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**Media Monitoring Project Zimbabwe
Sunday July 1st – Saturday July 28th 2012
Election Watch 2012-8**

THE MONTH'S TOP STORIES

NEWS on several landmark rulings by the country's courts were the most significant political developments during July.

Among them was a Supreme Court judgment ordering President Mugabe to urgently hold by-elections in three Matabeleland House of Assembly constituencies and a resolution by the same court to uphold Prime Minister Morgan Tsvangirai's decision to take Mugabe to the High Court challenging him for unilaterally appointing the country's 10 provincial governors.

In other interesting rulings, the media reported the conviction of a senior police officer, Chief Superintendent Joseph Chani, in Mutare of one count of murder and three counts of assault, and three policewomen in Bulawayo for conduct amounting to torture. These two cases appeared to vindicate complaints that the police use torture or other cruel, inhuman and degrading treatment or punishment on suspects.

And in a review of an earlier culpable homicide court ruling, High Court Judge Justice Nicholas Mathonsi condemned the police and the Gokwe regional court for being partisan in their handling of a case involving 13 ZANU PF activists who, in 2001, set up a torture base in Gokwe where they terrorized suspected MDC supporters and ended up brutally killing two people.

Apart from these court rulings, news that the Constitutional Parliamentary Select Committee (Copac) had produced a final draft of the proposed new constitution also competed for the media's attention, together with the presentation of the Mid-Term Budget by Finance Minister Tendai Biti.

Supreme Court orders Mugabe to hold by-elections

ALL the media gave widespread coverage to a unanimous Supreme Court ruling ordering Presidential proclamations to be gazetted before the end of August for the holding of by-elections in three Matabeleland House of Assembly constituencies.

These constituencies, formerly held by the smaller MDC party, fell vacant in 2010 when their MPs were expelled from their party and as a result forfeited their seats.

The Supreme Court judgment follows an appeal by President Mugabe contesting an October 2011 High Court order directing him to hold the by-elections, pleading that government had no money to do so.

All the media admitted that although the Supreme Court's order applies only to these three vacancies, the decision creates a precedent for other similar cases – meaning that the President would have no legitimate grounds for resisting applications to the High Court for the proclamation of by-elections in other vacant constituencies.

It was against this background that the government decided to hold by-elections for all vacant seats in Parliament and local authorities. This was conveyed by Justice Minister Patrick Chinamasa, while responding to a question from Rushinga Senator Damian Mumvuri who sought to know the implications of the Supreme Court ruling (*The Herald*, 20/7).

All the media reported Chinamasa saying government would comply with this judgment in the interest of observing the rule of law but hinted that he would need to consult on the issue. He put the number of vacant Parliamentary seats at 38.

But Veritas, an independent legal and parliamentary watchdog, noted considerable confusion about the number of Parliamentary vacancies due for by-elections, with discrepancies between figures mentioned by Chinamasa in the Senate and picked up by the media, and those given in Veritas bulletins.

Although Veritas initially put the figure at 28 (*Bill Watch*, 32/2012), it subsequently revised that figure downwards to 26, after verification with Parliament (*Bill Watch*, 35/2012).

Veritas (*Bill Watch*, 35/2012) provided possible reasons for these discrepancies. Only constituency seats are up for by-elections when they become vacant. There are other vacant seats that need to be filled but not through by-elections. There are also some seats, which the press have reported as vacant which are not officially vacant.

Two of the four vacant seats not requiring by-elections are appointed Senate seats. The late Harare Provincial Governor David Karimanzira, whose vacancy is to be filled by President Mugabe by appointing a new governor for Harare, occupied one of them. The late Deputy Transport Minister Tichaona Mudzingwa of MDC-T occupied the other. His vacancy is to be filled by an MDC-T nominee (*Bill Watch*, 35/2012).

The remaining two vacant seats belonged to deceased chiefs. These are Chiefs Bidi of Matabeleland South and Chimombe of Manicaland. Provincial assemblies of chiefs in these provinces have to sit as electoral colleges to replace them (*Bill Watch*, 35/2012).

Veritas (*Bill Watch*, 35/2012) also notes that there are five more seats that have sometimes been reported as vacant. One of them belongs to MDC-T treasurer-general Roy Bennet. According to Veritas, it is a common misconception that his seat fell vacant long ago because he has been out of the country and not attending the Senate since early 2010. But his seat is not vacant, because the Senate has not voted to expel him, even though it could in theory have done so at any time since March 30th, 2011, when he had missed 21 consecutive sittings in a single parliamentary session.

The remaining four belong to MDC-T MPs sentenced to imprisonment. These MPs were automatically suspended from the House of Assembly for long periods. This was in terms of section 42 of the Constitution, after they were convicted of offences and sentenced to prison terms of six months or more. All subsequently won their appeals against conviction and sentence, so their suspensions then automatically came to an end (*Bill Watch*, 35/2012).

All the media reported a cross section of Zimbabweans expressing mixed reactions to the Supreme Court ruling and government's decision to comply with it.

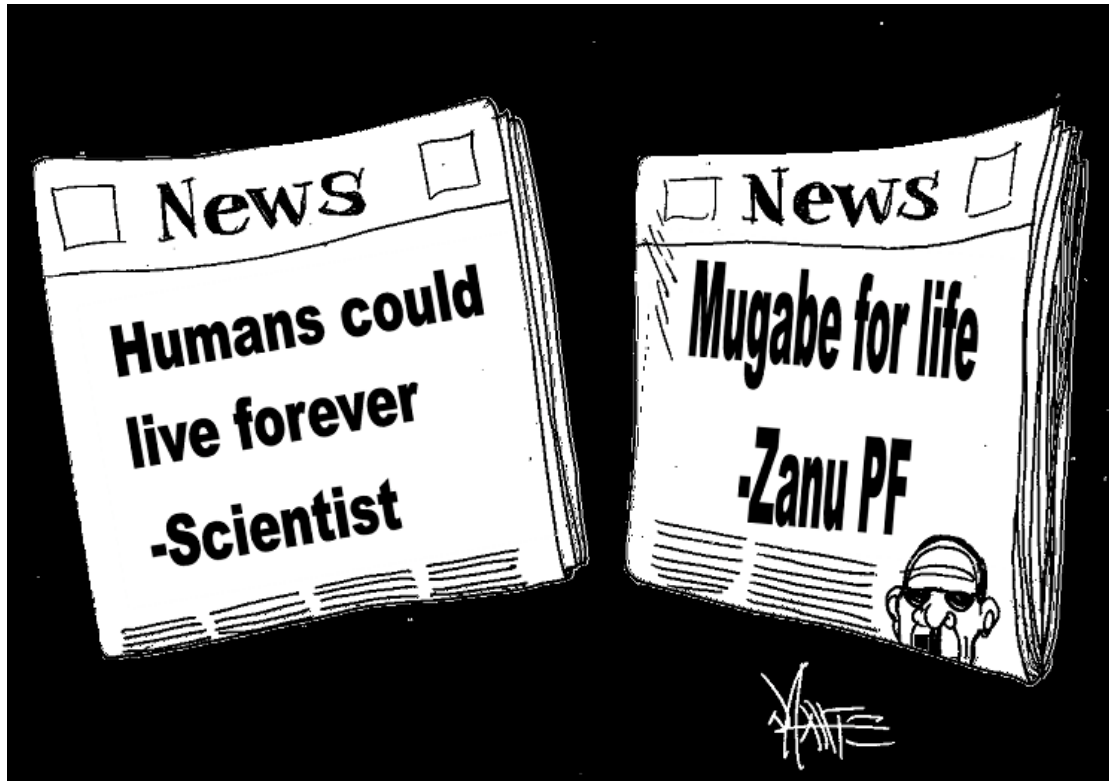
Most of those quoted, including NCA chairman Lovemore Madhuku, UZ lecturer Charity Manyeruke, and ZANU PF Politburo member Jonathan Moyo, felt that it did not make sense to spend millions of dollars on by-elections when general elections were expected soon (ZTV, 16/7, 8pm and *Zimbabwe Independent & The Herald*, 13 & 21/7).

Moyo argued that if government decides to hold by-elections in the three constituencies alone, that would not only be “*silly*” and “*sinister*”, but also “*illegal*” (ZTV, 16/7, 8pm).

A few, led by former Attorney-General Andrew Chigovera and lawyers Terrence Hussein and Jonathan Samukange, insisted that elections must be held in compliance with the law (ZTV, 16/7, 8pm, *The Standard*, *NewsDay* and *The Herald*, 15, 18 & 21/7).

And they agreed that if by-elections were held they would serve as a barometer of Zimbabwe's readiness for harmonized elections, expected next year, and as an indicator of political support for the country's major parties (*Zimbabwe Independent*, *The Herald*, *The Standard* and *Daily News*, 13, 14, 15, 16, 18 & 20/7).

State media attacks final draft constitution



NEWS of the completion of Zimbabwe's long-awaited draft constitution, paving the way for the holding of the Second Stakeholders' Conference, possibly in August, were met with disapproval by the government-controlled media and pro-ZANU PF political commentators.

While the private media gave a fair assessment of the draft, which has since been handed over to the coalition principals for final determination, the official state media castigated the draft without clearly demonstrating what was wrong with it.

The highlights of this draft were proposals for an American-style election system with presidential running mates; that every person who is born in Zimbabwe is a citizen by birth and a person who is born outside Zimbabwe to a citizen by birth is a citizen by descent; that all citizens are equal – whether by birth or by descent – and are entitled to the same rights; and that state security forces must be politically neutral.

The draft also tries to curb the powers of the President, by among others, making him more accountable to other institutions such as Parliament; permits devolution of power; trims the powers of the Attorney-General's Office and establishes the National Prosecution Authority; imposes a maximum of two five-year terms for service chiefs and senior public service officials,

appointed by the President; creates 60 seats for women in the House of Assembly; and abolishes the death penalty for women.

As usual, ZANU PF Politburo member Jonathan Moyo, and Goodson Nguni, whom the state media presented as **“legal experts and political commentators”**, were at the forefront of a vicious propaganda onslaught against the draft.

In one of his regular lengthy articles in *The Sunday Mail* (22/7), Moyo dismissed the draft as a **“scandalous compromise”** that was **“not based on the views of the people”** as envisaged by Article Six of the Global Political Agreement (GPA) under which Copac was established. Moyo described the draft as **“inherently undemocratic”** and most of the changes as **“not just dubious”**, but also **“ridiculous”** and **“totally unacceptable”** (*The Sunday Mail*, 22/7).

The following day, *The Herald* (23/7) carried a front-page lead: *Experts dismiss draft constitution*, under which it reported Zimbabwe’s coalition parties as being **“headed for yet another showdown over the constitution-making process”**, mostly on the strength of Moyo and Nguni’s rejection of the document.

This was reflected in 14 of the 20 reports the state media carried on the topic.

The remaining six criticized Copac for delaying and wasting funds in this **“futile exercise”** and reported Nguni urging ZANU PF to **“reject”** the draft (ZTV, 6, 9/7, 8pm).

The private media’s coverage of the topic was balanced.

They viewed the completion of the draft as a step in the right direction but also reported a cross-section of society expressing divergent views on the document.

The *Daily News* (24/7) for instance, reported human rights defenders criticizing the decision to spare women the death penalty as **“discriminatory”**, **“blatantly gender insensitive”**, and equivalent to **“selective application of the law”**.

But the private media insisted that the draft was facing possible rejection at the referendum, expected to be held in October, by an electorate which views the document as **“falling far short of meeting their expectations after its drafting was hijacked by politicians”** (*The Financial Gazette* and *Bulawayo24.com*, 26/7).

The bone of contention appeared to be the draft’s alleged failure to significantly whittle down the President’s powers and those of state security chiefs; meaningfully devolve power; the proposal to enlarge Parliament by dishing out 60 more seats for women; and being vague on the issue of compensation for more than 4,000 white commercial farmers who lost their properties under Mugabe’s haphazard land redistribution (*The Financial Gazette* and *Bulawayo24.com* and *Zimbabwe Independent*, 26 & 27/7).

This analysis was part of the 24 reports the private media carried.

HUMAN RIGHTS ISSUES

THIS month the media recorded 21 human rights abuses, 18 in the private media, and three in the official state media.

Among the incidents were:

- The eviction of an MDC-T supporter, Rugare Gwezuva, from his home in Mberengwa by Chief Mapiravana, for reporting ZANU PF activists who had assaulted him to the police, leading to their arrest (SW Radio Africa, 24/7).
- The invasion of Ruware Ranch in the Chiredzi by a group of suspected ZANU PF supporters armed with axes, and attempts to take over another conservancy in Matabeleland South, owned by white commercial farmer Dudley Rogers (SW Radio Africa, 23/7).
- Disruption of MDC-T rallies in Zvimba, Darwendale and Mutoko by soldiers and ZANU PF activists, and a peace-building workshop in Gokwe, organized by the Centre for Community Development in Zimbabwe (CCDZ). Reportedly, the police and ZANU PF activists accused CCDZ of being **“a regime change NGO”** (SW Radio Africa and *Daily News*, 16, 17, 19 & 23/7), and
- The arrest of freelance journalist Thomas Madhuku, while trying to seek clarification from Registrar-General Tobaiwa Mudede on anomalies he had identified on the voters' roll for Chipinge South. Madhuku is facing charges of tampering with the voters' roll and practicing journalism without accreditation, after he produced an expired press card and a soft copy of the voters' roll that is alleged to have been tampered with (*Daily News*, 27/7).

What they said...

“The impunity of a cabal of 13 political zealots, the complicity of law enforcement agents, the lamentable misuse of the prosecutorial authority bestowed on public prosecutors and the disinterest of the trial court all rolled together is the epitome of all that should not happen in our criminal justice delivery system” – High Court Judge Justice Nicholas Mathonsi condemning the police and the Gokwe regional court for being partisan in their handling of a case involving 13 ZANU PF activists who, in 2001, set up a torture base in Gokwe where they tortured suspected MDC supporters and killed two of them (*NewsDay*, 14/7).

“It leaves a sour taste in the mouth, as it suggests that the police just stood akimbo as innocent victims were bludgeoned to death in their full view. In my view, the police should do a lot of soul-searching if they are to sustain any credibility in the eyes of those whose safety and well-being they are sworn to safeguard” - Justice Nicholas Mathonsi (see above - *NewsDay*, 14/7).

“The circumstances of this case are an indictment of our criminal justice system. Gruesome offences were committed right under the noses of police officers. In fact, one of the victims (the bus conductor) actually ran from his assailants to hide behind a police officer. This did not deter the assailants from dragging him from there and severely assaulting him, inflicting fatal injuries” - Justice Nicholas Mathonsi (see above - *NewsDay*, 14/7).

“That outcome cries out to the sky for intervention because it is a glaring absurdity. The magistrate does not have jurisdiction to try murder cases. I am now faced with a record where the offences committed were trivialized and the result offends all sense of justice...One would not be judging them harshly at all by saying that they not only trivialized the offence, but at times appeared to protect accused persons showing no respect whatsoever for the sanctity of human life” – Justice Nicholas Mathonsi (*NewsDay*, 14/7).

“If all we have is US\$100 million in the form of SDRs that came from the IMF that we are told have not been used, let’s use it efficiently to hold one election and hold the one that makes sense, and hold the one that is required in terms of the law. But there is no debate that we should hold the three that were said. That is not just silly, it is sinister, illegal, unlawful; it doesn’t arise. It will make us a banana republic and we are not a banana republic” – ZANU PF Politburo member Jonathan Moyo responding to the Supreme Court ruling ordering President Mugabe to call for by-elections in three Matabeleland Provinces (ZTV, 16/7, 8pm).

“Our loyalty to serve the people is mistaken as partisan by a section of politicians who make police punch bags for their failures and undermine our authority” - Police Commissioner-General Augustine Chihuri addressing officers bound for UN peacekeeping missions (ZTV, 26/6, 8pm).

“They have all been serving the devil and they have never changed. It is a falsehood for any journalist to call Professor Jonathan Moyo an expert in law, he might be an expert in other fields, but not law” – Copac co-chairman Paul Mangwana taking a swipe at some of the critics of the recently completed draft constitution (*The Herald*, 24/7).

“It is also wrong to call Goodwills Masimirembwa an expert in law, he was actually blacklisted. He is highly treacherous because he participated in the process as part of the technical teams and I am surprised that he is such a turncoat. We expect criticism, but it has to be thought out” – Paul Mangwana (*The Herald*, 24/7).

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