

## Under siege: Human rights and the rule of law in Zimbabwe

Castan Centre for Human Rights Law lecture  
Monash University Law Chambers

Lecture held on 27 July 2004, 6.30 pm

**Presenter: David Coltart**

Sarah

Joseph:

It's 25 to seven. Thank you all for coming at fairly short notice to tonight's event. My name's Sarah Joseph. I'm the Director of the Castan Centre for Human Rights Law at Monash University. First of all I'd like to acknowledge the generosity of Baker and McKenzie law firm and Bond University for sponsoring our speaker David Coltart's visit to Australia. We're very grateful that the Castan Centre was given the opportunity to organise the Melbourne leg of his visit to Australia. Before I start with formalities I might remind everyone to turn off their mobile phones. There's normally a big rustle but everyone's done it.

Now I'm actually not going to be introducing David, I'm going to be introducing Duncan Bentley. Duncan is the Dean of Law at Bond University on the Gold Coast. I believe, or we believe, it's very appropriate for Duncan to introduce David because they are long standing friends having both attended the University of Cape Town, so please welcome Duncan Bentley.

Duncan  
Bentley:

Thank you very much Sarah. I would like to begin by thanking the Castan Centre; they do powerful work in the human rights area. You're very fortunate here in Melbourne to have a group of people who are so dedicated to the task and who produce a dazzling array of speakers over time. So for us it was only fitting that they should be able to put together the Melbourne leg of the visit of David Coltart to Australia and they have done, as usual, a marvellous job. So thank you Sarah and thank you to Monash it really is a tremendous privilege for us to be here.

Now why would Bond University, a corporate commercial law school and Baker and McKenzie, an international law firm with a corporate commercial bent, focus on bringing a distinguished visitor who is known for his human rights to Australia? Because really human rights transcends all areas of the law and it is something that whether you are a corporate commercial lawyer or a human rights activist you cannot ignore; it is something which we have to be involved in wherever we are. The other thing we have to do is to look

around the world and be aware of those places with which we have long standing ties but which are, as Zimbabwe is, on the brink and David will be able to tell us a lot more about that. I think that there is no finer person to be able to tell the story of a country which is facing a humanitarian disaster of epic proportions than David.

David is the Chairman of the Legal Committee of the Movement for Democratic Change in Zimbabwe, the major opposition who has made an incredibly impressive statement of the power of the people to vote for change in a tyrannical regime. And the fact that David could be voted into Parliament in 2000 with a majority which would be the envy of any politician in a democratic regime shows the power of the people's voice in an authoritarian place. David will be outlining to us a little of what he is going through in Zimbabwe. But David has tremendous experience as a human rights activist there since the early 1980's; who has in his law practice defended hundreds of people against the threat of detention and prison on almost invariably spurious charges; culminating in the spurious treason accusations against the leader of the Movement for Democratic Change over the last couple of years.

So we're very privileged to have David as the Shadow Minister of Justice for Zimbabwe and the Chairman of the Legal Committee of the Movement for Democratic Change. He has tremendous experience and a gripping story to tell of a horrific situation where there is room for us to do something about it even here in Australia; so please welcome David Coltart the Shadow Minister of Justice for Zimbabwe.

David  
Coltart:

Good evening everyone and thank you Duncan and Sarah. It's very heart-warming to see the magnificent turn out for a country which, after all, is located in the forgotten continent and a country that doesn't have any oil or anything else like that to attract the attention of the international community. I would like to speak to you tonight about the current human rights situation in Zimbabwe and the erosion of the rule of law that has taken place in Zimbabwe since the year 2000.

In addressing this topic I am aware that in the course of the last five years many Australians have been focused on Zimbabwe but sadly often for the wrong reasons. The debate appears to turn around whether or not the Australian cricket team should tour Zimbabwe or whether that tour should be reciprocated and much of the human rights focus has been centred on the plight of white commercial farmers who have been evicted from their farms. Sadly I think that focus is itself an indictment of the media and perhaps of politicians not just in Australia but elsewhere because there is this preoccupation on those issues. But in reality the human rights situation in Zimbabwe deals with far more serious issues than cricket. The focus of

human rights organisations should be on issues that involve, in my view, crimes against humanity and in the early 1980's genocide.

To understand the current human rights situation in Zimbabwe one has to consider the historical context. What I'd like to do at the outset before I go to detail the current situation is to paint a thumbnail sketch of the human rights history in Zimbabwe since 1980. I divide it into four broad chapters, the first concerns the period immediately after independence the period 1980 through to 1982 which I would describe as the honeymoon period. Sadly many in the international community see what has happened in the last five years as an aberration. They are surprised by what has happened and they point to this honeymoon period; this period Zanu PF and Robert Mugabe when surprised the world. In 1980 Robert Mugabe confounded the international community when he announced his policy of reconciliation which accommodated the white minority and which brought to an end a bloody chapter in Zimbabwe's history. And rightfully the world embraced Mugabe for that; the world recognised that that policy of reconciliation would play a vital role in bringing apartheid to an end.

Sadly, we have only recently realised that at the very time that Robert Mugabe was embracing the white community he was, in fact, with his regime plotting the creation of a *de facto* one party state. And as early as August 1980 he visited Kim Il Sun in North Korea and planned the creation of a military brigade, an army brigade that was specifically designed to quell internal dissent. During the rest of this honeymoon period up until the end of 1982 this brigade, the Fifth Brigade as it was called, was trained by the North Koreans. There was a passing out ceremony in December 1982 which brought to an end this first chapter the honeymoon chapter. Prior to the end of the honeymoon chapter there was an event that concerned Australia. You may recall that in July 1982 a group of Australian youngsters were abducted near Victoria Falls. They were abducted ostensibly by political dissidents who opposed the Mugabe regime but there is strong evidence which now suggests that those people were in fact abducted by pseudo operators. Be that as it may, incidents like that were used to justify the dramatic worsening of the human rights environment which occurred in the second chapter of this history.

In the beginning of 1983 the North Korean trained Fifth Brigade was deployed into the south west of the country; into the Matabeleland and Midlands Provinces. During this period which I will term the "Gukurahundi", 20,000 people were massacred in what can only be described as an act of genocide. Gukurahundi is a Shona term that describes the spring rain that falls in Zimbabwe and clears out the trash that has gathered over winter - the chaff that has gathered over winter. It is meant to have positive connotations but sadly in Zimbabwe it was used to describe the policy

embarked on by the regime to crush the only legitimate opposition that existed under the leadership of Joshua Nkomo and his Zapu Party.

In the course of the period 1983 to 1987 very serious human rights abuses were perpetrated by the regime but the real ongoing tragedy of that period is that the western world, Australia included, was preoccupied with the Cold War and with bringing apartheid to an end. As a result of that preoccupation the world looked the other way and the first act of impunity took place and it led to a culture of impunity developing in Zimbabwe; a culture that I believe is responsible for the mayhem that afflicts Zimbabwe today. But at the end of the second period Robert Mugabe had achieved his goal. He had crushed Zapu which was then swallowed up by Zanu PF at the end of 1987 and that ushered in the third chapter in our potted history; a chapter I will entitle "The gathering storm"; this period lasted from 1988 through to 2000.

I describe it as the gathering storm because it was a period of relative peace but there were very worrying signs. As I just mentioned the international community did not respond to the act of genocide which occurred between 1983 and 1987. In fact the west embraced the Mugabe regime; it's not a well known fact that in 1994 Britain conferred an honorary knighthood on Robert Mugabe knowing full well what had happened in the Matabeleland province during the period 1983 to 1987. During this period many of us in the human rights community (I wasn't a dastardly politician then; during those days my feet were firmly on the ground and rooted in civil society and the human rights movement) were warning that this was a gathering storm; that impunity would have a negative effect but we were not listened to. I can remember having a debate in Washington in 1992 when the IMF and the World Bank were considering advancing support to the Mugabe regime and pleading with them to make a condition that fundamental human rights issues would be addressed. I was dismissed and many like me were dismissed.

Sadly, because those issues were never addressed, the storm gathered pace. Corruption flourished and whilst it was a period of relative tranquillity and our Supreme Court, civil society organisations and human rights organisation were built up, by the end of the 1990's there was considerable distress and anger especially amongst working class people which led to the formation of the MDC, the party I represent. This is a broad party comprising primarily people from labour, civic society, the churches and human rights organisations. There was a debate regarding a new constitution which took place in the late 1990's culminating in a referendum at the end of this period of the gathering storm in February 2000 which saw a government constitution, which was drafted in reaction to civil society's draft constitution, being rejected in a referendum and that started the fourth chapter; a chapter I term the "Third Chimurenga."

The Third Chimurenga is another Shona term which denotes a liberation struggle. The first Chimurenga took place in the 1890's when black Zimbabweans stood up against British colonial settlers, were defeated but were remembered. The second Chimurenga concerns the war of liberation that took place in the 1970's which led to the end of white minority rule. The third Chimurenga is the name given to this period by the Mugabe regime in the post 2000, post referendum period and it was used to describe the process of forcibly seizing land from white commercial farmers. Let me stress that that struggle in itself was the correction; or rather should have been the correction, of a historical injustice that everyone in Zimbabwe in his or her right mind accepts was an injustice and needed rectifying. But the tragedy is that the international community became fixated by the human rights abuses perpetrated against white commercial farmers and that in itself was a very useful ploy employed by the regime to cover the more fundamental human rights violations; the mis-governance, the corruption, the murders, the arson that was directed against a black political opposition .

It is all of this that has now culminated in Operation Murumbatsvina. Murumbatsvina is another Shona name which resonates back to 1983 because it means cleaning out the filth, that's what Murumbatsvina means and it mirrors Gukurahundi which was the spring rain clearing out the trash. It has exactly the same motivation behind it which I will go into in more detail just now.

Before I do that though let me say this; that from a human rights perspective there has been another insidious attack on the human rights situation in Zimbabwe which is not regularly addressed by the Press. And that is the attack on our institutions of governance which should normally in any democratic state uphold the human rights of people. This has been, as I say, insidious but it has been deliberate and has been highly successful and in the course of the last five years we've seen virtually every single institution responsible for maintaining the rule of law, responsible for respecting human rights undermined and in many cases completely subverted.

The police have been politicised, senior ranking police officers have been given farms, the Commissioner of Police of Zimbabwe just a few weeks ago described the poor people who have been displaced in Operation Murumbatsvina as maggots. That is not hearsay he was reported using those terms in the government controlled press referring to the poorest of the poor as maggots. Even at the lower end of the police we have seen the deployment of youth brigades, young men and women desperate, with no future that have been drafted into youth brigades, who have been subjected to propaganda, who have had their heads shaven - now given the power

and authority of the police and in a police uniform. They have been at the very vanguard of the destruction of poor people's homes and vending sites throughout the country. So the police have been turned on their heads, it no longer protects the rights of citizens it is, in fact, one of the principle weapons used against people.

The same has happened in the Office of the Attorney General. In the last five years 300 members of the MDC have been murdered. Six of my parliamentary colleagues elected with me in June 2000, there were 37 of us, died in the course of the last parliamentary elections as a direct or indirect result of torture perpetrated against them by state agents. Not a single prosecution has been brought against any of the perpetrators of these crimes by the Attorney General and in many cases these criminals are well known. In my own case my polling agent Patrick Nabanyamo was abducted on the 19<sup>th</sup> of June, 2000 at four o'clock in the afternoon in the presence of his wife and children; he has never been seen again. I've conducted a vigorous campaign as you might imagine in Parliament and outside it to bring the perpetrators of that crime to justice who are known to us; they have been named, they walk the streets of Bulawayo scot-free today.

In contrast there have been numerous spurious allegations levelled against opposition members and as Duncan mentioned very serious cases brought against opposition leaders. The most high profile one of course was the treason charge brought against Morgan Tsvangirai but there have been many others that of course have consumed our energies and, once again law and the institutions of the Attorney General's office has been used to attack rather than to defend.

Sadly the same has happened to the judiciary. Zimbabwe's judiciary by the end of the 1990's was an institution that we were justifiably proud of. Under the leadership of Doctor Enoch Dumbutshena our first black Chief Justice, our judiciary built up an enviable reputation. Their opinions have been reported on favourably and adopted by many Commonwealth countries. But in 2001 the then Chief Justice Tony Gubbay was personally threatened by the Minister of Justice who said that he couldn't and I quote 'guarantee his safety'. He resigned from the judiciary and since that time we have seen the systematic destruction of our judiciary. Judges have been given farms, independent judges have been hounded out of office and we are left in the situation in Zimbabwe now in which it is farcical to go to court. You can have the finest Brief in the world and it will be disregarded. In the last five years I, in my capacity as Secretary for Legal Affairs at the MDC, was responsible for bringing 39 electoral challenges to the June 2000 Elections. Not one single case was concluded in the five years prior to the end of the last Parliament and virtually all of that was because the courts themselves obstructed the process. I don't have time to go into the detail of what's

happened just this year but suffice it to say that the judiciary is now, once again along with other institutions, an institution that actually subverts justice rather than upholds it.

Parliament as well has not been immune and of course parliament has seen in the last five years or rather has overseen the passage of draconian legislation which can only be described as fascist. I'll give you two examples; the "Public Order and Security Act" passed by Parliament in January 2002 makes it an offence to hold a political meeting of more than one person without obtaining police permission first. The police are given wide powers to ban meetings like that but there is some hope because if that meeting is banned you do have a right of appeal to the Minister of Home Affairs. There is no right of appeal to any judge even though the judiciary has been subverted. The so called Access to Information and Protection of Privacy Act is no such thing. It has been used to effectively ban the independent Daily Newspaper with the largest circulation in Zimbabwe. Once again in classical fascist ways the law has been used as an instrument to suppress human rights not to protect human rights.

I need to bring this full circle and I need to bring this to a conclusion and I would like to bring you back to what has happened in Zimbabwe since the 19<sup>th</sup> of May this year. On the 19<sup>th</sup> of May without any notice the Zimbabwe government announced its new policy and its new Operation Murumbatsvina. Within hours of the announcement of this policy the police were deployed throughout the country and they have systematically destroyed the lives of hundreds and thousands of Zimbabweans. A special envoy appointed by Kofi Annan, Mrs. Anna Tibaijuka, a Tanzanian woman last Friday released a report in New York and I commend it to you; these are her findings they're not mine. In the Executive Summary she finds that 700,000 people have been deprived of their homes or deprived of their source of income since 19<sup>th</sup> May. She states that a further 2.4 million Zimbabweans have been directly or indirectly affected by what has happened. But those are just statistics – you need to understand what is going on on the ground. This is a country with an HIV AIDS infection rate of 30 per cent; this is a country that has four million people facing malnutrition. Those were pre-existing conditions, horrific enough. Now added to that is the fact that 700,000 people are out on the streets and believe you me our winters are just as harsh as yours; we have sub zero temperatures. It is an outrage!

James Morris the Director of the World Food Program, spoke in the United Nations a few weeks ago and he said that the worlds gravest humanitarian crises is not Afghanistan, is not in Darfur it is in fact in southern Africa and the epicentre is Zimbabwe; with four million Zimbabweans facing malnutrition. We have argued that what has taken place amounts to a crime against humanity. Article 7 of the Treaty of Rome defines the forcible

transfer of a population as a crime against humanity. This was not done lawfully; our statutes have all been breached in doing this. We have statutes that are several decades old that prescribe that even where there are illegal structures the occupants of those structures are entitled to notice that their structures are illegal and they are entitled to a month to rectify the illegality or to dismantle those structures before they are demolished. The law is equally clear that it is not the police that have the power to demolish; it is city councils. In Zimbabwe virtually every single city council is controlled by the opposition and they gave no such order. It was the police acting independently in an arbitrary fashion who conducted these demolitions so we have breached our own laws.

What are we to do about it? This is a very fine report that Mrs. Tibaijuka has produced and I understand that she has a balancing act to play. But as fine as this document is from a human rights perspective, from a legal perspective it simply is inadequate. Let me quote to you what she says; "While the government clearly violated its own national laws and the constitutional rights of its people and that those responsible must be brought to account it is the view of the Special Envoy that in view of this preliminary legal opinion". They obtained a preliminary legal opinion that it would be hard to bring an indictment to the International Criminal Court. But in view of that "an international debate of whether the statutes of Rome could be successfully invoked is bound to be acrimonious and protracted. It would serve only to distract the attention of the international community from focusing on the humanitarian crises facing the displaced who need immediate assistance" and she goes on. "Nevertheless, it remains the strong recommendation of the Special Envoy that the culprits who have caused this man made disaster are best handled and brought to book under Zimbabwean national laws".

If it wasn't so serious that would be laughable. From what I have just described to you there's absolutely no prospect of any successful prosecution being brought against the culprits in terms of our national laws and Zimbabwe's legal system. Even when we address the first point we need not divert attention away from the humanitarian crisis let me say this, that we agree that the most pressing need in Zimbabwe is for massive humanitarian intervention. But in the course of the last few days the Mugabe regime has already trashed this report and I come back to the issue of impunity. This is a regime that has acted with impunity for 20 odd years and continues to do so today. It is not fearful of mere reports like this, in fact it quietly applauds when the UN says that our domestic laws should be invoked to bring people to account. And it is for that reason that I'm here today in Australia because until we make those responsible for these atrocities, this will continue.

Judith Todd, who some of you may know is a legend in our country, the daughter of Sir Garfield Todd a Prime Minister of Southern Rhodesia who was locked up by the Smith regime for her opposition to minority rule in the 1960's, spoke recently in New Zealand and at the Cape Town Press Club. She said this, the Mugabe regime will not stop until it is stopped and she's absolutely correct. What we need is a change in the attitude of the international community. There is another doctrine I commend to you – the International Responsibility to Protect Doctrine that was crafted in part by Gareth Evans, an Australian Foreign Minister. What we need in essence is for the international community to move from rhetoric to action and Australia has a major role to play in that regard not in isolation but in conjunction with other like minded nations. Australia has the moral authority, it opposed apartheid; it was at the vanguard of that struggle, it is not a colonial power in the context of Africa nor is it an imperialist power; and to that extent Australia has a vital role to play. I implore you ladies and gentlemen to play your part in bringing pressure to bear on the Australian government to act and to act with urgency so that the plight of these hundreds of thousands of Zimbabweans can be addressed. Thank you.

Sarah

Joseph: David has kindly agreed to take some questions probably for about 15 minutes; so are there any questions for David?

Speaker: What is the appropriate action for the Australian government that you have in mind?

David

Coltart: Well we believe that there are two things in particular the Australian government needs to do. It needs to direct further resources to those suffering in Zimbabwe; there's a humanitarian crisis of unimaginable proportions developing in Zimbabwe. Churches and civic society organisations have borne the brunt of that humanitarian relief effort and the Australian government needs to see what resources it can divert to help the victims and to help those civic society organisations, human rights organisations and churches who are assisting; so that's the first thing. The second thing is what I concluded with; that I believe the Australian government needs to take more vigorous action internationally. It can do so in a variety of ways; it can link up for example with the German government. Last week the German Bundestag passed an all party resolution calling pretty much for what I've called for this evening; an investigation as to whether crimes against humanity have been committed and vigorous action in the United Nations.

But on top of that I believe that Australia should consider visiting southern Africa. Southern African states hold the key to resolving this crisis and I often remind people of what happened in the context of Rhodesia in

September 1976. In September 1976 Ian Smith was still holding out the prospect of a thousand years of white minority rule. He was called to a meeting in Pretoria by John Forster the South African Prime Minister and Henry Kissinger. He spent a weekend with them and returned a changed man, he returned to the then Rhodesia conceding to the principle of majority rule. It was that combination of Henry Kissinger and America's pressure on John Forster and John Forster's pressure on Ian Smith that brought that concession. Nothing has changed; South Africa still exerts enormous power in the region. The difference is that the international community, to be blunt, has not taken this grave crisis seriously and we have not seen international leaders, in my view, speak forcefully enough to the South Africans and others in the region regarding this humanitarian crisis. It's simply unacceptable that this should be happening and that at this time the South African government can be considering a line of credit to the Zimbabwean government to prop it up.

Speaker: That's a telling point that South Africa who is the beneficiary of all of this human concern over human rights is in a position to basically unseat Mr. Mugabe and the question is why don't people put pressure on South Africa because pressure on Mr. Mugabe obviously is pointless?

David

Coltart: I fully agree with you sir but may I just clarify one thing. Our goal is not to unseat Robert Mugabe, no our goal is to pursue non violent policies as we have done in the last five years. Our goal at present is to seek a transitional authority which may involve Robert Mugabe; that's the practical reality or his party, which in turn will yield a constitutional conference which in turn should yield fresh elections overseen by the international community. But you are absolutely correct sir, there is no point in bilateral discussion with Robert Mugabe he's simply not going to listen but there's a very dire need for an urgent and vigorous approach not just to Tabo Mbeki but other leaders in the region.

Speaker: Thank you very much for coming to talk this evening it was really great to hear you. But I find it really interesting that you're asking for an Australian action towards the Zimbabwe situation. But it's my belief that in fact the Australian government isn't in fact responsible for it's own perpetrations of human rights violations; for example the immigration policy or supporting a war in Afghanistan or Iraq in the absence of a second UN declaration. So I'm not sure that it's a really good idea to look to the so called international community for answers because I think that a lot of those people are themselves responsible for human rights violations and I think that we need an African solution to this problem. So I would probably agree along with what that gentleman was saying that we need the region to come to Zimbabwe's aid and in fact ignore the international community. I think they are almost as guilty as the Mugabe regime is. Thank you.

David

Coltart: I'm not going to comment about Australia suffice it to say though that this Responsibility to Protect Doctrine I believe is a doctrine that needs discussion especially academic discussion and those issues like Afghanistan and Iraq would have been resolved in a much better way had that discussion taken place and if internationally we had achieved a consensus regarding the principles which will govern humanitarian intervention. But I beg to differ with you; let me just stress that we're not just approaching Australia. Morgan Tsvangirai – the leader of the MDC – has just come back from West Africa. We've been speaking to President Wade in Senegal, President Obasanjo in Nigeria, President Kufuor in Ghana and in many other African countries. And I agree with you, that this is an African problem and the fact that I'm in Australia should not be taken that this is the only place that we are focusing our efforts. We are focusing very widely - I'm simply saying that I believe that Australia as I stressed in conjunction with other democracies has an important role to play.

Speaker: What is the basis of South Africa actually putting the money forward apart from obvious humanitarian because there are some people in South Africa who are aware of what's happening and it would seem obvious that they're actually supporting Mugabe by giving money. So what do you see as their premises for lending it, well giving it, and how can they be undermined?

David

Coltart: Well let me stress as well that this is a request that has been made of Zanu PF by the Mugabe regime for a line of credit. South Africa have not turned him down but by the same token have not advanced it yet; it is still being discussed. We just believe that it should not. If it was for humanitarian relief we wouldn't have the same objections but we believe that it is going to be used by the regime to prop itself up. It is facing expulsion in the IMF and we think that a lot of that money may well go to repay an outstanding loan advanced to it by the IMF.

What are the motivations in South Africa? Well that's a very complex issue; let me say this that we have a great deal of support and if I could go back to your question. We have spent a lot of time and effort in South Africa, we have very powerful friends in South Africa in particular COSATU the South African trade union movement has recently been expelled from Zimbabwe because they support our view of the human rights situation in Zimbabwe. Likewise the South African Communist Party has been very supportive, the South African Council of Churches has been supportive, Nelson Mandela has been supportive and of course Arch Bishop Tutu. So there is powerful support in there; I don't have the time to go into the motivation behind Tabo Mbeki but I think it's possibly good and bad. What we need to understand is that Robert Mugabe has pressed all the right buttons in Africa, he's used

race, he's used land, he's used imperialism; those issues resonate. They are unresolved issues in South Africa and Tabo Mbeki cannot be seen to be attacking Robert Mugabe because it will undermine his own constituency. I touched the surface on that but it's complex.

Speaker: Thank you very much. Sir, I'll be 78 next month and I just want to make three comments. I believe that the mass media's greatest sin throughout the English speaking world at least, probably all over the world results from what it doesn't tell us. It tells us all sorts of things, I mean ever since I was a small child I've heard people say you can't believe a word you read in the newspapers. That's rot because a lot of stuff in newspapers you can believe because it is true, some falsehoods too, some mixtures of both but the greatest sin of the mass media is the sin of omission; they don't tell us certain things that they know. Because I'm just an ordinary grass roots person that's all I've ever been and I know certain things which I guarantee very few people in this hall would know probably; I won't go into that any further tonight.

The second thing I want to say is I believe that as a result of belonging to two very patriotic organisations, one in Australia and one in the United States of America; it was 33 and 35 years ago, I find that the greatest difficulty for the grass roots person who does know something is his fellow grass roots person who won't give him credibility. If I were to say something which is absolutely true but shocking to my fellow grass roots person and if Sir Robert Menzies I quote him because he was one of the greatest Prime Ministers I think of our time he could say the same thing and they'd all listen, they'd prick up their ears. If I say it they won't listen because he's already got status which I haven't got but it's a pity we can't wake up some of our fellow grass roots people to truth. If they just look into it, look into things a bit below the surface because the mass media does tend to cover it up by publishing and airing a lot of junk and rot and it demoralises people. The third comment that I want to make is that I heard you this morning on John Faine's program and I thought you were extremely brave to come here and do what you've done tonight, extremely brave, very courageous man, thank you.

David

Coltart: Thank you sir. I think most of it was by way of comment but just on your first point. Sadly it's just the way of the world most newspapers have to make a profit and newspapers the world over write stories that capture the imagination of their readership. All of us I think wish that there was more analysis but that's where institutions like yours are so important because they can educate people who won't get that education from the media.

Speaker: (Inaudible)

David

Coltart: Well I think that China is very interested in Zimbabwe's mineral wealth. We have some of the largest reserves of platinum in the world and of course we are a springboard into the rest of Africa. I think in the same way that China has supported Myanmar and other dictatorial regimes they will have no hesitation in supporting the Mugabe regime. They've already delivered to us eight fighter jet aircraft this year when people are starving. There's a great deal of evidence of Chinese support.

Just before coming to this meeting I was on the internet and I see that; it may be propaganda, it may not be true but it wouldn't surprise me if it were true, that China summoned the Chinese Ambassador to the United Nations and said don't you dare raise Mrs. Tibaijuka's report in the Security Council. So we're under no illusions; we believe that China would probably veto any resolution. Just to explain Zimbabwe has not ratified the Treaty of Rome so the prosecutor cannot initiate a prosecution, it would have to go through the Security Council. But that's not the point; the point is that we have to raise the bar a bit, we have to show, that is the international community in my view, has to show that it's serious about this and not be too concerned about what China is doing.

Speaker: It's a question regarding the movement to produce an indictment in relation to Robert Mugabe and other members of the executive. I know that a draft indictment was lodged with the Canadian Attorney General but was not accepted and also in the British courts as well. Is that movement still active to try and bring indictments on the various other forms of universal jurisdiction, putting aside the problems with immunity whilst Mugabe is still in power, is that movement still continuing?

David

Coltart: I'm not aware of the – did you say Malaysian?

Speaker: No, no the other forms of universal jurisdiction.

David

Coltart: No but you mentioned some other country.

Speaker: There was the Canadian example and also in Britain I believe as well.

David

Coltart: Yes okay. I'm aware of the Canadian initiative, I'm not aware of the British initiative. There is an initiative within Africa put before the African Human Rights Commission and the Zimbabwe Lawyers for Human Rights Organisation is actively pursuing this line. So civil society within Zimbabwe will pursue that very vigorously and I think that you'll find very effectively in

terms of the briefs that they produce. But that effort needs to get political will behind it from powerful countries.

Speaker: Hi. You gloss over the issues of imperialism and race and you say they are important issues we won't discuss them tonight. Those are issues that are still in the society, they haven't gone away and they won't go away. I'm just wondering is MDC a real alternative? And how would you propose to deal with those issues?

David

Coltart: Let me stress one thing. My intention certainly isn't to gloss over those issues. Race is of course an issue in Africa and imperialism is an issue. Let me deal with the second aspect first of all. If we are going to address the problems of Africa we cannot ignore trade imbalances, we cannot ignore the need for fair trade, we cannot ignore the fact that many of the loans that are like an albatross over African states were granted by the IMF and World Bank though – in some policies of granting loans without conditions to dictatorial regimes. However, we believe very strongly that the key thing that needs to be focused on is governance, there is the slogan of the Live Aid series of concerts, make poverty history. Well we believe that to make poverty history you have to make dictators history and that is what our policy is.

The MDC policy on imperialism is that we do not want Zimbabwe recolonised whether it's by Britain or by China. I am an African, I describe myself as a white African, my roots go back to 1820 in Africa. Let me tell you that I represent a black working class constituency, 96% of the people in my constituency are black working class people. In 2000 I stood against a cabinet minister, a Zanu PF cabinet minister and I beat him with an 84% majority. This year after five years of hate speech directed against me I stood against a black woman cabinet minister and I suffered a bit of a loss because my margin was only 76%. So I don't stand here with a brief for imperialists or whites, I stand here as an African and I believe that in many ways Zimbabwe, and this will shock you all, stands out as a shining beacon in the entire world.

The reason I am still in Zimbabwe, the reason I can be brave as this gentlemen says is because I am fortunate enough in that I serve the most wonderful people in the world and my colleagues who happen to be black are some of the most courageous people in the world. Now in the Zimbabwean context I believe that our political discourse is far more mature than South Africa. South Africa petrifies me, if you look at the election results in South Africa last year you will see that the results largely are defined along racial lines, there are exceptions. Coloured people voted for Patricia Delore, white people voted for the DA, many Zulus voted for the

Incarta Freedom Party and the vast majority of black people voted for the ANC; that doesn't happen in Zimbabwe.

We have white conservative businessmen who work cheek by jowl with the Zanu PF regime; extremely wealthy white businessmen, ironically who supported the Ian Smith regime. Those of us from a more liberal background like Judith Todd who opposed Ian Smith support the opposition; so they are blacks and whites. I'm not saying that race is not an issue in Zimbabwe and I certainly know that race is an unresolved issue as in South Africa, but I believe that one of the joyous things of what has come out of Zimbabwe in the last five years is that in many ways we have laid this issue of racism to bed. But we will continue to have to fight especially on the second point – imperialism.

I hope you can see I'm passionate about my country, the reason I'm still there with all the threats that have been levelled against me is because I was born there, it is my country and with my colleagues we will continue the struggle so that we restore the dignity of all Zimbabweans. Then we will have to tackle this task of ensuring that not only does Zimbabwe take its rightful place in the international community but that we are dealt with fairly with other African countries with regard to trade and other issues.

Sarah

Joseph: I'm conscious of the time; I think there probably are a few more questions, we have gone over. I know there's maybe one more as a short question?

David

Coltart: Sure.

Sarah

Joseph: Okay. One.

Speaker: Just a question about emergency relief in the country for the people in need. How much is getting in? Obviously not enough and is it about to reach the people who really need it?

David

Coltart: This is one of the greatest outrages of the last year. In April last year Robert Mugabe advised the World Food Program that it no longer needed World Food Program support and it refused them permission to continue with their work. It did so for entirely political reasons. The people who had received food relief still needed it and it was done with a view to the General Election which took place in March this year. The reason was because the government wanted to control the allocation of food because that was a very powerful weapon in the run up to the Election. Immediately after the Election this year James Morris the Director of the World Food

Program visited Zimbabwe. Every one in his right mind accepts those World Food Program figures that there are four million conservatively in need of food assistance. We have still not; or rather the international community has still not received a request for food assistance because there is a sticking point. The United Nations and the World Food Program are saying there must be no political interference and they want NGO's to be responsible for the distribution of food relief. The government is saying it wants to control the distribution of food relief and that is the sticking point. In reality the Mugabe regime is in employing brinkmanship with the United Nations and in the process is putting the lives of hundreds of thousands of Zimbabweans at risk. I haven't answered your question but I needed to preface my reply with that.

In essence because of this impasse there is no international food relief effort taking place in Zimbabwe as I speak today, there is no international relief effort of any kind taking place today. That is why Mrs. Tibaijuka and ourselves say that this is a grave crisis that needs immediate action so that we can bring the food in and as you know the lead-in time to get the supplies of food into the country is a good two, three months. I believe that we may well need food air lifted in and certainly tents and blankets and the like but it is not taking place because sadly the world is focused on other issues.

Sarah

Joseph: I am going to indulge in one more. I think there's been a question which I couldn't see because of the poster.

Speaker: Everyone who has sat here in admiration of what you and your colleagues and, I might add, members of the legal profession in Zimbabwe have been doing will leave here I think seriously concerned about the prospect of you returning and facing charges of sedition and the same possibly for other members of your Party who are seeking international support. Is that a realistic fear?

David

Coltart: I've been in this game a long, long time. I wear it as a badge of honour that I was first called an enemy of the state in January 1986 when as a young lawyer I undertook what was then a very high profile political trial, the defence of the Chief Whip of Joshua Nkomo's party; so I'm not saying I'm blasé about it but I'm certainly accustomed to these threats. It's a very unpredictable regime and every time I return home, not just now but in the last 20 years I've never known what sort of reception I will receive. You talk of sedition; well I hope that I've couched my speech in a way that provides me with a defence. I certainly believe what I've said to this gentleman, we don't talk about the overthrow of Robert Mugabe. I use the language of international law that in my view there are facts which fortunately have now

been verified by the United Nations itself which lead us to argue that there has been a crime against humanity and if that leads to a charge of sedition well I hope some of you may rattle a few cages.

Sarah

Joseph: Thank you very much for that David. It's the second time I've done this today and it's a very hard act to follow. David has given us a very eye-opening and I think sobering exposition of a human rights catastrophe in Zimbabwe. I think we've all been aware of it, at least in the last five years, but I'm not sure that many of us from the Australian point of view have been aware of its scale or of its long standing nature. It falls to me to just finish then with a few thank you's. I want to thank some staff at Monash for putting this on tonight Lynette Dean and David Steele and the staff at these Law Chambers. Marius Smith and Kay Magnani from the Castan Centre, Katya Harvey and Jodi Rockman in the media team and of course Baker McKenzie and Bond but most importantly of all. Can you please join me in thanking a great, and as the man down here has said a courageous human rights campaigner – David Coltart.

END OF TRANSCRIPT