



**THE RESPONSE BY THE LAW SOCIETY OF
ZIMBABWE TO THE RANTINGS BY MR
TAFATAONA MAHOSO IN GOVT OWNED
NEWSPAPER THE SUNDAY MAIL**

Tafataona Mahoso, the Chair of the Media and Information Commission , a political appendage of the ruling ZANU PF party authored serialised evil and colourless articles attacking the Law Society of Zimbabwe for standing up for the rule of law in Zimbabwe. The following headlines were recorded for August alone;

"Lawyers' body fights for return of Rhodesia: LSZ seeks regime change to reverse gains of Chimurenga",

"Law Society mired in propaganda against Zim", .

"LSZ leadership supports, mimics Western sponsors",

Whilst it is not the business of Law Society Councillors to respond to such hogwash and vulgar allusions, the following brief of clarification is an exception!!

The response by the Law society of Zimbabwe.

The Law Society of Zimbabwe agonised for some time whether **or not to** respond to Mr Mahoso's concerted and sustained attack on its leaders.

Mr Mahoso's articles are a smorgasbord of half truths, distortions, inaccuracies and confusion. Initially we did not wish to give credibility to Mr Mahoso by responding to his rantings. Unfortunately, he seems to have an agenda and has continued with his wild utterances. To paraphrase Goebels , the master of propaganda for Hitler, *if a lie is repeated enough times, people believe that it is true.*

It is obvious what role Mr. Mahoso is playing. The Law Society now considers that it is necessary to respond to Mr Mahoso.

It is important right from the outset to set out the position of the Councillors of the Law Society of Zimbabwe in contrast to Mr Mahoso. The primary functions of the Law Society among others are:

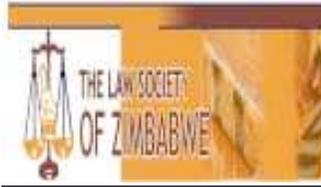
- to represent the legal profession and articulate the views of the legal profession on various issues.
- to maintain the integrity and status of the legal profession;



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- to consider and deal with all matters affecting the professional interests of legal practitioners;
- to consider and discuss and to confer with other bodies on alterations and reforms in the practice, procedure and administration of the law and to propose, promote or oppose legislation in Parliament;
- to define and enforce correct and uniform practice and discipline among legal practitioners;
- to employ the funds of the Society in obtaining or assisting any person to obtain a judicial order, ruling or judgment on a doubtful or disputed point of law where the Council of the Society deems it necessary or desirable in the interests of the public or the legal profession;
- to promote the study of the law and establishment of law libraries;
- to print, publish and circulate books and periodicals on law and legal subjects where deemed necessary or desirable;
- to contribute, undertake or make recommendations on legal training;
- to control admission of new members to the profession;
- to maintain a register of members of the legal profession;
- to regulate the legal profession in respect of continuing training, discipline and trust accounts.
- promoting justice, defending human rights, the rule of law and the independence of judiciary.
- to raise or borrow money in such manner as the Society may think fit;
- and generally controlling and managing the legal profession.
- to do all such acts and things as are incidental or conducive to the attainment of the above-mentioned objects'

The Law Society is a self-regulating independent professional body of lawyers with statutory existence committed to justice and rule of law.



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Mr Mahoso is not elected, he was appointed. Law Society of Zimbabwe Councillors are elected by their members. Therefore whilst Mr Mahoso owes his allegiance to the Minister who appointed him, Law Society of Zimbabwe Councillors are responsible to the registered legal practitioners in Zimbabwe and owe allegiance to a free and self-regulating legal profession to achieve justice and fairness in the country. Mr Mahoso is a person who has been found by our Supreme Court to be a biased person : that speaks volumes for his impartiality and credibility.

Mr Mahoso is Chairman of the MIC : it is interesting to note that he uses his position to publish his views through one of the newspapers which he regulates. This is a classic example of abuse of office.

It is interesting to note that Mr Mahoso suggests that the Commonwealth Lawyers were prevented from coming to Zimbabwe because the Law Society of Zimbabwe feared that its members would prove that the propaganda against Zimbabwe was indeed, propaganda. Mr Mahoso conveniently forgets that it is the mother body of the Commonwealth Lawyers Association, the political body, that criticised Zimbabwe, and was taking steps to expel Zimbabwe from the organisation, when President Mugabe withdrew Zimbabwe from its membership. The sole reason why the Law Society of Zimbabwe could not host the Commonwealth Lawyers Association Conference then is because the violence and mayhem in Zimbabwe so tarnished the country's image that the Law Society could neither get sponsorship for the Conference or get enough delegate support so much for the Commonwealth. The suggestion is made that the leaders of the Law Society of Zimbabwe are against the land reform program, and that these people are being manipulated by whites. First of all, it is always easy and convenient to use the race card. What Mr Mahoso conveniently omits in another bout of selective amnesia, is that the present government received support, and still continues to receive assistance from whites, such as the Russians, and even from some of the Nordic countries.



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There were many whites who fought against the previous regime and the apartheid regime in South Africa. It makes no difference who uses racism to stir up the populace; it is still wrong. Therefore racism practiced by a black government does not make it better.

None of the Law Society of Zimbabwe Councillors are whites: it is an insult to their intelligence and integrity to suggest that they are being manipulated by white people.

There are a number of myths propagated by Mr Mahoso that need to be exploded.

There is no such animal as the English Law Society, and Mr Mapombere certainly did not join any such organisation or one with a similar name.

- There is no white farmer seeking the deregistration of black lawyers and using Coghlan, Welsh and Guest as a conduit.
- The challenge against the Criminal Procedure and Evidence Act was instigated by the Law Society of Zimbabwe, and Mr Sternford Moyo was merely instructed to represent the Law Society of Zimbabwe : it is interesting to note that the Supreme Court was sympathetic to the challenge, in that the Criminal Procedure and Evidence Act, grossly violated the right of individuals who had been arrested, and were denied the right to appear before an independent court as soon as possible, as guaranteed by our constitution, and in international legal instruments.

It is typical of Mr Mahoso to attack the former Chief Justice who is a respected jurist, both in Zimbabwe and internationally. Mr Mahoso is aware that it is difficult for Chief Justice Gubbay to reply to these gratuitous and unjustified attacks on his integrity .

The constant theme in Mr Mahoso's articles is that there is harassment and an attempt to deregister lawyers who support the Third Chimurenga. It is significant that those lawyers are not named, nor is it alleged how they have been harassed, nor is it



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stated what it is they are alleged to have done. These omissions are not by accident : they are deliberate because Mr Mahoso cannot substantiate his allegations.

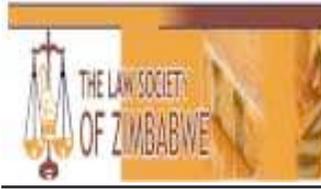
In 2005 the Law Society of Zimbabwe did condemn the parliamentary elections before they took place, because clearly the repressive legislation and the manner in which it was selectively applied, was not conducive to free and fair elections. Law Society of Zimbabwe's concerns have been vindicated by the findings of judges in subsequent election petitions that voters were threatened, intimidated or even shot.

Mr Mahoso clearly has no idea what the International Bar Association is : if he did, he would realise that it is the umbrella body for all lawyers world wide, and its reputation and stature is beyond reproach.

Mr Mahoso has deliberately misinterpreted the recent judgement of the Supreme Court dealing with the Criminal Procedure and Evidence Act : the application by the Law Society of Zimbabwe was dismissed on a legal technicality, that is lack of locus standi, but the Supreme Court made it clear that the application itself had merit.

The Law Society of Zimbabwe has never been against the land reform program : what the Law Society of Zimbabwe objects to is a program which is not transparent, is violent, encourages lawlessness and racism, and violates the basic fundamental rights of other people, including the right to life, to property, the right of freedom of association, and the right to receive and impart information.

The use of Presidential powers to change currency, and in the process cause people to lose their property and to be subjected to unlawful and unnecessary searches, was clearly a breach of fundamental rights of people in Zimbabwe. Newspapers were replete with stories of persons who were abused by the Police, the youths and military as a result of these regulations. The Law Society of Zimbabwe was quite justified in criticising them especially the use of non-policemen in policing duties.



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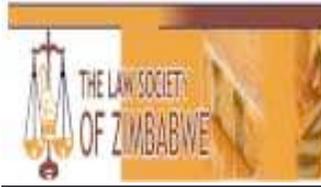
The looting and degradation of human dignity that accompanied the process cannot be justified whatsoever. Legislation which grants immunity to law enforcement agencies gives rise to abuses, and encourages impunity. Such legislation merits criticism and will continue to be criticised. The reference to the Patriot Act is irrelevant and misleading : in any event, if the United States of America has passed bad legislation, that is no reason for us to emulate it.

The Law Society of Zimbabwe has no objection to money laundering legislation provided that it does not infringe our constitutional rights.

There is a reference to Dr Madhuku's application for re-admission. There is no question of fast tracking his application and it is being dealt with in the normal manner. For the record, there are several applications and they all receive the same due process. In any event, it is the High Court that readmits members, the Law Society's role is to oppose when appropriate after consulting its members. Any hidden agenda which Mr Mahoso may have against a candidate does not influence the Law Society of Zimbabwe. As a profession we believe in balance between punishment and rehabilitation and we believe that it is a positive policy. The law of this land also recognises this principle and allows de-registered lawyers a second chance.

The Law Society of Zimbabwe, like any other person, whether natural or unnatural, does have supporters and critics. Just as much as Mr Mahoso has abused his position to criticise the Law Society of Zimbabwe without first bothering to even ask for a response to his allegations, the Law Society of Zimbabwe has those people who believe that the Law Society of Zimbabwe merits support, and they have expressed their support.

It is clear for all to see that the Law Society of Zimbabwe is being attacked for positions it has taken in accordance with its mandate. Indeed the support from the legal profession the world over is a strong indication of the correctness of our stance.



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The Law Society of Zimbabwe has an obligation to speak for , and to protect the ordinary man, when his rights are violated. It is certainly no dishonour to be attacked by Mr Mahoso and his colleagues, for defending human rights, the rule of law, the independence of the judiciary, as well as proper administration of justice. Despite the attacks on the Law Society of Zimbabwe by Mr Mahoso and Mr Manheru, the Law Society of Zimbabwe remains committed to the principles stated above.

J JAMES
President
Law Society of Zimbabwe

18 October 2006