

The LEGAL MONITOR

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COST-FREE

Maya charged with sedition

HARARE-Police have charged former presidential candidate Shakespeare Maya with sedition in a renewed but belated crackdown against perceived political opponents.

Maya - the losing candidate in the 2002 violent presidential election - was arrested last Tuesday at his Chegutu farm and charged with sedition for an offence allegedly committed five years ago.

The police allege that Maya, who joined Prime Minister Morgan Tsvangirai's Movement for Democratic Change (MDC) party in 2005, committed sedition by stirring up 800 MDC supporters to rebel against President Robert Mugabe's previous administration at a rally he addressed at Huruyadzo Shopping Centre in the volatile high density suburb of Chitungwiza on 8 May 2005.

Sedition is defined as the crime of "inciting by words or writings disaffection towards the State or constituted authority". Sedition complements treason and martial law.

The police allege that the former presidential candidate incited the MDC supporters to rebel

against the government by informing them of the avenues available to oust President Mugabe's administration from power.

"Accused ... stated that there were three ways through which the people can remove the ZANU PF Government from power, thus through the ballot box, through natural demise/death and lastly through a coup d'état," reads part of the police charge sheet made available to *The Legal Monitor*.

Maya is also accused of promoting violence after he refused to concede defeat in the 2005 parliamentary elections which he contested on an MDC ticket against ZANU PF's Sylvester Nguni, who won the election with 13 966 votes against Maya's 4 015.

The police say Maya allegedly told the MDC supporters that "he did not lose the Mhondoro seat to the ZANU PF candidate in the March 2005 parliamentary elections but that ZANU PF had stolen the election."

Maya is also accused of inciting the MDC supporters to demonstrate against the then



Lawyer Alec Muchadehema leaves the Harare Magistrates Court with his client Shakespeare Maya

Minister of Public Works and National Housing, Ignatius Chombo, who he accused of blocking development in local councils by refusing to approve proposed budgets. The police further allege that the presidential aspirant also threatened to lead the MDC supporters to dump sewage at Chombo's residence in protest against his refusal to approve council budgets.

The former opposition leader, who denies the charges, was freed last Thursday after paying \$100 in bail money. As part of his reporting conditions Maya will report once every week to Chegutu police station, continue to reside at his Chegutu farm, and not interfere with witnesses until the matter is finalised.

Maya was one of four candidates, including MDC leader Tsvangirai, independent candidate Paul Siwela and ZANU Ndonga's Wilson Kumbula who in 2000 challenged the incumbent, President Mugabe.

The election result was condemned by the European Union and other western governments who responded by imposing targeted travel and economic sanctions against the former freedom fighter and his allies.

Enough is Enough: Civil society

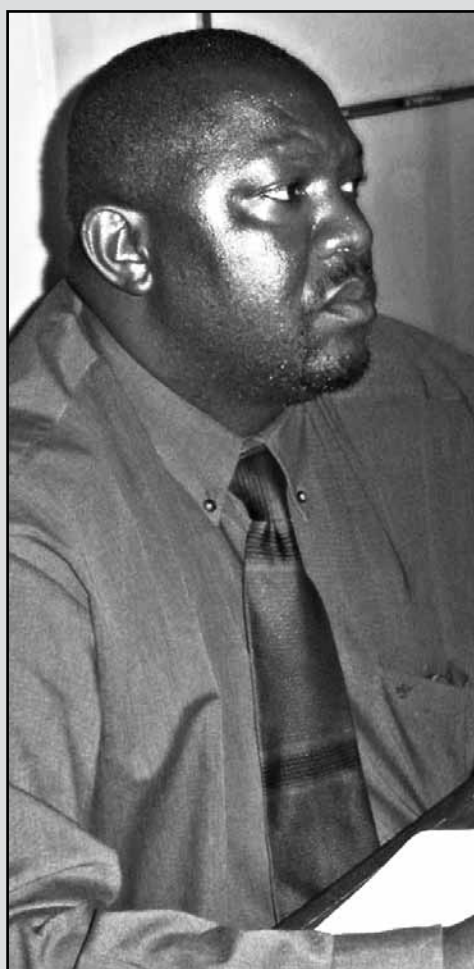
HARARE-Zimbabwe's civil society has begun moves to officially approach regional leaders for protection as more political and rights activists went to the ground following resurgent state harassment.

Civil society last week collectively agreed to seek the attention of the Southern African Development Community (SADC) because the local political leadership, as well as state institutions, have failed to protect them from increasing harassment and intimidation.

Speaking on behalf of civil society, Macdonald Lewanika, the Coordinator of the Crisis in Zimbabwe Coalition, confirmed that rights groups would approach SADC through South African President, Jacob Zuma, who is the mediator in Zimbabwe's drawn-out political crisis. Zuma announced two weeks ago that his recent visit had resulted in agreements on several outstanding issues affecting progress in Zimbabwe, although he refused to disclose exactly what progress had been made.

Events here however, contradict Zuma's optimism, hence the move by civil society to turn to him with facts showing how the transitional government has failed to open up democratic space.

"We are failing to get remedies in Zimbabwe and it is time that SADC intervenes. The work of rights groups is under serious threat from escalating attacks, many of them perpetrated by institutions that are supposed to be the custodians of the law," said Lewanika.



Haunted: ZimRights national director Okay Machisa

"The breakthrough President Zuma talks about will remain hollow if it only relates to agreements on how and where to appoint certain individuals without guaranteeing the security of ordinary people," he added.

Police last week attempted to stop a ZimRights photo-exhibition on transitional justice and unlawfully seized the entire photo collection. However a High Court order was issued in favour of the organisers on Wednesday (the day of the launch of the exhibition), which saw police returning the photographs and being ordered not to interfere with the launch. Prime Minister Morgan Tsvangirai officially launched the exhibition; however the police surrounded the venue as soon as Tsvangirai left the premises.

On Tuesday afternoon, two truckloads of uniformed and plain clothes police raided Gallery Delta in Harare (the venue of the exhibition) and seized 65 pictures without a warrant, forcing Zimbabwe Lawyers for Human Rights (ZLHR) to file an Urgent Chamber Application for their return. The police detained ZimRights national director, Okay Machisa, and later released him after the intervention of ZLHR.

The graphic pictures show men, women and children scarred and wounded during a brutal campaign waged by State and non-state actors aligned to ZANU PF in the post-March 2008 election period.

Justice Samuel Kudya granted the Urgent Chamber Application, ordering the photographs to be returned and the event to proceed without disturbances by the police.

ZimRights' lawyer, Beatrice Mtetwa, said the Judge dismissed arguments by the police that the photographs might not be of Zimbabweans and could have originated from the Democratic Republic of the Congo (DRC).

"The Prime Minister's battered face is among the pictures to be exhibited and I am not sure how he will feel about the police suspecting him of not being Zimbabwean and hailing from the DRC," said Mtetwa.

The clampdown on ZimRights and Machisa follows that of the General Agricultural and Plantation Workers' Union of Zimbabwe leadership, some of whom are in hiding outside the country.

The past three months have seen an increase in rights abuses, with the arrest and detention of journalists, unionists and rights and political activists becoming the norm.

ZLHR executive director Irene Petras condemned the continued attacks, saying: "Such actions are solely calculated to instil fear and paralysis within civil society and to prevent free assembly, association and expression around national events and processes."

Anger runs deep

HARARE-A year may have passed since the formation of a transitional inclusive government brought together political foes, but victims and survivors of the post-March 2008 election-related violence are still angry.

"I was raped by 10 people in army uniform and nothing has been done," said a woman only identified as 'Mary' as the National Constitutional Assembly (NCA) launched its report on human rights violations experienced by its women members last week.

The report - *'Fighting for a New Constitution: Human Rights Violations experienced by Female Members of the National Constitutional Assembly'* - is based on findings of a research conducted by the Research and Advocacy Unit (RAU) on behalf of the NCA. It captures human rights violations perpetrated against women members of the NCA from 2000 to 2008.

"I was counting them as they were raping me, after that they inserted some spice into my genital parts before I passed out" said 'Mary' as she narrated her ordeal. She broke down three times, bringing sombre to the colourful event held in Harare.

"Justice has to take place. I reported the matter to the police but they wanted me to identify the soldiers who had raped me. Is that fair?" asked the NCA member. But she could not finish recounting her experience.

According to the NCA report, 75 percent of women reported that they had been active political activists. Forty-one percent of these reported being arrested, with 29 percent having been arrested twice. Thirty-five percent of those arrested were intimidated during arrest, whilst 46 percent reported that the worst treatment came from police officers. Nine percent reported having their young children detained with them.

NCA spokesperson, Madock Chivasa, saluted the role women have played in the country's struggle for democracy and a new constitution.

"Zimbabwean women have been the bedrock of our struggle for democracy. Our mothers and sisters have refused to just sit and let a despot have his way", said Chivasa. "Whilst the report documents human rights violations, it also tells the story of women standing up to injustice and boldly declaring that they too will, through peaceful action, add their voice to the building of participatory social democracy."

Chivasa said the inclusive government should ensure that the rights of women and children to participate in political and civic processes are protected.

At the launch of the NCA report, Tony Reeler from the RAU said women had borne the brunt of most violence since 2000.

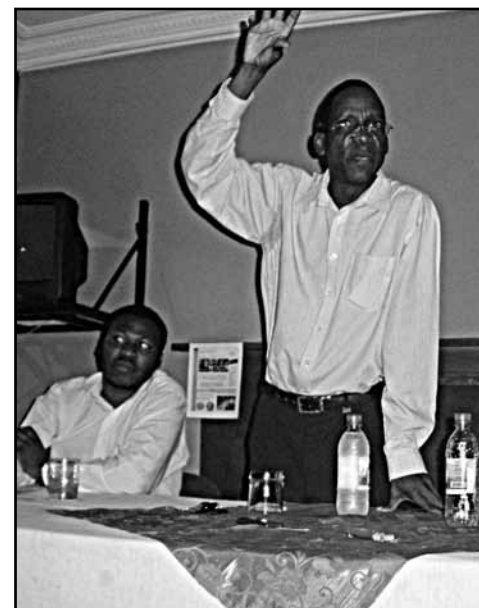
"Women suffer primary and secondary violence. They are targets for torture and rape, while

secondary violence comes in when their dependents or husbands are exposed to violence. They will have to look after the children and the tortured victims too," he said. "They have been exposed to some gruesome suffering since 2000. They have fought against hunger, against repression and all sorts of things."

Of the report, Reeler said: "Police and the army's involvement in the violence meant many women did not report violence perpetrated against them. That is a terrible indictment on the security forces. No doubt transitional justice through prosecution of the perpetrators is that answer."

Ninety-eight percent of the women in the survey said they were in favour of transitional justice.

"This (survey) was deeply unsupportive of amnesty with only four percent feeling that amnesty should be given to people who have committed politically motivated crimes or crimes against humanity. Ninety percent felt that a truth and reconciliation commission should be established, and even more, 98 percent felt that people who committed violence should be prosecuted," said the NCA report. "Ninety-four percent felt that people who committed violence against women should be compelled to publicly admit their crimes before a truth commission, but only 38 percent felt that public admission of crimes could lead to exemption from prosecution."



Standing his ground: NCA Chairperson Lovemore Maduku

The transitional government has set up an Organ on National Healing and Reconciliation - purportedly to deal with the issues of past cases of violence. However the Organ has, to date, remained fairly ineffective in consulting with victims and survivors and informing the public as to how it will address these critical issues.

PM warns of return to dark days

HARARE-Prime Minister Morgan Tsvangirai has warned that Zimbabwe could again sink into civil strife because some of his coalition transitional government partners who benefitted from chaos were determined to derail the democratisation agenda.

The former trade unionist and long-time opposition leader was speaking at the official launch of *"Reflections"*, a photo-exhibition focusing on raising debate on transitional justice organised by the Zimbabwe Human Rights Association (ZimRights).

The exhibition depicts photographs of key political events since 11 March 2007 and victims of political and 2008 electoral-related violence. The launch only went ahead after Zimbabwe Lawyers for Human Rights (ZLHR) filed an Urgent Chamber Application in the High Court and successfully argued before Justice Samuel Kudya that the police seizure of the photographs was unlawful, the photographs should be returned, and the launch should be allowed to go ahead as planned.

Tsvangirai told civil society activists, government officials appointed from his Movement for Democratic Change party, and diplomats gathered for the event that his efforts to push for reforms within the transitional government framework were "frustrating".

"Two steps forward and three steps back," was how he described the democratisation effort.

"I have the Co-Minister of Home Affairs [Giles Mutsekwa] here. We are equally appalled when abuse of people is committed in the name of government when we are part of that government. To this day and age there are still forces that when some of us are fighting to give people more freedoms, they are determined to limit the number of freedoms the people have. There are people who want to defend what was happening because

they benefitted from it. Zimbabwe once again risks being plunged into an abyss of violence, poverty and isolation," said Tsvangirai.

The Co-Minister was one of the Respondents cited in the Urgent Chamber Application due to the actions carried out by police whose actions he is supposed to scrutinise.

ZimRights said the exhibition was aimed at stimulating debate on issues around transitional justice - a matter Tsvangirai said was key to healing the country's traumatised population.

"Exposing the wounds inflicted by a decade of political violence and persecution is not about blame. Instead, it is the first step on the road to forgiveness. While forgiveness is essential to move our country forward I believe that forgiveness cannot exist in a vacuum. There can be no real forgiveness without knowledge and acceptance of what has transpired and why. And there can be no real forgiveness without justice. Without that forgiveness and justice, there cannot be any healing. These photographs are a testimony to the resilience, bravery and the supremacy of the truth. Change will come whether you like it or not," said Tsvangirai.

Tsvangirai's remarks, however, indicated that justice for the victims and survivors of political violence and grave human rights violations such as those shown in the photo-exhibition was unlikely under the current political arrangement because some of the perpetrators remain in that same coalition government.

"This nation needs to strike a balance between the cries of the victims and the fear of the perpetrators. If you don't strike that balance there will be no stability in this country. We don't seek to ignore what has happened or to brush aside what has happened under the carpet but to say even when genocide was committed the nation must say never again. This is the challenge we face as Zimbabweans," he said.

Immediately after the Prime Minister had left the venue of the exhibition with the Co-Minister of Home Affairs, the police returned unannounced and made attempts to disrupt the function.

They were forced to retreat, however, when the many journalists present started taking their photographs and the invited guests took issue with their presence at the invitation-only event.

Repeal POSA-Parly

HARARE-The parliamentary portfolio committee on Defence and Home Affairs has recommended the repealing and renaming of the draconian Public Order and Security Act (POSA), which has been abused for years by the police to curtail the rights of hundreds of human rights defenders.

In its 12-page report which was tabled in Parliament recently, the Paul Madzore chaired committee recommended that the co-Ministers of Home Affairs should totally repeal the legislation.

"That the relevant Minister reflects on the Act, the political environment in Zimbabwe at the time the Principal Act was passed, vis-à-vis the current scenario and the regional context and consider repealing the Act altogether. The Act can be reviewed beyond the current Bill as proposed by the mover to ensure it becomes a user friendly statute," read part of the parliamentary committee's recommendations.

The committee said POSA should be renamed "to reflect a more tolerant and democratic Zimbabwe."

The committee recommended that the police should "under-go intensive training on human rights issues and the correct interpretation of the Act arising from any amendments to the Act by Parliament."

The powers currently reposed in the police, the committee said, should be reviewed and curtailed and that some of the powers be moved to the courts which are more "independent and objective."

The committee's recommendations followed several public hearings which were convened across the country's ten provinces to solicit for people's views regarding the proposed amendments to the law that was enacted in 2002.

The POSA amendment Bill was introduced last year as a Private Member's Bill by the Mutare Central MP Hon. Innocent Gonese to amend the tough security laws, and curtail police powers in dealing with political rallies and other public gatherings. POSA replaced and actually tightened the Law and Order (Maintenance) Act which was imposed on the majority population by the racist and illegal minority regime of Ian Smith.

The State has used POSA to unconstitutionally and arbitrarily restrict the exercise by human rights defenders, legitimate political activists, and the general public of their fundamental rights to move, gather, receive information and speak out-critical aspects of exercising their right to participate in the governance of their country.

Speed up electoral reforms: ZESN

HARARE-The Zimbabwe Election Support Network (ZESN) has made a strong call to Prime Minister Morgan Tsvangirai and President Robert Mugabe to direct their energies towards speedily creating conditions for free and fair polls.

In a statement, ZESN, which recently observed elections in neighbouring Botswana and Namibia, said the United Nations and the African Union should supervise future elections because of Zimbabwe's poor record in running credible polls.

The two principals to the transitional coalition government have repeatedly stated that they prefer elections next year as they cannot agree on outstanding issues to the Interparty Political Agreement (IPA) - also known as the Global Political Agreement (GPA) - that forms the basis of their power-sharing administration.

However, ZESN warned last week that any election held under the current electoral framework, as well as under existing harsh security and media laws would only result in illegitimacy. Zimbabwe's previous elections have been dogged by allegations of fraud and violence, resulting in the international community, regional and continental election observer bodies, and local stakeholders disputing results arising from such polls.



ZESN director Rindai-Chipfunde-Vava

To avoid a repeat of sham elections, Tsvangirai and Mugabe should ensure an overhaul of the current electoral system. This includes opening up space for human rights defenders, political activists and civil society, whose work has come under fresh attack from state security and judicial organs, ZESN said.

ZESN, which has over 30 affiliate groups, outlined the areas of election management, the voters' roll, operating environment and transparency as key areas crying out for reform before any election can be held.

ZESN noted that the Zimbabwe Electoral Commission (ZEC) agreed to by Tsvangirai and Mugabe was still dysfunctional, and expressed concern that the proposed chairman, Justice Simpson Mutambanengwe, would remain domiciled in Namibia. An absentee ZEC chairman, ZESN noted, would be ineffective in preparing for credible elections because of the enormous work awaiting the electoral body.

The voters' roll - which still contains names of thousands of dead and ghost voters - should be overhauled and removed from the office of the Registrar-General to ZEC. Registrar-General, Tobaiwa Mudede, has in the past consistently been forced to defend repeated allegations of being complicit in rigging elections.

"An imperfect voters' roll can disenfranchise the electorate. ZESN has repeatedly called for the removal of the voter registration exercise from the Registrar-General's office to ZEC. ZESN proposes that the voters' roll be overhauled and the country adopts a bio-metric voter registration which includes the photographs of voters in the roll," reads part of the ZESN statement, which the organisation said was necessitated by Mugabe and Tsvangirai's calls for fresh elections in 2011.

The deepening political tensions, as seen by arrests, violence and intimidation against civil society and activists from the Movement for Democratic Change made calls for 2011 elections unrealistic, said ZESN. Continued media restriction through the use of laws such as

the Access to Information and Protection of Privacy Act and the Public Order and Security Act will prevent Zimbabwe from holding any legitimate election, according to ZESN.

"The safety of human rights defenders and activists remains an issue of concern as this curtails the oversight function of civic society. Our observers' reports show continued politicisation of food and agricultural aid on partisan lines. These developments are inimical to the creation of an environment that fosters an atmosphere conducive for the conduct of democratic elections.

"It is also imperative to put in place institutional, security and legislative reforms before the next elections. Some of the issues include the removal of the police from inside the polling station and from assisting voters. Assisted voters should be allowed to choose a friend or relative to assist them. In addition, the Electoral Act should specify a timely period in which election results should be announced," reads the ZESN statement.

ZESN also wants an end to the government's tradition of "cherry-picking" election observers, adding that interested observers should be invited early so that the pre-and post election periods are adequately observed.

ZLHR on Indigenisation Regulations

The legal framework for indigenisation marks an intensive and extensive state foray into not only public, but also private enterprise. Such involvement, more particularly in the latter, must ordinarily be limited as the state's role is to regulate and govern and, for the state to get too deeply involved, undermines this role. However, interventions may occur where necessitated by the needs of social and economic justice, but they should be set out in very clear, transparent, and justifiable laws and procedures.

Preliminary Submissions: The Necessity of the Intervention

In principle, it is clear that there is merit in such intervention where the beneficiaries targeted are those who clearly stand to benefit in terms of correcting current and long-standing inequalities in certain sectors resulting from historical imbalances, and in order to create a sustainable development framework that fosters equity and economic and social justice. There is also further merit in specifically targeting traditionally vulnerable and marginalised groups, such as women and youth.

However, this needs to be proven and not merely stated, as does the empowerment action taken need to be justifiable. Therefore the following issues need to be addressed and/or catered for in the legislation:

i. Transparency in Publicly Establishing the Status of Indigenous Ownership

Notably, there appears to never have been a proper empirical research which is publicly available into the economic situation in the country as regards indigenous ownership in various sectors which are covered by the Indigenisation and Empowerment Act [Chapter 14:33] (hereafter referred to as "the Act") and the Indigenisation and Economic Empowerment (General) Regulations, SI 21 of 2010 (hereafter referred to as "the Regulations") especially in the more recent past. There has been much economic change in the last decade, and yet there has been no transparency in terms of who, or which company/business, owns what.

Although the Regulations seek to carry out such an exercise to a certain extent, it is not clear enough that **all** companies and businesses operating in Zimbabwe with an asset value of or above US\$ 500,000 need to provide details of their shareholding, whether they are controlled by "indigenous" Zimbabweans or not. Not only would this provide a comprehensive audit and

transparent information, but it will also identify the business interests of key "indigenous" Zimbabweans who may seek to further enrich themselves through this legal framework at the expense of those who merit priority.

The fact that the information on shareholding is provided only to the Minister and not made publicly and freely available, except through an individual request to the Minister also needs to be addressed, so that the process is transparent and accountability is maintained in relation to action taken in terms of the Act and Regulations.

Failure to carry out such an exercise runs the risk of consolidating and increasing control of business in the hands of an elite and privileged few "indigenous" Zimbabweans at the expense of the majority, thus undermining the aims and objectives of such legislation and exercise.

Thirty years after Independence and after a decade of acute recession and business flight, there should also have been an empirical attempt to establish and show clearly whether there is such a substantial foreign or "non-indigenous" Zimbabwean ownership of business in the various identified sectors which justifies measures as far-reaching as those set out in the Act and Regulations, and whether the same measures are required in each identified sector, prior to the gazetting of such Regulations.

ii. Transparency in Identifying and Allocating the Proposed Beneficiaries of Indigenisation

Further to point (i) above, it should be the case, as per the objectives of the Act that, not only should the proposed indigenisation benefit "indigenous" Zimbabweans, but also that women and youth be specifically targeted under such programmes. At present, neither the Act nor the Regulations set out a clear process by which these vulnerable and marginalised groups will be identified and targeted.

In addition, the Regulations allow for any "indigenous" person or company to make a claim to the Minister for a stake in a business without providing even the most minimal information about how they continue to be disadvantaged, their current ownership in the public and/or private sector, and indeed whether they can justifiably be said to have expertise in the area they have targeted. In the absence of such information, it remains unclear, discretionary

and extremely vague, as to how their claims will be transparently assessed and action justified by the Minister.

In relation to the allocation of beneficiaries under the proposed legal framework, neither the Regulations nor the Act provide for an appeal against a decision taken by the Minister. In this regard, the action and remedies provided fall foul of the Administration of Justice Act and other natural remedies.

iii. Proving Necessity Under the Current Economic Circumstances

It is common cause that since the era of failed structural adjustment, and then following the economic downturn of the last 10 years, there is need to show that the manner in which the indigenisation exercise will be carried out is necessary, or whether its implementation will simply exacerbate the economic downturn and current instability.

There are very many sectors in the Zimbabwean economy and social sectors at present which require investor confidence; such measures as those introduced by the Regulations are sure to impact negatively on such confidence and will also lead to further brain-drain when the skills of all Zimbabweans are most needed to rebuild the nation.

In the event that such proof is not available, then there is need to identify and set out within the Regulations alternative measures which will substantively and substantially achieve progress towards indigenisation and empowerment without adding further strain on the struggling Zimbabwean economy and various business/commercial sectors.

There are groups in Zimbabwe who have added value to the local economy, and who are likely to be adversely affected by the legal framework:

- "Non-indigenous" Zimbabweans and foreigners who are highly skilled. They are likely to disinvest in Zimbabwe rather than continue to own and work companies which can be taken over by persons who have made no contribution to them whatsoever.
- Talented "indigenous" Zimbabwean businesspeople who have no political connections will also be victims of the legal framework. Zimbabwe has already experienced this in other sectors, and this legal framework merely gives politicians

and the well-connected business elite another stranglehold by which ordinary and professional businesspeople can be held subject to them.

- Any Zimbabweans with genuine talent, drive and ambition who want to achieve simply through their abilities, but who do not have the start-up capital to embark on their own conceived business endeavours and do not want to piggy-back on the work of others. They are neglected by the state in favour of the short-term measures provided under the current legal framework.

To simply take the approach that foreign investors and 'non-indigenous' Zimbabwean investors should provide investment wealth, expertise, access to markets, usage of intellectual properties, and so forth, and then have others simply grab absolute control over these institutions is simplistic and simply not nuanced enough to deal with the variety of factors that are relevant to the important issue of indigenisation.

What Zimbabwe needs is to ensure capacity-building, i.e. ensure that investment is such that there is a legal framework by which indigenous locals can develop skills in respect of such matters as raising capital, management expertise, accessing international markets, protecting and making maximum use of intellectual property etc, rather than just grabbing what currently exists, the effect of which is that economic growth simply ceases, and the nation as a whole is, at best, left standing still while all else around them (other countries) move forward.

A more nuanced approach is required - one that looks at questions of non-renewable resources separately from questions of participation in manufacturing and service industries etc.

Furthermore, this legislation would be a good opportunity to contain corruption, labour abuse, and environmental degradation within the world of business but instead the opportunity is lost as the little among these that is addressed is relegated to an optional, barely-mentioned National Indigenisation and Empowerment Charter.

Continued in next week's edition

These are part of the submissions on:
The Indigenisation and Economic Empowerment (General) Regulations, 2010

Submitted to: Parliamentary Portfolio Committee on Budget, Finance, Economic Planning and Investment and Parliamentary Legal Committee by ZLHR

Long wait for basic education

CHIWESHE—It is midday on a Monday at Musarara Township in Chiweshe communal lands. Pockets of men sit in carefully chosen groups sharing mugs of opaque beer as they discuss village politics. Twelve-year old Chamunorwa Kapfimbiri* mingles among them and once in a while shares a joke while doing errands at the township. He is just one of dozens of children milling around this dusty township - despite it being a school day.

Chamunorwa has not attended school for the past three years. He dropped out in Grade 3 after failing to pay school fees, shattering his dream of becoming a medical doctor one day. His niece Sekai* is still attending the nearby Musarara Primary School, but spends her weekends at a neighbouring farm labouring for money to raise \$36 for school fees.

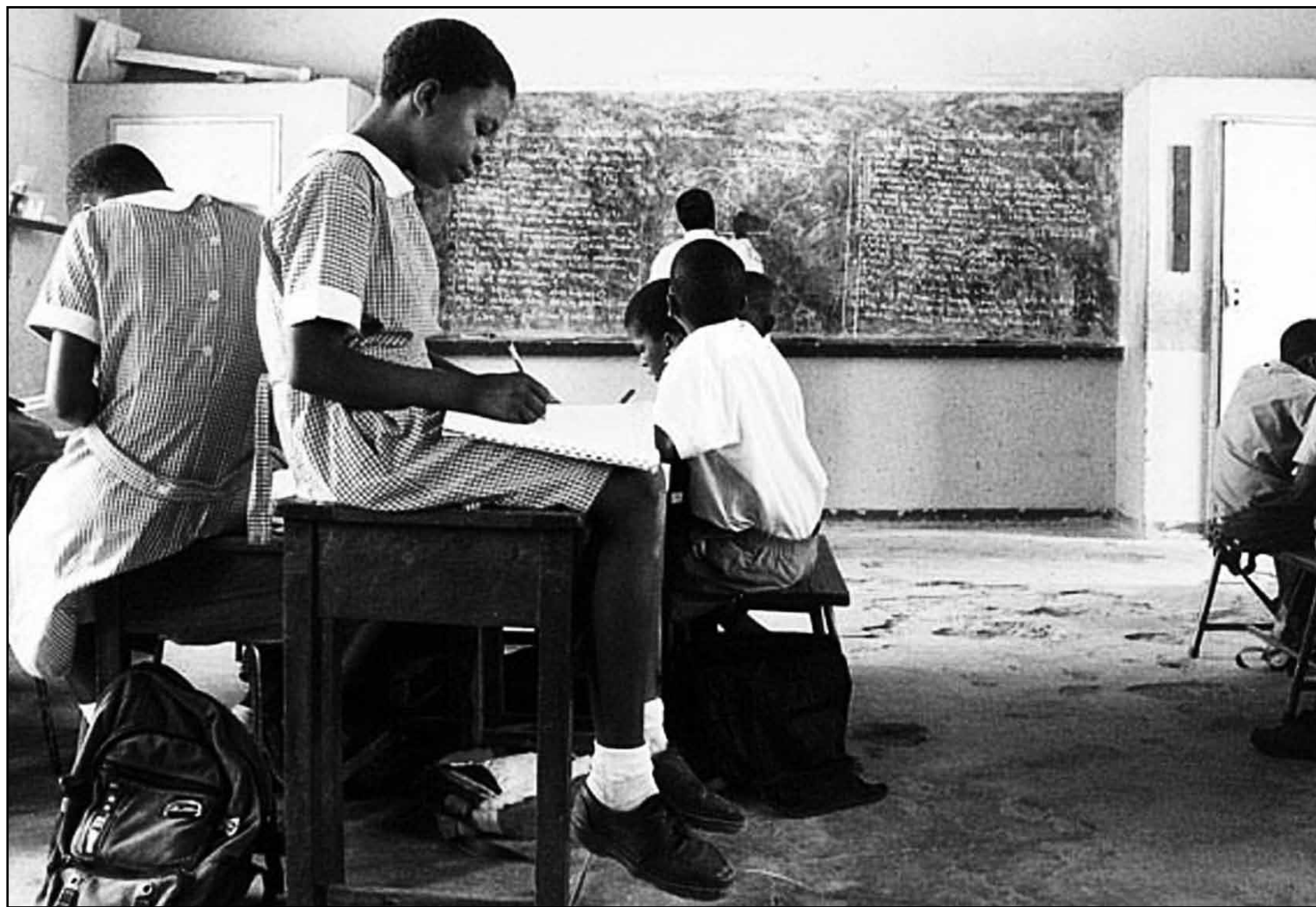
"My mother died when I was three and I now live with my grandmother who has no means of feeding herself, let alone an extra mouth," says Chamunorwa, holding a pair of 1 litre "shake shake" beers he has been sent to buy in a bar by an elderly group drinking at the township.

"Sekai's parents and my father left the country in 2002 after political violence flared up here and since then we do not know where they are. So no-one can pay my school fees. My only hope is if I get a job like Sekai did," he says, eyes dashing to catch a glimpse of three of his age-mates who are on the dance floor in the near-empty bar.

Chamunorwa's story highlights the plight of thousands of children whom United Nations agencies say have abandoned education for work due to circumstances beyond their control. This is in sharp contrast to what the Zimbabwe government said in 1980: that everyone would have a right to basic education. Today, basic education is a luxury that only a handful can afford.

When the transitional government was set up in 2009, hope abounded that the collapsed education sector would improve. But according to David Coltart, the Minister of Education, Sports and Culture, that remains an expectation.

"The situation in our education sector is dire," said Coltart during last week's ceremony where the European Union donated US\$10.6 million



The lucky ones: these students attend class in Harare's Highfield suburb

to the Education Transition Fund (ETF) to buy school textbooks in Zimbabwe.

As if Coltart was talking of Chiweshe's Musarara primary school, he said: "From my visit to rural schools, the textbook ratio is 1:10. In most cases the textbook you find is the one with the teacher. Most schools do not have desks and all the basic necessities that we need."

Dr Peter Salama, the Unicef country director said his organisation - together with other donors - plan to pay school fees for over 500 000 orphans and vulnerable children this year countrywide.

This might be the first good news for children like Sekai who are still in school. For those like Chamunorwa, holding shake shake beers remains their most realistic story until the government moves up a gear to ensure all children are back in classrooms.

Salama said as much: "Clearly the Fund (ETF) cannot solve all the problems of the education sector. Until the day there is free, universal, basic education in Zimbabwe, poor families will continue to struggle to find fees and levies required to send their children to school."

What has made it even more difficult for families and children to raise school fees is that they

are now being forced to contribute to teachers' salaries in the form of incentives because government salaries are not enough to keep teachers at work. The government is paying a paltry average salary of US\$150 a month against demands of teachers of more than US\$500, which is pegged against the Poverty Datum Line. Speaking at the Unicef donation, Prime Minister Morgan Tsvangirai disclosed how the past government chose political projects ahead of social services. Children like Sekai and Chamunorwa hope his government will get priorities right.

"In the first decade after independence, government committed between 20 to 22 percent of the budget towards education, supporting infrastructure development. Twenty years later, government pays literally nothing towards the schools per capita grant," said Tsvangirai, who admitted that the situation in schools was worse today than it was in 1980. He said his broke government was not yet able to bring back life into the education sector without donor assistance.

"As government now gears itself to rebuild our education sector and rescue a lost generation of children, the assistance support and cooperation of the international community is essential," said the former opposition leader, adding that he would approach donors for civil servants' salaries.

"We should be able to appreciate how this country has gone. We are certainly far from where we were, and certainly far from where we want to be. You must appreciate the road we have travelled," said Tsvangirai.

But for Sekai and Chamunorwa it is another long wait until they enjoy their right to basic education, as enshrined in the Constitution and regional and international treaties.

**Names have been changed to protect the identities of children interviewed in the story.*

D-Day for Bennett

HARARE—The month of March 2010, must be the longest month for Roy Bennett, the deputy agriculture minister-designate, as he awaits a High Court decision on whether he will be put on his defence over charges of banditry, terrorism, insurgency or sabotage.

Earlier this month his lawyers, led by Beatrice Mtetwa, applied for discharge at the close of the State's case, saying the state had failed to establish a *prima facie* case that Bennett plotted to assassinate President Robert Mugabe in 2006.

But the prosecution, led by Attorney General (AG) Johannes Tomana, opposed the application for discharge insisting it had placed enough evidence before the court to prove that Bennett had a case to answer.

Tomana said there was need for Bennett to explain why he ran away to South Africa if he had no case to answer.



Roy Bennett

The State alleges that Hitschmann was given US\$5 000 by Bennett to buy weapons for use to assassinate President Mugabe. It says Hitschmann implicated Bennett in 2006 when he was arrested after being found in possession of firearms - claims the gun dealer denies, saying he was tortured into making the confessions during interrogation at a military barracks in March that year.

"We have done a good job towards establishing a *prima facie* case. We have established a link between Michael Peter Hitschmann and Bennett," said Tomana as he wrapped up his argument about three weeks ago. Hitschmann was set to be the State's key witness when the trial started, but was declared hostile after he rejected his statement in court.

Justice Chinembiri Bhunu is expected to deliver his decision on Wednesday this week.