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HOW ZIMBABWE IS DECIMATING POLITICAL PLURALISM BEHIND THE SMOKESCREEN OF COVID-19.

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IN SUMMARY

- It is in the interest of public health and safety to restrict and suspend fundamental rights and freedoms to contain the COVID-19 pandemic, but it is vile to use the pandemic as a smokescreen behind which to exterminate political pluralism.

- The Zimbabwe Electoral Commission should have objected to the suspension of by-elections, not only because it is illegal, but also because Zimbabwe is ready to conduct COVID-19 compliant elections.
- The limitation and suspension of fundamental rights and freedoms is unavoidable during a never-seen-before public health crisis such as the COVID-19 pandemic, but such measures must be proportionate, restrained, circumstantially reasonable and constitutional.
- In the new COVID-19 world, instead of using the pandemic to undermine political freedoms, [Africans should use it as an opportunity to complete the decolonisation project which their ancestors started.](#)

The arrival of COVID-19 in Africa was accompanied by two notable fears; one was dominant while the other was dormant. The dominant fear was that the pandemic will decimate African lives, livelihoods and economies. The dormant fear was that some African leaders will use the pandemic to justify the disproportionate repression and suspension of fundamental rights and freedoms. In countries such as Zimbabwe, where the legitimacy of the political authority is elusive and its capacity to deliver public goods is incredibly weak, the enforcement of COVID-19 containment measures has tended to be anchored to the use of force.

The limitation and suspension of fundamental rights and freedoms is unavoidable during a never-seen-before public health crisis such as the COVID-19 pandemic, but such measures must be proportionate, restrained, circumstantially reasonable and constitutional. In Zimbabwe, the ruling party appears to be using the COVID-19 pandemic as a tool with which to decimate the remnants of political pluralism. The main opposition party, the Movement for Democratic Change-Tsvangirai (MDC-T) split before the 2018 election. The

circumstances of the split are that in 2016, Morgan Tsvangirai, the founding president, appointed Nelson Chamisa and Elias Mudzuri as deputy presidents, in addition to Thokozani Khupe, who had been elected during the 2014 congress. Before he died in 2018, Tsvangirai had formed a coalition with other opposition parties and morphed the party into the Movement for Democratic Change-Alliance (MDC-A). Tsvangirai's death was followed by a succession dispute. Chamisa emerged victorious, but through processes which were not consistent with the party's constitution.

Khupe was expelled. She "moved on" and formed a splinter party which retained the name MDC-T. MDC-A and MDC-T "moved on" and contested the 2018 election as distinct political parties. They also held their congresses. In the 2018 presidential election, [Khupe got 45 000 votes while Chamisa got more than 2 million votes](#). MDC-A won 108 parliamentary seats and 86 council seats while MDC-T won only two parliamentary seats.

After the election, Elias Mashavira approached the court, challenging the legality of both the appointment of Nelson Chamisa and Elias Mudzuri as deputy presidents and the rise of Nelson Chamisa to the presidency of MDC-A. In a ruling which has been widely characterised as convoluted and bizarre, the court ruled that the party should go back to its pre-2016 structures. This effectively made Khupe the legitimate acting president of both MDC-T and MDC-A. Armed with this ruling, MDC-T has recalled at least 32 parliamentarians and several councilors who had continued to pledge allegiance to MDC-A.

[Khupe was sworn-in as a Parliamentarian and she is now recognised by ZANU-PF as "Leader of the Opposition". Section 158 \(3\) of the Constitution requires that by-elections be conducted within ninety days after the vacancies occurred.](#) Constituency-linked seats which fell vacant after the recalls should be filled through by-elections. The chances are high that MDC-A will retain these seats,

or at least most of them. This will deal a heavy blow to MDC-T, an opposition which ZANU-PF wants to take the position of official opposition because it is 'patriotic' and compliant. On 02 October 2020, the Minister of Health, Constantino Chiwenga, through [Statutory Instrument 225A of 2020](#), indefinitely suspended by-elections "for the duration of the period of declaration of COVID-19 as a formidable epidemic disease".

It is difficult to see why the Zimbabwe Electoral Commission (ZEC) agreed with this position. This is because in August 2020, ZEC developed a [COVID-19 Policy on Electoral Activities](#) whose purpose is "to provide guidance on procedures and conduct of electoral activities/processes in a COVID-19 prone environment". In the policy, ZEC emphasised the need to find ways of ensuring that the constitutional right to elections is not curtailed indefinitely because of COVID-19. To achieve this goal, ZEC established a number of mechanisms to conduct COVID-19 compliant elections "[whilst also meeting the requirements put in place by authorities as precautions against the contraction and spreading of the corona virus](#)".

ZEC should have objected to SI 225A, not only because it is illegal, but also because Zimbabwe is ready to conduct COVID-19 compliant elections. SI 225A violates Constitutional rights and freedoms such as the right to vote and the freedoms of association, assembly and expression. It also violates section 134 of the Constitution which states that statutory instruments "must not infringe or limit any of the rights and freedoms set out in the Declaration of Rights", that they "must be laid before the National Assembly" and that they must be "submitted to the Parliamentary Legal Committee for scrutiny". [SI 225A cannot lawfully change the effect of a constitutional provision because it was issued through subsidiary legislation.](#)

The other factors which make SI 225A to appear strange is that the ruling party conducted its primary and District Coordinating Committees elections during the pandemic. Lockdown rules have also been relaxed. Social and economic activities, including schools, have been re-opened because the COVID-19 crisis has significantly dwindled. Other countries in the region conducted their elections when the COVID-19 crisis was still ferocious, while others are preparing to conduct elections. This is why there is a strong perception that the government is using COVID-19 to erode political pluralism.

The Zimbabwe Human Rights Commission issued a [statement](#) expressing the view that SI 225A violates constitutional rights and that the COVID-19 circumstances in Zimbabwe do not justify the suspension of by-elections. Following a public outcry, [Jacob Mudenda, the Speaker of Parliament, told Parliament that SI 225A was considered unconstitutional by the Parliamentary Legal Committee \(PLC\), before he changed course and stated that the PLC is examining it to determine its legality.](#) The PLC is constitutionally responsible for examining all legislation before being passed by parliament.

Apart from SI 225A, the government has used COVID-19 to ban peaceful protests. Scores of government critics have been arrested, detained, abducted, tortured and sexually abused. These include Hopewell Chin'ono, who is a journalist; Jacob Ngarivhume, who is an opposition leader; Takudzwa Ngadziore, President of the Zimbabwe National Students' Union; Tawanda Muchehiwa, a university student; Job Sikhala of the MDC-A, and Joana Mamombe, Cecilia Chimbiri and Netsai Marova of MDC-A. It is strange that instead of investigating cases of abductions, torture and sexual abuse; the state is using "lawfare" to victimise those who are peacefully demanding accountability.

This is why the concern that the government is using COVID-19 to justify the erosion of political pluralism grew. For example, in July 2020, Liz Throssell, the Spokesperson for the UN High Commissioner for Human Rights, issued a [Press Briefing on Zimbabwe](#), stating that “the authorities may be using the COVID-19 pandemic as a pretext to clamp down on freedom of expression and freedom of peaceful assembly and association”. In August 2020, the Chairperson of the African Union Commission, Moussa Faki Mahamat, issued a [statement](#) urging the Zimbabwean authorities to uphold democratic freedoms and to ensure that the nation’s response to the pandemic is premised on human rights. In the same month, the Heads of Mission of Canada, Germany, Netherlands, Norway, Poland, the United Kingdom and the United States of America issued a [joint statement](#), stating that “COVID-19 must not be used as an excuse to restrict citizens’ fundamental freedoms”. The Zimbabwe Catholic Bishop’s Conference also wrote a [pastoral letter](#) in which it expressed deep concern over human rights abuses during the pandemic. These violations brought Zimbabwe to the attention of the international community, with many citizens arguing that the country has been engulfed by a crisis situation. South Africa’s ruling party, the African National Congress, had to deploy a special delegation to Zimbabwe to try and help the situation. But nothing meaningful has emerged from this effort.

It is in the interest of public health and safety to restrict and suspend fundamental rights and freedoms to contain the COVID-19 pandemic, but it is vile to use the pandemic as a smokescreen behind which to exterminate political freedoms. It is fair to say that political pluralism has been one of the major “casualties” of the COVID-19 pandemic in Zimbabwe. As the COVID-19 crisis subsides, it is no longer the fear of the COVID-19 pandemic which is dominant, but the fear that political pluralism is being eroded under the guise of fighting the pandemic.

This fear has also been dominant in other African countries such as Uganda, where the political activities of opposition parties have been disproportionately suppressed under the cover of fighting the pandemic. If Zimbabwe continues on this path, by the time that it will emerge from the COVID-19 storm, the remnants of political pluralism would have been decimated.

Africans' contestations against, and within, their governance spaces and state institutions have been a constant feature of their history. From resistance against the formal colonial project, to battles against continued nefarious foreign interests and defiance of inept, uncaring national leaders, different historical eras have seen different forms of agency from African citizens. In the new COVID-19 world, instead of using the pandemic to undermine political freedoms, [Africans should use it as an opportunity to complete the decolonisation project which their ancestors started.](#)

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