

MP's flag misery

...MP barred from Parly for wearing flag colours demands his rights

HARARE-All that Trevor Saruwaka, a Member of Parliament, wants is to proudly wear the colours of his country's flag and religion during Parliamentary proceedings.

But, as the MP for Mutasa Central constituency discovered recently, wearing national colours or those of the Rastafari faith in the August House takes far more than just getting a jacket tailor-made to the flag colours.

Twice, security officials have stopped Hon. Saruwaka from attending parliamentary proceedings after he pitched up dressed in national flag colours.

Early last month Hon. Saruwaka was barred from attending the Official Opening of the Fourth Session of the Eighth Parliament for wearing an eye-catching jacket whose colours resembles the Zimbabwean flag.

He was again barred from attending proceedings during Parliament's pre-budget seminar at Zimbabwe International Trade Fair Grounds in Bulawayo two weeks ago for wearing the same outfit.

Hon. Saruwaka has now been forced to approach the courts, having realised the unrelenting determination of Parliament officials to keep the national flag colours off the bodies of opposition MPs.

Ruling ZANU-PF MPs often pin clips of the national flag on their blazers while attending and executing Parliament business.

But the Speaker of the House of Assembly Hon. Jacob Mudenda seems blind to this, deciding instead to ensure that this privilege does not extend to opposition MPs, argued Hon. Saruwaka in an urgent chamber application filed at the High Court last week.

The case was yet to be heard by Friday last week.

Zimbabwe Lawyers for Human Rights (ZLHR) members Marufu Mandevere and Kudzayi Kadzere of Kadzere, Hungwe and Mandevere Legal Practitioners, are representing Hon. Saruwaka.

According to the court application filed by Kadzere and Mandevere, Hon. Mudenda should be stopped from ejecting the dreadlocked legislator from Parliamentary proceedings for wearing national flag colours.

Zimbabwe's flag has five colours: red, yellow, black, green and white. Minus white, these are the same colours of the Rastafari faith, of which Hon. Saruwaka is a member.

"The jacket bearing the national flag colours is synonymous with the Rastafari religion and beliefs," said his lawyers in the High Court application, adding that Hon. Saruwaka has a right to freedom of conscience and religion in terms of Section 60 of the Constitution.

"The right also includes the right to give expression and propagate his religious beliefs whether in private or in public within the confines of the law," argued Hon. Saruwaka's lawyers.

Before the court action, Hon. Saruwaka had tried to engage Hon. Mudenda following his initial ejection from Parliament, including warning the Speaker via a letter that he would again wear the same jacket at the pre-budget consultative meetings.

The response came in the form of an instruction to security officials to bar Hon. Saruwaka from the proceedings, according to his lawyers.

Upon entering the Trade Fair Grounds in Bulawayo, where the pre-budget seminar was taking place, Hon. Saruwaka was summarily ejected on the basis that his jacket bore the national flag colours and he was therefore improperly dressed.

The action violated Hon. Saruwaka's religious rights, his lawyers argued.

Hon. Mudenda is cited as the first respondent in the application.

The Clerk of Parliament and the chief security officer of Parliament are cited as second and third respondents respectively.

"Further and in any event Section 76 (1) (a) as read with Section 76 (5) of the Standing Rules and Orders of Parliament in terms of which the 1st and 2nd Respondents purport to be acting in only enjoins Applicant to wear a jacket and does not proscribe or bar the wearing of a jacket bearing national flag colours.

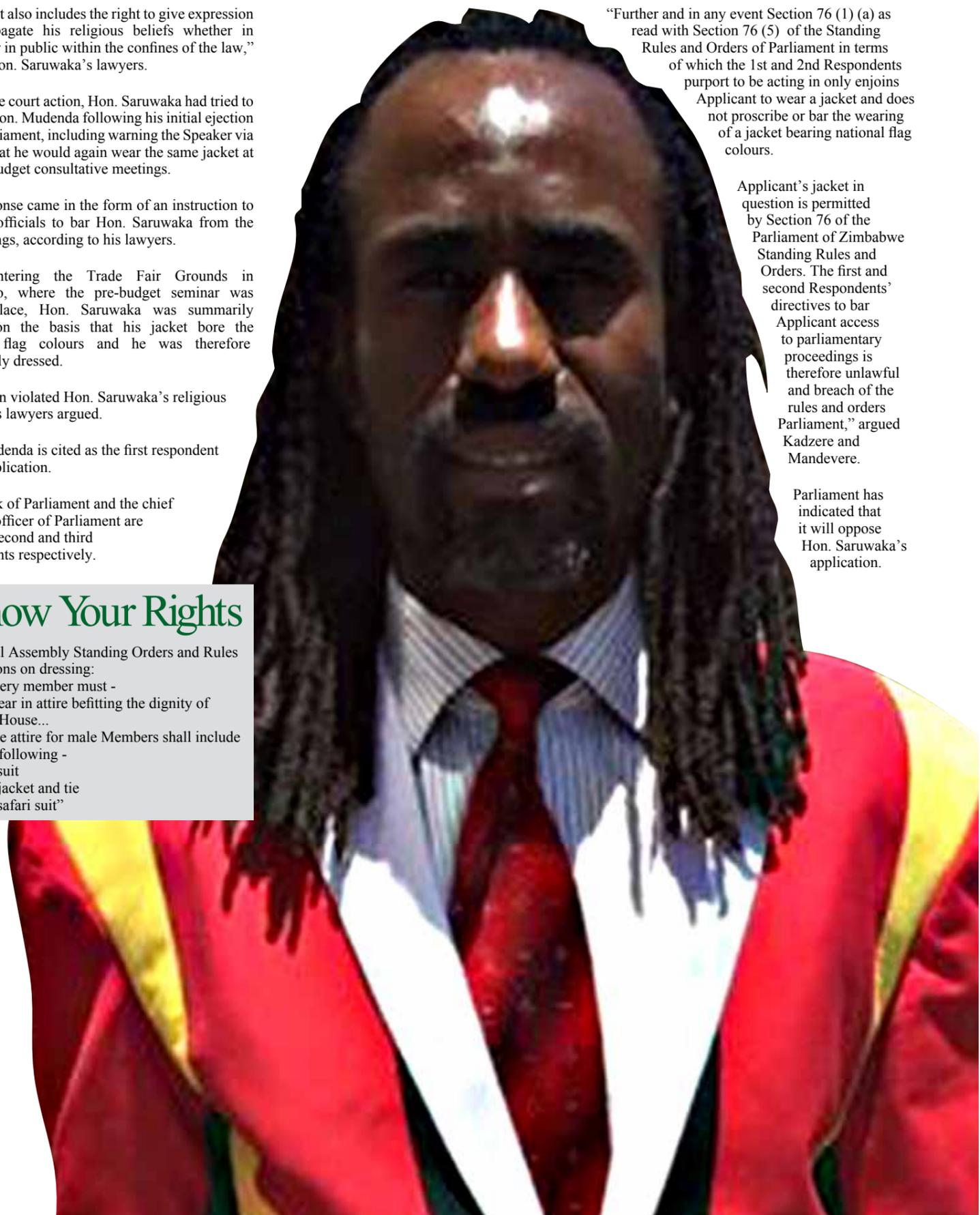
Applicant's jacket in question is permitted by Section 76 of the Parliament of Zimbabwe Standing Rules and Orders. The first and second Respondents' directives to bar Applicant access to parliamentary proceedings is therefore unlawful and breach of the rules and orders Parliament," argued Kadzere and Mandevere.

Parliament has indicated that it will oppose Hon. Saruwaka's application.

Know Your Rights

National Assembly Standing Orders and Rules Provisions on dressing:

- "Every member must -
 - appear in attire befitting the dignity of the House...
- (5) "The attire for male Members shall include the following -
- (a) suit
 - (b) jacket and tie
 - (c) safari suit"



#ThisBhachi...Hon. Saruwaka wearing the jacket that got him in trouble with Parliament authorities

The colour of fear

#Thisflag to #Thisbhachi... ruling elite tremble at sight of Zim flag

HARARE-At some point in Zimbabwe's history, it was impossible to separate the national flag colours from those of the ruling ZANU-PF party flag and activities. It still is impossible - just that others have caught up.

Overnight, the colours of the national flag – red, black, white, green and yellow - have changed from being symbols of State defined patriotism to signifying growing anti-government sentiment.

And if the actions of the government in recent weeks are anything to go by, then indeed national flag colours have become a terrifying sight for a government that has for decades delighted in using the flag for its own political mileage.

So, what has changed?

We have to go back to Evan Mawarire, a small church pastor who made a big difference before fleeing the country to save his life.

Mawarire started his #ThisFlag campaign in April this year. There was no planned official launch.

Instead, the campaign came about from the lamentations of a 39-year-old pastor who didn't have money to pay school fees for his children.

But he did have a smartphone and a flag on his desk so he did what many young people do nowadays. He recorded a video selfie.

"I looked at the flag, the colours and what they are supposed to symbolise. I realised that as young people, we have been let down. No jobs, the economy crumbling while the chefs get richer, our freedoms, our choices taken away by our supposed liberators..." said Mawarire before he fled the country for South Africa and eventually the United States of America where he settled.

The dire economic conditions mainly affecting the youth's opportunities at personal growth meant Mawarire was actually speaking for many others.

That video attracted over 120 000 views on the day it was posted online. He recorded a few more and the campaign went viral.

Suddenly, Zimbabwe's flag, cherished by the old guard for its symbiotic ties to the 1970's liberation war turned into the symbol of a new struggle.

Mawarire was publicly attacked by President Robert Mugabe, security chiefs and ruling party supporters and had to leave the country.

Yet the significance of the national flag as the symbol of anti-government sentiment has only soared.

Authorities appear scared and desperate to crush the flag movement from spreading.

In July, Parliament banned MPs from coming into the House draped in the national flag.

On 20 July, there was drama in Parliament after ZANU-PF MP Oliver Mandipaka alerted Deputy Speaker Mabel Chinomona to some opposition MDC-T party draped in the national flag.

The opposition MPs, defying Hon. Chinomona's order for them to remove the flags from their shoulders, started passing on the flags to their colleagues. Normalcy only returned after the flags were taken out of the House, although opposition MPs complained that the Speaker had allowed ZANU-PF MPs to wear the national flag on their blazers.

It has since turned uglier. On October 26, riot police invaded the House of Assembly while the house was in session to manhandle opposition MP, Hon. Costa Machingauta. He had appeared in Parliament wearing a jacket in national colours.

ZANU-PF MPs went ballistic and complained to Deputy Speaker of the National Assembly Mabel Chinomona, who obliged by asking Machingauta to leave. Violent scenes followed after police were called in to remove him.

One female MP openly cried, accusing the police details of sexually abusing her during the melee.

Mutasa Central MP, Hon. Saruwaka was ejected from parliamentary proceedings twice in October and November for dressing in national flag colours.

The Ministry of Justice, Legal and Parliamentary Affairs in September took the extra step to remind people of the existence of Statutory Instrument 184 of 1987, which bans the commercial production, sale or any abuse of the national flag.

Offenders face a \$200 fine or a jail term not exceeding one year or both, said the ministry's permanent secretary Virginia Mabiza.

Despite this heavy handed tactics by various government arms, selfies of people wearing such outfits continue trending.

The ruling elite are desperate to retain the national



Hon. Machingauta in Parliament before violence broke out over the jacket flag to their corner.

But the youthful generation leading the "new struggle" appears unwilling to hand the flag back.

The tables have turned. And it could stay like this for much longer if political, social and economic questions that have spurred this movement on are not urgently addressed.



Patson Dzamara wears a jacket with national flag colours outside Parliament while protesting the abduction of his brother, Itai



Pastor Evan Mawarire started the #ThisFlag movement in April

Flag movement Timeline

- 2014** - Pro-democracy campaigner Itai Dzamara launches Occupy Africa Unity Square, a campaign against President Robert Mugabe's government and hand delivers a petition to Mugabe's office. In subsequent protests, he together with Occupy Africa Unity Square movement stage protests while wearing and holding the Zimbabwe flag.
- 20 April 2016** - Mawarire records a video selfie complaining about the deteriorating situation in Zimbabwe while draped in the Zimbabwe flag. In the video, he talks about the significance of the flag colours and how they have lost significance because of corruption and bad governance. The video attracts 120 000 views on the first day.
- April-June** - This flag campaign goes viral. People post selfies wearing the Zimbabwe flag and videos ranting about human rights abuses, corruption and bad governance. #ThisFlag campaign becomes a topical subject in Parliament.
- July** - Mawarire calls for stayaways. People heed his calls.
- 11 July** - Mawarire announces he has been summoned to Harare Central Police Station.
- 12 July** - Mawarire and his lawyer Harrison Nkomo report at Harare Central Police Station. Mawarire is charged with inciting public violence.
- 13 July** - Hundreds of people start gathering at Harare Magistrates Court in anticipation of Mawarire's appearance. Sudden turn of events as State changes charges to subverting a constitutional government. Nkomo argues that Mawarire should be released as he has been brought before the court illegally. Nkomo argues that police had not advised him of the fresh charges and had not recorded a warned and cautioned statement on the new charges. Harare Magistrate Vakayi Chikwekwe agrees with the defence team and sets Mawarire free. Days later, Mawarire leaves the country for South Africa.
- 19 July** - President Robert Mugabe attacks Pastor Mawarire, says he should leave the country if unhappy with state of affairs.
- 19 July** - House of Assembly bans wearing the national flag in Parliament.
- 20 July** - Drama in Parliament as ZANU-PF MPs object to the presence of some opposition MDC-T MPs draped in the national flag. The opposition MPs, defying the Speaker of Parliament Advocate Jacob Mudenda's order for them to remove the flags from their shoulders, pass on flags to their colleagues. Normalcy returns after flags are taken out of the House.
- September** - Pro-democracy activists begin #ThisBachi campaign, advocating the wearing of jackets and other outfits with national flag colours
- 20 September** - The Ministry of Justice, Legal and Parliamentary Affairs issues a statement reminding people of the existence of Statutory Instrument 184 of 1987, which purportedly bans the commercial production, sale or any abuse of the national flag. Offenders face a \$200 fine or a jail term not exceeding one year or both.
- 6 October** - Mutasa Central MP Hon. Trevor Saruwaka is barred from attending the Official Opening of the Fourth Session of the Eighth Parliament for wearing a jacket in national flag colours.
- 19 October** - Patson Dzamara, brother to Itai, a missing pro-democracy campaigner, who was abducted in March 2015 stages a solo demonstration at Parliament demanding a determination about the whereabouts of his brother.
- 26 October** - Violent scenes as riot police invade the House of Assembly to manhandle opposition MP, Hon. Costa Machingauta, for appearing in Parliament wearing a jacket in national colours.
- 3 November** - Mutasa Central constituency MP Hon. Trevor Saruwaka is ejected from the Parliament pre-budget seminar at Zimbabwe International Trade Fair Grounds in Bulawayo for wearing the same outfit.
- 8 November** - Hon. Saruwaka files urgent chamber application in High Court challenging Speaker Advocate Mudenda's decision to bar him from proceedings and wants to be allowed to attend parliamentary proceedings dressed in national flag and Rastafari colours.

Teen shot in Bulawayo stray dogs war

BULAWAYO-Zimbabwe Lawyers for Human Rights (ZLHR) has started assisting a teenager to claim \$25 000 from city officials after its official shot him during an operation to kill stray dogs.

Eighteen-year-old Johnathan Mungando (18) was shot three times on both legs whilst in the comfort of his home in Emakhandeni by Bulawayo City Council officials who claimed they were pursuing stray dogs in June this year.

The matter was reported to the police and the officer was arrested and is currently undergoing a criminal trial. Mungando suffered severe injuries as a result of the negligence of the officials.

Mungando has since approached ZLHR and Nosimilo Chanayiwa is handling the case to assist Mungando to claim for damages.

“Upon completion of police investigations of the matter, it was revealed that he was shot during a city council operation of shooting stray dogs. Our client has suffered extensive damages, physically, emotionally and financially. He has made an effort to seek assistance from the City Council for medical bills and the institution has not been forthcoming. He currently requires an emergency surgery to remove one of the bullets that could not be removed in the first surgery. The total cost of the surgery is estimated at about \$6000,” said Chanayiwa. “We have been instructed to demand as we hereby do the total sum of \$25 000 for pain and suffering, past, present and future medical expenses. You are expected to respond within seven working days from receipt of this letter failure of which we will be left with no option but to institute legal proceedings against you to recover same.”

Chanayiwa has given the council until November 25 to respond or face legal action.

This is part of ZLHR’s efforts to increase access to civil, social and economic justice.

Meanwhile, Irene Ndlovu (24) a mother who delivered a baby at Phelandaba Clinic in 2015 had been failing to register her blessing as the institution withheld the birth record of the child until ZLHR chipped in. In a bid to extort the outstanding user fees from her, Phelandaba Clinic withheld the birth record of the child.

“This case was taken up to protect the right to an identity and national documents as enshrined in sections 35 and 81 of the constitution respectively. A letter of demand was written to the matron of Phelandaba Clinic on 1 November 2016 seeking the release of the birth record. The matron responded and advised that Irene can approach her office anytime to collect,” said Chanayiwa.

Chegutu trial fails to take off

CHEGUTU-The trial of four opposition political party supporters accused of blocking roads during an anti-government protest staged two months ago has failed to commence as the National Prosecuting Authority (NPA) is inadequately prepared.

The four; Patrick Tembo (60), Tafadzwa Ziyamba (28), Gift Konjana (46) and Isaac Stani Shumba (43); had been summoned in early September to stand trial last week on Tuesday.

This followed their arrest on 31 August 2016 and charged with contravening Section 38 (c) of the Criminal Law (Codification and Reform) Act Chapter 9:23 for allegedly obstructing or endangering free movement of persons or traffic.

Tembo, who is an MDC-T party councilor for ward 12 Chegutu Urban, Ziyamba, a self-employed motor-vehicle mechanic, Konjana, who is an unemployed MDC-T party chairperson for Chegutu West constituency and Shumba, who is also unemployed and is the Zimbabwe People First political party chairperson for Chegutu are being represented by Marufu Mandeverere of Zimbabwe Lawyers for Human Rights (ZLHR).

But, the trial of the quartet couldn’t commence, as the NPA wasn’t ready to commence trial proceedings even though prosecutors had brought the four Chegutu residents to court for trial on summons. Meanwhile, in Harare, the NPA last week released Munyaradzi Makwanya, Norman

Nyakundengwa and Albert Chiteya it conceded defects on charges of committing robbery which the trio.

The three had been charged with contravening Section 126 of the Criminal Law (Codification and Reform) Act.

Makwanya, Nyakundengwa and Chiteya, were represented by Gift Mtisi of ZLHR.

They were arrested last week on Sunday and initially faced charges of theft as defined in Section 113 of the Criminal Law (Codification and Reform) Act for allegedly stealing \$129 from Blessing Kanyere, from Highfield high-density suburb and assault in terms of Section 89 of Criminal Law (Codification and Reform) Act.

However, ZRP officers altered the charges to robbery as defined in Section 126 of the Criminal Law (Codification and Reform) Act.

But, prosecutors declined to prosecute the trio and set them free after vetting the ZRP docket which they indicated had some glaring deficiencies including that the complainant, Kanyere’s narration and circumstances on which Makwanya, Nyakundengwa and Chiteya were arrested upon were unrelated.

Kanyere also filed an affidavit insisting that the NPA should withdraw the robbery charges against the trio.



Boom and the dirt is gone.....Theatre producer Silvanos Mudzvova stages his one-man protest play titled Dirty outside Parliament building before Zimbabwe Republic Police officers attempted to block him as pro-democracy activists supported him

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Danida-JSC superb 4-year partnership

GOROMONZI-This district now has a Magistrates Court thanks to an exceptional four-year partnership between the Danish International Development Agency (Danida) and the Judicial Service Commission (JSC).

The Danish Embassy Office in Harare last week handed over another of the more than 20 Magistrates Courts built under the enduring partnership.

“The successful completion of Goromonzi Magistrates Court demonstrates the successful culmination of a four year partnership that has seen the construction of 22 new magistrates courts across the country. The new courts are part of a comprehensive programme, whose objective is to ensure positive transformation of the justice delivery system and a well resourced judiciary with increased efficiency in its delivery of justice,” said the Danish international development agency.

The programme encompasses components of a state-of-the art management system, upgrading information technology as well as digital court recording equipment.

Other elements of the programme include enhancing Magistrates’ capacity building through the purchase of law reports, training of JSC staff and the strengthening of internal measures against corruption. The opening of the courts also celebrated the successful implementation of the

four-year Danida-JSC program and the launch of the JSC’s new strategic plan for 2016-2020.

It is now up to both State justice institutions and civil society to build on the results of this program and collaborate to achieve the much-yearned world-class justice system in Zimbabwe.

Recently, Denmark came to the rescue of the JSC with a donation of close to 2000 books, which stakeholders such as the Law Society of Zimbabwe said would ease shortages of referral material for Magistrates and Judges.

Before that, Esigodini witnessed the completion of an \$80 000 worth Magistrates Court through Danida funding. Other remote areas have benefitted from the assistance of the Danish’s international development agency under the same programme.

Over the years, Danida has poured in close to \$15 million for construction of decent courtrooms across the country.

This resulted in citizens avoiding long distances to access justice.

Danida has been collaborating with the JSC, Department of Prisons and Correctional Services, and civil society organisations to design human rights aligned awaiting trial cell complex at each court.



Access to justice...Danish Chargé d’Affaires a.i. Signe Winding Albjerg at the official opening and handover ceremony of Goromonzi Magistrates Court

Danida/JSC enhancing access to justice

By Signe Winding Albjerg
Masikati mhuri yemu Goromonzi / Good morning Goromonzi Family.

Thank you all for taking time to celebrate the opening of the Goromonzi Magistrates’ Court with us.

(What did we promise to do?)

I am very pleased to be here today with our partner, Judicial Service Commission (JSC), and to be able to say: We did it! And we did it together!

Today, we are not only celebrating the opening of the Goromonzi Magistrates’ Court. We are celebrating the achievements from four years of partnership between Denmark and the JSC.

In 2012, Denmark signed an ambitious partnership agreement with JSC. Back then, we promised each other, that we would work within the framework of JSC’s strategic plan to enhance access to justice in Zimbabwe by strengthening the capacity for justice service delivery, based on the principles of judicial independence and integrity.

Today, four years later, I believe that our partnership has exceeded the ambitious goals, we committed to in 2012.

A successful partnership requires both a will and a way. Through this programme, I believe we found both.

(The way: The importance of constructing the courts) The most visible results of our partnership, is what we are celebrating today: The building, furnishing and equipment of 22 Magistrates Courts across Zimbabwe - physically increasing the access to justice for citizens.

Having to explain, why we prioritised to physically build courts, I always think about a

visit to one of the old courts, which made a great impression on all of us. As you can see yourself, if you visit the old court right next to this building, the old premises were in poor condition often lacking basic legal facilities, impeding access to quality justice services. But more importantly: many courts were located in compounds owned by municipalities, private businesses or even inside government offices. This made it difficult for JSC to fulfil its mandate to administrate the court system, as it couldn’t exercise independent control over its facilities. By constructing new courts on land owned by the JSC, the partnership took the first small steps to create a way for a more independent justice system, reachable for everyone, anywhere in the country.

Another key objective of the JSC-Danida partnership has been to reduce the space for corruption and biases within the justice system. An important means to ensure this, is the implementation of performance and accountability systems in court stations across the country. The court recording and case management systems have been designed to improve court performance and accountability at procedural and decision-making levels. Due to these new systems, corruption, bias and poor performance will now be easier to detect and deter, while efficiencies in arranging proceedings, including appeals, will be strengthened - leading the way for a more transparent and efficient justice system.

(The will: A strong JSC and continued cooperation with civil society)

One of the reasons why I believe this partnership has created good and lasting results, is the fact, that Denmark has supported JSC in their own home-grown priorities and visions. We have let the implementation of JSCs strategic plan

lead the way of the partnership, believing that a strengthened JSC would enable a strengthened Zimbabwean justice system as a whole.

It is therefore a great pleasure to witness today the launch of a new JSC strategic plan for 2016-2020. A plan that builds on the results of our partnership and leaves room for strong future collaboration with other partners. By that, JSC clearly shows a strong will to play a central role in the Zimbabwean justice system and continue the hard work to reach the vision of a “Zimbabwe in which world class justice prevails”.

That JSC already plays a key role in the Zimbabwean justice system is illustrated by the collaborative work, the Commission has initiated. Where the JSC in 2012, was working loosely with a range of civil society organisations, they have during the past four years led collaborations with both state justice institutions and civil society organisations to improve justice service delivery through cooperative work. In September this year, JSC signed a historical Memorandum of Understanding with five law-based civil society organisations for the provision of free legal services at the help-desks in the courts around the country. This is an important step as the Zimbabwean justice system is dependent on increased evidence-based collaboration between state justice institutions and civil society. I sincerely hope that the new, formalised partnerships will receive support from stakeholders as well as donors and bear fruit in the future.

(Success is the balance of will and way) As I said in the beginning, success requires both will and way. I believe that the JSC have shown both, when it comes to advancing access to justice in Zimbabwe. The JSC-DANIDA partnership has provided the foundation for judicial independence and cooperation between justice actors, but much work lies ahead for JSC as well. It is now up to

both state justice institutions and civil society to build on what has been established to ensure an efficient, transparent and accountable justice system. A justice system that conforms to the constitutional principles of independence and equity. I therefore strongly encourage the JSC and its partners to use this opportunity to work together to enhance justice in Zimbabwe.

Acknowledgements

Before I end, I would like to acknowledge the dedicated work of the organisations and individuals that have been involved in the planning, design, construction and successful opening of this court. I would particularly like to thank the Public Works Department and the Ministry of Local Government and Public Works for allocating a very professional and hard-working team to support the court constructions. Without that, we would never have made it in time.

And then last, but not least, I would like to thank the entire JSC team and congratulate you all, on the success of this programme. Denmark is proud to have been a partner to the JSC and we wish you and the court officials and courts users of Goromonzi all the best in the use of this new building. Please take good care of it and make good use of it!

We wish you all the best in achieving the world-class justice system you strive for.

I thank you.

Signe is the Chargé d’Affaires a.i. at Royal Danish Embassy Office.

This speech was delivered at the opening and handover ceremony of the Goromonzi Magistrates’ Court in Mashonaland East province conducted last month.