

30 July 2012

OPEN LETTER TO PRIME MINISTER

Dear Prime Minister Tsvangirai and Deputy Prime Minister Ncube

Re: MDC in Zimbabwe set to campaign to “legalize” discrimination and theft

It is with horror that all of us who believe in democracy, human rights, the rule of law, and God read Zimbabwe’s draft constitution that you have signed off to.

The draft constitution seeks to explicitly cancel the right of some Zimbabweans to appeal to a supreme legal body to protect their fundamental rights.

It also aims to deny any compensation from the Zimbabwe Government for land that has been taken from the rightful owner, stating: “no compensation is payable in respect of its acquisition.”

Furthermore, it directly prevents anyone applying to a court regarding compensation for land: “no person may apply to a court for the determination of any question relating to compensation.”

The draft says that land can be acquired simply by a notice in the gazette “whereupon the land vests in the state with full title with effect from the date of the publication of the notice..”

And most alarmingly, it says in section 4.29(3)c that discrimination is now legal: “the acquisition may not be challenged on the grounds it was discriminatory...”

Douglas Mwonzora, the MDC spokesman, [welcomes the move](#) because take-overs in the future will now be able to be done “legally”!

God said in the constitution given to Moses in the 8th commandment “Thou shalt not steal.” It was written in stone and can not be changed. The current draft constitution says in essence that “if you are white, we the government can steal from you, and you have no right to even appeal.” Are you going to campaign for laws similar to those against the Jews in Nazi Germany?

George Orwell’s 1945 masterpiece of totalitarian evolutionary satire, *Animal Farm*, is pertinent here. At the time of liberation, the Seventh Commandment of the animals said: “ALL ANIMALS ARE EQUAL.” In reality, all over the world, every constitution has equality as a founding principle. In Zimbabwe, equality and the freedom from discrimination only applies to one section of Zimbabwe’s new draft constitution. In section 4.29 of the draft, the rule of equality is dashed.

I wish to expand on what happened in Orwell’s book after the Seventh Commandment of equality had been written: “Some years later when Clover, the old horse, looked at the wall on which the commandments were written, she said, ‘My sight is failing. Even when I was young I could not read what was written there. But it appears to me that the wall looks different. Are the Seven Commandments the same as they used to be, Benjamin?’

For once Benjamin [the donkey] consented to break the rule, and he read out to her what was written on the wall. There was nothing there now except a single Commandment. It ran: "ALL ANIMALS ARE EQUAL BUT SOME ARE MORE EQUAL THAN OTHERS."

After that it did not seem strange when next day the pigs who were supervising the work carried whips in their trotters."

Orwell described Animal Farm as being a satire of a "violent conspiratorial revolution, led by unconsciously power-hungry people."

By endorsing discrimination like the apartheid regime of South Africa before it, the MDC appears to have cast aside its original principles and joined the ZANU PF revolution of inequality. Indeed the new constitution of Zimbabwe goes further than both of the Apartheid constitutions in South Africa by explicitly endorsing discrimination and taking away the right to appeal against it.

Section 4.29 also goes against the African Charter on Human and Peoples' Rights undertakes to "eliminate... all forms of discrimination."

Section 4.29 goes against the Constitutive Act of the African Union which has an objective to "promote and protect human and peoples' rights in accordance with the African Charter on Human and People's Rights (ACHPR) and other relevant human rights instruments."

Section 4.29 goes against the Cairo Declaration on Human Rights in Islam and the Arab Charter on Human Rights regarding discrimination.

It goes against Article 1 of the Charter of the United Nations which aims at "promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion."

The new constitution of Zimbabwe, in allowing discrimination and theft, goes against the Universal Declaration of Human Rights, parts of which say:

Article 1 : All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 17 (1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

Article 30: Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Alarming, United Nations (UN) conventions like the “Convention Against All Forms of Racial Discrimination” and the “Convention on the Suppression and Punishment of the Crime of Apartheid” will also be brazenly violated.

The Southern African Development Community (SADC) Treaty will be violated. It is clear that the ruling of the SADC Tribunal in the [Campbell Case](#) on the issues regarding section 4.29 of the constitution is being deliberately disregarded.

The SADC Tribunal stated that “the respondent [the Zimbabwe Government] cannot rely on its national law, its constitution, to avoid an international law obligation.” Prime Ministers, would you smash the ten commandments to the ground. Is this really what the people said?

Prime Minister Tsvangirai, you stated in Canberra last week that “We must as a continent, embrace democracy and create and nurture those institutions that promote and protect the rights and freedoms of ordinary citizens.” In the light of the defilements of God’s law in the draft constitution that you have apparently signed off on, I am perplexed.

I quote from international property rights expert Peter Schaeferⁱ regarding Zimbabwe’s new draft constitution:

“What John Locke (one of the most important writers on liberty) said was that government’s fundamental (essential) role is to protect the citizens’ personal security, personal property and personal choices. They are not simply interrelated, they are inter-connected and form the foundation for everything else. A three-legged stool, if you will. One may be good at balancing for a while, but eventually we all have to sleep and then a two-legged stool tips over.

“Sorry, compromise is great, but the MDC seems intent on ceding fundamental principles, not just tactical matters. They will regret it.”

Daniel Webster commented that “God grants liberty only to those who love it and are always ready to guard and defend it.”

Legality can not be founded on precepts that are fundamentally flawed. There will be very severe consequences to you as the leaders of MDC, if you discount the 8th Commandment that was given to Moses. Investment will not be attracted and development will not take place. Food security will remain dire and education and health will continue to suffer. The will of the people will have been betrayed.

Just as happened in Animal Farm, and throughout the thousands of farms that were violently stolen without compensation over the last 12 years, destruction will continue to be the order of the day. Millions have been affected by such unjust laws - and if Zimbabwe goes ahead to make a new constitution with such "Hitleresque" sections – and with your support - it will be a betrayal of democracy and God's blueprint, of the highest order.

I appeal to your conscience, your faith and everything that is right, to not compromise on these fundamental issues of principle, international law and most critically, God's Law. Can you or Zimbabwe be blessed if you go through with this abhorrence?

Yours sincerely

Ben Freeth

ⁱ Peter Schaefer is a writer, researcher, and businessman who has advised the US Congress and numerous government agencies on issues relating to the political and economic transformation of less developed countries, with a particular focus on property rights. For several years he served as the Senior Advisor to the head of USAID. Presently, his group is finishing a study exploring solutions for the property problem in Zimbabwe.