

ZIMBABWE BRIEFING

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Zimbabwe: The Need to Find a Common Path Beyond The Constitution

The draft new constitution was finally released last week. Diverging opinions have been expressed as to whether this document captures the views of the people or carry with it fundamental democratic principles as demanded by civil society. At the same, time and as we said last week, violence continue to mount as the state security agents now in control of ZANU PF show a growing determination to stop the MDC-T party from campaigning and mobilising.

MDC-T party supporters were injured, this weekend, in rural Zvimba, home area of President Robert Mugabe and others were arrested. ZANU PF supporters are reported to have run amok this last weekend beating up MDC-T supporters and violently stopping a planned rally. It is important that these matters continue being reported because ultimately that is what determines whether Zimbabwe will have a free and fair election and not necessarily the contents of a new constitution. In comparison the increasing violence should be of major concern rather than the celebration of a document whose principle, contents and dictates the dominant political party, ZANU PF, is not prepared to follow or adhere to.

There is need for civil society and the international community to have a 360 degree understanding and appreciation of these matters as narrowly focusing on one issue at the expense of the other will see us back to the 2008 violence situation in which many lives were lost and property destroyed. The overriding argument now is that ZANU PF is not ready for change, does not see the new constitution and the whole Global Political Agreement negotiations as of any consequences to its entrenched position of maintaining power by hook or crook. This means that there is need for another higher engagement amongst the GPA parties as well as the international community on the need for peace and an orderly transition in the event of one party losing an election. To me these matters



A motorcyclist makes his way through teargas in downtown Harare March 2012 after teargas was fired on vendors who resisted when police attempted to confiscate their goods

are not only urgent but key to the transition process and critically to the maintenance of peace in Zimbabwe. The events of the past few weeks show that

It must be pointed that what gives the ZANU PF supporters the energy and determination to cause and participate in politically motivated violence is that

While civil society the international community and the senior leadership of political parties are engaged on the constitution and other 'high' level matters of the state, there is a growing under currency of violence that seem to be taking a life of its own.

We say a life of its own because the security sector has without doubt entrenched itself in ZANU PF and are directing actions such as the well planned violence against the MDC-T, and the same sector has resources from diamond money to sponsor its actions.

there is no agreed path among Zimbabweans on the direction that the country should take. Those in ZANU PF have been engaged in all the negotiations and political process reluctantly. They have other plans to maintain power by violence and the events of the past two weeks attest to that. A few months ago we heard senior Military officers promising 'war' in their defence of ZANU PF, and today as MDC-T supporters are being brutalised and political freedoms curtailed, we can see the hand of the security sector.

they know that they have the protection of the police, the military and the intelligence. If the security sector can be removed from the political equation, then Zimbabwe can easily move forward. While civil society the international community and the senior leadership of political parties are engaged on the constitution and other 'high' level matters of the state, there is a growing under currency of violence that seem to be taking a life of its own. We say a life of its own because the security sector has without doubt entrenched itself in ZANU PF and are di-

recting actions such as the well planned violence against the MDC-T, and the same sector has resources from diamond money to sponsor its actions.

ZANU PF is equally involved in double speak, talking of peace in the day while planning violence at night. ZANU PF has subcontracted in a more direct manner the security sector to manage its strategy, key being the use of violence. And this is despite the denials by senior ZANU PF figures that they are opposed to violence. President Mugabe has passionately spoken against violence since 2011, yet his party and the security sector that reports directly to him are involved daily in planning this violence. We are left to conclude that the President himself is involved in double speak or at worse has lost control of the levers of the state. In this environment, the question becomes is there anything to celebrate regarding the new constitution, what will this document do to help resolve the violence we see now? This question serves to remind us that there is still a lot that need to be done beyond the drafting of a new constitution.

We need to understand that they are some among us who are determined to cause chaos, no matter the consequences and costs. Until those are brought to the negotiating table then chances are that Zimbabwe will remain running in circles. It is important that civil society and the international community be fully aware of these matters, more importantly that it is not the constitution that will save us but a change in attitudes and practice by the security sector that levels the political playing field, and hopefully allows for a free and fair election.

By David R Mutomba

Caution Against Too Much Focus on the Constitutional Referendum

Coordinator's Note 84



dewaMavhinga

It seems a number of policy makers, including the EU, are placing a high premium on the holding of a Constitutional Referendum, to the point of benchmarking the lifting of restrictive measures on it. It is necessary to caution against such an approach because, as demonstrated below, the referendum may in fact be a non-event lacking in capacity to accurately indicate that, if held peacefully, then national elections expected next year, are guaranteed to be held under a conducive environment, a level political field where violence and intimidation are absent.

The released second draft of the constitution confirms that the document is a product of political compromise mirroring the Global Political Agreement (GPA). As such, if the three main political parties agree on the main clauses of the constitution, it stands to reason that, from the point of view of the political parties, going to referendum will be for the purposes of confirming an already agreed position. As such, it is unlikely that there will be any political conflict or difference

that would arise that may prompt Zanu PF and its allies to resort to their common instruments of coercion and intimidation. In fact, as professor Madhuku correctly noted recently, if Zanu PF does not agree to the draft constitution, it is unlikely that it will be subjected to a referendum at all.

A referendum in the context of a common agreement among the political parties will not provide the right context within which to test Zimbabwe's preparedness to deliver democratic, non-violent, free and fair polls. As previously noted, the existing Lancaster-brokered constitution is not, in and of itself, a problem. Disregard for constitutional principles including respect for the rule of law, separation of powers and lack of professional and non-partisan conduct within key state institutions such as the Zimbabwe Electoral Commission, the police, the Attorney General's Office and the army are the major challenges for Zimbabwe today. The subversion of state institutions by partisan individuals acting with impunity outside the constitu-

tional framework is a deeper governance crisis as recently illustrated in the case where some members of the police and soldiers teamed up with Zanu PF supporters to disrupt political rallies organized by the MDC-T in Mashonaland west, president Mugabe's home province.

A more reliable measure, or litmus test for Zimbabwe's preparedness to hold credible elections will be the manner in which the by-elections for 38 parliamentary constituencies will be conducted. This would be in accordance with a recent Supreme Court ruling directing president Mugabe to call for by-elections in three constituencies before 30 August 2012. If president Mugabe complies with the Supreme Court ruling, as we urge he should, it would be critical for SADC to immediately dispatch a team to closely monitor those by-elections to see if they fully comply with SADC's guidelines on the conduct of democratic elections.

Critical outstanding reforms that require urgent attention are

around the prevention of state-sponsored electoral violence and ensuring the security of persons. In addition to a new constitution that is subjected to a referendum, Zimbabwe must institute measures to prevent the security forces, particularly the military, the police and state intelligence agents from unduly influencing the electoral process through use of violence, intimidation or manipulation of the results. Comprehensive transformation of the security sector will undoubtedly take a considerable amount of time, but for now, in the short-term, it is critical that the political leadership of the security forces to publicly declare that they will respect democratic processes and not act partisanly to favour Zanu PF.

At all cost, the false and misleading argument that must be avoided, is the one that once a new constitution is confirmed through a referendum then Zimbabwe is ready for fresh elections that are transparent, free and fair.

Dewa Mavhinga, Regional Coordinator, Crisis in Zimba-

Crisis in Zimbabwe Coalition Statement on EU 3183rd Foreign Affairs Council Meeting Conclusions on Zimbabwe:

YOUR SANCTIONS ARE BEING REMOVED; NOW REMOVE THE SANCTIONS ON US.

The Crisis in Zimbabwe Coalition (The Coalition) commends the good will being shown by the European Union (EU) to normalize relations with the Inclusive Government of Zimbabwe, and efforts of constructive dialogue between the two. The coalition also recognizes efforts by parties within the Inclusive Government in terms of implementing the Global Political Agreement (GPA), which The Coalition asserts, as commendable but inadequate, unsatisfactory and normative.

The 3183rd EU Foreign Affairs Council meeting's decision on Zimbabwe which is premised on the recognition of progress made by the Inclusive Government to improve the freedom and prosperity of the Zimbabwe populace is a clear sign of good faith by the European Union, which the inclusive Government marginally deserves. While there have been indicators of normative progress where implementation of the Global Political Agreement is concerned, the Inclusive Government is still lagging behind in terms of transforming this normative progress into real and meaningful freedom and prosperity for the people of Zimbabwe through sound economic recovery, human development and political stability.

Since the EU's meeting in February 2012 and the subsequent meeting between the High Representative Ashton and the Zimbabwe Ministerial Re-engagement Team in May 2012, there has been normative progress towards the implementation of the GPA by the Inclusive Government of Zimbabwe. The coalition has witnessed marginal improvements in the political, social and economic environment, which can largely be attributed to the absence of political competition, raising fears of whether this will hold in an election year. In addition, the normative progress that has been made through parliamentary reforms on elections and the Human Rights Commission is seriously being hampered by the:

Selective application of the Law, arbitrary arrests, long incarcerations, and impunity of violators of human rights.

Continued presence, utterances and interference by the military in Civilian political matters and lack of political will to realign this critical sector,

Inordinate delays in putting in place key democratic reforms including the constitution making process, the legislation of the Human Rights Commission, Electoral amendments and other critical pieces of legislation.

Continued non-existence of free political activity as seen through disruption of rallies, peaceful marches and meetings and meetings organized by political players and civil society.

Bad governance and opaque administration of national resources especially proceeds from the Marange Diamond Fields.

In light of the above, and the European Union's stated good will, The Crisis in Zimbabwe Coalition implores the EU to:

1. Set their benchmarks higher than the stated referendum as the Constitution Making Process is almost a fait accompli whose conduct and environment will not be a key indicator on how elections will be conducted, which remains the key area of concern for most Zimbabweans.
2. Take an interest in not just change and progress but also the quality of change and progress, where implementation of the GPA is concerned.
3. As part of their engagements with the Inclusive Government of Zimbabwe, emphasise and encourage the state to focus on implementing the SADC Road Map to elections, with a special focus on ensuring security of persons, security of the vote and security the people's will.
4. Continue supporting the

people of Zimbabwe, with a clear understanding that the people of Zimbabwe are more than just political actors, and as such dialogue with them should be informed and encompass a broader cross section of the Zimbabwean public.

Encourage parties to the GPA to focus on full implementation of the GPA beyond the normative steps that they have largely been taking, in order to achieve the desired end of a credible electoral process whose outcome and legitimacy will not be contested.

The Crisis in Zimbabwe Coalition also urges the Inclusive Government, to:

Reciprocate the good will that has been shown by the European Union through holding their end of the bargain.

Prioritise the process of removing the sanctions placed on the people of Zimbabwe through draconian laws, selective application of the law, political violence and intimidation and the fettering of free expression, speech and political activity.

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Issued by: Crisis in Zimbabwe Coalition

UPCOMING EVENTS

1-4 August, Civil Society Advocacy Mission, Tanzania

6-9 August, 8th Southern Africa Civil Society Forum, Maputo

15-16 August, SADC Council of Ministers Meeting

17-18 August, SADC Summit, Maputo

Inbrief Around Zimbabwe

Zimbabwe Human Rights NGO Forum Director in Court



The Director of Zimbabwe Human Rights NGO Forum, Abel Chikomo

The executive director of the Zimbabwe Human Rights NGO Forum, Abel Chikomo’s trial was supposed to commence today at the Harare Magistrates Court on charges of allegedly operating an “unregistered” organisation, because, according to the State, the Human Rights Forum is not registered as a Private Voluntary Organisation. He appeared in Court today but the prosecution was not ready and said they will again proceed by way of issuing fresh summons. This is harassment.

We concur with Zimbabwe Lawyers for Human Rights’ observation that the summoning of Mr. Chikomo to stand trial is the latest attack on Non- Governmental Organisations (NGO) by the government as it steps up efforts to silence critical voices ahead of a constitutional referendum and elections. Police have since 2010 been hounding Chikomo by raiding his offices, summoning him to their offices and pulling down his organisation’s billboards which call for the government to ratify the Convention Against Torture and to outlaw torture.

EU’s Stance on Zimbabwe Sanctions

In a statement issued on the 23rd of July 2012 by the 3183rd Foreign Affairs Council Meeting of the European Union whose agenda included Zimbabwe, *The Council adopted the following conclusions:*

- 1: The EU is encouraged by the progress that is being made in implementing the Global Political Agreement (GPA) by the Government of National Unity (GNU) in Zimbabwe. It welcomes the constructive dialogue that has been established in the process of EU re-engagement with all parties in the GNU, including through the meeting in May this year between High Representative Ashton and the members of the Zimbabwe Ministerial Re-engagement Committee. The EU welcomes the continued commitment of SADC to support the implementation of the GPA, as expressed at the recent extraordinary SADC Summit in Luanda.
- 2: The steps taken by the GNU to improve the freedom and prosperity of the Zimbabwean people justify the immediate suspension of the measures hitherto applied under Article 96 of the Cotonou Agreement. This will allow the EU to work directly with the GNU to develop new assistance programs for ht benefit of the people of Zimbabwe that would come on stream under the next European Development Fund.
3. The EU welcomes the recent visit to Zimbabwe of the UN HCHR at the invitation of the GNU. It recognises the improvement that has been achieved in the human rights situation although significant areas of concern remain.
4. As indicated in February this year and consistent with its incremental approach, the EU will further adjust its policy to recognise progress as it is made by the Zimbabwean parties along the SADC roadmap. The EU agrees that a peaceful and credible constitutional referendum would represent an important milestone in the preparation of democratic elections that would justify a suspension of the majority of all EU targeted restrictive measures against individuals and entities.
5. The EU reaffirms its partnership with the people of Zimbabwe. It calls on all parties to seize the momentum to complete implementation of the GPA in preparation for elections next year. Commenting on the issue Britian’s foreign secretary, William Hague indicated that the EU would respond to a peaceful and credible referendum in Zimbabwe with a suspension of the majority of EU Restrictive Measures, but not including those on Mugabe. During his Official visit to Australia Prime Minister Morgan Tsvangirai urged Australia to, "suspend these measures, but tie them to free and fair elections....if the election is free and fair, fine ... remove them permanently." He also urged the international embargo on arms trade with Zimbabwe to be lifted.

Police, Army Join Hands with ZANU PF to Disrupt MDC-Ts Rallies

Some members of the police and soldiers have teamed up with ZANU PF over the past weeks to disrupt political rallies organized by the MDC-T in Darwendale, Zvimba and Murombedzi areas in Mashonaland West and also in parts of Mashonaland East particularly in Mutoko East. According to the MDC the disrupted meetings had been cleared and authorized by the police and were supposed to be addressed by high profile MDC-T officials including the MDC-T’s

Secretary General Hon. Tendai Biti.

The police, the army and the Ministry of Local Government ZANU PF’s Local Government Minister Ignatius Chombo have been fingered as supporting and facilitating the disruptions in an attempt to avert any chances of the MDC-T making inroads in Mugabe’s home province. In Mashonaland west areas the disruption led to casualties among the MDC supporters. The MDC website claims 11 of its members were injured and two official vehicles were destroyed by violent ZANU PF supporters. This complete disregard of the law by ZANU PF raises questions of the possibility or capacity of Zimbabwe to hold a credible, free and fair poll.

Highlights of the Mid-Year Fiscal Policy Review Statement by Hon T. Biti

Minister of Finance Tendai Biti presented the Mid-Year Fiscal Policy Review statement on Wednesday 18th July. The minister noted in the statement that the austerity measures he would be outlining were agreed to at a special Cabinet meeting on 14th June 2012. He announced that 2012 revenue had fallen well below targets leading to a downward revision of the national budget from \$4 billion to \$3.640 billion largely owing failure by the diamond industry to remit the projected \$600 million revenue for 2012; they only remitted some \$40 million.

Ghana’s President, John Atta Mills, Dies



Former President of Ghana, the late John Atta Mills

The President of Ghana John Atta Mills (68) passed away yesterday the 24th of July at 37 Military Hospital in Accra after he fell ill on Monday night. It is believed he was suffering from throat cancer. John Atta Mills became president the third President of the 4th Republic Of Ghana in January 2009. In a smooth and swift democratic transition, Ghana’s vice president, John Dramani Mahama has since been sworn in as Ghana’s new president.

Zimbabwe’s New Draft Constitution

COPAC last week released the country’s draft constitution. The draft constitution a largely negotiated, is supposed to be subjected to an All Stakeholder’s Conference and a subsequent referendum. According to MDC-T’s Copac co-chairperson Honourable Douglas Mwonzora, the Second All Stakeholders conference is scheduled for August while the referendum will be held in October.

Below are some highlights from the draft constitution

A person is disqualified for election as President or Vice-President if he or she has already held office as President under this Constitution for two terms, whether continuous or not, and for the purpose of this subsection three or more years’ service is deemed to be a full term.

Every candidate for election as President must nominate two persons to stand for election jointly with him or her as his or her Vice-Presidents, and must designate one of those persons as his or her candidate for first Vice-President and the other as his or her candidate for second Vice-President.

The Draft constitution is silent on whether or not it allows dual citizenship for Zimbabwean citizens by birth, but provides that for citizens by descent and registration an Act of Parliament may allow or prohibit dual citizenship.

The constitution provides for the establishment of a Constitutional Court. The Constitutional Court is a superior court of record and consists of the Chief Justice and the Deputy Chief Justice and five other judges of the Constitutional Court. The Constitutional Court will look at cases concerning alleged infringements of fundamental human rights or freedoms enshrined in the constitution.

According to the draft constitution, there is to be a National Prosecuting Authority which is responsible for instituting and undertaking criminal prosecutions on behalf of the State.

With regards to devolution the constitution provides that, whenever appropriate, governmental powers and responsibilities must be devolved to provincial and metropolitan councils and local authorities which are competent to carry out those responsibilities efficiently and effectively.

A Look at Dual Citizenship in New Constitution



Dr Magaisa studied law at the University of Zimbabwe (LLB) and the University of Warwick (LLM & PhD) in Great Britain. He is a registered legal practitioner admitted to practice law in Zimbabwe. Dr Magaisa has worked at the University Warwick, the University of Nottingham and is presently based at Kent Law School, the University of Kent. His main area of teaching and research is company and financial services law

After months of negotiations, the Final Draft Constitution is now out. I have already declared my interest in the process by way of my involvement at certain stages.

I am therefore hardly a neutral observer. Nevertheless, my interest does not affect my critical eye and where the Final Draft can be improved, this will be highlighted. The Final Draft is a product of negotiation – it is a product of give and take. The approach is not amenable to be production of the most beautiful constitution but idealism has to be married to *Realpolitik*. This is what we have and we must assess it to identify its strengths and weaknesses.

I will not be sycophantic and pretend that it is the best thing that ever happened to Zimbabwe. But I do not think it is right to dismiss it outright. It must be subjected to interrogation; to critical analysis so that those who make decisions – the people – can be better informed. It is in this spirit that I will use this blog to pick on aspects of the draft for purposes of making a contribution to the public domain.

The standard of comparison is the current constitution. In this regard we seek to find out what has changed, if any, and whether the change can be regarded as an improvement. Because there have already been previous drafts, it is inevitable that comparisons will be drawn between this Final Draft and the ones that preceded it. We will commence with the issue of Dual Citizenship.

A Thorny Issue

Dual citizenship was one of the thorniest issues in the current Constitution-making process.

With thousands of Zimbabweans scattered across the globe largely on account of the political and economic challenges in recent years, the clamour for recognition of dual citizenship was loud. Equally loud was the resistance to recognition of dual citizenship.

prohibit it. If there was an intention to prohibit it or to give power to prohibit it, the Final Draft would have stated it just as the current Constitution does.

Citizens by Descent or Registration

Parliament does however have the power to regulate dual citizenship of citizens by descent or citizens by registration. Clause 3.8(e) states that Parliament may make provision through a law for *“the prohibition or permitting of dual citizenship in respect of citizens by descent or registration”*.

In terms of Clause 3.3, a person is a citizen by descent if he/she is born outside Zimbabwe and at the time of birth at least one of their parents or grandparents was a Zimbabwean citizen by birth or descent; or either of their parents was a Zimbabwean citizen by registration and the birth is registered in Zimbabwe. Therefore, to use a hypothetical example: Suppose there are Zimbabwean citizens, Tendai and Nonhlahlala who migrated to Australia in 2005 and had their child Thabani in Australia in 2007. In this case Thabani would qualify as a citizen by descent as both her parents are Zimbabwean citizens.

Suppose Tendai and Nonhlahlala acquire Australian citizenship and so does Thabani. Under the terms of the Final Draft, Tendai and Nonhlahlala can acquire Australian citizenship without the risk of losing their Zimbabwean citizenship because they are Zimbabwean citizens by birth. However, Thabani’s citizenship may be at risk if the Parliament of Zimbabwe decides to pass a law prohibiting dual citizenship for all citizens by descent. In this

negative terms. Under the current Constitution, the clause states that Parliament may pass a law for *“the prohibition of dual citizenship”*. The new clause states that Parliament may make provision for *“the prohibition or permitting of dual citizenship in respect of citizens by descent or registration”*. There is an allowance in the wording that the power of Parliament is not merely to prohibit but can also be to permit. Some regard this as an improvement. However, in my respectful opinion, well-intentioned as they might be, those words, *“or permitting”*, as underlined above, are really not necessary and can be a source of confusion. This is because the constitution is not prohibiting dual citizenship.

The constitution must be interpreted in favour of rights rather against them, therefore, the natural presumption is that the constitution allows dual citizenship for all citizens regardless of their type unless it specifically states otherwise. This is confirmed by Clause 3.1(2) which states that *“all Zimbabwean citizens are equally entitled to the rights, privileges and benefits of citizenship and are equally subject to the duties and obligations of citizenship”*. Therefore all citizens whether by birth, descent or registration are entitled to the same rights, privileges as well as responsibilities.

In light of this, to give Parliament the power to “permit” dual citizenship suggests that citizens by descent or registration do not have the rights in the first place; that they have to await Parliament’s permission, which is really not the case. The only thing that Parliament could be empowered to do, but only so long as it is consistent with the constitution, is to take away any of those rights. As it is, I can foresee confusion as to the status of citizens by descent or registration in so far as Parliament is concerned.

Since, the current Citizenship Act is in place and because it prohibits dual citizenship, it will be null and void in regards to citizens by birth but will still be applicable to citizens by descent or registration, unless it is amended. There is however, one avenue that can be used so that children born outside Zimbabwe can be regarded as citizens by birth rather than as citizens by descent. Clause 3.2(2) states that *“persons born outside Zimbabwe are Zimbabwean citizens by birth if, when they are born, either of their parents is a Zimbabwean citizen and [is] (a) ordinarily resident in Zimbabwe”*. The question will, therefore, be whether one of the parents can successfully claim that he or she is “ordinarily resident” in Zimbabwe, which will depend on the facts and the legal definition of “ordinarily resident” – a long shot but one worth considering given the fact that citizenship by birth appears to have greater advantage than citizenship by descent.

So in summary, this is the position pursuant to the Final Draft:

1. Citizens by birth will be allowed to have dual or multiple citizenship. Citizens by descent or registration will be allowed to have dual citizenship unless Parliament prohibits it.

By Alex Magaisa
wamagaisa@yahoo.co.uk

Citizens by Birth Vs Citizens by Descent or Registration

The position in the Final Draft is a compromise which essentially recognises that citizenship by birth cannot be taken away simply because a person has acquired another citizenship but that Parliament has the power to regulate dual citizenship for citizens by descent or registration. Therefore, in regard to dual citizenship, citizens are divided into two groups:

The constitution must be interpreted in favour of rights rather against them, therefore, the natural presumption is that the constitution allows dual citizenship for all citizens regardless of their type unless it specifically states otherwise.

This is confirmed by Clause 3.1(2) which states that “all Zimbabwean citizens are equally entitled to the rights, privileges and benefits of citizenship and are equally subject to the duties and obligations of citizenship”. Therefore all citizens whether by birth, descent or registration are entitled to the same rights, privileges as well as responsibilities.

- a) citizens by birth and
- b) citizens by descent or by registration.

Citizenship by Birth

Parliament does not have the power to take away citizenship from citizens by birth just because the citizen has acquired citizenship of another country. In other words, citizenship by birth is protected in absolute terms in so far as the issue of dual citizenship is concerned. In fact, it opens the door not just to the acquisition of dual citizenship for citizens by birth but to the acquisition of multiple citizenship. The way the Final Draft deals with this issue is that it does not prohibit dual citizenship for citizens by birth and it does not give Parliament the power to

regard, it can be said that the Final Draft protects the citizenship rights of citizens by birth better than it protects the citizenship rights of citizens by descent or registration. Citizenship by registration is where for example one obtains citizenship through marriage or long residence.

The new provisions are an improvement in regards to citizens by birth. These people constitute the majority of Zimbabweans in the Diaspora. The current Constitution did not distinguish citizens by birth, subject them to the same laws that Parliament could pass prohibiting dual citizenship. To that extent the Final Draft is an improvement. However, in regards to citizens by descent or registration, the Final Draft has remained the same except that the wording of the relevant clause is no longer couched in overly

Mujuru's Estate: A case for Politicians to Declare Their Assets.

The recent revelations of the wealth held by the late general Mujuru, raises many questions on issues of politics, money, power and accountability. The mammoth size of the wealth that the late general acquired during the 31 years of his life post the liberation struggle shows a clear linkage of how power has become a vehicle for accumulation for most of our public officials. Many names such as the rise of Minister Chombo's Wealth after the assuming public office has been well documented, Minister Mpofu's buying of a bank and reported buying spree of various properties in Bulawayo and Victoria Falls and the Purchase of property by Air Marshall Robert Mhlanga in the seaside resort of Ballito in Durban.

The figures involved in most of these cases raises eyebrows on where the money came from, in a small economy like Zimbabwe. More so, there are a lot of grey areas on the origin of this wealth given the non-existence of any publicly known enterprises that most of these public officials have been involved. Given the raised cases, this piece will seek to contribute to growing calls for clear public accountability by public officials of their assets and any business interests. In this discussion a public servant refers to senior government officials.

Issues of public accountability are quite relevant to Zimbabwe, given its controversial history of how politicians have plundered and pillaged public resources. The cases cited above are just a cursory glance of the many cases which this discussion will not be able to address in this article. The cases of the Chitungwiza council, where 2 councillors are reported to have sold more than a combined total of 280 stands is another case of abuse of public office. The mayhem currently within our councils and reported levels of corruption clearly show that there is need to regulate the relationship between Money, Politics and Power if we are to seriously deal with issues of public accountability. The Mujuru case is therefore one of the many cases that show how public officials have increasingly become wealthy amidst wallowing poverty by the general Zimbabweans.

The mystery around how this



Phillip Chiyangwa former Zanu PF Legislature with one of his many posh and expensive cars

wealth was got still puzzles the public. The reported case of Harare's Deputy Mayor Norman Chiroto being able to build a mansion in one of Harare's leafy suburbs, given a very low salary of US\$300, and without any known business interest further emboldens the need for public officials to declare their assets. More so, this also shows

(iii) appointee to a senior post in a parastatal or company that the state holds interest
(iv) a senior officer of any state institution.

The culture to make public officials declare their assets and business interests does go a long way in curbing the abuse of public office. This means

With the draft constitution now out and in the public domain, issues of accountability need to be thrust to the fore and debated. There is need for us to engineer a new political culture in Zimbabwe and begin to strengthen institutions that promote transparency and accountability.

that issues of public accountability go beyond party affiliation or are not a problem of any particular party. In all political parties in Zimbabwe there are recorded cases of corruption and looting by public officials. With the draft constitution now out and in the public domain, issues of accountability need to be thrust to the fore and debated. There is need for us to engineer a new political culture in Zimbabwe and begin to strengthen institutions that promote transparency and accountability. One such key instrument is to make it mandatory for public officials to declare their assets and business interests before assuming office. The constitution gives ample opportunity to make this part of our supreme laws governing us. In this case a public official is defined as (i) any elected official,
(ii) Senior Civil Servant,

that public officials may be taken to task once there are reports of any ill-gotten wealth. The American case is one system that ensures that public officials declare their assets and interests. Much closer home the South Africa offers another case where government employees have to declare their interests in any companies that provide services to government. By making public accountability party of our law, that means a move towards acculturation of the practice of transparency and accountability. This move is quite relevant in an attempt to rebuild Zimbabwe to its former glory, given how corruption has become a normal thing. Lingo such as *maGame*, *madhiri*, *Zhet* and *tsoro* are clear highlights of how society has accepted the normalcy to loot. This moral rot was more prevalent and institutionalised during the height of crisis as all rules were thrown

away and survival and self-preservation became the only preoccupation as economic hardship hit many people.

It is the contention of this paper that public officials need to officially declare their assets and business interests and such information can be kept in a registry by a designated constitutional body. This registry should be continuously updated after a specified time-period. In case of any reported controversy or grey area such an instrument may play a huge role in accountability. This tool can be useful in acting as a deterrent to public officials to illegal accumulate wealth when they know that anything they may acquire outside what is known and fail to account may spell disaster for them and also for those who are daring to cross the line it can be the basis upon which they have to justify how they got that wealth. The controversy around the Marange diamonds are a case in point where, the minister of mines has become a super rich minister in unexplained circumstances and Air Marshall Robert Mhlanga is reportedly building an R200million seaside resort in Ballito, Durban, South Africa. This is against a backdrop of paltry revenue going to the state in terms taxes remitted. Therefore we need to institutionalise accountability and move towards a culture of openness and transparency. Such manoeuvres will go a long way in dealing with the cancer of plundering and pillaging public resources.

The sphere of money, politics and power needs to be governed in a manner that fosters transparency and accountability. There is need for civil society to advocate for a political culture buttressed on accountability of public officials. The mammoth size of General Mujuru's estate without any prejudice raises questions on the genesis of that wealth. Similarly other cited cases in this article pose the same question. Therefore, one way to stem out such suspicions or controversies is for public officials to declare their assets and known business interests.

By Tamuka Chirimambowa