

Why trial was a Mugabe masterstroke

By Fred Bridgland
sundayherald.com | October 17, 2004

The judge who presided at opposition leader Morgan Tsvangirai's 20-month treason trial in Zimbabwe is a corrupt placeman who last year grabbed a prize white-owned farm for himself.

Paddington Garwe was promoted by President Robert Mugabe to the second highest post in the land – Judge President – three years ago after a purge of independent-minded judges who had, until then, ruled that land grabs and the eviction of mainly white commercial farmers were illegal. Judges who have refused to toe the line have been arrested, attacked and toppled. Several have fled into exile.

“What we have seen is a politicisation of the judiciary,” says Ms Gugulethu Moyo, a lawyer who fled Zimbabwe and who now works for the International Bar Association in London. “The government has manipulated the legal structure to keep its iron grip on power. The rule of law itself is under attack.”

The farm Garwe took is Mount Lothian, in the fertile wheat and tobacco Enterprise belt east of Harare, the capital. It was owned by Christopher Tracey, one of the first white farmers to embrace independence from Britain in 1980. Tracey arranged the key international aid and investment donor conference after independence and was highly praised by Mugabe.

So why this sudden burst of independent-mindedness by Garwe in acquitting Tsvangirai and saving him from a possible execution by hanging?

The answer lies somewhere in the tough, wily and enigmatic mind of Mugabe. It is impossible to imagine that Garwe reached his decision without intense consultation with the man who gave him Mount Lothian, a gift that would have seen Garwe expelled from the bench in a normal democracy.

Despite Tsvangirai's acquittal, Mugabe emerges victorious. For the past 20 months he has kept his most dangerous opponent, who by all objective accounts was the true winner of elections rigged in Mugabe's favour in 2001 and 2002, tied down since he was first charged in February 2002.

Why trial was a Mugabe masterstroke / 2

Tsvangirai's passport was withdrawn and he was unable to travel abroad to promote his opposition Movement for Democratic Change (MDC). The prolonged trial also stymied Tsvangirai's ability to campaign domestically. The trial, described by Nobel peace laureate Archbishop Desmond Tutu as a "legal circus", sowed divisions in the MDC and drained its resources.

A truly independent judge would have declared the proceedings a farce within weeks and dismissed the charges. Tsvangirai's passivity throughout the travesty has also made him appear weak. Mugabe may well have calculated that sending Tsvangirai to prison would have given his opponent a dangerous Nelson Mandela-like status.

The truth is that Mugabe, with Garwe's help, made one of his cleverest moves in trying Tsvangirai on charges trumped up in collaboration with an internationally known crook, the Canadian-Israeli lobbyist Ari Ben-Menashe.

"I would read this result as a sign that Tsvangirai is not as much of a threat as he was a few years ago," said Alex Vines, head of the African Programme at London's Royal Institute of International Affairs. "Today Mugabe is in a stronger position and the MDC is much weaker."

Noria Mashumba, a former Zimbabwean prosecutor and human rights worker now working at South Africa's Institute for Security Studies, said Mugabe will use Tsvangirai's acquittal to counter international criticism.

"It's a plus for the government, in terms of the general allegations that the judiciary is no longer impartial, that it is an instrument used by the government," she said. "The not guilty verdict looks to me like a very strategic move on the part of the government."

While Tsvangirai has been trying to save himself from the noose, Mugabe has introduced rafts of repressive measures that have closed newspapers, swept the country clean of foreign correspondents and ensured white farms occupied on behalf of "the people" have now been given to government ministers, top military and police officers, civil servants, senior state television journalists and compliant judges.

"The truth is that Mugabe can afford to let Tsvangirai go free because he has destroyed the opposition, the independent press and civil society," said Albert Musarurwa, head of the Legal Resources Foundation, one of the few human rights groups still working in Zimbabwe. "The government has closed the space for anybody and everybody who opposes it."

The latest clearances of black peasant settlers, encouraged to occupy farms from 2000 onwards by Mugabe's ruling Zanu-PF, happened last week in farms in the Chinhoyi area, 150 miles northeast of Harare. Soldiers and police burnt the settlers' shacks to make way for a takeover by top Zanu-PF and government officials. In another raid, on a farm to the west

Why trial was a Mugabe masterstroke / 3

of Harare, hundreds of peasant families were made homeless to make way for Mugabe's sister Sabina. The Zimbabwe Landless Farmers Association, one of the organisations originally used by Mugabe to purge white farmers, issued a statement saying the evictions were now happening to "the poor and landless people of Zimbabwe to accommodate the rich and politically powerful".

Just how calculating Mugabe has been can be seen by the fact that Tsvangirai again goes on trial on November 3, facing a second charge of treason relating to his call last year for street protests to oust Mugabe.

So he will still be unable to retrieve his passport or concentrate on the opposition's political struggle ahead of next April's parliamentary elections.

The first reward for Mugabe, following Tsvangirai's acquittal, is likely to be a verdict by the International Cricket Council that the expulsion of former Zimbabwe cricket captain Heath Streak and other top white players from the national side by Zanu-PF commissar Oziya Bvuti did not constitute racism.

It will pave the way for the England team's tour of Zimbabwe next month, another success in Mugabe's relentless bid for international respectability.