart Joseph Chinotimba, claimed the right to arbitrate in labour disputes at a series of companies, as they had done at independence before the formation of the ZCTU.¹²⁵ Following complaints from several foreign governments, the Labour Ministry finally clamped down on the veterans, alleging that rogue elements had gone beyond ZANU(PF)'s intentions and were merely extorting money from companies.¹²⁶ Several new judges were appointed to the Labour Relations Tribunal, in an attempt to clear the backlog in cases.¹²⁷ Chinotimba then attempted to resuscitate the Zimbabwe Federation of Trade Unions (ZFTU) as a vehicle for anti-ZCTU campaigning. The ZFTU was a pro-ZANU(PF) splinter union, formed in 1998 by an earlier leader of the ZCTU, which had never had much support from shop-floor unions.¹²⁸ Government support enabled the ZFTU leadership to visit workplaces and forcefully encourage the formation of splinter unions.¹²⁹ That these efforts made any headway at all on the shop floors must be taken as evidence of labour weakness and divisions. Shop-floor grievances were real, and neither the ZCTU nor the MDC had developed strongly rooted allegiances from the workers. Low levels of internal union democracy also kept pro-ZANU(PF) leaders in place, even where workers were solidly MDC, making them available for ZANU(PF)'s 'infiltration' tactics during the ZCTU elections.¹³⁰

Church-state relations had also been strained during the constitutional debate. During the referendum, churches had been on the verge of calling for a 'no' vote but were persuaded to back away from such a stand.¹³¹ With few exceptions, church voices were little heard in the run-up to the election. Those few individuals who took any sort of stand continued to be blacklisted by the President:

The most insidious side of the resurgence of white power came by way of the pulpit and in the human form of church figures who did not hesitate to 'render unto God' things that belonged to Caesar. Especially in suburban parishes and in rural Matabeleland, prayers became full-blooded politics and congregations became anti-Zanu(PF) political communities.¹³²

Roman Catholic Bishop Pius Ncube was reported to be on a CIO hit list.¹³³ Similarly,

122 *Daily News*, 22 January 2001.

123 *Daily News*, 9 February 2001, 10 March 2001; *Mirror*, 17 November 2000, 23 February 2001; *Independent*, 23 February 2001; *Sunday Mail*, 18 March 2001.

124 *Independent*, 15 December 2000; *Financial Gazette*, 1 February 2001.

125 *Daily News*, 28 March 2001, 9 April 2001, 13 April 2001, 24 April 2001, 25 April 2001; *Financial Gazette*, 5 April 2001, 20 April 2001, 26 April 2001; *Independent*, 12 April 2001; *Sunday Mail*, 22 April 2001.

126 *BBC*, 16 May 2001; *Herald*, 17 May 2001, 18 May 2001; *Daily News*, 17 May 2001, 22 May 2001; *Independent*, 18 May 2001.

127 *Herald*, 27 July 2001

128 *Daily News*, 12 April 2001; *Independent*, 1 June 2001, 15 June 2001, 29 June 2001, 27 July 2001.

129 *Financial Gazette*, 19 July 2001.

130 Personal communication, Miles Larmer, 6 November 2001.

131 *Standard*, 2 December 1999; *Daily News*, 13 December 1999, 26 January 2000; *Herald*, 26 January 2000.

132 Address by the First Secretary and President of ZANU(PF), Cde R. G. Mugabe, At the Forty-third Ordinary Session of the Central Committee, 21 July 2000.

133 *Daily News*, 3 July 2000

Evangelical Lutheran Bishop Ambrose Moyo fled the country during the election saying, 'I was on the hit list of the Central Intelligence Organisation and was advised to leave. My only crime was that I was publicly condemning the violence'.¹³⁴

ZANU(PF) appeals to the church were also attempts to retain support or get the church back on side. The retirement of Mugabe's ally Bishop Siyachitema from the Harare Diocese of the Anglican church led to a campaign to replace him.¹³⁵ Father Tim Neill, an Anglican priest who had been an outspoken critic of the government's constitutional draft, and who was the acting Vicar General of the Diocese, contested the election. He lost amid allegations that supporters of the successful candidate circulated a letter accusing him of racism.¹³⁶ His public conflict with his church led to his removal, after he was accused of 'tarnishing the church's name' by making internal conflict public.¹³⁷ The new Bishop of Harare did little to assuage concerns when his first public statements were seen as repeating ZANU(PF) propaganda from the pulpit.¹³⁸ In a controversial sermon, he said:

You are sick to think the Western political and economic interests are your interests. You are sick to think the Western world is interested in removing corrupt governments. They are here to look for puppets to put in government – ignorant African political leaders who can easily be manipulated . . . [Zimbabwe] is not a land for all people to govern. It is only for indigenous Africans to govern . . . We live in a sick country. It is a neurotic nation where the young Africans are losing national identity, sense of history, African feeling and self-pride. The sad thing is most of my priests are religious Uncle Toms, puppets, parrots and religious fakers. Refuse to be ignorant and greedy. I am attacking the brainwashed preachers.¹³⁹

Some indigenous churches also responded positively to attempts to incorporate them. During the June election, the popular Governor of Mashonaland Central, Border Gezi, made several very public appeals to his *Vapostori* brethren.¹⁴⁰ Although some members of the church criticised him for bringing politics – and the media spotlight – into worship,¹⁴¹ their leader encouraged members of his flock to vote for the first time, because 'we were told by the Holy Spirit that this country would be ruled by a black'.¹⁴² Gezi's untimely death, in April 2001, led Apostolic leaders to state their support for the President and ruling party even more publicly.¹⁴³ In early 2002, there were reports that 'hundreds of members of the Apostolic Faith sect [led by their pastor Godfrey Nzira] descended on MDC offices at Makoni shopping centre and later attacked the home of Fidelis Mhashu, the MP for Chitungwiza'.¹⁴⁴

Churches in Manicaland, frustrated by the lack of assertiveness on the part of the national churches, organised a broad ecumenical coalition to provide shelter for those who had been rendered homeless and to call for peace during the elections.¹⁴⁵ The Catholic Church issued several pastoral communications in the lead in to the election and in response to the post-election violence.¹⁴⁶ Mainstream churches also eventually took a stand on the land issue – albeit one that was interpreted as a victory by both sides.¹⁴⁷ The Catholic

134 *Ecumenical News International*, 27 July 2000.

135 *Daily News*, 15 January 2001; *Herald*, 2 February 2001, 19 January 2001.

136 *Daily News*, 7 March 2001.

137 *Daily News*, 9 March 2001, 12 March 2001. See also *Daily News*, 9 March 2001.

138 *Daily News*, 15 May 2001. See also *Telegraph* (UK), 14 May 2001.

139 *Sunday Mail*, 13 May 2001.

140 ZBC TV Evening news, 18 June 2000; picture of Border Gezi at *Vapostori* meeting, *Herald*, 19 June 2000.

141 *Daily News*, 21 June 2000.

142 *Sunday News*, 25 June 2000.

143 *Herald*, 3 May 2001.

144 *Daily News*, 7 January 2002.

145 See, for instance, 'Pastoral Statement of the Churches in Manicaland, March 2001', Mutare, 13 March 2001.

146 See, for example, *Daily News*, 5 June 2000; *BBC*, 2 May 2001; Zimbabwe Catholic Bishops' Conference, Pastoral Letter, May 2001.

147 Heads of Denominations, 'Statement on the Church's Position on Land Reform', 25 January 2001; *Herald*, 26 January 2001; *Daily News*, 26 January 2001.

Church later dissociated itself from this statement, because it attempted to dissuade farmers from using the courts to arbitrate the land issue, proposing instead a national roundtable to be convened by the churches.¹⁴⁸ The Catholic Bishops' Conference took a much stronger stand, explicitly condemning the government-condoned violence.¹⁴⁹ Without naming war veterans or party leaders, the CBC challenged the ruling elite's claim to power as liberators:

Let us remind each other that no one person or group of persons liberated this country alone. The great majority of Zimbabweans, because of their love for freedom and sense of justice, liberated it through their sacrifices It is the duty of the government to ensure the nation is not held at ransom by a few We urge the government to allow the law enforcement agents to perform their duties without interference so that there is a sense of security in the country.¹⁵⁰

The war veterans responded to this criticism bluntly. Joseph Chinotimba said, 'The war veterans are championing a noble cause. If the churchmen think we are wrong they should mind their own problems and stop provoking us'.¹⁵¹

Structurally and rhetorically, ZANU(PF) attempted to create a social and political coalition of forces that superficially resembled that which supported the liberation war, and to de-legitimise other voices. Whereas the post-liberation alliances of the 1980s and most of the 1990s were premised on the depoliticisation and demobilisation of all social forces, the new, mobilised, forces of war veterans and party activists made this balancing act unstable, forcing groups into conflict with each other.

Conclusion

The regime's attempt to divide the NCA and dominate the constitutional and civic debate by launching the Constitutional Commission had three, perhaps unexpected, results. First, it succeeded in polarising and politicising the debate, which forced groups that had previously avoided 'politics' to take a stand. Second, the CC briefly eclipsed the NCA, holding out the possibility of consultation. But the very openness of the process, and the expectations it raised, was its downfall. The draft constitution revealed the regime's inflexibility and the futility of seeking change from within. Third, the victory of the 'No' camp publicly underlined their claim to represent the wider citizenry. In response, the government, which had apparently so radically opened up public debate in 1999, closed it down again in 2000 by redefining who and what were legitimate voices within the political spectrum.

During the constitutional debate, the ZANU(PF) regime attempted to talk the language of liberal consultation and deliberation over policy. The failure of this strategy, which required the initiator to take these processes seriously, led to an increasingly autocratic and intolerant front. The ruling party accused those who rejected its stance of having forgotten their history and of being influenced by foreign interests. Nationalism, of a particularly unsubtle sort, was invoked to justify the violence and intimidation that was directed at opponents of the regime. During the election proper, all manner of legislative and administrative stratagems were resorted to, in further attempts to delegitimise both opponents and observers. The ruling party's loss in the constitutional referendum, and the scale of its defeat in many constituencies, set the stage for increasingly acrimonious and intolerant exchanges in the post-election period.

148 *Daily News*, 2 February 2001.

149 *Ecumenical News International*, 8 May 2001; *Daily News*, 4 May 2001.

150 Zimbabwe Catholic Bishops' Conference, Pastoral Letter entitled 'Tolerance and Hope', May 2001.

151 *Mirror*, 11 May 2001.

The regime's enduring scepticism that churches, NGOs and unions were on its side took on the nature of a self-fulfilling prophecy. The more it targeted them and accused them of being unfaithful, the less they had to lose by aligning themselves with the opposition and their donors. NGOs that had been able to close their eyes to the government's authoritarian tendencies were forced to speak out when their own members and staff were the victims of assault. Churches, similarly, were shamed into public reaction by their members and donor pressure.

After the referendum, Zimbabwe was deeply polarised, despite the efforts of NGOs (and probably several levels of government) to avoid such divisions. From the politics of inclusion, Zimbabwe moved to a politics of exclusion. Coercion, backed up by the distribution of incentives to select groups, dominated the rules of the game. Those who were willing to be mobilised in defence of the regime were rewarded with land, contracts and employment. Individuals and groups that did not prove their loyalty were excluded socially, politically and through violent attacks on their homes and workplaces. This polarisation extended into villages, churches and schools. As the Catholic Bishops stated in May 2001, harking back to an earlier form of politics:

In unity we freed ourselves and today once more we need that unity: Unity of purpose and vision, in spite of different ideas of how best to achieve our goal. This means we should be ready and willing to accommodate different views and really tolerate different viewpoints. There is no single Zimbabwean with the monopoly of truth. We need each person's contribution in order to really build up a true Zimbabwe. No person should be excluded from positively making a meaningful contribution to nation building. Let our common enemy be poverty, disease and ignorance, not fellow citizens. Let us unite our efforts to defeat those enemies and we shall earn our rightful place in the family of nations.¹⁵²

SARA RICH DORMAN

School of Social and Political Studies, Adam Ferguson Building, George Square, University of Edinburgh, Edinburgh EH8 9LL, UK. E-mail: sara.dorman@ed.ac.uk

152 Zimbabwe Catholic Bishops' Conference, Pastoral Letter, May 2001.