

ZIMBABWE BRIEFING

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Resourcing The Prosecuting Authority: Beyond The AG/NPA Constitutional Debate

Forget for a moment, the lofty constitutional statements on judicial independence. Put aside for a moment, the perennial claims and counterclaims in respect of the Rule of Law. Ignore for a moment, the dispute over whether the new constitution should introduce a new National Prosecuting Authority (NPA) or the current Attorney General's Office (AG's Office) should continue in its present form.

The problem is less in the words of a constitution but more in the attitude and the practice of those that are charged with the authority to govern. It is what I have often referred to as the "Human Factor" in governance; that you can have all the beautiful constitutions, laws and regulations in the world but if you do not address the impact arising from the human agents – the people – who are charged with power and responsibilities to implement the laws, then there is unlikely to be positive change.

There is a story in the press reporting that close to 140 of the 200 public prosecutors in Zimbabwe are members of the Zimbabwe Republic Police, the Zimbabwe Prison Service and the Zimbabwe National Army http://www.newzimbabwe.com/news-8815_Police,+army+officers+used+as+prosecutors/news.aspx.

This means that 70% of the public prosecutors are members of the security services who are working in an otherwise civilian role. The report suggests that they have been brought in to cover a shortage of prosecutors in the justice system. This situation is untenable and is represents a serious assault on the principle of keeping the security services separate from the civilian institutions. All the claims of non-interference of the security services in the civilian affairs become hollow talk when it is clear that the involvement of the security services personnel is legalised and condoned at the very basic level where ordinary people are affected on a day to day basis. It is part of a culture that normalises security services interference in civilian



The Attorney General of Zimbabwe, Johannes Tomana

matters and it becomes hard to blame them for thinking that their role is legitimate.

So while the political parties haggle over whether to continue with the present AG's Office or to create a new NPA in the new Constitution, the real challenge is still to build the operational capacity of this critical office, by whatever name it is called, to ensure that it is able to attract and retain competent staff and ... to pay more attention to the Magistrates Courts where real people collide, often violently against each other and against the law.

The trouble is all too often when we deal with issues of the justice system and judicial independence, we focus on the high level parts of the judicial system (the High Court and the Supreme Court) and forget the really crucial bits that impact on the ordinary people on a day to day basis (the Magistrates' Courts) and the public prosecution service. This is the arena in which ordinary people interact and meet with the law and the justice system on a daily basis, oft-times unpleasant collisions in dark, dingy corridors and courtrooms ... and waterless facilities that assault all senses. It is in the Magistrates' Courts where the bulk of the law is played out, every day of the working week; a domain in which justice and injustice alike largely go unnoticed; hardly reported unless the odd case in-

volves a big politician or the court report reckon the case is funny enough to make it to the

newspaper pages. Still, thousands of cases go unnoticed; every minute the just slip under the radar.

Many accused persons suffer prejudice in these lower echelons of the justice system, not just because they are not legally represented but because their cases are handled by pseudo-prosecutors that are less than competent – and it is not their fault. They are asked to fill a role whose requirements are not matched by their skills set. So while the political parties haggle over whether to continue with the present AG's Office or to create a new NPA in the new Constitution, the real challenge is still to build the operational capacity of this critical office, by whatever name it is called, to ensure that it is able to attract and retain competent staff and

... to pay more attention to the Magistrates Courts where real people collide, often violently against each other and against the law. And yet you have grown men and women investing hours and acres of space fighting for the retention the AG's Office in the present form. The current Draft Constitution separates the AG's Office from the newly created National Prosecuting Authority. ZANU PF, we read from the media, is opposed to this proposition, preferring instead to retain the AG's office in its present form. The MDC-T and the MDC-N accept the Draft Constitution's formulation. But as these press reports indicate, the problem is way beyond how the creature is referred to or structured in the Constitution. Whether it is called the NPA or the AG, the critical point is that the prosecuting authority's independence must be guaranteed in the Constitution but more importantly, it must have the capacity and resources to execute its role through professionally trained and suitably competent staff.

It would be time well spent if men and women haggle over how many resources to put into these critical services as opposed to fighting over whether the constitution should maintain an office of the AG or create an NPA. Calling it the AG or the NPA or indeed creating both offices is unlikely to change anything unless politicians start looking at matters of substance over form. The real challenge is resourcing the prosecuting authority; creating a civilian prosecuting authority that can attract and retain legal talent which is guided by professionalism. The present set up in which the office has to rely on members of the security services is untenable and does not augur well with the principles of separation between the security and civilian institutions. The moral leverage of accusing the security services of interfering in civilian affairs is lost when the civilian authorities have to so heavily depend on the security services.

By Alex T Magaisa
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Sustaining the Struggle for Qualitative Democratic Change

Coordinator's Note 88



dewaMavhinga

There is a general sense of fatigue among activists, funding partners and the broader international community regarding Zimbabwe's seemingly never-ending political crisis. The Southern African Development Community (SADC) leaders appear too timid to directly confront Zimbabwe's political leaders to sincerely and fully implement critical reforms that will result in a total transformation of Zimbabwe's political landscape leading to qualitative democratic change. It is in such a context that pro-democracy forces must urgently regroup for sustenance of the struggle for qualitative democratic change.

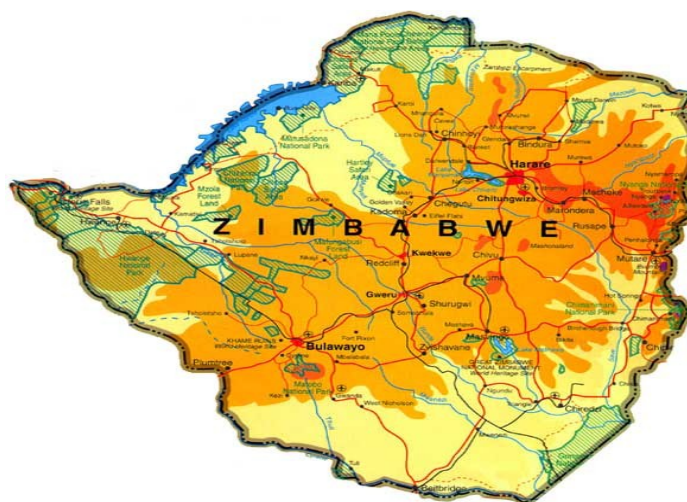
A fundamental factor in sustaining the struggle for qualitative democratic change in Zimbabwe is to ensure that various groups move out of their comfort zones and engage in radical, transformative actions the re-activate deep aspirations for change within the people. At the moment it appears various groups have retreated to comfort zones from where they are reluctant to take any measures that may rock the boat. The position taken by SADC leaders at the recently held Maputo Summit seems to underline this view in that they only reaffirmed their previous resolutions on Zimbabwe – resolutions that have been ignored a zillion times – but fell short of

spelling out the measures SADC would taken against Zimbabwe in the event of continued intransigence and non-implementation of agreed points. SADC can consider a range of tough and serious measures including sanctions against Zimbabwe; but so far it chooses only to speak softly for a presumed safe distance.

But perhaps to expect such action from SADC, in the wake of the South Africa Marikana Massacre, would to ask for too much from Zimbabwe's neighbours seized with challenges of their own. Ultimate-

tion, and we all act in unison to advance a common agenda, that change will occur.

Many have resigned to fate, have chosen to keep the sacrifice and risk of emancipation at arm's length and have assigned the democratization and liberation responsibility to others while they confine themselves strictly to their comfort zones. Within those comfort zones they seek to adapt and make do with whatever oppression or economic difficulty that an irresponsible regime throws at them. They will let those deemed 'reckless' do the dirty



ly, the burden of Zimbabwe's liberation and democratization rests firmly and collectively on the shoulders of Zimbabweans themselves. It is only when the urgency of genuine, qualitative democratization seizes the na-

work while they occasionally enquire about progress of the democratization project or about what SADC is doing to stop the madness that has become normalized in Zimbabwe. It is none but ourselves to

liberate Zimbabwe.

We cannot all be human rights activists, or political leaders, but we definitely can all contribute to transform Zimbabwe into a truly democratic and human rights respecting country where all citizens can enjoy normal life. For each there should be a role and a part to play according to their ability and capacity. And it is possible to support democratization without put life and limb at risk.

We need to inculcate a culture of supporting the democracy campaign in various ways and to sacrifice for the change that we all desire to see. As the saying goes, no pain no gain. Recently ZANU-PF official Ambassador Chris Mutsvanga said to me 'had it not been that I went to the liberation struggle, I would have been a lawyer like you, but I left law school to join the struggle.' That level of sacrifice that many reached before our first independence in 1980 and before ZANU-PF lost the way, is the same level of sacrifice that Zimbabwe urgently needs today for us to achieve radical political transformation and qualitative democracy.

Dewa Mavhinga, Regional Coordinator, Crisis in Zimbabwe Coalition

ZLHR Condemns GALZ Raids And State-Sponsored Homophobia Against LGBTs

ZIMBABWE Lawyers for Human Rights (ZLHR) is perturbed by the sustained attacks, harassment and persecution of members of the Gays and Lesbians of Zimbabwe (GALZ), including police raids and property seizure from the organisation's offices on Monday 20 August 2012 - the second swoop inside one month.

More than 20 police officers from the Zimbabwe Republic Police on Monday 20 August 2012 raided the GALZ offices in Milton Park suburb, Harare. The police officers, including some in plain clothes, rummaged through the offices of the organisation and confiscated computers, Digital Versatile Discs, pamphlets, compact discs and various documents.

According to a search warrant shown to ZLHR lawyers, Tonderai Bhatasara, Dzimbabwe Chimanga, Jeremiah Bamu and Mandevere Marufu, who responded to the raid, the police claimed that GALZ is in "possession of pamphlets and fliers with information that promotes homosexuality for distribution". The police also alleged that GALZ director, Chesterfiled Samba, "unlawfully

and intentionally distributed pamphlets and fliers with information that promotes homosexuality". The raid and seizure of GALZ computers and other materials comes barely a fortnight after the police first raided the premises and arrested 44 GALZ members present there on Saturday 11 August 2012 during the launch of the GALZ Violations Report and Briefing on the Second Draft Zimbabwe Constitution. The 44 were detained for a night, questioned, and personal details recorded before they were released without charge. Still unappeased, the police at the weekend launched a manhunt for the 44 GALZ members and summoned some of them to report to their offices.

ZLHR condemns the illegal and arbitrary actions of the police who appear to have made it a pastime in recent months to pursue members of GALZ even where they have not committed any crimes to warrant the police's attention and intervention. ZLHR has monitored and recorded several incidences in recent months where State actors have stoked up homophobia towards the GALZ community and people who

are identified or perceived as being lesbian, gay, bisexual or transgender (LGBT).

Of particular note is the hate speech from government figures who in May 2012 urged chiefs to banish "people who support homosexuality" from their communities and take away their land.

In July 2012, police summoned the director of GALZ to answer charges of allegedly undermining the authority of or insulting President Robert Mugabe in contravention of Section 33 of the Criminal Law (Codification and Reform) Act.

The government should be ashamed that such State-sponsored homophobia has given rise to an increase in incidents of harassment, persecution, as well as unlawful arbitrary evictions, which are a violation of our national laws, as well as the African Charter on Human and Peoples' Rights, to which Zimbabwe is a signatory. Harassment and persecution based on sexual orientation is a monumental tragedy and also a violation of international human rights law. ZLHR reminds the police and the coalition government that the all-

important international principles of human dignity and non-discrimination are protected in the Zimbabwe Constitution, as well as in regional and international treaties to which Zimbabwe is a party so there can be no justification for such harassment or persecution. We urge the government to seriously heed the recommendations outlined by Navi Pillay, the United Nations High Commissioner for Human Rights, following her official visit to Zimbabwe, during which she advised that "there can be no justification for violence, harassment or stigmatization" against LGBT people.

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Inbrief Around Zimbabwe

New Radio Station “Politically Aligned”

Commenting on controversy surrounding the awarding of a commercial licence to Zi-FM and its political links Supa Mandiowanira a ZANU PF supporter and owner of Zi-Fm said, "No media institute is not politically aligned ... We are very glad that ZiFM is politically aligned to the government of Zimbabwe which is the one that has licensed us," Zi-FM officially hit the airwaves last Wednesday. Zi-FM is supposed to be Zimbabwe’s first privately owned commercial radio station, Zi-FM Stereo, but there are fears that due to the close relationship of the management and ZANU PF the station will parrot ZANU PF propaganda instead of leveling the media field by unbiased reporting. Mandiowanira’s comment supports this view.

‘Indigenization’ Of The Hunting Sector Violation of Bilateral Agreements

The government last week issued 25 hunting permits in the wildlife-rich Save Valley Conservancy in the Lowveld. The exercise described by the National Parks and Wildlife Management Authority, director general Vitalis Chadenga, as ‘wildlife based land reform’ has seen ZANU PF top officials in the province such as Maluleke, former Gutu South legislator Shuvai Mahofa and Higher Education minister Stanislus Mudenge being granted permits even though Mudenge holds the lease to a 16 507 hectare property, Senuko 2 Ranch in Chiredzi district, while Mahofa has the 5 526 hectare Savuli Ranch in the same district. The beneficiaries have been accused by the ZCTF of issuing hunting qoutas to other private players. This recent ZANU PF system of patronage being carried out under the guise of indigenization has been seen as a violation by ZANU PF of bilateral investment protection agreements enjoining it to protect investments of EU nationals.

SADC Summit Resolutions on Zimbabwe

1. SADC reaffirms all previous decisions of the Troika and the SADC Summit on the issue of Zimbabwe.
2. Commends the parties for the efforts they have put in to develop the Constitution and urges them to spare no effort in ensuring that they put before the people of Zimbabwe at the referendum a constitution whose main focus is the interests of the nation as a whole.
3. Urges the parties to the GPA to develop a roadmap together with timelines that are guided by requirements of the processes necessary for the adoption of the constitution of conditions for free and fair elections to be held.
4. Urges the parties to establish a mechanism in Cabinet that will ensure coordination and the implementation by the Ministries/departments of those parts of the agreements that talk to their line functions to ensure smooth implementation and SADC, through the Facilitator, must be kept informed of the implantation mechanism; establish the implementation mechanism that was proposed by the Luanda Summit.
5. Urges the parties to immediately strengthen JOMIC, in terms of the Livingstone decision, so that the SADC team can assist, on a regular basis, in the advancement and consolidation of the work of that committee and help create an atmosphere conducive to the establishment of a level political field, leading to a free and fair election.
6. SADC commits itself to assist the parties in everyday possible as the guarantor of the GPA, to reach a position where a credible election enables Zimbabwe to set out on the road to stability and progress.
7. If they are any difficulties with regard to the constitution and implementation of agreements the facilitator is called upon to engage with the parties and assist them resolve such issues, bearing in mind the timeframes and the necessity to hold free and fair elections.
8. The facilitator and the chair of the Troika must engage on the Zimbabwe issues with the three political parties to the GPA through their Presidents and Principals, namely President Robert Mugabe,(ZANU PF), Prime Minister Morgan Tsvangirai (MDC T) and Professor Welshman Ncube (MDC).

MDC-T Proposes Alternative Constitutions Instead of Amendments to Draft Constitution

Responding to ZANU PFs demands for amendments to be effected to the draft constitution before it is taken to a referendum, Hon Tendai Biti of the MDC-T insisted that the draft constitution could not be amended here and there, because it all hung together as a coherent whole. Changing one section entails changing other sections as the sections in the document are interrelated. Biti suggested putting both texts before the Zimbabwean, electorate the text agreed by the negotiators of all three parties, and the one that ZANU-PF is now writing on its own.

Impoverished Zimbabwe Number 5 Diamond Producer In The World

A recent KP report noted a marginal increase in diamond output in Zimbabwe and said the country was now the fifth biggest producer of the gems in the

world. The reported stated that the country produced 8, 5 million carats in 2011, up 0.7 percent compared to 2010, making Zimbabwe the fifth biggest diamond producer after Russia, Botswana, the Democratic Republic of Congo and Canada. It’s saddening to note that whilst the country is producing and exporting such large amounts of the precious gem the country has not been benefiting at all from the revenue from diamonds. The Finance Ministry has continuously expressed concern that no revenue is being remitted to the state coffers by the diamond miners in Chiadzwa. The country recently discovered rich diamonds deposits in Chimanimani, Manicaland Province Eastern Zimbabwe. The Chimanimani diamonds deposit occur in the same geological structure as those of the Marange diamond fields and therefore, have the potential to be as good in terms of grade or quality.

A Letter To The President of Mozambique – 21st Movement Free Zimbabwe Global Diaspora Protest.

His Excellency President Armando Emilio Guebuza
C/o Mozambique High Commission
21 Fitzroy Square
London W1T 6EL

Your Excellency

Zimbabweans in the diaspora – of whom there are millions – urge you as the new Chair of SADC to give priority to dealing with the dangerous situation in Zimbabwe in the run-up to next year’s crucial elections.

We are pleased to see that the summit in Maputo reaffirmed the decisions already taken on Zimbabwe but we see little evidence of urgency in the summit resolutions, particularly in preparing the ground so that the elections will be free and fair.

We are unhappy that President Mugabe’s Zanu PF party is still being allowed to put obstacles in the way of any reforms. We draw your attention to the remarks made by Daniel Bekele, Africa Director at Human Right Watch: ‘SADC leaders need to maintain pressure on ZANU-PF to honor its commitment to reform. They should make it clear that there will be consequences if ZANU-PF fails to adhere to the terms of the election road map and the GPA.

We believe SADC should now insist that Zanu PF immediately end its refusal to the appointment of SADC representatives to the Joint Monitoring and Implementation Committee (JOMIC).

Summit’s Stance On The SADC Tribunal

Quoting from the Communique of 32nd Summit SADC Heads of State and Government, “*Summit considered the Report of the Committee of Ministers of Justice/Attorneys General and the Observations by the Council of Ministers and Resolved that a new protocol on the Tribunal should be negotiated and that its mandate should be confined to interpretation of the SADC Treaty and Protocols relating to disputes between member states.*” According to the South African Litigation centre SADC’s stance on the tribunal not only left the Tribunal in limbo but also rendered it completely toothless by denying individual access to the court.

The Tribunal’s original mandate allowed the court to hear and decide on cases brought by individual citizens, who felt they had been denied justice in their home countries. The SADC Tribunal was suspended in 2010, after the Mugabe regime dismissed a ruling by the court which said his chaotic land grab exercise was illegal and racist.

Militarisation of The Judiciary

According to the Justice Ministry, out of the 200 public prosecutors stationed around the country, 125 are from the Zimbabwe Republic Police, six have been drawn from the Zimbabwe Prison Service and another five from the Zimbabwe National Army.

This poses a serious risk of militarization of civilian institutions. Given the partisan nature of Zimbabwe’s security services such appointments continue to throw the independence of the judiciary into disrepute.

Top government security officials have openly pledged their allegiance to ZANU PF and given the nature of command in the security services the officers appointed as prosecutors may be forced to take orders from intolerant senior officers especially when dealing with political cases.

Beyond Platitudes And Slogans...Give Us A Real National Debate

This week I had the opportunity to be told 3 stories by a legal legend and Constitutional Reform and Constitutionalism Guru, Former South Africa Constitutional Court justice, Albie Sachs. All 3 stories were about constitution making and constitutionalism. In the first story, he spoke of how the ANC National Executive Committee chaired by Oliver Tambo, had made a strategic decision before 1994 that they would facilitate that the next constitution would be a South African Constitution, not an ANC Constitution. To that end they would not go back to South Africa with a constitution from exile but would go and encourage a meaningful national debate on the subject that carried the different complexions of the rainbow nation.

The second story, was about the choices that confronted them post 1994 as the ANC. He said they had choice between having US Constitutional model (some legal checks on power but promoting personal power and leadership), (peoples power constitution (revolutionary party takes over the state, government and society) and a post dictatorship constitution, and how the NEC opted for a less formal constitution and one that did not necessarily protect power and privilege – which they identified as a post dictatorship constitution. The 3rd story was about the Community Law Centre and how it helped to entrench constitutionalism. All these stories were profound, and impressive, as I am sure any encounter with a luminary such as Sachs is, but it left me with a bad sense about my own country's experiences around constitutional reform and the territorial nature of engagements around the subject.

Over the last couple of weeks, as a Zimbabwean and a democracy activist myself, I have grown fatigued by attempts of so called Political Analysts and Experts who have been commenting sometimes at length on the constitution making process and the new draft, but without really saying anything. The kind of input that has been given acres of space in newspapers and on other media platforms, is fitting of a cause celebre like the draft constitution, but the input itself on the subject is hardly worth the ink used to write it. This is because at the heart of the contributions is the continuation of a political culture that takes people for granted and assumes that the masses live in mental dark rooms knowing nothing, and wait for instructions from the enlightened on what to do even without any justification. Most of what we have been exposed to so far, does not help people make an informed choice on the draft constitution because a lot of the contributors either lie or do not make it clear what people have to choose from or between.

Hiding behind academic titles and assumed expertise, the public has been subjected to a process of appropriation of the national debate on the draft constitution by those who believe they are either techni-



Director, Crisis in Zimbabwe Coalition, Macdonald Lewanika

cally or politically more superior than the rest of us. What has emerged, instead of a meaningful constructive national debate on the draft, is an elite conversation that is well propelled by the media as guardians of the formal transcript of what is happening in our country. This middle and upper class take over of national discourse, by people in political society and in civic society ignores the reality that democracy and issues of national importance such as the constitution making process should not be the preserve of political society or indeed political society in conversation with some elements of organised civic society. Inputs into the debate thus far seem to be products of a gramscian thinking, which is almost irrelevant, that assumes that the subordinate classes (subalterns) consent to the thought and other forms of leadership by residents of the hegemonic and political and economic elite classes. While this kind of thinking and its promotion is, well, understandable from the Authoritarians in our midst, what is surprising and unacceptable is an assumption of the same by the “democrats” in our midst.

This is precisely so because one of the key tenants of democracy is deliberative discussions and or informed deliberations. Now, informed deliberations of necessity entail that we jump over slogans and get to the meat of matters. Platitudes alone as part of arguments, are all show with no substance and do not help anyone except those with an agenda far from objective deliberation and settlement of issues.

Take Dr. Simba Makoni for instance, a respected Political Leader in our country, leading an opposition political party, who speaks, like a typical politician about the draft. He says

“the people of Zimbabwe deserve a 21st century best practice constitution not a cut and paste, and what we have here does not qualify as a 21st century best practice constitution. There is a fear that if we don't have this current one, we will go back the Lancaster house, I would say better the devil you know than the one you don't know.”

The above makes for a good sound bite, and while we are all entitled to our opinions and putting them across as we wish, surely Zimbabweans also deserve more than that. While Zimbabweans deserve a “21st Century best practice constitution”, they also deserve constructive engagements based on facts and citations on the draft itself in terms of what makes it not a “21st century best practice constitution”. For an Academic Doctor and a political leader to just use blanket, overarching generalisations and end there is to perform an act of academic dishonesty, because it doesn't tell us anything as an expectant audience. It is to hide behind the veil of academia while saying nothing and hoping that because you are a doctor, people will value your input and accept it as fact none the less.

Dr. Makoni is not the only one who I believe has been guilty of sharing platitudes without giving us any meaningful debate on the draft. Those in support of the draft, have often times been heard to say that the “draft is better than Lancaster”. Few have bothered to articulate in what way is it better than Lancaster. To what extent does it meet the democratic test both in terms of what it carries, how it was developed and how it is crafted from a language perspective?

Other political parties have not been left behind in this exercise in dark whole type politics. Dabengwa and his ZAPU, Job Sikhala and his MDC 99, Rugare Gumbo and Jonathan Moyo and their ZANU PF, have all jumped onto the band waggon of dismissing the draft because” it does not carry what the people said in outreach”. Again organised political actors are allowed to have opinions, but they should also learn the value of a meaningful debate beyond sharing these slogans. In what way where the peoples voices ignored? Was the outreach process itself, given what we know about it, a platform where people shared freely, openly and objectively, such that their voices from that process warrant being respected? From what perspective is a constitution drafted- from inputs by the people, from inputs by constitutional drafting experts, based on international standards or what?

What is also a bit disturbing about these champions of the “peoples voices” is that the vast majority of them, perhaps with the exception of ZANU PF, were rejected by the people as their leaders and representatives at the last elections, and have a combined seat total in parliament of ...ZERO, in both houses. And they purport to know what we said and can say that what we said is not there in the draft even before we say it our selves. This is part of the challenge of our Politics, there is always someone wanting to speak for you even when you can do so your self. This is not to say they cannot be part of the discussion as equals, they should be, but they certainly should not be allowed to dominate that discussion.

I was recently accused of kowtowing to the MDC T, but I have to say this because it is true. The MDC T in my opinion seems to have tried to at least articulate the reasons why they support the draft, complete with a list of what they called the good, the bad and the ugly about the draft. The MDC led by Professor Welshman Ncube, also stated their reasons for supporting the draft and also their areas of reservations, which they had to cede on because it was a negotiated process.

If everyone could follow the example of Professor Madhuku Dr. Magaisa, WOZA and Minister Tendai Biti, I am sure we would have a much more beneficial debate on this question. Prof. Madhuku has made it clear that his tool of analysis is process oriented and that because they faulted the process they cannot and will not okay the content. There is no pretence there of whether the draft is good or bad, unless perhaps as an extras. Dr. Magaisa has developed an illustrious blog, where he engages with the content of the draft and explains it, in a qualified manner as a participant in part of the process (an unnecessary qualification, in my opinion, because one way or the other participation of Zimbabweans indifferent ways has been stated to be a hallmark of a good process). As deng Xiapong says “Cat – I don't care whether it's a black cat, or white cat...as long as it catches mice.

My point is not that people should not make judgements on the draft. They should...but judgements must be informed by sound, substantiated arguments and citations from the draft itself. To do anything else is to take people for granted. To subject people to platitudes and slogans is to take people for granted. To substitute the people and make judgements for them is to take people for granted. To make platitudes and slogans that are more show than substance is to take people for granted. We deserve a meaningful national debate on the draft constitution before we climb on top of mountains screaming YES or NO.

By Macdonald Lewanika, Director, Crisis in Zimbabwe Coalition

Southern African Implications of Marikana Mine Shooting Tragedy

The tragic and fatal shooting of 34 mineworkers in South Africa has sadly brought back memories of the violence of the apartheid years. And because memories of apartheid are not only limited to South Africa, the killing fields of [Marikana](#) must also be viewed as part of the Southern African narrative of repression, violence and the historical de-humanisation of the African. And this, even in the aftermath of the liberation of the continent from colonial and settler minority rule. This point on its own is a controversial but necessary one. The reason why it must be raised is because parts of the Southern African media debate in the tragic aftermath of these shootings has mistakenly centered around the assumed failures of the leadership of the African National Congress (ANC) as well as general derision of South African 'exceptionalism' on human rights observation in the region.

Some debates have gone so far as to argue that had such a tragedy occurred on Zimbabwean soil, there perhaps may have been an immediate invoking of the [Responsibility to Protect](#) liberal intervention doctrine that has been used in parts of North and West Africa in 2012. That too is an argument that misses the meaning and full implications of the dreadful shooting of the miners. In other circles, others are arguing (including some South African labour unions) that because the Marikana miners actions are said to have led to the murder of at least two police officers and that the strikers were also armed, the South African police were acting in self defence. That is an even more controversial argument but one that still skirts the serious meaning of the Marikana shooting tragedy.

In fact, there must now be a distinction that is made between the tragic event as it occurred and the broader and much more important underlying causes to these most unfortunate of incidences. If not for just this one tragic



Bodies of the dead miners shot by police during the strike at Marikana Mine in South Africa

event but also in order to prevent further such from occurring again. I am sure for the nation of South Africa, this may be a task for the [Commission](#) that has been established by President Jacob Zuma.

For Southern African citizens this tragedy however must be viewed with the utmost seriousness and examination of our collective regional history as it relates to mining operations, the de-humanisation of migrant labour and finally the emergence of new resource extraction oligarchies that are generally acting in collusion with many of our governments in the region to extract/mine without attendant democratic socio-economic accountability. In effect, such an analysis, given the unaccountable state of affairs in mining and resource extraction in most (if not all) of Southern Africa, a 'Marikana' can unfortunately occur anywhere else in the region, if it has not silently occurred in worse formats in countries such as Angola and the Democratic Republic of the Congo. This is before we even begin to discuss the processes that are unfolding in Tanzania and Mozambique over gas, coal and poten-

tial oil discoveries by international mining companies.

It is therefore of importance that we see the borderline heinous shooting of striking miners in South Africa as a tragic but now necessary wake-up call for all of us to reflect on how issues of mining and mineral wealth discoveries are being handled by our own governments and the regional body SADC. In doing so, we must however, unlike most of our governments, place emphasis on the necessity of prioritizing the people's welfare and above all, tackling with finality, the repressive legacy of colonial mineral and labour extraction in our post-independence societies. This would entail a reflection on how initially most of the workers at big or small mines were mainly migrant as well as chibaro (forced labour) recruits from across the entirety of the Southern African region. We must also examine whether it is the same 'colonial' frameworks and attitudes that inform the structure, function and profit of our contemporary mines. Questions such as to what extent do most mines or extractive mineral operations retain the structure of the oppressive

colonial past and the extent to which our contemporary leaders are acting as 'replacements' for colonial governments will be critical for such an appraisal.

Further still, we must begin to examine the entirety of the Marikana tragedy, not only from the purview of the state (inclusive of the South African Police Service) but from its most 'human rights' and 'humanity' related angle. This would be from the point of view of the mine workers, their families and their socio-economic circumstances. This not only for South Africa but for the entirety of the region. In this there should be no exceptionalism. Whether one is discussing the controversial diamond mines in Eastern Zimbabwe or the revived copper mines in Zambia, a key question must resonate, 'where in this do we find the people's socio-economic rights?' Even if the investor appears to make the central or provincial governments in our respective countries happy, we must measure whether there is no deliberate elite cohesion in extractive wealth accumulation for the few at the expense of the poor majority.

As it is, the lessons of Marikana may appear specific to socio-economic and political developments in South Africa. Some may have even chosen to view them in relation to the internal politics of the ANC as well in order to falsely claim that all 'African' politics remain the same. The truth of the matter is, Marikana is indicative of a continually emerging and re-emerging Southern African problem around resource extraction, elite collusion against workers and families and in the same process, an active lack of democratic frameworks around resource extraction in the region.

By Takura Zhangazha

Around Africa

SADC Slams Rwanda for DRC Interference

The Southern African Development Community resolved to send a mission to Rwanda as it wrapped up a two-day annual summit in Maputo.

The summit noted with great concern that the security situation in the East of DRC had deteriorated in the last three months causing displacement of people loss of lives and property said the executive secretary of SADC Tomaz Salamo.

A quarter of a million people have fled the Eastern DRC since April when the rebel movement M23 supported by Rwanda took up arms against government troops.

Ethiopia Prime Minister Zenawi Dies

The Ethiopian Prime minister Meles Zenawi died on Monday from a sudden infection while recovering from undisclosed illness at a hospital in Belgium

ICC Rejects Gbagbo Jurisdiction Challenge

International Criminal Court judges have rejected arguments by former Ivory Coast president Laurent Gbagbo that they lack jurisdiction to try him on charges of crimes against humanity.

Gambia to Execute Prisoners-Jammeh

Banjul-Gambia President Yahya Jammeh has told the people of his West African country that by the middle of September all those sentenced to death crimes will be executed.

Somali Lawmakers To Elect New President

Mogadishu-Somali's newly appointed legislative elects the country's next president on Monday in a fresh bid to end two decades of unstable central government in the war-torn African nation. The election will complete a process set in motion through a UN backed agreement.

Malawi, Tanzania Open Oil Talks

Malawi and Tanzania on Monday opened five days of diplomatic talks about their border a long ignored dispute that has taken new importance as oil exploration gets underway in the region. At issue is a largely undeveloped swath of Lake Malawi were Lilongwe has awarded a license to British firm Surestream to explore for oil in north eastern water near Tanzania