

**RE-INVENTING MEMORY AND REFORMING PERFORMANCES: A GENEALOGY OF PANIC
THEATRE IN ZIMBABWE**

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Glossary

Shona	English
<i>bira</i>	A generic term for healing ceremony or funerary ceremony usually performed through the night or just before dawn.
<i>chihwerure</i>	Literally means whirlwind. Refers to a form of socially sanctioned criticism. This criticism is both a form and style of “hidden speaking.” It should be quick and swirl around the issue just like a whirlwind.
<i>dandanda</i>	Type of dance that was originally performed in healing ceremonies.
<i>dare</i>	a community court where all transgressions and trespasses are adjudicated by the elders to the satisfaction of the various parties.
<i>kurova guva</i>	A ceremony associated with funerary practices -- a type of bira. Lit. Striking the grave
<i>magurukutwa enherera</i>	A ceremony associated with funerary practices -- a type of bira. Involves the mimicking of "bad" behavior of the deceased by the daughters in law.
<i>makombwe (gombwe)</i>	Children of Mwari (the creator god). Snake spirits associated with healing and bringing rain
<i>mashave</i>	Spirit that does not have a familial association. Can be a nature or elemental spirit.
<i>mhondoro</i>	Territorial spirits. Sometimes called lion spirits. Nehanda is considered a mhondoro.
<i>murambatsvina</i>	Literally someone who refuses or drives away dirt or filth. One connotation is someone who is overly fastidious or obsessively clean. Term used by Harare City Council for massive clean-up operation that displaced over 700,000 within Zimbabwe.
<i>ngozi</i>	An unsettled or evil spirit. These spirits can be a person who dies childless, violently, or has been taken over by sorcery
<i>nhimbe</i>	Threshing song sung at work party, frequently satirical. Performed after taxed work. Uses the chihwerure style of singing.
<i>njuzu</i>	Water spirit. At times equivalent to mermaid.
<i>pungwe</i>	All night meeting, into the night performance derived from the bira traditions during the war for independence.

<i>svikiro</i>	Spirit medium
<i>vadzimu</i>	Ancestral spirit--typically closely related to family. Great grandparents, even grandparents
<i>varoora</i>	Daughters in law

Acronyms

Access to Information and Protection of Privacy Act	AIPPA
All Systems Out of Order	ASOO
Anti-retroviral drugs	ARV
British South African Company	BSAC
Central Business District	CBD
Coordinating Committee of the Organisation for Voluntary Service	COSV
Economic Structural Adjustment Program	ESAP
Government of National Unity	GNU
Harare International Festival of Arts	HIFA
Humanistic Institute for Cooperation with Developing Countries	HIVOS
International Monetary Fund	IMF
Movement for Democratic Change	MDC
Mwedzi Entertainment Productions	MEP
National Constitutional Assembly	NCA
National Theatre Organisation	NTO
Non-Governmental Organization	NGO
Operation Murambatsvina	OM/RO
Public Order and Security Act	POSA
Southern African HIV/AIDS Information Dissemination Service	SAfAIDS
Swedish International Development Agency	SIDA
Theatre for Development	TfD
Theatre in the Park	TITP
United Nations Educational Scientific and Cultural Organization	UNESCO
University of Zimbabwe	UZ
War Veterans Association	WVA
Zimbabwe African National Liberation Army	ZANLA
Zimbabwe African National Union-Patriotic Front	ZANU-PF
Zimbabwe African People's Union	ZAPU
Zimbabwe Association of Community Theatre	ZACT
Zimbabwe Association of Theatre for Children and Young People	ZATCYP
Zimbabwe Human Rights NGO	ZHR
Zimbabwe Republic Police	ZRP

Chapter 1: Re-Inventing Memory and Reforming Performances in Zimbabwe: A Genealogy of Panic Theatre (theatre for development, after the Murambatsvina¹)

[T]he poetry of Zimbabwe...is panic poetry, uttering statements about issues and meaning, none of which is much different from others. It's as though each poem is saying, "I don't have time to be a neat little package—the world's collapsing..." [It] tends to be an inarticulate scream out across the flatlands, the great expanses of fallow farms, rather than a collection of individual voices singing particular songs (Allen 2006 129-130)

The calabash, which holds memories of the future, carries signs of lasting beauty. Forgetting is not easy for those who travel in both directions of time (Yvonne Vera in Lunga, 217)

And we live in a time, it seems, when illusions exhaust themselves more quickly than ever before. As for the appearance of reality in the age of simulacra, dominated by the media, where there appears to be no reality except appearance, it's hard to think of how in that psychic environment there is anything approximating a public. (Blau 2006, 8)

This dissertation examines the emerging aesthetics of panic theatre and shows how it uses memory and nostalgia to communicate with its hoped-for-but-often-absent audience. Theatre artists use their memories or experiences of Theatre for Development (TfD), the *pungwe* or *bira*,² to create a means to entertain and communicate with their prospective audiences during Zimbabwe's current crisis that surfaced around a constitutional crisis and

¹ Operation Murambatsvina (OM/RO) began on May 19, 2005 with the announcement that Harare intended to enforce colonial zoning laws.

² Bira is a healing or funerary ritual performed in the night. Pungwe performances are a type of bira, but it is maybe more accurate to think of them as adaptations of the bira during Zimbabwe's civil war used by the rebel armies to conscientize rural populations and inform them of the war effort. I will discuss both of these later in the chapter.

land reform in the late 1990s and is yet to be resolved (in 2009). Panic theatre, I argue, emerged out of Zimbabwe's multivalent crises. As such, it uses these older forms of performance to raise a clarion call for help.

I adopted the term panic theatre to describe this new theatre coming out of the crisis using Paul Allen's essay "Juice," in which he looks at the state of poetry in Zimbabwe and in the United States. As he evaluates style and form he comes to the conclusion that poetry's value is what its audience makes of it. Quoting Bob Dylan he argues, "I never looked at songs as either 'good' or 'bad' only different kinds of good ones." ... Maybe there's no such thing as a bad poem. There is only a kind of poem for a kind of audience" (133). He also uses the term panic poetry to describe contemporary Zimbabwean poetry as the type of poetry written "if, say, our house were on fire and we had to complete a poem before we escaped" (130). Metaphorically (and even literally) speaking, therefore, the houses of ordinary Zimbabweans have been set ablaze: they are homeless, there is scarcity of food, and they have to spend hours in queues, for the simplest amenities of daily existence. Yet there are some theatre groups who feel they have a story to tell/perform to this harried group of people. They must create these performances to quell their panic, and act to put out the larger fires in the larger house of the nation-state, Zimbabwe.³

I found Allen's panic poetry and his preoccupation with audience very useful as I tried to research Theatre for Development during 2004-2005. At this time a new period of crisis in Zimbabwe had begun an election campaign and parliamentary elections of March 2005; HIFA 2005; petroleum, electricity, and foodstuff shortages and the resulting queues, and the beginning of the Operation Murambatsvina (OM/RO). The OM/RO is known as

³ The nation of Zimbabwe was named after the older ruins of Great Zimbabwe at Independence. The etymological origins for the name may be zi-imba hwe—the big house of stone.

Operation Restore Order in English but its Shona meaning is quite telling. Murambatsvina literally means to refuse dirt or drive out dirt. By the time the OM “ended,” an estimated 700,000⁴ people had become homeless. It is inaccurate to suggest that this was the beginning of the crisis as a whole—that began with the 2000 elections and the farm takeovers—or that it was the worst that it could get. Since March 2007 one can name a whole litany of difficulties that shows the Murambatsvina was just a part of the ever-deepening spiral of the crisis that is political, economic, social and cultural in its nature.

Additionally, the idea of using panic theatre to describe the type of theatre that was produced in Zimbabwe during this time is fairly apt. I attended rehearsals of groups that had been displaced due to the Murambatsvina and even a rehearsal in which the police showed up at the hall to chase all of the other types of artists out of the other rooms. It takes dedicated theatre practitioners to come to a rehearsal when their own homes are in danger of being plowed over by a bulldozer or when they had been demolished, finding the means to make it to a rehearsal many kilometers from where they had found a new place to stay.

Colin Kajokoto, a street poet, provides an example of the level of commitment necessary for the theatre artist to perform during the crises. Despite his arrest for sedition and being watched by the state, he explains his need to perform and find an audience:

I am going to read again...If I stop [...] to “save” my life this would be tantamount to cutting my throat to save my neck. If you are facing an unjust death you are not worried about your real demise but FREEDOM—freedom to express yourself to the outer world that you are dying, but innocently. (137)

⁴ This figure assumes the OM ended in July with the announcement of a new operation called Operation Garikai (Clean Living) that was supposed to build new homes and businesses that had been destroyed. The UN report suggested that the government would never follow through, nor did it plan to when the OM began (Tibaijuka 2005).

The police arrested the poet again after his performance, along with a couple of other performers. Kajokoto suffered torture and starvation while he was jailed. He escaped and became an exile. He finally committed suicide in exile rather than risk further torture after Austria started deportation proceedings against him in 2003.

This dissertation will look at the emergent aesthetics of panic theatre and how it has been informed by Tfd and the *pungwe* and will trace a genealogy of performance forms. Like the *kurova guva* performances, it is this connection to the memories and imaginations of the performers and spectators that gives authority, credence, and efficacy to the response to the crisis. Even if this genealogy does not exist, it is more important that it exists in the imaginations and memories of the performers and the spectators because they are the producers of culture and they are creating the memories of the future. Like Tfd, panic theatre is community-based and takes advantage of its place within the community to use indigenous performance forms and memory to communicate with its audience and possibly effect change in the situation. The dramaturgy of panic theatre, because it is responding to a crisis and has such urgency, really grows out of common practice and might only be a specific response to the crisis.

Allen argues that Zimbabwe's poetry is not what is written on the page but the will to write and perform it. That what is most important about Zimbabwean poetry is not how it uses language on the page or that critics like or dislike it, but that it exists and thrives in a country that as Allen states is "crash and burn" and Zimbabweans and Zimbabwe "scraping to get by on all levels and not actually getting by on any" (139). His argument that Zimbabwean poets do not have individual songs needs a bit of clarification. He feels that the weight of the crisis of the house on fire drowns out the individual voice in the poetry and that

the urgency to get out the message takes over for the poet in the inarticulate scream of the poetry. He uses Titus Moetsabi's "I Collapsed" to illustrate how a whirlwind takes over the poem midway through.

Friends
When your death
Reached my ears
I was preparing dinner
In the kitchen
I collapsed
I have seen those robbed
Of relatives
Dead in the face
And hopeless
When it was a natural death
But
Assassins butchered you
Sadists dragged you
Dug many holes
Ripped your stomachs
Punctured your noses
Slit your throats
Slashed your ears
And fled
No good Samaritan was near
To rescue
Nor authority keen
To investigate
Friends
With others already gone (130-131).

This call for attention or help creates a communal voice asking for relief and assistance and quite urgent poetry. In understanding how this communal voice reaches its audience, one has to understand how an audience is hailed into being by the poet and in my case the theatre. In a crisis, one appeals to cultural and individual memories. If an artist is able to harness memory, it becomes the strongest means of creating “community” and audience.

Recent research has started to look at the elusive, subjective role memory plays in the creation of history and identity. Much of this research comes from the study of oral histories and traditions. These oral performances provide important clues to the processes of selective memory. Maurice Vambe addresses how in the creative process individual performers participate in a battle of “social values contesting for supremacy.” The creative process selects elements of either established folktales or communal legends to wrestle with the maintenance, consolidation or contestation of “the hegemony of values that define particular social formations” (Vambe 2004a, 11). These folktales have many meanings and memories imbedded in them. Theatrical performances also play an important role in supporting one memory or history over another. Theatre for Development (TfD), a didactic form of theatre, attempts to reform memories and identity in order to achieve societal change. The question of how TfD changes people’s practices, memories and identity frequently occupies non-governmental organizations (NGOs) as they design projects. Of greater interest may be how one creates memories of the future (the changed society), when forgetting the present is so difficult and selective as Yvonne Vera suggests. How does one read Vera’s calabash⁵ and the beauty in it? The calabash swings back and forth and contains memories of the future. I

⁵ There are several types of calabashes: they hold beer, lunches, and herbal medicines. They hold magical preparations for healing ceremonies, such as *bira*; some healers have ones that talk. It is likely that Vera is referring to a *mapirigodi*, which is a divining calabash that moves backwards and forwards on a string. The calabashes and pots and the words used to refer to them have been used by women to refer to their bodies and sexuality (Klassen 1999, 246).

posit that panic theatre and theatre in Zimbabwe attempt to create/present memories of the future while using the past to navigate the present. It moves back and forth in time and uses a variety of contexts and performances forms to achieve it. My project will look at two forms of didactic, reforming performances, indigenous Zimbabwean performances (such as the *bira* and *nhimbe*) and Theatre for Development, for the roots of panic theatre's visions of the future. Both types of performances in contemporary Zimbabwe can be understood as a re-invention, representation and citation of Zimbabwe's past. Because TfD and the indigenous forms such as dances and *ngano* (storysongs) have a didactic role, it is possible to view them comparatively and trace their imagined, and at times shared, genealogies.

The groups that worked with me as informants were influenced by both didactic traditions. Vuka Afrika built a reputation advocating for children's and workers rights while its artistic director and playwright drew his inspiration from his memories of his grandmother's dances and stories. He consciously models his work on the *nhimbe*. Edzai Isu, a workplace-based theatre, after using the trappings of healing ceremonies in workplace safety plays, developed a play that uses satire and allegory to predict the future by looking at the past and present. Mwedzi Entertainment Productions brought together many diverse theatre professionals to recreate an imagined past to negotiate a future too. All three of these groups used time, memory, and satire in a manner similar to both the *nhimbe* and *bira*, while still being informed by the Theatre for Development play. In short, they were responding to the new crises with adaptations of style to the reformative and didactic performances of their pasts; they responded to crisis with panic theatre. Not all of these groups could be considered to be working in community-based theatre equally. Vuka Afrika and its plays could be considered as Theatre for Development. Edzai Isu described itself as workplace

based theatre and a large portion of its work would be classified as TFD, but saw its play *All Systems Out of Order* as a move toward “artistic” theatre. MEP, the group that produced *Conquered Plans*, was primarily associated with “artistic” performances and not considered community-based theatre. Yet, I included it, because the group had the same obstacles and difficulties post-OM as any of the others and had very similar coping strategies that were present in the structure and substance of their production *Conquered Plans*.

Indigenous performance forms in Zimbabwe include the media of dance, mime, storytelling, and praise poetry. These performances were and are still present in education and instruction of societal values, norms, practices, history, and production. They were and are considered reforming and transformative. Performance or drama played an important part in the rituals surrounding marriage, death, birth, and initiation. In the guise of praise poetry and some dance, these didactic performances provided a public forum for criticism, appraisal, and re-establishing or destabilizing control (Mloma 1991b 27). In performances such as *kurova guva* (striking the grave ceremonies), maintain and enforce cultural norms by the exorcism of memory that temporarily disrupts and destabilizes the social hierarchy (Pressler 1994, Thram 1999, Plastow 1996). Through these forms of ritual performance the Shona culture believes even the dead can be reformed.

Paul Allen’s analysis applies for the most part to written poetry, but the majority of Zimbabwean poetry is performance poetry, performed in Shona, Ndebele and English. Maurice Vambe and others have shown that this kind of performance poetry has its roots in Zimbabwe’s past and has continued in various guises into the present. While praise poetry and storysongs (ngano) keep their ritual context, as well as traditional audience, they have also blended into popular music and literature in new contexts. Vambe, in his book *African*

Oral Story-telling Tradition and the Zimbabwean Novel, argues that *sarungano* (storytellers and poets) had many roles; they served as a “repository of cultural values” and as “spokesperson and the ideological conscience of the poor and vulnerable” (Vambe 2004a, 10). Their performances served as warnings, advice, praise, denunciations and models for good behavior and setting of rules or laws. In a communal past, they served as teachers, priests, judges and entertainers. Like oral performance, Zimbabwean theatre, particularly TFD, has many purposes. TFD is didactic, attempts to persuade and police behavior, and as some acknowledge, provides entertainment and relaxation.

Formalized or so-called Theatre for Development (TFD) began in Zimbabwe during the colonial era with didactic skits that attempted to inform illiterate farmers of “modern” (i.e., Western) farming practices. In its early growth, TFD frequently made three mistakes: the agencies were interested only in their messages rather than their aesthetic vehicle; TFD projects underestimated their audiences’ ability to create and make meanings of their own; and projects failed to fully account for women’s roles in performance and their productive and reproductive roles within their communities. Many TFD projects did not have local aesthetic input and therefore did not achieve their desired reforms. In neighboring countries such as Botswana and Zambia, the early TFD groups were working against the top-down approach and started to develop a new model, as explained by Kerr:

The idea of Theatre for Development was for Adult Educators to research the development problems of a particular community...and to create plays based on local cultural forms which would analyze the development issues. The intention was for the community action groups to mobilize people through drama to improve their own lives. (Kerr 1991, 54)

During Zimbabwe’s war for independence, guerrilla armies used these new TFD models as an instrument to conscientize the local peasants. These didactic Western theatrical skits merged

with Zimbabwe's storytelling, dance, funerary rituals and performances (*kurova guva*, *bira* and *magurukutwa enherera*)⁶ at this point to become the new hybrid *pungwe* performance form. The *pungwe* combined the aesthetics of early TFD, dance, storytelling, and the comic performances that exorcized the newly dead of the asocial behaviors they committed while they were alive. These expurgations of memories cleansed the deceased, allowing them to become ancestors. However, this model also frequently paid only lip service to the indigenous forms and frequently attempted to simplify complex performance styles in service of their didactic message that ended up as "crudely simplistic propaganda theatre" (Kerr 1991, 54).⁷ Since independence, new practices within TFD projects have emphasized a need for new means to measure efficacy, and aid agencies appear to be giving more control to local theatre practitioners.

In Zimbabwe, TFD can now be considered a semi-professional theatre. Theatre companies contract themselves to non-governmental organizations (NGOs), which function much as patrons would. The companies gain venues, audiences, transportation, advertising, and they hope a living wage or stipend for members of the company. These groups frequently specialize in AIDS-awareness theatre, poverty alleviation, and women's and children's rights. The productions use folklore, dance, and storytelling, along with western theatrical conventions to encourage dialogue and reformation of performative and social practices. Many of these groups work improvisationally. They have basic plot structures and character types that the actors may specialize in.⁸ These groups rely on the actors' memories

⁶ All three of these performances are related to funerary rituals that will eventually bring the deceased into the family. *Kurova guva* and *bira* occur in the evenings. *Magurukutwa enherera* are performances that involve actual mimicry of behavior of the deceased. All will be discussed in greater detail.

⁷ Leslie Bessant's article (Bessant 1994) traces how nationalist songs become more direct and simple as they reach out to broader audiences as well.

⁸ These characters and plot lines are not really formalized, but I have seen groups that use the strengths of their actors to shape both storylines and characters.

of the songs and dances from past performances and scenarios. Even if they do develop scripted plays, the NGOs do not generally support rehearsal time. So TfD's aesthetic is largely influenced by its actors' memories and their ability to remember. Groups shape performances using memories of the other performers' successes and what has worked for groups in the past. This has at times led to stagnation and the lessening of artistic innovation. The groups have not had time to work on new material, nor is developing new work necessarily encouraged. One very successful group, Patsime Trust, funded by Southern African HIV/AIDS Information Dissemination Service (SAfAIDS),⁹ has not changed its HIV awareness play, *Buddyz for Luv*, performed in secondary schools, in many years. The group's relatively stable cast and the model for the play continues to get the group scheduled to perform at schools and other similar venues. SAfAIDS, its sponsor, controls the script and the model for reaching audiences. SAfAIDS funds Patsime, because it is being led by a recognizable actor, Jasen Mphepo (Southern African HIV/AIDS Information Dissemination Service 2003, 31). The group remains very dependent on Mphepo and SAfAIDS.

Cont Mhlanga, like David Kerr, writes extensively about the potential and shortcomings of TfD. He outlines five stages of TfD with Zimbabwe as his model as he both defines the field and demonstrates its limitations as currently practiced: Formative Stage, Application Stage, Institutional Stage, and Network Developing Stage, culminating in Community Level Stage. Each stage he says should have moved TfD closer to arriving at the community. As Mhlanga states,

⁹ SafAIDS is a regional NGO that uses different media to make information available about HIV prevention and living with HIV. Its model is relatively radical in that it does not want HIV to be treated as a health issue but wants it to be treated as a development issue. So in the interests of doing so, it also works on alleviating poverty, gender, and human rights abuses. It is funded by the Netherlands Ministry of Foreign Affairs(DGIS), Department for International Development-UK (DFID), Swedish International Development (SIDA), Humanistic Institute for Cooperation with Developing Countries (HIVOS), Development Cooperation Ireland, Oxfam Canada, Healthlink Worldwide, NORAD, and the Joint United Nations Programme on HIV/AIDS (UNAIDS).

This is a stage where TfD will not be brought by scholars, academics, theater practitioners, government and non-governmental development agencies to communities but would be found existing in the Communities as part of that community, being used by that community and evolving to new levels driven by political and economic changes taking place within that particular community (Mhlanga 2008).

He points to some serious shortcomings with the state of TfD in Zimbabwe. He maintains that Zimbabwean theatre has been experiencing a crisis of infrastructure because of its dependence on the non-governmental organizations:

According to my TfD development stages I observe that the TfD champions jumped stage Three and went straight to Stage Four creating national associations of theater and international associations of theater based on individual collaborations, experiments and local community drama groups and not based on Indigenous Theater Institutions that have physical space and can guarantee local continuity of the development TfD (Mhlanga 2008).

This lack of indigenous infrastructure is just one of many. As part of the overall problem, he continues, much of the work of TfD depends on efforts of individuals or individual groups, such as Mphepo and Patsime. If the person who was the leader of a group or academic department leaves, the work is not continued. So a simple absence hinders the work. The work is forgotten and dwells only in memory. He argues that because the local institutions have never been created or encouraged to develop their own infrastructure, TfD will never be sustainable within the communities that it wishes to influence. Other stumbling blocks for TfD efficacy and ability to “stay in communities” are politics and economics. He uses the example of the Kamiriithu Community Education Centre in Kenya and its destruction by the government as the community started to use indigenous languages in theatre to express its dissatisfaction to conclude that

TfD faces political challenges because in most communities in Africa if you give confidence and capacity to any one to stand up and speak loud in public about issues concerning their development they will start or end with ...democracy, human rights, governance, oppression and exploitation issues one way or another (Mhlanga 2008)

This has proven to be a serious problem for TfD groups in Zimbabwe. Once they move away from the more common issues associated with TfD in Zimbabwe such as HIV awareness and public health in general—those that have the most NGO funding and have the most exposure—they are in danger in Zimbabwe of being censored or detained by the police (Mhlanga, *The Play Must Play* 2007; Zenenga, *Censorship, Surveillance, and Protest Theater in Zimbabwe* 2008). These problems do not necessarily require the TfD model to be abandoned, but the strategies of TfD need to be constantly adapting to survive as a result.

History of Theatre and Performance in Zimbabwe

In two seminal articles, Preben Kaarsholm (1990) and Stephen Chifunyise (1990) have mapped Zimbabwe's formal theater history. Kaarsholm traces the influences of current theater practice to pre-independence conditions and Rhodesian governmental control of the theater. He outlines how two separate theater traditions in Zimbabwe started as a form of social and cultural control. The two forms reflected the budding apartheid culture of the early colonial period. Kaarsholm argues that the first tradition, white Rhodesian theater, surrealistically tried to maintain the settler identity and community. The colony eagerly staged British plays, musicals, and operas,¹⁰ so much so that the theater maintained and reinforced "a [settler] conviction, not perhaps that they were not in Africa, but that Africa was a continent of ultimate emptiness and extreme primitivity into which colonial civilization

¹⁰ Some performances include *The Turned Head*, *Black Justice*, *The Wreck of the Pinafore*, *Estrella*, and *Isidora*, *Charlie's Aunt*, *La Boheme*, *Richard II*, Sadler's Wells Ballet and the Edinburgh Police Band.

had to be filled” (Kaarsholm 1990, 248). Most original Rhodesian plays constructed a national identity reflecting Africa’s emptiness and the settler’s creation of an authentic white African culture in opposition to a black African non-culture (Kaarsholm 1990, 248).¹¹ These colonial plays needed audiences to see the ghosts of Britain and British theatre on the stage to maintain a community of British colonials among them. The mainstage of the Rep Theatre in Harare still basically functions in this manner. It routinely will stage British plays or occasionally plays from Broadway. It works hard to maintain this nostalgia for a mostly white theatre. While I was in Zimbabwe this was still visible but less frequent—the Rep Theatre produced *Dick Whittington’s Cat* and *Proof*. It also has started its own awards program for all who participate in its season.

Prior to independence, few black Zimbabwean playwrights wrote in English. This is not surprising, because the only stages available to black Zimbabweans in the Rhodesian colony were the mission schools. First missionaries and later the Rhodesian Literature Board encouraged the development of the second theater tradition, an indigenous languages theater and its playwrights. In 1957, the Gokomere Catholic Fathers translated Calderon’s *El gran teatro del mundo*, a seventeenth century morality play, into Shona. It was entitled *Mutambo wapanyika*. The play incorporated Shona proverbs, metaphorical language, songs and praises. Because of its resulting resonance, *Mutambo* embedded itself into Shona aesthetics. Most of the pre-independence Zimbabwean-written plays followed its example and created a genre of the Shona morality play (Kahari 1990, 31-35). These plays frequently exhort Zimbabweans to remain “traditional” and edify Christian values and mores. Most are farces about a vice-ridden man and his greed for chicken, money or other men’s wives and daughters. Many end

¹¹ Kaarsholm and J. Hazel Carter have pointed out that some plays written by white missionaries, teachers, and students are extremely sensitive to black Zimbabwean cultures.

in a court scene with the greedy man being sentenced and supposedly reformed by a colonial judge (Zinyemba 1986, 20-28; Kaarsholm 1990, 253). Interestingly, some of the more popular post-independence formal theater plays, in either Shona or Ndebele, include a trial scene with a black Zimbabwean judge standing in for the colonial judge. In these cases, the *dare*¹² is often combined with the remnants of British common law. However, these plays call for a rejection of Western culture, while continuing to use its trappings of authority.

In contrast to Kaarsholm, Chifunyise deals only with post-independence theatre. He argues that its main influences come from the theatre developed during the independence struggle at all-night song-and-dance political rallies. This theatre took its name (*pungwe*) and form from an earlier genre of performance in Zimbabwe. *Pungwe*, as a genre of performance, has a long history within Shona culture. Originally reserved for rituals associated with burials and inheritance, families or villages would get together to celebrate a deceased person's life, inviting them to return to the family as an ancestor. At the all-night ceremony or *pungwe*, dances and rituals would be exchanged between family members and villagers to ward off any possible witchcraft (*uroyi*) while stories would be told of the deceased person's life (Pressler 1994). During the war for black majority rule in Zimbabwe, the guerrillas adapted the content of the *pungwe* to make it an important medium for education, communication, and relief from the stress of fighting a guerrilla war in the "bush."

The war effort required a continuing dialogue with rural Zimbabweans to obtain their support, politically and materially, for the liberation struggle. The *pungwe* or *bira* seemed to be an ideal means to communicate political theory without long exhortatory speeches that frequently turned off the villagers. Penina Mlama's research shows that when the speeches

¹² *Dare* is the traditional patriarchal court, presided over by the male village leader and male elders of the community.

were shortened and combined with songs and dances reminiscent of the *pungwe* style, or when the same themes were conveyed through short sketches, the villagers responded with enthusiasm. When the villagers themselves became major actors and co-organizers of the events, their interest and support increased. The skits, songs, dance and poetry became an effective cover for the clandestine meetings and at the same time conveyed the ideas and spirit of revolution (Mlamba 1991, 58).

Chifunyise argues that Zimbabwean theatre since independence has used the *pungwe* genre to deal with challenges presented by “ a rapidly transforming socio-economic, political and cultural environment on one hand , and attempts by sections of Zimbabwean society to resolve contradictions created by the long history of cultural and political domination” (Chifunyise 1990, 289). This included groups that were attempting to deal with patriarchy as much as injustices from the racial prejudices. These theater groups work with texts dealing with sexual harassment in schools and the workplace, marriage customs and new laws upholding women’s rights (Chifunyise 1990, 282-3). Much of Chifunyise’s work as a playwright deals specifically with challenging patriarchal and traditional hierarchy (cf. *Little Man from Murewa* and *Muramu*). He also shows that many of the developments of post-independence theatre have been haunted by the memories of the colonial era and also notably by groups and personalities. He cites the influence of Robert McLaren and Ngugi wa Mirii as shaping much of the work of others.

These two seminal articles have also revealed how the colonial era has continued to haunt Zimbabwean theatre’s infrastructure in the rivalries and divisions between the National Theatre Organisation (NTO) and the Zimbabwe Association of Community Theatres (ZACT). Although these articles in many ways come from different viewpoints and

positions both illuminate the role that post-independence politics plays in shaping memory and identity within these organizations. These two deeply politicized positions and organizations have shaped much of the scholarship on Zimbabwean theatre since. Martin Rohmer has the most cogent discussion of the rivalry between NTO and ZACT. At the time of my research neither truly existed any more¹³. The theatre groups that I worked with missed the infrastructure both provided and the funds for training or on occasion productions. Some expressed limited fondness for either beyond that. Some remnants of the rift are still evident. The Harare International Festival of the Arts will not schedule any performances at the Rep because it does not want to be associated with the supposed division between black and white theatres. The NTO was accused of being too white—a valid accusation in 1985, but not in 1993 (cf. Rohmer, Byam, Seda). Its absence and the vacuum created by its disappearance can be seen as one part of the crisis in theatre and more specifically community-based theatre (TfD) that has influenced the emergence of panic theatre.

My research both adds to and is informed by recent work on Zimbabwean performance and theatre, Zimbabwean history, and theatre and performance theory. Although many studies have been conducted on contemporary Zimbabwean theatre, Theatre for Development (Byam 1999, Plastow 1996, Seda 2001) and “traditional” performance forms (Plastow 1996, Chinyowa 2001), very few look at the aesthetic or performative nature of theatre for development (Rohmer 1999, Klassen 1999, Thram 1999). In addition, little or no attention has been given to the idea that “traditional” theatre and formal Western theatre exist in a continuum of performance genres (cf. Hauptfleish, Lunga). This understanding of

¹³ Both still existed on paper and ZACT had a small workshop, but none of the groups I worked with attended it or were even aware of it. As far as the NTO, Susan Hains was trying to retire from it entirely and no one had stood up to take on her job. Neither organization had a budget of any sort. The Arts Board had taken over funding individual theatre groups and sponsoring theatre contests for high schools. Ngugi wa Miri died in May 2008.

Zimbabwean performance as a continuum will require an understanding of how the contemporary performance of TFD, dance, storytelling and other “traditional” performance forms influence and cite each other in panics theatre through the kinesthetic imagination of the performer or the spectators’ memory and imagination. In fact these two performative venues actually help to develop and recreate each other. For instance, as Ross Kidd observes in “Theatre For Development: Diary Of A Zimbabwean Workshop,” the continued (re)creation of the *pungwe* “revitaliz[ed] the traditional performing arts which had been undermined during the colonial era. Even in the most repressive situation our songs...served to consolidate the support of the villagers for the struggle” (Kidd 1985, 180). The state continues to recognize how useful the *pungwe* or funerary performance forms in revitalizing a sense of purpose and community. But Page: 27

currently exhortatory speeches are more the norm for the government and ZANU-PF than *pungwe*. Sensing a flagging in support even in the most loyal regions of the country, the ruling party called for a nationwide *pungwe* to bring rain, prosperity and unity to the country in September 2005. The majority of the people had a less than enthusiastic response to these *pungwes*. This was as much a product of a new adherence to a strong form of fundamental Christianity as it was to ZANU-PF and Mugabe fatigue. These *pungwe* were not seen as a means to bring rain, but as way for the state to spend more money in coercing Zimbabweans to praise Mugabe and the state and to recognize his authority over the land as well as themselves. Some derided these gatherings for their political implications and condemned them as potential devil¹⁴ worship.

Although many funerary traditions and rainmaking ceremonies have lost their contexts, people may find new uses for the performance, if needed. Jane Plastow’s chapter

¹⁴ I was unable to follow if they thought Mugabe was akin to the devil or if it was purely fundamentalism.

on pre-colonial theatre cites an unpublished paper by T.K. Tsodzo that discusses three types of traditional drama that may provide women and other marginalized groups moments of agency and avenues to transgress cultural norms. These are threshing songs (*nhimbe*), secular, ritual performances preceding weddings, and performances done to mourn the death of a male in-law.

The threshing songs or *nhimbe* were performed during and after communal or taxed labor. The songs were extremely bawdy and graphically portrayed and caricatured husbands, parents, children and occasionally those in authority. The *nhimbe* were done in the presence of the object of the parody with impunity. The performances used hidden text and sleight of hand use of language to maintain this poetic license.¹⁵ During the wedding ritual performances or tea parties, as they are called in Harare, a woman became the groom and transgressed cultural norms of female submissiveness. At these exclusively female performances, women role-played male behavior in order to teach seduction and sexual adventurousness. At the mourning rituals (*magurukutwa enherera*), daughters-in-law impersonated and lampooned their fathers-in-law's shortcomings and bad traits in order to cleanse their souls and bring them into the company of the ancestors with the proper status.

In the *kurova guva* (striking the grave or bringing back the dead) rituals, the decedent's daughters-in-law (*varoora*) serve as flesh-and-blood effigies that stand in and restore to the dead the behaviors and foibles that he/she had as a living body. Hence the *varoora* serve much more than as simple performers that satirize and memorialize the dead person's life. Their satirical productions cleanse or exorcise the grave and allow the deceased to return to the family. Because they are serving as effigies, Roach argues:

¹⁵ Men also perform *nhimbe*.

The result is a mobile, conflictual fusion of power, fear and desire in the construction of subjectivity: a psychological dependence upon precisely those Others which are being rigorously opposed and excluded at the social level. It is for this reason that what is socially peripheral is so frequently symbolically central. (Roach 1996, 39)

The *varoora*, although at the lowest position in the family patriarchal hierarchy, temporarily become the center of their family as they enable the symbolic movement from the dead to the status of ancestor through their songs, dances, and impersonations (Chinyowa 2001). Many of these songs, dances and use of satire contribute to some of the formal aspects of TFD and Panic theatre.

Panic theatre uses these reformative performance forms and their hidden texts to call for help and change using memories of these past performances. Memories of these forms and their role in policing and reforming abuses of authority give agency to theatre groups to do the same. Like the daughter-in-law without status, theatre groups can use the *nhimbe* and *bira* and other forms to mock those in authority and shame them and hopefully reform them. These hidden texts and sanctioned protests that gave agency and control to the *varoora* can be used by theatre groups for the same purposes.

The *nhimbe* provides an interesting model of how theatre groups have used memories to reinvent and recuperate performance forms that have lost their performance context. Leslie Bessant catalogues a few *nhimbe* performances and their role within the community in Chiweshe prior to independence. He argues that the primary purpose of the *nhimbe* performance was to make work fun but that it also provided an immediate form of social correction:

Chiweshe people sang for themselves and for each other to try to create certain standards of action, speech, and thought. The messages of these songs

were not intended for outsiders: they were supposed to tell the citizens of Chiweshe how to live with each other. The songs rehearsed and explored the ties and relationships that made village life possible (Bessant 1994, 46)

The *nhimbe* also contained language that although metaphorical was quite bawdy and normally prohibited in mixed company. The language of these songs called people into account for their behavior without necessarily naming names.

The mother has gone for (*Muchizvanano*) last pot of beer at a party.

Pull, Pull

He has pulled clitoris, the gland.

Pull, Pull

He has pulled the testicle, the gland.

Turi Turi.

The drum is beating.

The drum of a vulva.

The drum is beating.

The drum of a penis.

Oh! *Mubaiwa*.

I am the tortoise with the shells!

I am the tortoise

Boys THRESH the grain!

I am the tortoise with the shells!

I am the tortoise!

Your penis does not generate.

Oh Beast.

For what reason have you sent the penis,

That is moving up and down in this hut?

We have sent it for vulva.

For what reason have you sent the vulva

That is moving up and down in this hut?

We have sent it for penis¹⁶... (Bessant 1994, 43-44)

This language although playful was also meant to humiliate its subject in front of his or her peers (in the case of this particular song, a wife who left her husband after multiple affairs). Other performances taunted individuals who had declined to come to the threshing party. Bessant argues that these songs were directed at the immediate community and encouraged people to behave as a community but that they were not used to critique those outside the immediate neighborhood, “[t]hough it is easy to imagine how these parties might have turned into sessions where the colonial government was held up as the biggest ‘Mr. So-and-so,’ the greatest threat to village life, that seems not to have happened” (Bessant 1994, 51). The *nhimbe* could not effectively shame those who did not understand their position within the community and song.

He continues to document how the work parties and the songs associated with them were changed as people started to convert to Christianity. Although the work parties continued, the missionaries and new converts left if the “immoral” songs were performed. Because the work parties provided a large share of needed labor, the songs became less central and frequently were not performed. Additionally he shows that the *nhimbe* and work parties lost their power and place as the colonial government continued to take more land:

Land shortages became so widespread that most families had no need to call *nhimbe* any more. Land shortage finished what the Salvationists had started.

As these gatherings died, so did the songs and the performances that occurred at them (Bessant 1994, 65)

The songs and styles associated with the *pungwe* replaced the *nhimbe* as a means to bring people together to fight for change rather than shame someone into changing.

The status of the *nhimbe* changed greatly and other performance styles were adopted

¹⁶ Bessant adapted an earlier translation from Shona to English.

by theatrical groups in the 1980s and 1990s to communicate messages (Rohmer, *Form as Weapon: the Political Function of Song in Urban Zimbabwean Drama* 2000).

These songs were less allegorical and much more direct in their criticisms.

These memories of the *nchimbe* and other gendered performances provide panic theatre with its agency. These theatre groups use memories of these very performances and operate from the place of the *varoora* to critique and reform society. However, they do this as women have a poor representation within panic theatre, both as actual performers and characters. A male actor takes on the role of the young woman, so she is only represented by her absence. The woman/female gender can also function as a source of pleasure and danger. In at least two of the plays, the female characters both represent the youth and future of the next generation. But she is on unequal footing with the older, wiser, more world-weary and wary father figure. These images and lack of strong representations of women comes from at least two sources: indigenous patriarchy and colonial patriarchy and colonial-era laws limiting women's presence in urban areas. As these two forms of patriarchal control influenced women's literal place outside of the home, it also influenced their imagined places outside of the home. Early theatre and literature portrayed women outside of the domestic and rural spheres as loose and dangerous. Panic theatre has re-inscribed the problematic portrayal of women in TfD and women theatre practitioners were impacted more strongly by OM than their male counterparts.

Methodology

Because of the nature of panic theatre, the methodology for this project draws on theatre and performance studies, and takes some useful concepts from public health, history,

women's studies, auto-ethnography¹⁷, and anthropology that deal with construction of memory and identity.

Because my research dealt with performance and memory, I had to conduct my research at the locations in which the performances occurred. I lived in Zimbabwe from October 2004 to October 2005. I became a member of the University of Zimbabwe's (UZ) Theatre Arts department. As a member of this small department, I filled a gap that had been created by a gradual exodus out of the department and the university for greener pastures outside of the country of both experienced faculty and younger scholars. I taught the Advanced Production course for Honors students. I also was in charge of the Beckett unit in the department's team-taught Theatre Innovators course. I assisted with the Directing course. As part of this instructional work, I directed and mentored the senior honors students' final two productions at UZ (Suzan-Lori Parks' *The America Play* and George C. Wolfe's *The Colored Museum*). I worked with the rest of the faculty in advising these students in their honors theses.

My position with the Theatre Arts department gave me an entrée into the wider theatre arts environment in Zimbabwe. Because I worked at the department, I received invitations to conferences, performances, and workshops. I became associated with the department and UZ. My work at Theatre Arts also gave me some insight into my own research. The acting and directing classes come from Stanislavsky. The Theatre Innovators course includes the major Western innovators: Grotowski, Brecht, Beckett, and Meyerhold. This course is Africanized a bit with the additions of Wole Soyinka, Ngugi wa Thiongo, and Ngugi wa Mirii. The overall curriculum includes a lot of Augusto Boal and Robert

¹⁷ Auto-ethnography is an emerging research method that uses some of the concepts of ethnography and the study of identity and culture. It is at its most essential an ethnography of the self.

McLaren's¹⁸ pedagogy. My colleagues lamented that we were unable to have a technical theatre component and were unable to train designers and technicians. Outside UZ, this was perceived as a problem, too. Theatre artists working in theatre also felt that UZ and the Theatre Arts department were inaccessible and not an available option for training because of University entry requirements. Others lamented that the students who were getting acting and directing training were leaving the country or becoming teachers rather than theatre workers.¹⁹ Some biases that I might have and that the groups I would later work with had become visible to an extent.

Because my research was funded by the United States Department of Education through the Fulbright Hays, I also was clearly affiliated with the United States Embassy. The embassy's Public Affairs Office (PAO) assisted me in some basic practicalities (the office provided transportation to and from the embassy, worked with the customs authorities, the administration at UZ to get me housing, helped with exchanging money, and provided access to fuel and basic goods once these became subject to shortages). The PAO sponsored the production of *The Colored Museum* so we were able to get better costumes and lights. Additionally, this production was co-sponsored by the U.S. Embassy and the Theatre Arts department at the Harare International Festival of Arts. This was quite an accomplishment for my students and me. The PAO wanted to use this opportunity to improve the image of the United States in the eyes of the general public of Zimbabwe and there was a fair amount of public relations surrounding our production. Owen Seda (the chair of the Theatre Arts

¹⁸ Robert McLaren was the founder and first chair of the Theatre Arts department as well as founding both Zambuko/Izibuko and Chipawo (Children's Performing Arts Workshop).

¹⁹ My students from the seniors' honors course appear to confirm this perception. Three had teaching positions. One of those has since immigrated to Namibia and is a teacher there; the second after less than a year teaching entered into a graduate program in South Africa that was not in theatre or teaching, the last one I have lost touch with and am uncertain if he is still a teacher. However, four of my students joined a professional theatre group in Zimbabwe. Yet within two years, all four of these students have gone to South Africa to get graduate degrees in theatre. They are uncertain if they will return to Zimbabwe to work in theatre.

department) and I appeared on a morning news program to advertise the production and the milestone it set.²⁰ My students were shocked the following week as the same news program painted the production, the playwright and me as racist and the department and its students as sell-outs. However, all of the coverage and reviews of the actual performances were quite complimentary.

So I was bringing a mixed bag to the groups that I worked with outside of UZ. I brought a variety of resources and expertise. I came as a researcher, a director, an instructor, a grant writer, a citizen and representative of the United States Embassy, and a scapegoat. I brought access to the Theatre Arts department and funding from the PAO. I also brought invitations to workshops, possible venues, and work opportunities to actors and playwrights. Although I might have felt anonymous as I traveled on khombis to Highfield, I was easy to spot in the queues at the bus station. So I had a bit of notoriety that could bring unwanted attention to those I worked with.

Performance is ephemeral and passes into the memories of the spectators and performers as it unfolds. Zimbabwean TfD is frequently developed in workshop settings using improvisation of an entire theatre company. They rarely develop a written text of their work and rely solely on memories and interactions of performers and spectators, so a performance text is never fixed or static. At the point that I am writing this introduction, I have my memories, notes, photos, imperfect videos, and in the cases where I was involved in a performance's production directly a script to document particular performances to attempt to map the experiences and memories of performers and spectators. The ephemeral nature of performance and memory, as much as anything, limits this dissertation to the time when I was able to be present in Zimbabwe. I tried to have students from the Theatre Arts

²⁰ It was the first time that University students were part of a performance at HIFA.

department to do audience questionnaires at HIFA in 2006, but was unable to get usable data because this small piece of the performances and memories was not enough to reconstruct the performances and the environment of the ongoing crisis. I also was too removed from the situation to be able to tailor the questionnaires sufficiently. The groups that I worked with also did not want to dwell too much on the Operation Murambatsvina and the stress it created. They wanted to forget these memories as much as they could.²¹ The current economic crisis and the United States Department of State travel restrictions for Zimbabwe has made it hard to return to conduct follow-up research.

Memory

My primary methodology comes from Joseph Roach's work on performance genealogies and memory in *Cities of the Dead*. He uses Foucault's definition of genealogy which is "a form of history which can account for the constitution of knowledges, discourses, domains of objects, etc., without having to make reference to a subject which is either transcendental in relation to a field of events or runs in its empty sameness throughout the course of history" (Foucault 1984, 59). Hence, a genealogy of performance is more than an excavation of past forms of performance that explains why contemporary performance looks the way it does. It does not simply trace new performance forms' origins from their transcendental essence of the past. What it actually uncovers are multiple bodies of performance and memories that could have been developed. These multiple bodies and/or memories stem from the nature of performance and memory; searching for an original, authentic source is doomed—because "the relentless search for the purity of origins is a voyage not of discovery but of erasure" (Roach 1996, 6). Memory, as Roach shows, is as

²¹ A standup comedian I asked to relate his memories of the Operation Murambatsvina was unable to remember this time clearly in private communication.

much defined by what is forgotten as performance is defined by its act of substituting a representation for something that is material (3). Memory is not static but continually redefined by a process of forgetting, surrogation, and substitution. Once an absence within a group is perceived, community members “attempt to fit satisfactory alternates. Because collective memory works selectively, imaginatively and often perversely, surrogation rarely if ever succeeds.” Its success must come from the process of forgetting and looking for a more suitable replacement, which becomes “the doomed search for originals by continuously auditioning stand-ins” (Roach 1996, 2-3). Performance uses the body to recreate, reinvent and substitute what exists in the imagination (i.e. kinesthetic imagination). Roach states that the power of performance and memory rests in the kinesthetic imagination: “expressive movements as mnemonic reserves, including patterned movements made and remembered by bodies retained implicitly in images and words” that human agents use to transmit and transform memory (26). Roach builds on Pierre Nora’s concept, places of memory (*lieux de mémoire*), and living memory. Places of memory—cemeteries, museums, and archives—tear away “moments of history” from the “moment of history.” This conception of memory and place has entered into Zimbabwean historiography if not Zimbabwean performance history. Gerald Mazarire shows how important places and boundaries are in the process of forgetting and substitution in the creation of memories and reinvention of traditions as he looks at the identity of Chishanga in an important article in Zimbabwean historical geography. The boundaries of what was once the chieftainship of Chishanga and the various hills and sacred forests correspond to the cemeteries, museums and archives as other societies’ places of memory. In both cases, these places in their selection also define what is forgotten. “Living memory,” like Vera’s calabash, resists this reification because it is passed down/transmitted

through the “gestures, habit, and skills” of a culture. Mazarire argues that as these boundaries change, or as people’s relationships to these places change, their memories change. Their memories are formed by a “culture of forgetting” (Mazarire 2003, 713). “Living memory” is in turn transformed by the kinesthetic imagination (Roach 1996, 26). Roach defines the kinesthetic imagination as “[a] faculty of memory...which flourishes in that mental space where imagination and memory converge, is a way of thinking through movements—at once remembered and reinvented—the otherwise unthinkable, just as dance is often said to be a way of expressing the unspeakable” (27). Vambe’s work shows how Zimbabwean storytellers, both oral and written artists, allow imagination and memory to converge in this way. In addition, Doreen Klassen’s research illustrates the importance of the kinesthetic imagination in the creation of ngano and its performances and reception of its audiences . (Klassen 1999, 8, 30-38).

Haunting

On a similar line of discussion Marvin Carlson argues in his book *The Haunted Stage* that theatre and its interpretation or reception is particularly haunted by “residue[s] of memory of previous such experiences.” (Carlson 2003, 5) This residue is central to the process of interpretation and reception. Theatre is a type of cultural activity that is highly ghosted or haunted. Ghosting as Carlson defines it is the presentation of “the identical thing they have encountered before, although now in a somewhat different context” (Carlson 2003, 7). Ghosting does not just occur within the subject or text of the performance but in the means of the performance. “All theatre...is as a cultural activity deeply involved with memory and haunted by repetition” (Carlson 2003, 11). All elements of theatre can be haunted. He argues that theatre depends on its audiences being able to recycle and put into play past memories in their reception of a performance. He argues that at times some theatre

genres²² depend on the ghosts that inhabit the stage and their audiences' memories to create meaning.

Like memory, ghosting has a particular resonance when discussing Zimbabwean theatre. Zimbabweans believe that ghosts and the concept of spirits and haunting have a particular cultural significance for them. Both of the major ethnicities in Zimbabwe have funerary rites that bring the recently deceased into the realm of the ancestors.²³ Although these funerary rites have lost some of their significance because of the more recent adoption of fundamentalist Christianity, the ancestors still have some weight. It is believed as long as someone is around to remember the *vadzimu* that they will look after and at times even advise their descendants. Other important spirits include the *mashave* and *ngozi*. The *mashave* are not attached to a particular group and are free from any familial obligation. They are sometimes the spirits of strangers or more commonly trees, animals or water spirits such as the *njuzu*. The *ngozi* are the type of spirits who are most similar to a Western type of ghost or spirit. They are avenging spirits who are believed to be the remains of people who died violently or without anyone to remember them (i.e., childless). They haunt spaces and people much like the ghost in Hamlet (Pressler 1994, 85-90). All of these types of spirits have left their mark on Zimbabwean performance and theatre and how people encounter performances to some extent. Many of Zimbabwe's performance forms come from rituals associated with the *vadzimu* and the rituals connected to communicating with them. Spirit mediums are sometimes said to take on the voice and mannerisms of the spirit that possesses them. One theatre artist I interviewed acknowledged that he occasionally feels influenced by

²² Such as Kabuki and Noh.

²³ An ancestral spirit is a *mudzimu* (pl *vadzimu*) in Shona cultures.

his deceased grandmother when he is onstage (J. J. Mukwindidza 2005d).²⁴ This is also true of the animal *mashave* who come to possess people and communicate through distinctive dances attributed to them. At times, families may conduct rituals and performances to attempt to lay to rest a *ngozi*.

However, I wish to be cautious in overstating the similarities between Carlson's idea of the haunted stage and ghosting and how Zimbabweans might perceive ghosts and haunting on stage. I do not want to suggest that how I am using the terms ghosts and haunting will mirror how Zimbabweans see performances. I simply felt that it was important to view these distinctions and the use of the terms. Nor do I wish to suggest that Zimbabweans are more superstitious than the average theatre practitioner.

It is this understanding of the nature of performance, memory and forgetting, as well as substitution, that will inform how I trace these imaginative performances in an attempt to understand how they function within a culture, or map out their genealogy. Roach suggests that deciphering a genealogy is actually an unraveling of origins that can only be accomplished by the problematic processes of "spectating" and "tattling" (30).

Audience

Theatre and the study of theatre have been highly concerned about audiences and reaching audiences. This impetus comes from the very word theatre (from Greek—*theatron*—seeing place) which implies that theatre isn't only the action on the stage but what is seen and who sees it. Although much of Western theatre seems to privilege the action on stage, it demands that the presence of an audience is what make it theatre/a performance rather than simply the rehearsal of action. The importance of the audience continues to be

²⁴ He did not go so far to say that he was serving as a medium for his grandmother's spirit but that he takes inspiration and feels the same blood rush he used to feel when she was dancing for him.

amplified by Theatre for Development scholars and practitioners as they hope to show how audience behaviors and beliefs can be influenced or possibly even radically changed through performance. Augusto Boal's conscientization of the audience is the primary purpose of theatre for development groups.

In African indigenous performance, the relationship between performer and audience is much more fluid than in Western theatre. Although that is clearly the case, I think that both Western and non-Western audiences are treated as fairly static and monolithic. The audience should be treated not as a monolithic group but as a group of people who come together only temporarily for the duration of a performance. They might be a community prior to the performance and the performance then hails them as that community. Or they might not be a community until the performance hails them as such.

I think that in urban areas and within the post-independence context the position of the audience has changed as much as indigenous performances have changed. Diane Thram traces how *dandanda*²⁵ dance forms have changed as they move back and forth between ritual performances and dance competitions. She argues that this happens in part as the dancers adapt for different audiences. The relationship between performer and audience has to some extent become more rigid as new genres and styles have developed from interaction and adaptation with western forms. Maurice Vambe relates an example from Alice Kwaramba's research in the commodification and enculturation that occurred with singing.

The *mbira* and the drum which had carried the tradition of the Shona people's music for a long time were often dismissed as unholy. One major change that the choir concept effected was to cut a clear division between those who were "gifted with voice" and those who were not, who consequently became the audience in a society

²⁵ Dandanda is a type of dance that is associated with healing and funerary rituals.

where, before virtually everyone was considered a singer in their own way (Vambe 2004b, 172).

Kwaramba argues that as people found themselves paying to see performances of makwaya and bands that there started to be a stronger division between the singer and the spectator. The spectator did not feel like s/he could join in or take over a performance. The performances also became a commodity that was something to be paid for rather than an event to participate in directly.

Praise Zenenga's research is the first to privilege audiences in Theatre for Development research in Zimbabwe, but he also expands the definition of audience to include the performer as part of the audience, "in recognition of their participation in the nonformal education process simultaneously as students and teachers." (iii) In Zimbabwe, Tfd groups in the 1990s and until 2002 were basically professional troupes that made their living through a NGO patronage system.²⁶ This patronage system created a set of expectations for the theatre groups and for theatre audiences: the plays were usually about HIV awareness; audiences were always in attendance and easy to physically reach; all group expenses were covered for performances but not necessarily for rehearsals and each player could expect a stipend; plays were always accessible (financially and were fairly formulaic) but not always "entertaining" or complex. Unlike audiences of musical performances, these audiences did not see themselves as consuming a commodity. This could be a positive—the audiences may feel less passive; or it may be a negative—the theatre groups cannot sustain themselves outside of the patronage of the NGOs.

This patronage created its own problems too. Zenenga rightly argues that this patronage encouraged a top-down approach that domesticated²⁷ both theatre groups and audiences versus liberating them (203). The NGOs frequently had total control of the message and also wanted to control how it was delivered. This domestication caused trouble with agency and ownership of an issue and message. NGOs handed scripts to groups that contained their message that frequently did not have any aspects of locally based content. Groups, since they were often not paid for rehearsals, did not attempt to deviate or add to the script all that much. There was also a sense of fatigue expressed by groups and audiences that argued that there were only so many HIV-awareness plays one could perform or that one could see.²⁸

In 2002, many of the NGOs pulled out their funding in response to Zimbabwe's crisis of democracy. Surviving theatre groups had to work harder to be able to make a living and so did their audience members. In Harare, it became harder for groups to draw an audience to theatre performances. Theatrical groups had to learn how to draw a paying audience to their performances. The audience also had to be convinced that theatre was something to be paid for like sports and musical performances. Prospective audiences also had to consider if it would be money and resources well spent; sport matches and band performances were possibly cheaper, and in many minds and stomachs, standing in a queue to get anything from currency, meal, sugar, cooking oil, petrol or beer (not necessarily in that order) definitely outweighed any need for entertainment. Some of the street performers continued performing in the queues, much as the street vendors sold cigarettes, sweets, and drinks to those who

²⁷ Zenenga uses Ross Kidd's terms here.

²⁸ A writer for the ever popular and denigrated ZTV's Studio 263 complained that when the NGO funding the show demanded only HIV-awareness storylines that he was no longer able to be as creative with the action and development of characters. This problem was frequently pointed at as a reason that many people stopped watching it. However, many others said that the technical quality of the broadcast made it impossible to watch.

were waiting in line. As the Operation Murambatsvina began in May 2005, priorities changed even more. Prospective audiences had to worry about whether the police would come with bulldozers or set fire to their homes or places of business and destroy their livelihoods, shelters and sense of security, and going to theatre moved even further down the list of priorities and concerns.

During HIFA 2005, I experienced an exception to this trend. The plays were well attended but the concerts and dance performances were sold out. But for the most part, the festival provided a respite from standing in queues. Being able to socialize late into the evening without worrying about transportation or other things was a luxury and a relief. Harare had taken a break from the day-to-day grind and worries of lack of fuel. Although everyone was convinced that the state secret police (CIO) were everywhere, play performances contained biting criticisms of the government either hidden within them or blatantly shouting for redress.²⁹ But no play was stopped from performing. The audiences were able to enjoy all of the performances without interruption. This temporary sanctuary from state control provided relief and possibly a way to express dissent. It also created a sense of community that was beginning to be hard to maintain when so many basic goods were unavailable in the shops. Cynically it could also be argued that the state sanctioned the dissent as a means to release the pent-up frustration that was developing, like a vent in a pressure cooker. Just as it was in the past, the state could use theatre and the arts as easily as the public as a method of control and destabilization.

²⁹ *Little Man from Murewa*, co-written by Stephen Chifunyise and Robert McLaren, both members of ZANU-PF, was quite critical of the land and farm takeovers. *Shout for Help* audience members kept looking around for the CIO and were expecting them to jump on stage and stop the play in the same way that they had stopped one of Mhlanga's plays at a previous HIFA. *The Vagina Monologues* actually had police outside its venue on its last night but was never stopped (Kilalea 2005).

In the following chapters I will look at this intersection of memory, haunting and the development of an emerging genre of theatre that depends on memory and nostalgia as it searches for an audience in the crises-driven Zimbabwe. The second chapter looks at the crises and Zimbabwe's recent history and how that impacts theatre, both its performers and audience. It examines the Operation Murambatsvina as an excessive expenditure, or a performance of waste as an articulation of state power to control its population. These terms come from Joseph Roach who argues that all violence is performative, that it needs to have an audience and that it is wasteful because it spends excessively (Roach 1996, 41). It also details how the OM became possible and how the ordinary person in Zimbabwe perceived the state's control and violence.

The third chapter deals with the search for an audience of two Theatre for Development plays during and immediately after Operation Murambatsvina. This group attempted to reform its performances in order to bring back audiences. It used the *kurova guva* and other important rites of passages to deal with the HIV crisis. It also employed memories of audiences of the past to encourage a new type of interaction with the audience.

The fourth chapter looks at how the crisis shaped a performance through reality's haunting of a production done by Edzai Isu. This group has done workplace-based theatre but has ventured into more conventional theatre with the allegorical performance. The fifth chapter looks at how a group steeped in conventional theatre responded to the crisis with a nostalgic look at a folkloric past.

All of the groups hailed their audiences or what they hoped to be their audience with images from the past to deal with the present crisis. Three of the four plays depict *kurova guva*, *bira* or other rituals involving a spirit medium to divine a means to get past a conflict

or passage in the play. The one that does not have a *svikiro* or similar mediating ritual is centered on a trial where the judge is the Christian God. All of the plays mix time and space so that the past, present and future are blended and fluid. I will argue that these are key strategies of panic theatre to help its practitioners deal with the burning house of Zimbabwe and to point to past crises to deal with the present.

Chapter 2: Theatre and the Murambatsvina Crisis in Zimbabwe

Memories do pile up, but the most remote ones, especially those which saw us suffer and the times when we were under bondage, under colonial rule, those can never fade away, they remain forever. (Mugabe quoted in (Primorac 2007, 435))

We must clean the country of the crawling mass of maggots bent on destroying the economy. Augustine Chihuri, police commissioner – 16 June 2005 (Zimbabwe Human Rights NGO Forum 2005).

Now with the economic meltdown, we cannot talk of passion anymore. Who can afford to be passionate when his family is starving? So instead of theatre being driven by passion, skill has to take over and the skill can only be learnt in properly structured institutions. Theatre is especially being let down by the lack of properly trained personnel like writers, directors, set designers and light technicians. (Mandhlazi 2006)

Socio-Economic Background

I lived in Zimbabwe from October 2004-2005. During that time I worked at the University of Zimbabwe and lived in an apartment provided me by the university housing. This had advantages and disadvantages to my research. Because I lived close to campus, getting to rehearsals on campus was relatively easy. However, it made a long journey to get to Highfield or the other high density suburbs. I arrived in October 2004 in a relative calm. The inflation rate was still safely in the three digits, and fuel, water, electricity and food supplies were stable. The rainy season was about to begin and although there were some shortages in agricultural inputs many conversations expressed hope that harvests would be good. In January 2005, the University staff and faculty received a cost of living adjustment for the first time since 2001. The faculty started to earn the equivalent of US\$1,000 per month; the staff got significant raises too. The parliamentary elections felt way down the

road in March 2005. Even though the repressive laws, Access to Information and Protection of Privacy Act (AIPPA 2002) and Public Order And Security Act (POSA 2002), were in effect (both will be explained in much greater detail later in this chapter), they were enforced selectively.¹ The economy appeared relatively stable until April 2005.² To my knowledge no theatre performance in Harare was interrupted during early 2005 and I thought there was relative flexibility to other public gatherings particularly at the Book Café.

It was only after the parliamentary elections in March 2005 that it became clear that the government was borrowing heavily to keep fuel at the pump and water and electricity on. Food shortages were first seen at the beginning of April too. Sugar and cooking oil were scarce just days after the election. Bread, soap, and other important staples were soon to follow. I spent quite a bit of time trying to find these basics throughout the month and the rest of the time I was in Zimbabwe. Fuel became scarce shortly before the end of the month. However, April and May saw periodic deliveries and the fuel queues would get much longer than the sugar queues. Zimbabwe Electricity Supply Authority (ZESA), despite charging some of its customers in foreign currency, was unable to pay off its debts to regional partners (Sokwanele 2004). In order to reduce its power consumption, ZESA started load shedding as the dry season progressed. Water service also was rationed throughout the dry season. Inflation was so extreme that by July 2005, the staff was no longer earning enough to pay for transport to the University. The faculty's large raise was barely worth US\$100.³ The week before I left the exchange rate was Z\$200,000 to US\$1. When I left fuel could only be purchased using foreign currency or from foreign embassies or directly from the government.

¹ They were enforced at any and probably all MDC campaign events—but not at church services, theatrical performances, sporting events or movies.

² The inflation rate was in the four digits however.

³ This drastic inflation has since been dwarfed by the current inflation of 231 million percent (CNN n.d.)

Theatre in Harare showed clear signs of stress over the situation. Many of the groups that I had heard of previously were fast disappearing. Other than Amakhosi, Savanna Arts Trust, Chipawo and Rooftop Productions, the life spans of the groups are typically less than a decade. The groups that other scholars had worked with had basically disappeared. I believe this phenomenon is attributable to a few primary reasons: artistic differences, lack of resources, opportunities elsewhere, and in many cases the death of a key member. For instance, Tisa Chifunyise⁴'s group, Chembira Women's Theatre Group, did not survive her death. Chifunyise's death points to one of the aspects of haunting that are important for my research. She also worked closely with ZATCYP and Chipawo. At the time of her death, she was dividing her time between her job at Save the Children and her theatre work. Many of these groups and their productions are haunted by single personalities. The same can be said of Rooftop and Daves Guzha, Amakhosi and Cont Mhlanga. All of these groups have been so thoroughly haunted by their founders or directors that they have little chance of surviving personnel changes. Mhlanga had appointed an acting artistic director for Amakhosi to accommodate international travel and projects, but if he really ever retires, more than one capable person will have to replace him or the institution will flounder for a time if not fall apart. After both the National Theatre Organization (NTO) and the Zimbabwe Association of Community Theatre (ZACT) stopped providing any financial assistance or workshops, some groups lost cohesiveness. The National Arts Council still funded some key groups but much of the locally based sponsorship had disappeared along with the foreign-based NGO theatre group funding.⁵

⁴ She died of complications from malaria July 19, 2004. The same is also clear with NTO and ZACT, Susan Hains has resigned her position with the NTO and Ngugi wa Miiri has died.

⁵ Praise Zenenga suggests that the government may have been using funding as a means to co-opt groups that it saw as threats (Zenenga 2002).

I do not want to paint too negative a picture of this time for theatre groups; many discovered ways to reach audiences and worked hard to maintain a niche for themselves. Rooftop's Theatre in the Park and others produced plays regularly and continue to do so. New playwrights were emerging, while old ones continued to be prolific. In the first couple of months in Zimbabwe, I saw Tafadzwa Muzondo's first play, *All Systems Out of Order*, Raisedon Baya's *Critical Moments*, and Stephen Chifunyise's *Muramu* at TITP. But truly hard times for theatre and Zimbabweans in general were on the way.

I woke up on May 19, 2005 thinking it was going to be a typical day. My neighbor, another Fulbright Scholar was leaving for the United States. The embassy driver was coming to pick her up. So I decided to wait to go to Highfield, the site of the majority of my research, so that I could see her before she left. Highfield is a high density suburb located south west of the Central Business District of Harare. In order to get there I needed to take two khombis. It usually took a little more than an hour to get there if all went well with connections and if I did not need to run errands in town. I waved to my neighbor and the embassy team as they left for the airport and walked to the corner to go to my office at the University of Zimbabwe. Based on some news at the University, I decided not to make the trip to Highfield at all. We had heard from students and from text messages that the police were harassing vendors and commuters. There were also rumors that some home-based factories and furniture-making shops were being burned by the police. We heard that some people were clashing with the police near the furniture makers. We had no idea of the scope of it or things to come. That evening on the shortwave station sponsored by Voice of America, we heard that the police and army had started razing markets in Mbare on the shortwave station sponsored by Voice of America that evening. We learned that the violence

directed at people's markets and livelihoods had a formal name: Operation Murambatsvina, or in English it was also called Operation Restore Order (OM/RO), a project that the Harare Commission had initiated to restore the beauty of the city of Harare. According to a report co-authored by Archbishop Pius Ncube, this operation had spread nationwide to all of the major urban areas within a few days and was on the move into the rural areas as well. It was also no longer limited to "illegal" businesses and markets, but also included all unpermitted structures including people's homes. The police razed whole communities, detained thousands of people and equated them, their homes, and their workplaces to trash.⁶ The government set up relocation camps and people were put in lorries and driven there in the early morning hours. There were reports that the detainees were suffering under horrible conditions and were also being subjected to "re-education" (Ncube, Bate and Tren 2005).

It was more than a week before I returned to Highfield to resume my research. It took a long time to get to Zimbabwe Hall. There was a long wait for the khombi bus near UZ and we were packed in tight when one finally did arrive. It was no easier catching the second khombi. When I arrived in Highfield, there was a burnt-out khombi vehicle in the parking lot of the Machipisa shops and Mushandirapamwe Hotel where I got off the khombi to walk to the Zimbabwe Hall. The smell of burned rubber served as a constant reminder, that unlike Mount Pleasant (a low density suburb where I lived), Highfield, where I was working with Edzai Isu and Vuka Afrika, was under siege. Despite this, we were resuming rehearsals of *You have no right*.⁷ At this point we also had started conversations on developing a new play as well. We were trying to maintain a level of normalcy in the face of the OM and I was

⁶ One headline in one of the local papers read "Harare Burns." In Sokwanele, an article, from June 2, 2005, is entitled "Zimbabwe Burns."

⁷ This play will be discussed and length in the next chapter.

desperately trying to keep up with my research outside of rehearsals. But my mobility had been drastically reduced.

Many of the ironies and contradictions of the OM were appalling. I continued to meet regularly with Jingo Mukwindidza and his company, Vuka Afrika, in Zimbabwe Hall across the street from Machipisa Shopping Centre and Mushandirapamwe Hotel. The community center seemed to be an oasis amid the fires and devastation of OM. Zimbabwe Hall and the Hotel are haunted with memories of the birth of ZANU-PF and the 2nd *Chimurenga*. Mugabe's former home remains as a monument to the war for independence and is not far from Zimbabwe Hall. These ghosts may have kept the police and army at bay from Zimbabwe Hall, if not the area around the hotel. We were rehearsing when the police arrived and destroyed the oasis and drove out some of the artists from the community center. At the time, it seemed impossible to erase the memory and fear of that day, but as time has gone by bits of it are fuzzy to me. I don't remember what day it was exactly. I can't remember if we ended rehearsal then or just took a break. I remember it feeling matter of fact and inevitable. My memories are contradictory.

This dissertation is about history and memory of theatre artists and audiences and how theatre workers at times hail their audiences using memory and nostalgia of past performances. However, as I went to Zimbabwe to do this research, I discovered that the theatre environment was drastically changing as everything in Zimbabwe was being affected by the political and economic environment. I have struggled to write about the Operation Murambatsvina (OM) and my memories of it. I have difficulty remembering this time closely—oddly enough I have few notes about this aspect of my life in Zimbabwe, it seems I actively ignored as much of it as I could. I have also found it hard to get an exact timeline of

events, the time is so compressed in my memories, and when I ask others, they are unable to fill in the gaps. For example Edgar Langeveldt, a stand-up comedian and actor, replied to my query about dates and his experiences with the OM, with the following statement, “exact date I don't recall (you probably know better) but it was as I said just before the start [of the OM]” (Langeveldt 2008). I find it ironic how vague or sketchy my own memories of this time are. I think my difficulties point to the very issues of memory that this dissertation and chapter attempt to develop. It seems clear to me that my difficulties in remembering and documenting this period demonstrate clearly that memories are very much a function of forgetting and selection. My experiences with the OM crisis also show how much trauma and crisis affect and change memory and what is forgotten.

The OM/RO is and was just one part of a much larger crisis in Zimbabwe. This crisis is political, economic and social in its nature. All of these factors have a much more nuanced and deeper history than the last seven years since the 2002 Presidential election, or even the last decade. Zimbabwe's economic crisis can be summed up by a few key indicators. Zimbabwe in the last 30 years has gone from being able to export food to needing food aid; hyper-inflation has plagued the country since the mid to late 1990s; HIV prevalence is around 30 percent; many skilled laborers have left the country due to unemployment, political unrest, causing further lack of productiveness; Zimbabwe's health care delivery system has gone from being considered the best on the continent to one that is failing to provide even basic services; Infant mortality has increased by 15 percent in less than four years. (Chikwana, Sithole and Bratton 2004, 2). One needs to look further back than the farm takeovers that began in 2000. We must look at the unequal distribution of land and other weaknesses in the post-independence political economy and the constitutional crisis that

spawned the farm takeovers in order to understand this crisis for what it is: Mugabe's struggle for power, which he calls the Third *Chimurenga*.⁸ At the core of Mugabe's rhetoric of the third *Chimurenga* is a particular version of the past that as Terence Ranger warns makes Zimbabweans either "patriots" or "sellouts" and allows for no other versions of the past,

"Patriotic history," on the other hand, forecloses all such questions. It offers instead a highly selective and streamlined version of the anti-colonial struggle. It is a doctrine of "permanent revolution" leaping from *Chimurenga* to *Chimurenga*. It has no time for questions or alternatives. It is a doctrine of violence because it sees itself as a doctrine of revolution.

(Ranger 2005, 8)

This patriotic history claims it is fulfilling one of the promises of the war for independence or the Second *Chimurenga* and it is readjusting the distribution of the land and returning it to the original owners.

Land reform vs. farm takeovers

The very language associated with the competing rhetoric of land redistribution in Zimbabwe is telling and needs some background to give insight to Zimbabwe's current crisis. Zimbabwe is located in southern Africa and is landlocked. Two major rivers, the Zambezi and the Limpopo, form its borders to north, east and south. Its neighbors are South Africa to the south, Mozambique to the east, Zambia to the north, and Botswana to the southwest.

⁸ *Chimurenga* is a Shona term that has come to mean "to struggle." It gains this meaning because it literally means things of Murenga or like Murenga. Murenga is a historical and folkloric person who was said to be warlike.

Access to water and arable land and its resources have shaped much of Zimbabwe's modern history.⁹

The land between the two rivers has been home to a variety of settlements, kingdoms, traders, and farmers in the past millennium. All of them depended on the land and others' acceptance of their authority over it. Many of these kingdoms or chiefdoms laid claim to the entire area between the rivers, others claimed quite a much larger region (for instance the Great Zimbabwe civilization). But in some cases or possibly most cases, this was a convenient fiction. Competing claims to the land were negotiated with exchanges of goods, people, raiding, making of war (in rare cases) and in times using spirit mediums to determine who had the greater claim. The last part of the 19th century, just before European colonization, saw quite a bit of dispute over ownership of the land or to whom tribute was to be given in relation to the ability to farm it or keep cattle on it, or who controlled the trade. The Matabele kingdom was a relative new player in these disputes. The Matabele fled South Africa under pressure from European settlers and the Zulu empire. They came to settle in the area now know as Bulawayo. Mzilikazi, the first king, and his son Lobengula, claimed that the area between the Limpopo and Zambezi was under their authority. Prior to heading to the north, they had a history of trade and raiding with the European settlers and missionaries. This claim to the entire area (particularly the area that came to be called Mashonaland) as David Beach has shown was a convenient fiction both for Lobengula and for Cecil Rhodes. (Beach 1974).

⁹ This section is gleaned from several different sources which include scholarly works, novels, newspaper articles, coursework, and papers I have written—any direct quotes will be cited. It is meant to be an overview. I have found David Lan's book *Guns and Rain* (1985) and David Martin and Phyllis Johnson's *The Struggle for Zimbabwe* (1981) particularly informative and helpful.

The area that is modern-day Zimbabwe was colonized by the British South African Company (BSAC). Cecil John Rhodes led a Pioneer column in 1890 into the area called Mashonaland.¹⁰ He exploited relationships developed with missionaries and Lobengula and internal rivalries within Lobengula's kingdom to get access to land ostensibly to mine gold but brought settlers to farm in addition to mine. Although resistance against the BSAC was intermittent initially, it turned into a coordinated uprising known as the *chimurenga* in 1896. The Shona and Ndebele resistance against the BSAC and settlers occurred because of the perception that the settlers had overreached by claiming too much land, imposing taxes that were seen as the seizure or raiding of crops and livestock that left families unable to feed themselves, forced labor, and the excessive and arbitrary behavior of the Native Police. Elizabeth Schmidt speaks to the importance in key players' views of the causes of the uprising at the time, when she quotes Father F.J. Richartz, the Jesuit superior at Chishawasha Mission, who wrote:

We came and acted as sole proprietors. Often the Natives were simply driven away or told that they had to do certain services if they would like to continue to make gardens on their old place. Though we had no native Kraal or Garden on our farm when we arrived, nevertheless old [Chief] Chinamora very often showed his surprise when we spoke of 'our ground, boundaries, beacons, etc'—'Who gave you this land' he would often ask. (Schmidt 1992, 37)

The BSAC fought against both Shona and Ndebele soldiers led by spirit mediums until the capture and executions of the mediums for Mlimo, Kaguvi, and Nehanda¹¹. Nehanda, a

¹⁰ Beach shows that at the same time as Lobengula is effectively giving away mineral rights in Mashonaland, that Shona leaders in key regions were signing agreements with Portuguese that made them vassals in exchange for guns. However, with British settlers coming into the area, Rhodes and Britain had the eventual strongest claim in Europe's Scramble for Africa.

¹¹ Mlimo, Kaguvi, and Nehanda are all territorial spirits called mhondoro in Shona. Nehanda, historically, is believed to have been the daughter of the founder of Mutapa dynasty. The woman who was named Charwe was

female spirit medium, was the last to be captured. She also refused baptism before she was hung. Nehanda is also said to have prophesied the second *Chimurenga* from the gallows. Her prophesy dealt specifically with driving the whites into the sea and off the land. Ambuya Nehanda, the *mhondoro* not the medium, and her prophesy have haunted every aspect of Zimbabwe's history and culture since 1896. Guerrilla soldiers consulted her medium. Novelists, poets, singers and playwrights pay homage and tribute to her in their work and immortalize words attributed to her. Historians and propagandists alike argue about her significance in creating the nation of Zimbabwe. Portraits of her are ubiquitous.

As Elizabeth Schmidt argues in *Peasants, Traders and Wives*, during the first decade following the first *Chimurenga*, African farmers were more productive and therefore more successful than their white counterparts. The BSAC was struggling and needed to recruit more settlers to make the territory self-supporting. In order to encourage this settlement, the BSAC made large land grants, provided agricultural training, and low-cost loans for livestock, equipment, fencing, and irrigation, for new white settlers. The BSAC also sold seeds and fertilizers at greatly subsidized rates to white farmers. None of the African farmers were eligible for any of this support and much of their productive land was being seized to set up newly arrived settlers (Schmidt 1992, 66).

Furthermore, BSAC needed to force African men into the mines and other wage labor—so the Native Reserves commission started to not only reduce acreage for African farmers but also intentionally selected areas that were arid, tsetse fly infested, and away from

Nehanda's medium and is credited with organizing much of the uprising. Much that is known about her could be legend or myth.

the markets and means of easy communication.¹² As the BSAC was subsidizing white farmers, it raised various taxes and levies against the African farmers. This trend became absolutely institutionalized by 1918 when white settlers won a case against the BSAC and as a result the British Crown owned all land not already sold to the settlers or a very few landed Africans.

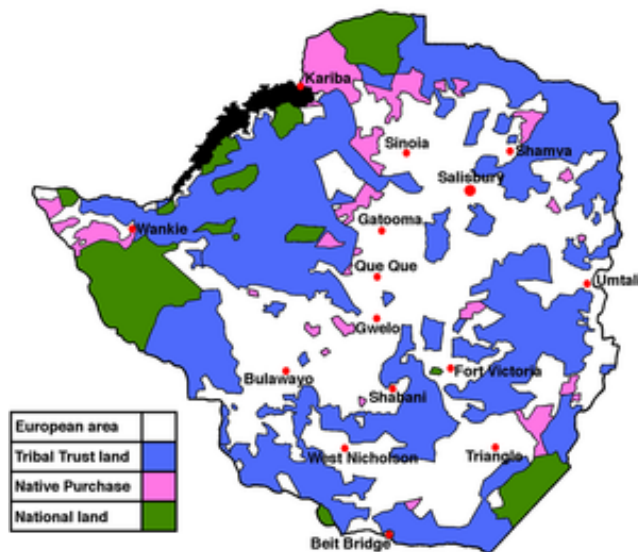


Figure 1 Land Apportionment in Rhodesia in 1965. http://en.wikipedia.org/wiki/Land_reform_in_Zimbabwe
 In 1930, the Land Apportionment Act created the legal pinning of racially-based distribution of land. After this point, African landholders were limited to the reserves and what were designated Native Purchase Areas in the land surrounding the reserves (Martin 1981, 53). This act essentially made the towns, cities, and commercial developments, whites-only areas and all Africans outside of the “reserves,” squatters without security. The Land

¹² Only 37 percent of the country receives adequate rainfall for agriculture. For the rest of the country the rainfall pattern is insufficient, erratic and unreliable making supplementary or full-time irrigation indispensable for successful agriculture (Water Profile of Zimbabwe 2007).

Apportionment Act and the Native Husbandry Act¹³ together led to severe impoverishment that was exacerbated by lack of access to education and health care. According to Ian Henderson, this process also guaranteed African labor for the mines, the newly commercial farming enterprises, and later urban manufacturers. However, these measures did not meet the actual demand for labor. The colony provided incentives for Africans from outside its borders to immigrate and work in the mines in order to meet some of its demand for labor.

Ironically, he argues that the white farmers, who rebelled against the BSAC over taxes, control of labor and land later, started the process of getting rid of the British Crown's control of what by that time was called Southern Rhodesia. In each of these cases, they painted themselves as the small man getting railroaded by an opponent with greater resources and power. The white minority group was able to paint a similar picture of the "small man" farmers and white laborer victimized by the British government as the latter started the process of allowing majority rule in the colony. Henderson argues that this larger populist movement culminated in the Rhodesian Front winning a parliamentary election in 1962 (Henderson 1972, 399). After it won, the Rhodesian Front unilaterally declared independence (UDI, November 11, 1965) from Britain and put a halt to majority rule in Rhodesia. The Rhodesian Front, although *for* the small man, saw its employees as threats to its own independence.

Lack of access to land and education, as well as the labor movement, were seen as important catalysts to the development of the various nationalist movements in Southern Rhodesia that eventually fought against the Rhodesian Front for Zimbabwe's independence or what was called the second *chimurenga*. Josiah Tongogara, a prominent nationalist and

¹³ This act was meant to alleviate pressure on the land in the native reserves by limiting the amount of cattle each family could own and/or keep in the reserves.

early fighter states,

My grievances were based on the question of oppression which I had seen myself, from my parents or from my own people, particularly in the deprivation of land. You know our people are naturally farmers. They like soil. They know that everything is soil, and yet they are deprived of the rich soil in Zimbabwe. This and education. (Martin 1981, 56)

The various parties understood and exploited the symbolic importance of the land. However, they also knew the importance of basic human rights. According to Terence Ranger, the African nationalist movements experienced a significant break over the role of land and workers' rights in the urban areas, and split into two parties, Zimbabwe African People's Union and Zimbabwe African National Union. As they fought for majority rule, the armies gathered support from the people with promises of access to land, free education, health care, and of course, the franchise. Hence the second *Chimurenga* had more than the one prevailing goal of land redistribution that patriotic history currently reiterates; it was struggling for social justice and economic well-being, too.

As the war ended in the late 1970s, the peace talks known as the Lancaster House Agreement, nearly failed as the question of land reform remained unresolved. The compromise over the land issue has haunted Zimbabwe and its present disproportionately. Land could not be taken from its current owners (the white settlers) to redistribute to its former owners—except through willing seller/willing buyer arrangements. The United Kingdom and the United States agreed to set aside funds to assist the government in paying for these sales. The Lancaster House Agreement required that the new majority-rule government follow the willing seller/willing buyer policy for a decade after independence. However, for a variety of reasons the willing buyer/seller clause did not result in getting land to the people who had been promised it during the war. After the first decade of

independence, the willing buyer/seller clause expired, and it was removed to speed up land redistribution. The International Crisis Group shows in a detailed report on land redistribution in Zimbabwe entitled *Blood and Soil*¹⁴ that in the second decade after independence even less land was allocated to small scale farmers and the land was of poor quality. Much of the prime farm land was given to cabinet ministers and party members. By the late 1990s, many groups from many different viewpoints criticized the government for its failure in redistributing land, for corruption and mismanagement of land tenure issues and for taking land from more productive farmers. It was clear to many groups that land resettlement was a failure. Geoff Hill also argues that the government had only resettled approximately eight percent of the population onto farms by the early 2000s and had only managed to resettle 60 percent of the land it had available (Hill 2005, 71). ICG reports that the restrictions of the Lancaster House Agreements and those of the World Bank's and IMF Economic Structural Adjustment Program (ESAP) definitely slowed down or prevented a wholesale redistribution. But Mugabe's government was also at fault. The bureaucracy bogged down the process by making as many as 25 ministries part of the process of getting landless people resettled (International Crisis Group 2004). Additionally the report concludes that despite strong rhetoric supporting land redistribution, the cabinet ignored its multiple commissions' findings regarding land tenure and "rejected any recommendations viewed as a threat to its broad powers over land and natural resource allocation" (International Crisis Group 2004, 49). In fact in at least one case in the early 1990s all of the farms reallocated that year went to government ministers, party officials and key members of

¹⁴ This book-length report devotes seven chapters to the land crisis in Zimbabwe, starting just after the first Chimurenga up to the 21st century issues. Much of the following discussion is a summary of these chapters. It argues most eloquently for actual land reform, while denouncing the farm takeovers.

cabinet. As is often the case, one of the farms on that list already was black-owned but was owned by a key political rival.

The little actual redistribution occurring was fraught with argument as to whether the land should be given to the landless poor or if the farms should be given to “successful” farmers. In cases where the landless poor were given small plots, the resources necessary for successful farming were not provided (seed, fertilizer, irrigation, and infrastructure). Those successful farmers who were given limited leases at exceedingly low cost were given little incentive to make improvements or commit to long-term tenure because of the insecurity of the lease. As other crises of the 1990s drew additional criticism of ZANU-PF, Mugabe again campaigned on issues of land reform and blamed the British, IMF and white commercial farmers in order to win the 1996 presidential election. However, after winning, he slashed funding for health and human services and education while increasing salaries of his cabinet and military and proved to pay only lip service to land redistribution.

Zimbabwe and the international community, particularly Britain, continued to go back and forth on how best to redistribute land and who would be responsible for paying for it and if the market should determine it. The international community was greatly troubled by lack of transparency in the bureaucracy surrounding it and that it appeared to be only window dressing on the part of Mugabe and ZANU-PF. This changed as Mugabe’s rule was challenged from within by the War Veterans Association. Chenjerai “Hitler” Hunzvi had recently effectively organized war veterans to demonstrate against Mugabe and embarrassed him at several public international functions. Mugabe started to push for land reform again, “[w]e are going to take the land and we are not going to pay for the soil. This is our set policy. Our land was never bought and there is no way we could buy back the land.

However, if Britain wants compensation, they should give us money, and we will pass it on to their children” (International Crisis Group 2004, 57). He ended up promising the war veterans both a yearly pension and a lump sum payment.¹⁵ This promise proved to have far-reaching consequences.

Combined with mammoth debts to the international community, a general suspicion and distrust of the government and corruption, and general alarm in the international financial sector resulted in the first major crash of Zimbabwe’s currency in November 1997. This led to general strikes and support for what was to become the first strong opposition party for ZANU-PF. The Movement for Democratic Change¹⁶ was born out of general strikes and a growing umbrella of stakeholders who were part of a National Constitutional Assembly (NCA). This assembly was led in opposition to the government’s own constitutional conference that produced two very different results. The NCA’s document was never included as part of the referendum on the new constitution but this umbrella group’s proposal included greatly reduced presidential powers, proportional representation, access to the media for all parties, and term limits for the president. The constitutional referendum that was defeated in February 2000 would have given the President sweeping powers which included more censorship for the press¹⁷, greater emergency powers, immunity from prosecution, and the right to seize farm land at will without compensation. Voter turnout was low but the referendum was defeated. Rather than a referendum on a new constitution it was seen by Mugabe and Zimbabweans in general as a no-confidence vote on

¹⁵ A much ignored law from 1993 also promised all war veterans a farming plot.

¹⁶ Terence Ranger argues that rather than finding a clear rhetoric to combat Mugabe and Jonathan Moyo’s patriotic history “the MDC has made very little of trade union or worker history, perhaps because it believes that it already enjoys the support of the towns and of labour. Nor has it made much of a show of articulating rural grievances and aspirations. It does not possess a coherent land policy. It has been all too easy for ZANU-PF to depict the MDC as globalised and a-historical” (Ranger 2004, 234)

¹⁷ Since 2000 ZANU-PF has gotten multiple laws passed that severely limit press freedom including AIPPA (2002).

Mugabe’s continued presidency and policies. White commercial farmers had supported MDC in the parliamentary elections and had campaigned against the constitutional referendum. Mugabe started an all-out war against his opposition and used the farmers as a convenient scapegoat. It is at this point that farm takeovers began.

Mugabe used the rhetoric and sentiments of the previous two *Chimurengas*¹⁸—the suffering people were experiencing was not caused by mismanagement and corruption but by “the land stolen a century before by white scoundrel whose descendants still lived apart from the majority in lofty seclusion. And he [Mugabe] would now right that wrong, nationalize those farms and hand them over to the masses” (Hill 2005, 78).¹⁹ The Zimbabwe Human Rights Forum reported that the government was clearly talking about these takeovers as a continuation of the struggle.

[The Government says it is] fighting a Third ‘Chimurenga.’ This new “war” is a struggle to achieve economic justice for the black majority. The Second Chimurenga war was fought to liberate the country from the yoke of white minority rule. This armed struggle resulted in the political emancipation of the black majority, but not economic emancipation as after 1980 a tiny white settler community continued to dominate the agricultural and commercial economy. In particular, a small number of whites still owned a huge proportion of the most fertile farmland, with the black majority being relegated to poor quality land. This gross social and economic injustice could not be allowed to continue. Thus when the landless people ‘spontaneously’ invaded white farmland to register their protest against this gross injustice,

¹⁸ I have anglicized *Chimurenga*, the actual plural of *Chimurenga* in Shona is *zvimurenga*.

¹⁹ I am simplifying a lot of what happened and do not want to minimize the complexity or the extraordinary nature of violence and outright human rights abuses that went on during this period. For more nuanced and complete accounts of what happened in the beginning of what is now called by some as the third chimurenga, I recommend Andrew Meldrum’s *Where We Have Hope: A Memoir of Zimbabwe* (2006), Martin Meredith’s *Our Votes, Our Guns: Robert Mugabe and the Tragedy of Zimbabwe* (2002), Geoff Hill’s *What Happens After Mugabe?* (2005). Also see my bibliography for more academic articles related to this part of the crisis.

Government then felt compelled to act. It thus embarked upon its fast track resettlement programme.” (Zimbabwe Human Rights NGO Forum 2005)
The land seizures became known as fast-track land redistribution and led to not only collapse of the farming sector of the economy but also the collapse of the entire economy. Hill quoting economist Eddie Cross, states

After four years of chaos, we have about 600,000 people partially settled on 12 million hectares of land that once supported 2 million people. The same land now employs about 60,000 people in paid jobs, where once we employed 350,000...Before the “land reform,” we were the third largest exporter of tobacco in the world, we were the largest beef exporter in Africa, and major producers of cotton, milk, sugar, fruit, and horticultural products. The industry generated a third of Zimbabwe’s national employment, half its exports and fed a population of 11 million.

Today we have 75 percent of our population dependent on food handouts or imports. We are unable to supply our needs for vegetable oils, milk, meat, and fruit. And our food prices have risen to the highest in region from being the lowest in Africa in 1997. (Hill 2005, 79)

From 2000-2004,²⁰ 90 percent of the white-owned commercial farms had been taken over. Farmers were forcibly removed by Hilter Hunzvi’s “war” veterans.²¹ The war veterans and youth militia intimidated, threatened violence and in some cases beat, raped or tortured workers and owners alike, in order to claim the land. Farm workers and their families were forced to leave the farms and rendered homeless (approx. 1.5 million) in this process (Chikwana, Sithole and Bratton 2004). These farm workers were a significant portion of MDC’s base in the rural areas, so these forced evictions, displaced and scattered a potential

²⁰ The government is currently continuing farm takeovers and some parcels have been seized more than once.

²¹ Many of these so-called war veterans were too young to have fought in the war. Some were believed to have been born after 1980. Many commentators even doubt that Hunzvi fought in the war. It is known that he was arrested when he was 16 for being a member of ZAPU. But many of his other claims have been refuted. He went to medical school in the late 1970s in Poland and his former Polish wife says that he never held a gun.

voting bloc.²² These takeovers and making the population dependent on food aid has also made it possible for ZANU-PF to use food and access to productive land as a weapon and as a political carrot for those who are willing to play ball.

Access to land and nostalgic longing for a simpler time when Zimbabweans (black and white) only needed the rich soil to produce and be happy, haunted the people's imaginations not only in the first *Chimurenga*, the Rhodesian settlers' disputes with the BSAC, and the second *Chimurenga*, but also in the crises of the 1990s, and the current crises that Mugabe and his allies call the third *Chimurenga*. The land question continues to haunt Zimbabwe in its politics, its history, its economy and its cultural production.

POSA and AIPPA

The repressive laws known as Access to Information and Protection of Privacy Act (AIPPA) and Public Order and Security Act (POSA) have their roots in colonial rule also. Both were passed in 2002, but they were passed as a direct reaction to the failed constitutional referendum. The government has used these laws to control all voices of opposition to the president and its policies. The parliament debated the issues surrounding these Acts in terms of how they could contain the opposition and limit its ability to contest or criticize the state. They used language linking the opposition (the Movement for Democratic Change) to world terrorism,

Being aware the [sic] Zimbabwe at late has experienced cruel and heinous acts of terrorism and arson, and that acts are being conducted using weapons of war, petrol bombs and are being targeted against political opponents by organisations with foreign sponsorship which on the one hand espouse doctrines of rule of law, democracy and human rights while on the other hand

²² It is a strategy that seems to be reused during the Operation Murambatsvina with the extremes of violence less pronounced.

sponsor violence, arson and mayhem (Zimbabwe Human Rights NGO Forum 2002 2002)

Although it was concealed in anti-terrorist rhetoric, it took the place of the Law and Order Maintenance Act that was a holdover from the Rhodesian Front regime that the Zimbabwean Supreme Court had determined unconstitutional. Its supporters in parliament argued that without POSA, police had no means to maintain the peace. In effect POSA has greatly limited rights of assembly and association. It has been used to stifle the majority of dissent against the government and has resulted in many arrests of political activists, journalists, and artists. Praise Zenenga in his essay entitled, “Censorship and Protest Theater in Zimbabwe,” demonstrates that because any gathering of more than five people is illegal, “artistic performances can easily be classified as political event or gatherings requiring police clearance” (Zenenga 2008, 64). He cites numerous arrests and harassment of theatre artists because their plays criticize government institutions. In the most extreme example he uses, police arrest two actors in a Savannah Arts production of a play called *Final Push* during the performance because the “CIO officers felt that the play showed a rival politician knocking down the president. Police ordered the two Savannah Arts actors to perform the [play in its entirety] twelve times within 48 hours in a small room” (Zenenga 2008, 76). Because the government could effectively control any gathering it deemed political, POSA enabled the government to keep the opposition from effectively reaching potential voters and likely kept ZANU-PF in power.

AIPPA likewise has helped Mugabe keep his position through multiple elections. Although it promises to protect people’s privacy and give them access to information (i.e., transparency of the state), it does not live up to its name in this aspect. The Act follows its acronym AIPPA in Zimbabweans’ minds. In Shona, *aipa* means it used to be bad or rotten,

or it was rotten. And it is clear that AIPPA is closer to *aipa* than protection of privacy. It has been used to control and censor the press. It requires all journalists and media to register with the state. It has stifled much of the independent press—no radio or television station is independently owned. Independent newspapers have found it increasingly difficult to operate within the country.²³ These two laws together have been an effective form of muffling dissent and have made it easier for Mugabe’s regime to operate with impunity. It is at this point unknown how soon or if both of these laws will be dismantled by the Unity Government that officially began on February 10, 2009.

Operation Murambatsvina

Just as the British South African Company came into what is now Zimbabwe in the 1890s, the current Zimbabwean government has come into the cities and towns and has disrupted ordinary Zimbabwean lives with Operation *Murambatsvina*.²⁴ This new campaign of the third *Chimurenga* began with an announcement by Ms Sekesai Makwavarara, an unelected commissioner, who announced that all responsible citizens should want to “*kuramba tsvina*” (Zimbabwe Human Rights NGO Forum 2005). Her speech had some ominous implications for the average Zimbabwean: She singles out all sectors of the informal markets; she uses laws of the colonial era to address a potential opposition; she implies that the city will work with other government bodies to eradicate filth in ongoing missions; she creates an underclass who are those who should be driven out, separate from the business and

²³ Most recently Zimbabwean journalists who are working for a non-Zimbabwean press have had to pay exorbitant fees in order to be accredited (US\$4000). Foreign correspondents have had to pay nearly \$US40,000 in combined fees to be licensed and accredited (Journalists challenge licensing authority 2009).

²⁴ Kamete points to one nuance of the term *Murambatsvina* of which I was unaware. It “is a pejorative Shona expression. It literally means ‘one who rejects filth’ (muramba – one who rejects; tsvina – filth, including human excrement). It refers to a person who is overly and annoyingly concerned about his or her physical appearance” (Kamete 2007, 69).

diplomatic classes, those who would not want to *kuramba tsvina*.²⁵ She was not the last to compare people to filth. Augustine Chihuri, the police commissioner, said that the OM was “meant to clean the country of the crawling mass of maggots bent on destroying the economy” (Zimbabwe Human Rights NGO Forum 2005). Many of the reports and articles clearly link the Operation to the farm seizures. Kamete, ZHR and others describe the similarities between them. However, the government did not stop at simply performing rhetoric. Mugabe’s regime is no stranger to the use of violence to achieve its goals. It uses violence as articulately as it uses rhetoric against its enemies. It is clear through its actions against the commercial farms and now the urban opposition that the regime knows that violence is never senseless but always meaningful, because violence in human culture always serves, one way or the other, to make a point; second, that all violence is excessive, because to be fully demonstrative, to make its point, it

²⁵ The complete text of her speech follows. The City of Harare wishes to advise the public that in its efforts to improve service delivery within the City, it will embark on **Operation Murambatsvina**, in conjunction with Zimbabwe Republic Police (ZRP). This is a programme to enforce by-laws to stop all forms of illegal activity. These violations of the by-laws in areas of vending, traffic control, illegal structures, touting/abuse of commuters by rank marshals, street-life/prostitution, vandalism of property infrastructure, stock theft, and illegal cultivation, among others have led to the deterioration of standards thus negatively affecting the image of the City. The attitude of the members of the public as well as some City officials has led to a point whereby Harare has lost its glow. We are determined to bring it back. Harare was renowned for its cleanliness, decency, peace, tranquil environment for business and leisure; therefore we would like to assure all residents that all these illegal activities will be a thing of the past. To intensify Operation Murambatsvina, an ongoing exercise, the City of Harare will work hand in glove with other enforcement units of the Government which include the ZRP to make sure that this exercise is realised. It is not a once-off exercise but a sustained one that will see the clean-up of Harare. The eradication of chaos that currently prevails in the City, the seat of Government, home to all diplomatic missions, headquarters of major business and commercial activities requires the co-operation of all authorities, businesses and individuals. The people of Harare must all appreciate that the City is ours, it is our pride and belongs to us all; thereby let us be responsible citizens. Pursuant to this objective the City is calling upon all stakeholders to report any cases of corruption or incompetence by municipal workers and any form of vandalism and abuse of municipal property at any municipal office. Furthermore, I urge all organisations and residents to co-operate during this ongoing exercise, which is intended to bring sanity back to the City of Harare. Operation Murambatsvina is going to be a massive exercise in the CBD and the suburbs which will see to the demolition of all illegal structures and removal of all activities at undesignated areas, among the prior mentioned activities. I, as the Commission Chairperson of Harare declare Operation Murambatsvina officially launched and I urge all residents to remember *kuramba tsvina*. (Zimbabwe Human Rights NGO Forum 2005).

must spend things—material objects, blood, environments—in acts of Bataillian “unproductive expenditure”²⁶...and that all violence is performative, for the simple reason that it must have an audience—even if the that audience is only the victim, even if that audience is only God (Roach 1996, 41).

Youth militia, ZRP and the military conducted the raids initially just on markets, unlicensed vendors, and manufacturers. But the reign of destruction went on to include people’s homes and shelters. Although it was supposed to be just unlicensed structures, the police, with the support of the military and the youth militia, came into neighborhoods with bulldozers and lit fires that destroyed anything they felt they could. The force of the police and military was unleashed against an unarmed population that was in many cases the elderly, disabled, children and their caregivers.²⁷ Despite little organized resistance, the police were reported to have live ammunition and were told by a commander:

Why are you letting the people toss you around when you are the police? From tomorrow, I need reports on my desk saying that we have shot people. The President (Mugabe) has given his full support for this operation so there is nothing to fear. You should treat this operation as a war. Those people fighting back need to be taught bitter lessons because that is the only way to avoid further confrontation” (Zimbabwe Human Rights NGO Forum 2005).

As the government was using rhetoric and the colonial-era laws to refer to the razing, detaining, and forced relocation of people—the ordinary person was calling this Operation Tsunami or the Mugabe Tsunami. Many people and organizations tried to make sense of this

²⁶ This is a performance of waste.

²⁷ This was in Hatcliffe extension, one of the most affected of all of the neighborhoods. The police arrived on June 3, 2005 to tell all of the residents that they needed to raze every building in the subdivision. This included a nursery, a HIV clinic and an orphanage run by the Dominican sisters as well as a Sunni mosque (Zimbabwe Human Rights NGO Forum 2005) .

violence and its scope. By the time the OM ended,²⁸ more than 700,000 people had been displaced from their homes, their jobs or both. The UN report concludes that at least an additional 2.4 million people were affected indirectly by the Operation (Tibaijuka 2005).

The government had clearly shown that it was at war with the black, landless, jobless poor as well as the white commercial farmers. Some of the targets of the OM included war veterans and people recently settled on the farms that the veterans had taken over. My colleagues at the University and in Highfield and myself were unable to make sense of it. We felt helpless and confused as to what could possibly come next. Our attempting to make sense of it was a daily practice with most of the people we met. I felt relatively unaffected at



Figure 2 Wreckage of home reduced to rubble by Operation Murambatsvina ("Clean Up") June 8, 2005. Kubatana.net

²⁸ It ended in much the same manner as Bush declared "Mission Accomplished." The government announced the beginning of Operation Garikai (Operation Live Well) that was supposed to be a public works project of building new homes and licensed markets. It was announced in June 2005 shortly before the expected arrival of the UN envoy Anna Tibaijuka. The international community and all Zimbabweans knew that the government did not have the resources necessary to accomplish this. In the meantime, homes and businesses were still coming down.

home in Mt. Pleasant, a low density suburb near UZ, until some of the other residents of College Flats pointed out that although our flats were fully licensed, the maids' accommodations were not licensed and were in danger of being torn down.



Figure 3 Cartoon by Jonathan Shapiro. The union buildings mentioned is the residence of South Africa's president. (Ncube, Bate and Tren 2005)

Theatre during the crisis: censorship and adaptation

Although the crisis can be argued to be an extended Mugabe Tsunami, it also has spilled into the economy and basically sent the country into a freefall. Zimbabwe has had a deficit in all economic indicators in this last decade.²⁹ What this economic crisis means for theatre groups is that everything needs to be changeable and adaptable. Budgets, scripts, transportation, ticket prices, venues, advertising, and the audience are no longer guaranteed. A theatre group needs quite a bit of innovation and a sense of urgency to get a production in front of an audience in order to succeed. I was and continue to be in awe of each of the groups I worked with and their drive to find an audience when so much else needed attention

²⁹ Again it cannot be overstated how far Zimbabwe has sunk in the last decade. I have not gone into this in great detail because since October 2004 the actual Zimbabwean dollar has declined so much. In early February 2009 the Zimbabwean currency was again adjusted so that the new Zimbabwean dollar is actually 10 Septillion 2004 Zimbabwean dollars (10,000,000,000,000,000,000,000).

and so much of living and surviving in Zimbabwe was an ordeal. And that was even before groups need to consider the legal aspects of the crisis; Questions such as should the group apply for a permit from the police for their performance space, what about the rehearsal space? Did they need to apply to the Censorship Board?

Prior to the crisis, theatre in Zimbabwe could be divided among a few categories, but the divisions between them are not as clean in many cases and one should expect overlap. Theatre groups could be seen as educational, political (protest), or entertainment-based theatre.³⁰ Immediately after independence, these divisions between theatres and their audiences was more clearly divided between races. As Owen Seda argues, this fragmentation between the audiences had as much to do with Rhodesian colonial policy as it had to do with the war (Seda 2004). These broad categories would end up placing them in a few venues. Reps theatre in Harare catered primarily to a European theatre base and frequently had more expatriates, diplomats, and in general a white audience. Township bars and community halls would serve as venues for the popular musical theatre performances. The University and other schools and rural communities would provide the venues for the educational theatre and politically based community groups. In the 1980s, political theatre groups worked fairly closely with the Zimbabwean government to promote its cultural policies. It is at this time that the Zimbabwe Association of Community Theatres or ZACT was founded. Robert McLaren's *Zambuko/Izibuko* and others were preoccupied as Zenenga shows with reconstruction and rehabilitation after the war (Zenenga 2008, 66). These groups were also working on recovering past performance forms (Seda 2004, 138). Many of these groups worked rurally to encourage sustainable farming practices and improve community

³⁰ Owen Seda has similar divisions but uses the terms semi-professional (typically white with big budgets and state of the art technology), popular musical theatre, and a revolutionary theatre of black cultural nationalism (coming from war-time *pungwe* tradition) (Seda 2004, 136).

dynamics and empowerment. ZACT and the groups it worked with were greatly influenced by the presence of McLaren and the Kenyans (Ngugi wa Miri, Ngugi wa Thiongo, Micere Mugo, Kimani Gecau) who had fled Kenya after the Kamiriithu Community Center was bulldozed by Daniel arap Moi's government in 1982. The Ngugis et al collaborated with the people of Kamiirithu to write and perform plays in Gikuyu and other African languages to empower them to act for social justice. With their influence, TFD performances in Shona and Ndebele became more common. They, along with McLaren, combined their plays developed through workshops with the pungwe style from the war. Although divisions remained between white and black theatre and their umbrella organizations, this started to change in the late 1980s or early 1990s.

These same groups that worked with the government in the early 1980s started to criticize it for its shortcomings or perceived corruption. Reconciliation and rehabilitation as a message also brought some of the theatre groups together. *Workshop Negative* written by Cont Mhlanga, brought both black and white performers together and changed the dynamic of black and white theatres significantly. The government no longer needed theatre as it had initially, so funding for theatres diminished. Groups that did educational theatre would often find a NGO and a niche that would take the place of government funds or ZACT's support. Although their venues might change, their target audiences would not appreciably change (Patsime Theatre Trust is one example). The NGO would help with budgets, transportation, and bringing in the audience. New venues opened up in the 1990s because of a newfound demand in urban areas, not just rural areas. The black theatres that were becoming professional or semi-professional needed new space too. In Harare, the Rep was still fairly white, but it opened up its smaller theatre for experimental groups and reserved their

mainstage for Western musical theatre. Theatre in the Park, under the auspices of Rooftop Productions, opened in the Book Fair performance space in Harare Gardens. The Alliance Francaise and Gallery Delta opened performance space, too. These new intimate spaces would do a combination of political and entertainment/art productions, and their audiences were primarily black urban elite who worked in the Central Business District. In Bulawayo, Amakhosi built its large amphitheatre space and had a small studio theatre too. These opportunities and new resources started to align with each other not based on race but regionally. ZACT and NTO also started to be more regionally aligned as well.

With the onset of the crises, many NGOs have left along with a large number of their expatriate employees, fuel is hard to come by, leisure time is also quite a precious commodity, and audiences have logically become harder to find. As groups adapt to these realities the differences between them have collapsed further. It is the memories of these past relationships with the state, NGOs and audiences that haunt their efforts to reform and find audiences. All of the groups that I worked with have used similar strategies of survival to find an audience and maintain their art in a time of emergency. They have responded to the panic of the collapse with memories of and an aesthetic that relies on memory and the urgency of the situation. Economic and political realities haunt each group and their productions.

POSA and AIPPA have had an effect on theatre above and beyond the economic portion of the crisis. The Public Order and Security Act as amended in 2002 requires that groups or gatherings larger than five people get police credentials to assemble. Churches, theatres, cinemas, sporting events and schools are exempt from this requirement. However, many of these same organizations have had altercations with police and other authorities over

events that they have had because it was determined that some aspect of the gathering disturbed the peace or caused the president or some other aspect of the government to be denigrated. The language of POSA has left quite a bit of ambiguity for theatres and other performance events to be eventually included within POSA. Theatres and other venues could definitely be construed as public space as defined by POSA “ ‘public place’ means any thoroughfare, building, open space or other place of any description to which the public or any section of the public have access, whether on payment or otherwise and whether or not the right of admission thereto is reserved” (Zimbabwe. Parl. 2002, sect 2). Also POSA seems to account for the definition of theatre in its language. A statement under its interpretation section argues that a person will be considered in violation of the act if he or she makes “any expression of fact or opinion, whether made orally, in writing, electronically or by visual images; act or gesture” and does so in front of an audience with intention (Sect 2).

The government has taken advantage of this ambiguity to disrupt or cancel plays and other performance events at various different periods in their production.³¹ In Bulawayo, police stopped a musical family fun day in 2007 before it began and its organizer detained in violation of POSA (Ndebele). The article reports that an arts and theatre festival was also canceled outright. One of the plays discussed here was eventually censored and banned after over a year of performances at various venues. Like *Super Patriots and Morons*, *All Systems Out of Order* had a successful run at Theatre in the Park, an international tour and multiple other performances and different venues before it was banned. The censorship board in both cases had previously approved it before it was determined that the plays violated POSA by “engendering feelings of hostility towards; or (ii) causing hatred, contempt or ridicule of; the

³¹ Praise Zenenga’s article on censorship has other key examples of groups that have been censored.

President or an acting President, whether in person or in respect of his office.” (Zimbabwe. Parl.)

However, outright censorship of plays is relatively less common and they appear to be treated very differently than other forms of communication. Newspapers, books, radio and other media are much more heavily censored and controlled by AIPPA. Most plays make it through the censorship process, at least initially, with little difficulty. Prior to AIPPA, Plays were subject to the Censorship Board that was formally established with the Censorship and Entertainment Control Act which was passed in the 1967. Zenenga points to some similarities between it and the British Stage Licensing Act of 1737. He also argues that although on paper it seems to deal with specifically with obscenity and things offensive to Victorian values³², it has been used primarily to censor plays, books, and films with politically offensive content . (Zenenga 2008, 63).

One explanation for the difference between plays and other media may be because the productions are ushered through the process by sympathetic insiders or because only draft scripts are submitted and the censorship board does not typically attend rehearsals or performances of the productions.³³ Also many plays do not have a script that gets into print—it is contained in the performers’s memories and can be changed from rehearsal to performance with no written documentation.

³² One possible reason may be because of self-censorship or staging of scenes that might be considered risqué. Stage kisses are rare. In most scenes depicting sexual content or interest, the participants are typically dancing or staged far away from each other.

³³ Key passages in *All Systems Out of Order* appear to be in support of the status quo in the script alone. It is only during performance that they take on any negative connotation and it can be argued that the spectator is the one who interprets it rather than the production. However POSA covers that too. Sect 15 of POSA states that if “any person makes a statement that intentionally or knowing that there is some risk or possibility of causing public disturbance or disorder or can cause public confidence in the government, police or defense agency of Zimbabwe”, ... “whether or not the publication or communication results in a consequence referred to in paragraph (a), (b), (c) or (d), be guilty of an offence and liable to a fine or imprisonment up to 5 years.

My experience with the Harare International Festival of Arts in 2005 may be typical. I submitted a script for the play that University of Zimbabwe and the U.S. embassy co-produced. The script was then recommended and that was the rest of the story for our production. Another play from Bambebel Arts from Bulawayo also passed censorship—it was called *Shout for Help*. While I was watching a performance, I was quite amazed that it had managed to do so. Most of the audience at HIFA had similar feelings. We were constantly looking around the audience during the performance to see if it would be stopped. The play clearly “stated” through oral, visual and gestural communication that the audience should have greater expectations of hyenas and baboons than the military or the government in general. Prior to HIFA, it had a run in Bulawayo. After HIFA, it had a performance at the Mannenberg (a jazz club) and was not censored. I will come back to this in order to speculate why it was never banned. Yet another play, *The Vagina Monologues*, was only provisionally passed—it was deemed acceptable if it would remove all references to vaginas. It performed to packed houses and added encore performances and never omitted the word vagina. The theatre group was warned that if it was ever performed again that they could face arrest not under POSA or the Censorship Act, but under the Public Decency Act. Sarah Kilalea, an actor in *The Vagina Monologues*, reported that HIFA officials protected them from arrest and managed to stop police from entering its last performance to stop it (Kilalea 2005).

A variety of explanations may account for this difference in treatment between other forms of media and theatrical performances. With some key exceptions (Chifunyise, Mhlanga, Mungoshi), many playwrights and groups do not see publishing their work as fruitful. The groups saw the scripts (if they had one) as a blueprint that could be changed at will in performance, and may not be willing to share that with other groups. Many operated

without scripts and would only have a rough scenario to follow. So the performance was the end product versus a script to be published. Additionally, according to a workshop report, groups complained that publishing houses were not interested in their scripts (wa Mirii 1986, 11). I am unsure of why this bias was present; I suspect it still is true. The government may feel that since plays in Zimbabwe are rarely published that they have little reach to the general public and are not worth a crackdown in general. This may have some credence in Zimbabwe's current crises—theatrical groups reach smaller and smaller audiences. Some groups never have the opportunity to perform in front of an audience. Also many groups practice self-censorship. They tailor their performances to their venues and audiences. In some cases, this may be delivering a line differently or eliminating it. Also many groups use talkbacks or vivas to raise an audience's awareness or to pose solutions, rather than the performance itself. These can be eliminated in order to not risk violating POSA, if the situation calls for it. Seda documents one case in which a play's managers deemed it too risky to have a post-performance dialogue because of a change in venue. Previously, the play was staged in a university setting with a talk-back with no problem (Seda 2008).

With the beginning of what the MDC calls the final push (their campaign slogan), the government has enforced POSA much more draconically. Zenenga argues that theatre groups have received increasing scrutiny and therefore censorship by the state even though they reach only small audiences. The government sees them as part of the final push. Cont Mhlanga's play, *The Good President*, was deemed a political gathering rather than a theatrical performance when it came back to Bulawayo despite having an uncensored run in Harare's Theatre in the Park. Mhlanga relates how the police believed that the performance of the play at the iconic Bulawayo theatre constituted a security risk and acted accordingly,

summoning him to the police headquarters. Mhlanga relayed how the police inspector berated him:

‘Cont Mhlanga, this is not Harare. This is Bulawayo. What plays in Harare Cont Mhlanga will not necessarily play in Bulawayo. Your play can even go and play in Baghdad, it does not matter. But when it comes to play in Bulawayo, then it’s another story. Every security situation is decided differently’ ... By the time we got back to the Bulawayo Theater, the police Inspector had called over thirty heavily armed riot police. The Inspector addressed the audience and told them that the gathering was illegal and that they should go home. He still did not make the difference between the two, a political play and a political gathering (Mhlanga, *The Play Must Play* 2007).³⁴

I am not certain if this censorship and summoning to the police station might argue for an overall erosion of poetic license or if it might suggest that the intensity and urgency of Mhlanga’s critique of the Mugabe regime was considered so incendiary in Bulawayo that it could have started an insurrection.

Theatre artists and poets have been detained under POSA—and many of them are considered enemies of the state. However, there remains a strong tradition of the poetic license and a pre-colonial tradition that is still in the memory of the people of the praise poet who is criticizing the state through cleverly worded praises. The same can be said of other traditional forms—such as the *nchimbe*. These threshing or work songs were sung during work parties and beer drinking sessions. The *nchimbe* criticized and used satire to voice complaint or reform behavior. The imbibing of alcohol freed tongues and could be used to

³⁴ The police inspector repeats Cont Mhlanga’s name repeatedly, possibly suggesting that it was as much Mhlanga’s involvement in the production as the play’s content and context.

justify their complaints—people could say, “I said that because I was drunk.” These hidden transcripts provide the vehicle for theatre groups to sound the alarm and panic that they feel as the country burns and they are calling for a means to resuscitate a new Zimbabwe out of the ruins of the old.

This chapter illustrated how the unsettled questions of land reform haunt Zimbabwe’s present politically, economically, and culturally. It showed how the current economic and political crises in Zimbabwe stemmed from its early colonial history and the end of the first and second *Chimurengas*. The ghosts of the past such as Ambuya Nehanda and her prophecy continue to haunt the political stage as much as the theatrical stage. Cultural production and theatre have adapted to these different periods of crisis by searching out new ways to reach an audience and function within the state. Panic theatre is a new incarnation of strategies and dramaturgy that uses nostalgia and memory to negotiate the present.

In the following chapter, I look at Vuka Afrika’s use of *nhimbe* as a means to both critique the state’s performances of waste as well as coping with them. Vuka Afrika uses the idea of a *nhimbe* to both directly and indirectly drive their performances as they seek to survive in a rapidly eroding and changing world. They use the *nhimbe* and *mapira* to create an aesthetic that uses both the memories of the performers and the group’s hoped-for audiences to conceal its criticism of the state and points to the injustices of the crisis. Vuka Afrika uses these indigenous performance forms to look for answers to the crises created by the OM. It attempts to recreate the *dare* forum and use the poetic license of *nhimbe* to bewilder and evade state censorship through hidden texts.

Chapter 3: Memory, Crisis, and Hypocrites: the performer's responsibility to act and panic theatre

Now we have a platform to say that in the *nhimbe* it is done by singing where we are processing our grain it is called *chihwerure*.¹ It is like, it is like if someone divorced his wife. And they wanted to go at him there, they would sing *chihwerure onayo*. It is done while they are singing. If you happen to be someone who has done something you will feel it, if you have done nothing, you will enjoy it. So I think our modern theatre is moving toward that level of being like *nhimbe*. It is now being done like *nhimbe*, we are talking about serious issues but we are laughing at it, we are enjoying it. And we are singing. We are doing it (J. J. Mukwindidza 2005c).

Most of my plays [are like *nhimbe*] although they lacked music are saying something either to my friends or society or authority. It is only that they haven't been able to reach out to many people (J. J. Mukwindidza 2005d).

This chapter looks at how ghosting and haunting function in theatre during the continuing crisis that the Operation Murambatsvina represents. The chapter represents research I conducted in Highfield, arguably a place of memory, with Vuka Afrika and Jingo James Mukwindidza and how both my research and Vuka Afrika grew from our collaboration. We worked together on two Theatre for Development (TfD) plays that the group was rehearsing during and immediately after the Operation Murambatsvina. This group had been quite successful in the near renaissance of the 1990s, but had difficulties building a paying audience base without NGO support. Vuka Afrika actively attempted to

¹ Chihwerure (which literally means whirlwind) refers to a form of socially sanctioned criticism. This criticism is both a form and style of "hidden speaking." It should be quick and swirl around the issue just like a whirlwind (Klassen 1999, 246).

reform its performances in order to bring back audiences. It used the *kurova guva* and other rites of passage to deal with the HIV crisis. The group also employed its memories of audiences of the past to encourage a new type of interaction with the audience. Jingo James Mukwindidza through Vuka Afrika was doing everything he could do to stem the panic and call for help in solving the crises of Zimbabwe—politically, spiritually, and bodily. I am using their plays *You Have No Right To Remain Silent* and *Hypocrites* to show how panic theatre functions and uses specifically memory and ghosting/haunting to call attention to the immediate situation. As Roach argues in *Cities of the Dead*, as a culture experiences crises with few precedents such as Zimbabwe's OM, it is necessary to "[re]invent themselves by performing their pasts in the presence of others" (Roach 1996, 5). Panic theatre addresses the audience not to cause a sort of panic such as the ones that are caused by yelling fire in a theatre, but the type that creates an urgency to solve a problem and to create new identities or precedents for a future. It does not necessarily have a solution to that problem, however. Its attention to the urgency of a situation does not necessarily give it time to find a solution, but it only has time to call for an ambulance. Panic theatre comes from this need and urgency.

I first met Jingo James Mukwindidza after receiving an invitation to come see a workshop performance of *You Have No Right...To remain silent* at Zimbabwe Hall in Highfield. After the question and answer session, we spoke and I agreed to work with him as a dramaturge and director for future performances of this play. He had written the play for World Press Freedom Day and in honor of Daniel Pearl.² This was early May 2005 and just days before the Operation Murambatsvina would begin. Mukwindidza's career as a theatre

² Daniel Pearl was an American journalist who was kidnapped and beheaded in Pakistan. World Press Freedom Day is May 3. Although it is not officially recognized in Zimbabwe, UNESCO and a variety of NGOs held a forum on May 3, 2005. They were focused on the restrictions AIPPA and POSA place on journalists and press freedoms.

practitioner and more specifically as a playwright began later in life than most of the individuals in the groups that he worked with. Unlike many theatre practitioners, he was not a school leaver, instead he left a career in middle management, after seeing a play called *The Hobos* that was brought to Harare by Amakhosi. He said after seeing the play, “that performance made such an impact in my life. So much that after watching that performance, I felt that this is what I want to do, I think for the rest of my life. I ended up resigning from where I was gainfully employed and I was a senior member of staff at that company.” This decision was made because he could not go back to getting by at work. He said that he preferred living through theatre. Since seeing *Hobos* and *Stitsha*, Mukwindidza trained at Amakhosi, Rooftop and Zimbabwe Association of Theatre for Children and Young People (ZATCYP). He started working primarily as a playwright and producer after forming Vuka Afrika. He had written plays prior to this one for many NGOs, most dealing with workers’ rights, governmental corruption, and children’s issues. He received critical acclaim for his play *Six Against One: The Story of the Worker*. I worked closely with Vuka Afrika during the rehearsals of *You Have No Right* and was part of the group. Mukwindidza was curious about my research and we had many conversations specifically about it. He also participated in Ntare Mwine’s *Seeing the Tree in the Seed*³ workshop that provided a new tone for HIV education and awareness theatre. It looked at ways to live positively after being infected and to use culturally familiar performances to carry that message.

Like Paul Allen’s Kajokoto, Jingo James Mukwindidza is a driven man who finds it necessary to write and perform rather than “get by.” He feels it is necessary to continually

³ Ntare Mwine is an Ugandan American who came as a guest of the Public Affairs Section of the U.S. embassy to conduct the aforementioned living positively theatre workshops. He also performed his one-person multimedia performance called *Biro*, which is a biography of his uncle who is HIV+. This work originally premiered in Uganda and has traveled to several other African countries and has played in New York, Los Angeles, and Seattle. <http://bewareoftime.com/history.htm>

question people's assumptions through performance and to make them uncomfortable with them. He is driven to act and perform to alert people of the crisis that is life in Zimbabwe, not necessarily the larger crisis but the small everyday crises. His urgency is driven by these crises.

Ghosting of space and Highfield community performance hall

The site of my research, Zimbabwe Hall and Highfield, also provides layers of ghosting and haunting. Zimbabwe Hall is across from the Mushandirapamwe Hotel near the Machipisa shops. I regularly rode the Machipisa khombis and got off at the shops and walked through the parking lots and driveways associated with these establishments. I did this so often that I am sure most of people who worked in this area either as fuel station attendants, vegetable sellers, hawkers, and khombi drivers and conductors knew me well. On at least one occasion, Jingo had someone waiting for my arrival to redirect my path or to give me a message that he was late or had been called away. I attended the African Child Celebrations here on June 16th and saw multiple performances from high school marching bands, choirs, and dance groups. I watched my first Nyau⁴ masquerade. I recall watching stone sculptors work from a distance out in the yard. The Zimbabwe Hall of my memory is a culturally rich but slightly rundown facility. Some windows did not close properly or had broken panes. Sometimes the toilets did not work. A group of women ran a print shop, room reservations, and a small kitchen. Across the street at Mushandirapamwe we could purchase a Coke, a meal or a beer. But again the hotel did not have the same level of comfort that it

⁴ Nyau are immigrants to Zimbabwe from Malawi. They came when both Zimbabwe and Malawi were part of the Federation prior to decolonization for Malawi. They were migrant workers who never went home and have developed a life for themselves in Zimbabwe. Highfield has a high number of Nyau who call Highfield home and have set up the secret societies who masquerade for special occasions. The Nyau masquerades are among the only masked performances in Zimbabwe. Some of the members are not Nyau but identify themselves as Zimbabweans or Shona speakers. The Operation Murambatsvina impacted this group of people significantly since they have no rural home. Their ties to Malawi are basically non-existent and they call the various urban neighborhoods home..

had in its past. I had been to the hotel or one just like it in 1990 for a musical performance. But I could not say for certain if it was the same one from my first trip to Zimbabwe. But it retained a familiarity for me.



Figure 4 Zimbabwe Hall with Nyau masqueraders on African child day. One is wearing a headdress, the other is possibly masked as a white priest or an older white man. Photo J. Wrolson

My memories of this place are shallow in comparison to its symbolism in the history of colonization and Zimbabwean nationalism. It was the second African township near the

capital, called Salisbury, before independence; the first is what is now Mbare.⁵ It is the birthplace of Zimbabwe African National Union (ZANU)⁶ and the other nationalist movements. Many of the founders of ZANU lived here. During the war, it was fenced in like a rural protected village. Mugabe's home still bears the bullet holes from the war era as a place of memory of its own. The Zimbabwe Grounds are just across from the Machipisa Shopping centre and the site hosted Mugabe's rally after his return from the Lancaster House negotiations for independence. Mushandirapamwe Hotel served as a temporary home for Zimbabwe African National Liberation Army (ZANLA) troops returning home after the ceasefire. Mugabe and ZANU-PF like to link Highfield as their place of memory. But, as Roach argues, in its selection as a place of memory, much is excluded. ZANU-PF would prefer that Highfield would have remained frozen in its own nationalist or patriotic history. However, Highfield, like most urban areas, had a large Movement for Democratic Change (MDC) membership. In fact Highfield, Mugabe's home district, elected Pearson Mungofa from the MDC in the March 31, 2005, elections in a landslide. (Zimbabwe Elections Commission n.d.)

Some of the anger at its disloyalty to the ruling party came out in the Operation Murambatsvina. The parking lot and driveway that was between the petrol garage and Mushandirapamwe, across from Zimbabwe Grounds, no longer hosted ecstatic soldiers but the burnt-out remains of a khombi. The smell of burnt rubber and fuel replaced the vegetable sellers and hawkers that I encountered on my walk to Zimbabwe Hall. However, Zimbabwe Hall, our rehearsal space, and the home of many artists, theatre groups, and community

⁵ During the colonial period, Mbare was called Harare (Harari).

⁶ ZANU did not become ZANU-PF until 1987 when the first unity accord was signed with Zimbabwe African Peoples Union (ZAPU) which was the other nationalist movement that fought for Zimbabwe's independence.. ZAPU was founded in 1961 and ZANU was founded in 1963.

services had survived the first wave of the tsunami. It was mid-June before the police arrived at the Hall to drive out all of the artists—the police came to the door of our rehearsal but passed us by. Mukwindidza, the actors and I looked on in horror as the police started to destroy the stone sculptures out in the lawn where the sculptors gathered daily to carve. The painters' paints were poured down the drain and their canvases slashed. We were told that Zimbabwe Hall was just for performers. Oddly we did not feel lucky. We were wondering when it would be our turn.⁷

Ghosting of other performers and memory

Mukwindidza's work as a theatre artist is haunted by his memories of other performers and performances. His own work and his driven nature bring out the ghosts of his grandmother (*ambuya*), his brother, and the work of Cont Mhlanga. He cites his grandmother as the origin for his desire to tell stories. He credits his grandmother's skill at dancing and telling stories as instilling a fire that was later kept alive by the *bira*⁸ of the war. But it is specifically his memories of his grandmother's dancing that he tries to harness when he himself is on stage. His grandmother inspired his desire to perform and tell stories. He spent many hours listening to her as a child and watching her performances. According to Mukwindidza she was a highly acclaimed professional dancer who was both part of a touring dance company that was active in the 1960s but she was also highly sought after for performing at *bira*. He recalls in my third interview with him, "Even if you were watching her dancing, even if you were not the possessed person, you could feel your blood rushing. So I think when I am on the stage acting I just feel like I want to inspire [that feeling]... I

⁷ Highfield residential areas were subject to police actions associated with the Operation through mid-July. On a day I went with Edzai Isu to a performance we had to detour around the police in riot gear burning down homes.

⁸ Jingo uses the word *bira* rather than *pungwe*. His usage represents the place of *pungwe* within performance history and how he remembers them. It is singular; in its plural it would be *mapira*.

want to feel like I am casting out the demon[s of child abuse and sexual abuse] and bring compassion and awareness [to the community in crisis].”⁹ It is his kinesthetic imagination—the feeling of the rushing blood that moves him.

Additionally, his memories of his older brother telling him stories that he had read in school serve as a bit of ghosting as he thinks of his influences. Mukwindidza clearly remembers lying under the covers while his brother would relay to him stories written by the early Shona writers and other African authors. He would imagine the worlds of the African past represented in these novels. He was inspired by his brother and memories of his brother’s stories to read voraciously once he was in school. It is because of these early stories and his memories of them that inspire or even ghost his desire to tell new stories as well as old ones.

As an adult, he was exposed to the plays of Amakhosi and the storytelling prowess of Cont Mhlanga. Cont Mhlanga, as artistic director of Amakhosi theatre, is probably the most influential theatre artist in Zimbabwe. He is a playwright, director, actor, fight coach, and serves as artistic director and producer for the most successful professional theatre company in Zimbabwe (Rohmer 1999, 145). He also has trained many of the actors, playwrights, dancers and directors currently working in theatre in Zimbabwe.¹⁰ Mhlanga also served as Mukwindidza’s first mentor for plays and drama. He taught him how to write a play, direct and act. Everything that Mukwindidza currently does is shaped by trying to measure up to Mhlanga and those plays that he saw. Mhlanga’s presence bleeds through into the most basic things that Mukwindidza attempts (J. J. Mukwindidza 2005c).

⁹ The ellipsis and brackets serve to bring parts of the interview together that he was simply alluding to at the point of this statement.

¹⁰ For more information on Mhlanga see, Martin Rohmer’s *Theatre and Performance in Zimbabwe* or <http://www.voicesfromzimbabwe.com/content/view/35/44/>.

In turn, Mukwindidza haunts the work that he does with Vuka Afrika. His personality and drive can be considered a fourth ghost. He does so in fairly obvious ways—his drive and desire to create the play that will measure up to his memories of other works has caused differences with some actors and other groups. Also Mukwindidza instills much of his personality into some of the characters that he creates. The two journalists from *You Have No Right* are from different sides of Mukwindidza. James from *Hypocrites* also bears some of the stamp of his personality—possibly more telling because they share a name. All of his major characters have monologues that voice some of Mukwindidza’s own thoughts and frustrations of life in Zimbabwe, even if they are only there to be a devil’s advocate. These four ghosts haunt the productions in which Mukwindidza is involved.

You Have No Right to Not Remain Silent

As stated earlier, I came to be involved with Vuka Afrika and Mukwindidza because I attended a workshop rehearsal of *You Have No Right to Not Remain Silent*.¹¹ We discussed its format and wanted to make it more of a play that provoked discussion regarding the problem of freedom of the press, free speech and rights of assembly and association, rather than a recounting of lack of freedoms. Mukwindidza did not want this to be a simple sketch but a strong play and felt that it could benefit from a playwright/director team. I left that first meeting with a copy of his working script and a set of goals to achieve with it. As we worked in rehearsal, the play became a series of flashbacks to accommodate many instances of rights violations. This play and its rehearsals were haunted by the Operation Murambatsvina as much as anything. We were rehearsing a politically incendiary piece in the middle of the police actions against the public. We showed a comic version of the police

¹¹ *You Have No Right* is about two journalists at different points in their careers who are facing their final judgment and must account for how they have upheld the rights of a journalist and their personal integrity in the face of Zimbabwe’s POSA and AIPPA laws.

beating demonstrators and journalists with abandon. We had scenes which showed the same demonstrations and the police being eluded. We had scenes where the younger journalist is tortured by the police (See Figure 5). These scenes would be liabilities for the theatre company if our rehearsals were interrupted by the police. The script itself would never pass the censorship board if it were to be presented.



Figure 5 Marita being questioned. *You Have No Right*. Photo J Wrolson

Our solution was to bring in another haunting. We would use the *dare*¹² forum that had been in place in Zimbabwean written drama since Mutambo wapaNyika. The *dare* is a court of discussion where the various parties can come to a fair resolution of the dispute. We

¹² The *dare* is a community court where all transgressions and trespasses are adjudicated by the elders to the satisfaction of the various parties. Although some would disagree that justice was always served (rape cases were almost always decided to the father, brother or husband's satisfaction rather than the person who was raped. The *dare* were primarily male spaces where men not only adjudicated disputes but relationships were developed. (Schmidt 1992).

hoped that the *dare* metaphor would create a bit of insulation for the group. The two characters were fleshed out to represent opposing viewpoints of the role of a journalist in a developing nation. Marita is a cub reporter who views her role as a journalist as a voice for the opposition and the ordinary person. The Cameraman works for the state television and has years of experience in his field. He sees his role as a protector of the “developing nation” and one that needs to protect the state in the face of “foreign opposition.” The play provides their testimonies before an angel/saint/ancestor who determines who should be able to cross into heaven. The play does this through the use of flashbacks as both characters defend their actions before the judge. In the final scene the judge calls for the audience to pay attention to what is happening because they will serve as judges:

High Priest: This scene that is to come will give our protagonists a chance to speak directly for themselves and to each other. Both have strong cases for themselves and against each other. May we pray we have the wisdom to understand. Let us let them speak to defend themselves (Mukwindidza 2005a, Scene 6).

This play created an open-ended argument for both positions and both journalists presented their positions for the audiences to judge. As they approach the point that they are to be judged they are given the opportunity to speak to each other and therefore an audience directly:

Camera man: no matter how the West deploys the puppet press, comrades, we must attack and defend our sovereignty.

Marita: we also need private radio and TV stations. People have the right to receive information from different sources.

Cameraman: In our society where there are many individuals sponsored by the imperialists there is no genuine freedom of expression, because what is there, is influenced by their paymasters.

Marita: they are using young people without knowledge. You won't be a victim if you have knowledge.

...

Cameraman and Marita: (in unison) Information equips an individual with knowledge, when you have knowledge you won't be a victim.

Marita: (still speaking at same time) Be assured I will not be silenced. I shall tell my story until all people are free. This can only be achieved through freedom of expression, the cornerstone of democracy.

Cameraman (still speaking at the same time): I will not stop surveillance until I have seen the withdrawal of neo-liberal, neo-colonialist and the imperialist forces of regime change from our people (Mukwindidza 2005a, Scene 6)

Mukwindidza attempts to give both points of view equal time and weight so that the judge gives the audience a chance to weigh in their own minds what is justice. This play as such is a *nhimbe* in that it provides enjoyment to the people who are watching who are not being judged.

You have No Right becomes what I call panic theatre as it reaches out to the audience to make a decision to put out the fire for themselves. It asks the audience to come up with the solution or call the ambulance. It calls for help and is able to do so because it uses the haunting of the *Mutambo* and its dare to give the audience its own means and context to weigh the case before them. The play does not need to be explicit about the solutions nor does it have to come up with a solution because the audience can understand the importance of the discussion court (dare-forum) and it also understands the subtlety of the *nhimbe* and the *chihwerure*, or hidden speech. It intends to use the audience's memories and the

character's memories to bring attention to the conflict and the crises that Zimbabweans have when they are not able to speak freely or meet.

However, *You Have No Right's* interaction with the audience remained in our imaginations. We simply rehearsed it in the middle of the OM. Even the actors were unable to come to rehearsal for quite a few days during the height of the Murambatsvina, so we were not even our own audience. They were also worried about rehearsing without hope of an audience or pay when we had no idea when there would be a performance. On the day the police came to Zimbabwe Hall, there was such a strong feeling of dread and panic. We tried to have another workshop performance. Despite invitations to most of the other theatre groups in Highfield and the University and groups from farther afield, only one person outside of the group came. It was disheartening on top of all of the other problems associated with the OM. However, the audience of one could feel the urgency but also was nervous about the political associations that this play might bring out in the climate. This made the actors more disturbed about the play. We decided to suspend intensive rehearsals of this play and would simply shop it around for potential venues and opportunities.¹³

Mukwindidza was disappointed. He wanted the play to be successful and he wanted to reach an audience to give his *nchimbe* a chance to disturb people and to create a sense of urgency. He expressed disappointment that Zimbabwean audiences were more concerned with what was happening on the soaps and that the audiences were forgetting the importance of performance and were more concerned with romantic things. He felt that the excitement he experienced from seeing his grandmother or the *bira* of the war were being lost.

¹³ This play got some attention just after I left the country in November 2005; it was invited to perform at the Mannenberg Jazz Club for a night engagement. I am uncertain if it has had any other performances. It was after more attention was given to *Hypocrites* that it came to the attention of the public.

Hypocrites¹⁴

It is this disappointment and urgency to reach an audience that led Mukwindidza to the second play that I worked on with Vuka Afrika. As we stopped intensive rehearsals for *You Have No Right*, we had an opportunity to join a workshop sponsored by the Public Affairs Section at the U.S. Embassy. It was here that Mukwindidza began germinating the idea that became *Hypocrites*, a play that he thought could compare favorably with the work of Amakhosi.

As stated earlier, *Hypocrites* comes from the ghosts of many memories. In the truest sense, it comes from Mukwindidza's memories bleeding through his work. The dances and songs that his grandmother exposed him to, his memories of the wartime *bira* and his work with me and Ntare Mwine all came together in what he describes as a *nhimbe*. He strives to make this a *nhimbe* that will make others uncomfortable for not acting with compassion.

Memory—ghosting of Tfd and HIV awareness

In Zimbabwe, the most common form of theatre for development or community theatre is HIV awareness theatre. Although I do not have hard and fast statistics, I feel it is safe to say that the majority of the groups have more than one HIV awareness play in their repertoire.¹⁵ Because of non-governmental organizations' sponsorship of these types of plays, more of them get performed before audiences than plays based on other issues. Also because many NGOs do not give groups money for actual play development and rehearsal many of the plays get recycled continuously. The majority follow this formula: a man gets HIV from a woman (either a prostitute or unfaithful wife/partner) because he failed to use a

¹⁴ *Hypocrites* pits two HIV+ patients against a woefully inadequate health system, each other, and their prejudices. Slowly it dawns on them that they cannot blame each other but that they need to be each other's allies and confidantes in order to live as positively as possible. The play narrates how James and Jesca both become HIV+ and their struggle to get treated for their illness and to be treated well by others.

¹⁵ Martin Rohmer notes the prevalence of HIV awareness theatre and the similarity of dramaturgy between the plays in 1993 (Rohmer 1999, 122, 200-201). By the time, I was doing my research in 2004-5; I can only imagine it being more strongly clichéd.

condom either from his own expectations of pleasure or safety or because his partner didn't want him to use one. The woman is demonized and the man's family is overburdened or abandons him, and he dies a slow death. There are some variations on this storyline such as how the man comes to have sex with a prostitute then brings it home to a wife and a future child. All of them focus mainly on how sex without a condom with a loose woman equals death. Rohmer suggests that in his research that these plays were usually comedic, but from the majority that I saw prior to Mwine's workshops, they were highly melodramatic with highly exaggerated mourning for children.

This scenario is problematic in quite a few ways. This tried but not true formula demonizes women and their sexuality. It presumes that women not only have control of their own bodies but that they override men's common sense and demand that men not wear condoms. These formulaic performances rarely question patriarchal realities of how much power women actually have or actual rates of female to male transmission of the virus. The imbalance of power between the demonized woman and her "innocent" victim would be comic if it wasn't so tragic. Further these plays do not provide relief or compassion for those who are HIV positive, nor do they provide a model for living positively, only dying.

In contrast to the formulaic performances, Ntare Mwine's Tree in the Seed workshops encouraged theatre groups to develop plays that encouraged positive living once you became positive. The workshops emphasized creating plays that show people with HIV how to keep healthy, not pass on their status to other people, and to protect themselves from other infections. The plays celebrate what people living with HIV could give back to their communities and families. This workshop also emphasized that the message did not have to overshadow the performance. The HIV awareness message did not have to dominate the

play to get itself across. The workshop was accompanied with Mwine's *Biro*, which provided a clear example of how that can be accomplished. This provided a road map for Mukwindidza to follow to develop a play that was waiting to come out. He rejected the ghosts of the HIV awareness theatre's dramaturgy in favor of different memories and ghosts.

Mukwindidza felt that the time had come for him to write the play that had been sitting in the back of his head after this workshop. The play, *Hypocrites*, is part of his effort to change the genre of HIV awareness plays that provided doom and gloom and an outlet for misogyny to develop. In his rejection of the memories associated with most of the HIV awareness plays, he used different memories in an attempt to call attention to the problems associated with the misogyny and pessimism of the genre.

Memory and memories saturate *Hypocrites*. The play's structure, characters, and how it hails the audience are all dependent on memory and Mukwindidza's memories of his grandmother and the mapira he attended in his childhood. The play uses these ghosts to draw attention to the crisis of HIV in Zimbabwe in relation to the overall crisis in Zimbabwe. Rather than lament the near death sentence, he wants people to think differently and look to different sources for living positively. The play is transgressive as it brings these ghosts in to address the urgency of the crisis and brings equal urgency to a call to action of panic theatre. This call is for help and awareness of the suffering to bring an ambulance to the scene. But without supplies and an end of stigmatization that the play calls for few if any solutions are available.

The play's structure depends on memory and haunting and uses flashbacks to emphasize the haunting. Jesca, the character whose memories provide access to the world of the play relates her journey from a young, abused child to being an HIV positive prostitute

and murderer to a respected *sahwira*¹⁶ through flashbacks. She also shows her memories of the beginnings and endings of her friendship with James, an embittered man who is struggling with his illness and the loss of his wife and children. James is only a memory or ghost throughout the play. “Now with James (she shakes her head) sometimes he could carry his antics too far! (she frowns) He died last month because of (pointing to the situation) this, poor treatment from everyone” (1). We are able to access his memories through Jesca’s flashbacks. We see James only through her memories and he is not that pleasant initially as she remembers their early acquaintance. The play uses their growing friendship to attempt to destroy notions of who is the typical HIV+ person, to move beyond the people in the posters. He is terribly angry, misogynistic, argumentative, and in need of reform as much as in need of antiretroviral medications.

James: Regretting all over again (laughs) It’s too late *vatove mubhavi* next stop *kumbudzi*.¹⁷ By the way how many have you killed so far?

Jesca: Kill?

James: Yes! (pause looking at her) or you prefer murder? You people are killers, *vakadzi matipedza*¹⁸ (Mukwindidza 2005b, 2).

It is through characters’ anger that the play calls for urgency and brings forth panic. James tears the HIV awareness posters off the walls of the clinic, because they are useless and a sign of hypocrisy. He argues that reading posters does not change people’s lives or behavior, “Are we not staying with people who are living positively, are they not seeing people with full blown AIDS walking the streets. People are dying daily. Are there not enough posters.

¹⁶ Ritual friend, joking friend. Explained in detail below.

¹⁷ *Vatove mubhavi*—we are already on the bus, next stop the goats. *Kumbudzi*- literally to or of goats. Trash, refuse, grave. He is referring to an actual bus line that runs down Masvingo Rd. There is a new city cemetery on this route at Ndimu Dondo B Beatrice Road. It forms the border on the eastern side of Highfield.

¹⁸ *Vakadzi matipedza*. “women you have finished us.”

Put that money to better use, mhani” (Mukwindidza 2005b, 3). Although Jesca is evenhanded and calm in her narration, it is in her memories of her life that her anger is expressed. Jesca, we learn, was sexually abused by more than one man from her neighborhood and family. She takes on a powerful rage as she narrates to James how she was raped by a minister who was supposed to be healing her after she starts to exhibit signs of HIV.

Jesca: This time, I wasn't going to let anyone take advantage of me or any other innocent girl, while I stood aside. I was unable to swallow the lump of anger in my throat. I was choking on it. What type of healing was that, caressing me from head to thighs, “chiri kutiza chinhu chacho!” Men make me sick.

James: There are good men out there.

Jesca: I picked a big stone and smashed the son of a...

James: You hurt him.

Jesca: I did more than that.

James: What?

Jesca: I crushed his head, until his head was a heap of jelly (Mukwindidza 2005b, 21).

Her anger cannot be contained and she strikes out verbally against James, but her anger as the narrator is in the past. Her anger is spent with the killing and her interactions with James.

James's memories by contrast have a strong sense of nostalgia. Even though he expresses anger at his wife and others in general, his memories of her and most of his past are bittersweet. The play uses his memories of rites of passage and other ceremonies to bring this aspect of his life to the stage. It does so through the use of songs and dance. These songs and dances associated with James's life and memories serve as bridges to his past and better days. The first such passage is James's wedding. The wedding scene in the flashback

is lavish. It attests to James and his wife's family's relative affluence and blessings given the couple, but it may also suggest that James has a strong sense of nostalgia for this time in his life. Memories are essentially abstractions created from a process that requires revision, substitution and forgetting. These memories are necessarily exaggerated so that James can justify his current bitterness—he needs a golden age to look back on and mystify (Roach 1996, 7).

This flashback to James and Winnie's wedding has a master of ceremonies directing the dances, songs, and gift giving. The emcee was played by the choreographer for the *Hypocrites*. He brought a strong physicality to his performance that created a sense of humor and playfulness to the flashback. The emcee also directs James's memories. He announces each song and group and provides commentary on the gifts and motives of the guests. This flashback provides a significant amount of background on the expectations of their two families. Each song and dance accompanies a faction or member of their family's participation in the gift giving. The emcee polices each group carefully and as any good jester or emcee at a roast draws attention to his own clowning as much as the gift given. The emcee's name also provides a bit of commentary on how this play and this scene are haunted by not only James and Jesca's memories but by the playwright's and audience's memories or expectations. The emcee is called Six Million. At the time this play was first written, Jingo had calculated that the rehearsal budget of the play for a month would be Z\$225,000,000.¹⁹ The audience could take pleasure from trying to remember when \$6 million seemed like a fortune so great that it was worth bragging about. His name, when contrasted with the dollar value amount of all of the gifts, provided further cognitive dissonance that might be produced

¹⁹ At the October 2005 exchange rate it would be just under US\$1200. Z\$6 million would have been at the same exchange rate, \$30.

by a nostalgic exchange of I remember when a coke was Z\$.25 to I remember when three eggs cost Z\$100,000,000,000.²⁰ The wedding flashback's overall celebratory tone is a marked contrast to the opening scene as we learn of James' illness and death. There are no fewer than 12 song and dance numbers that not only bring out James' memories but also provide the audience with an idealized model of what weddings were and could be. These are not simple flashbacks, Jesca is remembering and making material her memories of James telling her about his wedding. This doubled flashback/ghost brings out the strength of this *nhimbe*. The songs and dances that show this idealized model of a wedding/marriage in James' mind serve as part of the indirect speech like the whirlwind that some might connect to the prevailing political situation in Zimbabwe. So this nostalgia around the wedding could also be transferred to a nostalgia for a better time either in the past or a hoped for future.

Although James is angry with his wife, his memories of her embodied in the songs are adoring or teasing. The first song opens praising her beauty. The song is a common song greeting a bride at her wedding or in the preparations for her wedding. The song compares the bride to a rocket or missile.²¹

Chitundu Musere-Musere (x2)

Chitundu Musere-Musere!

Hecho Chauya!

Chitundu Musere-Musere!

*Chazouya!*²²

Chitundu Musere-Musere!

²⁰ I took this last figure from a blog about currency in Zimbabwe that was posted around October 25, 2008. It does not have sources listed or an author. I find it useful because it uses concrete examples to develop an idea as to how much inflation in Zimbabwe was impacting everyday life
<http://humorland.wordpress.com/20081025/what-the-real-crisis-is-like/>

²¹ This song was inspired by the Apollo 11 mission to the moon.

²² A rough translation of the lyrics of this song is She is a Rocket! Rocket! There she comes, She is a Rocket, rocket, there she has finally come. I do not have the skill in translating to keep the sense of the rhythms of the words. It is a highly metaphoric song.

Hecho Chauya!

Chitundu Musere-Musere!

Chiri pamwedzi

Chitundu Musere-Musere! (this stanza X2)

Hecho Chauya!

Chitundu Musere-Musere!

Chazouya! (Mukwindidza 2005b, 4)

Chitundu Musere-Musere, the word for rocket, comes from the word chitundu which refers to a strong young and (healthy) person. (Hannan S.J. 1987, 97). Musere refers to playful behavior or talk (Hannan S.J. 1987, 405). Mutsere, another variation for rocket, refers to a tall, fruit-bearing tree (Hannan S.J. 1987, 418). In the song, the bride's beauty has come from the moon or from out of this world. She might be tall and fruit bearing or she might be playful and healthy. All of these celebrate her beauty and to some extent her personality or potential. The repetition and reduplication in this song inspires an imaginative bridge that the bride and groom were meant to be with each other. That like the Apollo 11 Mission, it was inevitable that it would happen. *Chazouya!*, She, the rocket, has finally come to earth for the wedding.

Another song with the same combination of teasing and praise is a song about elopement that is actually typically sung at formal wedding celebrations about the bride.

Vaenda! Vaenda makamutarisa vaenda.

Vaenda! Vaenda nemvura chena-chena

Winnie vaenda, vaenda makumutarisa vaenda

*Winnie vaenda, vaenda nemvura chena-chena*²³

Vaenda! Vaenda makamutarisa vaenda.

²³This song repeats the phrase, They have gone! They have gone even as you look! Clear water has swept them away! They have gone! they have gone even as you look!. Va –could also be she as an honorific.

Vaenda! Vaenda nemvura chena-chena

Vaenda! Vaenda makamutarisa vaenda.

Vaenda! Vaenda nemvura chena-chena (Mukwindidza 2005b, 4).

This song's somewhat teasing tone encourages people to watch over the bride closely because she can be swept up and away by swift-moving white water.²⁴ This may have some connotations that the wedding and the role as a bride are fleeting and that she and others should enjoy the day. For the purposes of this play, it may suggest that, unlike the rocket bringing James and Winnie together that the river, a force of nature will pull them apart quickly (Zenenga 2009). James' knowledge and the audience's knowledge of what is to happen to the couple in the coming years are both sad and poignant.

Other songs and dances during this flashback directly tease both the bride and groom. The songs play at the boundaries of what is appropriate. The bride's aunt teases the groom by singing about the letters that she has burnt that the newly claimed groom has written her—as if she were a jilted lover. The bride's aunt subverts normative behaviors and ritual shyness to tease and cajole the groom—or alternatively to bring to life the fears and desires of the bride regarding previous suitors of her groom. The bride's brother sings a song teasing the groom that verges on vulgarity and violates some of the taboos about talking about sex in mixed company. Although being on the vulgar side, it still speaks in veiled language.

James Kovo

Kovo! Kovo yapedza huku

Mamhino fetu-fetu yenge khakhi ine statch

James iKovo

Kovo! Kovo yapedza huku

Mamhino fetu-fetu yenge khakhi ine statch (Mukwindidza 2005b, 7)

²⁴ Mvura chena-chena literally water that is white.

This song compares James to a kovo, a black-tailed mongoose.²⁵ In Shona folklore, this type of mongoose is very devious and traps domestic poultry by tricking them while lying on its back and displaying a “nut-like protrusion and any chicken that curiously pecks on it gets its head trapped and squeezed in the mongoose’s butt and is dragged away and eaten” (Zenenga 2009). The song implies that James has a particularly strong set of skills that include using deception to seduce young women, and like the mongoose he will finish up all of the women in the area. The strong imagery in this song includes the mongoose’s nose that will twitch or the mongoose itself will stand up, like a pair of khakis with too much starch, when it sees a chicken. This image is both funny for its own sake, but it is also thinly veiled language that crudely suggests that James is easily aroused in the company of women.

Some of the songs do not tease the couple, nor are they crude. The most serious of these songs gives advice for the bride on how to handle differences with her husband—from serious to mundane. The song suggests that love itself can provide the challenges to a relationship and cause the couple to worry.

James varara Seiko?

Mangwanani

Muromo yakaminyuka

Hezvoka izvo

Imhosva herudo

Miromo yakaminyuka

James varara Seiko?

Mangwanani

Muromo yakaminyuka

Hezvoka izvo

Imhosva herudo

²⁵ Kovo is a galerella sanguinea, which is a slender mongoose. It is also known as the Black Tailed Mongoose.

*Miromo yakaminyuka*²⁶ (Mukwindidza 2005b, 8).

It is a good morning song in which Winnie greets James formally but then asks why he is frowning or worried. This song is typical of a wedding reception and this change in tone to something more serious provides layers of ghosted memories for the audience to receive. Audience members can start from their own experiences and memories of other weddings and then follow how this is a nostalgic memory belonging to a character in the play that other than this day seems to have no remaining fond memories of the woman he married. James's memories of the good times have been actively forgotten by a bitter, sick and angry man who is also just a ghost of a memory in his friend's own memories. This reduplication and repetition of memories and forgetting again causes the weight of the simple courteous question of how James has slept to foreshadow (with this flashback of James' memories through Jesca it might get a bit complicated) what we know to be the couple's major issue. One can see through the layers of the scene that the lyrics of the song suggest that the frown or worry that an aunt sees on James' face ghosted on James' own face in the clinic or Jesca's after James' death.

The wedding is the most protracted and celebratory of the flashbacks, but the other flashbacks have important implications for how James and his memories haunt the play. Again, the audience accesses these flashbacks through ritual and the music and dances associated with *bira*. The songs of this series of flashbacks are more dirge-like and have a seriousness of purpose and tone wholly unlike the songs of the wedding. James's memories highly color this portion; he is angry and fatalistic. One of the rituals takes place just after his wife dies of AIDS. Both Winnie and James have hidden their status from their families

²⁶ The lyrics literally translated say "James, how did you sleep? It is early, what is the reason you are frowning? Is it because of love?"

and the families deal with James's grief and anger and the onset of his first symptoms in a traditional fashion. They bring him to a n'anga. The play argues that his family and most of the healers, both Christian and traditional ones, were hypocrites just trying to make money. The first n'anga, although powerful, decides she can't waste her time and dance for someone who already knows what is wrong and has no more money to pay her. It is only when they perform a dandanda healing ceremony and request that the spirits perform for their family without gifts that he finds emotional relief. The dandanda healing ceremonies call out to the ancestral spirits for help and counsel (Thram 1999, 6). The song is a lament asking for help. James, in his memories, is passive and only reluctantly participates in this ceremony.

Tovera mudzimu dzoka
Hiyawo hiye, mudzimu dzoka
Kwaziwai changamire
Tovera vana vanorwara ava
Hiyawo hiye, mudzimu dzoka
Kwaziwayi tovera

Tovera mudzimu dzoka
Hiyawo hiye, mudzimu dzoka
Kwaziwayi tovera
Tovera vana vachema ava
Hiyawo hiye, mudzimu dzoka
*Kwaziwai changamire*²⁷ (Mukwindidza 2005b, 16)

The dandanda ceremonies intend to bring the spirit world and the world of the living into harmony. The song asks for the revered ancestor to come and help the sick and comfort the children who are crying. The medium, sensing James's reluctance, tells him that he must

²⁷ Tovera, ancestral spirit come, we greet you (beseech you) O Lord (King or Sir), tovera your children are sick, repeats and varies with your children are crying. O Lord.

have respect for the spirits in order to have relief. This serves as James's turning point. He starts to come to the clinic in which he meets Jesca and starts to deal with the anger and despair. Emotionally, he begins to heal because of the dandanda.

Physically, there is no hope. The clinic, we learn from Jesca's own memories, is wholly inadequate. James and Jesca are unable to get ARV regularly from the clinic. Ironically, they are advised to look to traditional healers, foods and assistance, because there are no medicines available. The medical staff has coffee breaks and participate in HIV awareness theatre workshops, but cannot soothe the sick. We then learn in the final flashback how Jesca has received peace. She attends James's funeral in his rural home. It is in her participation in these rituals that she too achieves some relief from the pain of her childhood, abuse, and illness. As James's family buries him, they welcome her as a sahwira. As Mukwindidza argues, this is an important step for a family. A sahwira serves as pallbearer, truth-teller, and jester for a family. Mukwindidza states the selection of the sahwira is not taken lightly, "[she]²⁸ has taken my relative to the grave. [She] is then my sahwira. You don't take a sahwira from anywhere. [She] has to go with you first in the grave and then after that [she] can do whatever [she] wants to do because [she] achengeta amai [looked after my mother]" (J. J. Mukwindidza 2005d). In the welcoming song of the funeral, the funeral attendees bring leaves and branches onto the stage. The greenery from the many dancers and the way in which they brought it on stage makes it feel full of life. Jesca's presence and role in the funeral gives her life too.²⁹ Jesca finds a home with his family and feels like she can benefit from the love given her and James that his family has performed in

²⁸ I have replaced the pronoun he with she in this passage to make the quote fit the play more closely. The question that Mukwindidza was answering was what is the role of the sahwira. He was answering as if his family's sahwira was a man. I do not know if that is true for him.

²⁹ This practice is common in Mutoko where Mukwindidza is from. The choreographer said that they did not change this dance from what he was shown by the dancer from Mutoko.

his burial ceremony. Although, it is not clear if she will survive her HIV status, she is healed through the process of becoming a *sahwira*. This final scene is linked to the opening scene through the burial/healing song

Oh! My Lord! Oh! My Lord!

Oh! My Lord! Oh! My Lord!

Oh! My Lord!

Save your children

Save your children my lord

Oh! My Lord! (Mukwindidza 2005b, 1)

She does not sing this song in the last scene but in the first, as she tells us that James has died. However, it is a song that should be sung at a funeral or a healing ceremony—linking the clinic to the grave. This brings the play to an end but links the present with the past. It intends to leave the audience uncomfortable about the future, but it has some hope for Jesca—she is also healed emotionally and is socially integrated into a family that cares about her—although she no longer has James, she has his family. The play confronts stigmatization and says through the *nhimbe* that Zimbabweans should function as a community and in doing so will help counter the spread of HIV indirectly.

As a *nhimbe*, this play says to look to traditional structures for unconventional solutions and support. *Hypocrites* also accuses the medical establishment (both bio-medical and alternative) of not meeting the needs of the community through the aesthetic of the *nhimbe*. As panic theatre, it wants people to see the inadequacies of current responses to the HIV crisis and to look beyond the medical delivery systems for solutions and to think about HIV+ people as more than patients and victims. At least one audience member wanted his friends with HIV to see the play (Chigayo 2005). He felt that the play had something for them as well as for people who did not know how to help their friends and relatives.

But because of the aftermath of Operation Murambatsvina, the play did not have an opportunity to reach audiences. The barriers it provided to reaching an audience were just one part of the equation. Vuka Afrika had its own share of difficulties. It attempted to employ more than 20 different actors, singers and dancers. The production was fairly top-heavy as a result and had a hard time keeping that many people coming to rehearsals. It had its artists in rehearsal from 9-5 starting in the end of August through late September. Most actors wanted and needed the steady work, but they often would come late or stay away altogether, trying to earn money or standing in a queue for food, fuel, water, firewood, and tellingly at the passport office, as more and more people were seeking relief outside Zimbabwe's borders. In the meantime, Vuka Afrika and Mukwindidza were desperate to keep their promises to the actors for salary and steady work. Most were working solely for transportation money during its rehearsals³⁰. Many worried that the performance would be too long for most people to enjoy. In fact this fear was definitely a reality. It bordered on nearly two hours long; most Zimbabwean audiences find this unacceptable in a play.³¹

It was also fairly dependent on the old model of getting NGO funding and logistical support for reaching audiences. Despite having all of the dances and music, it wasn't attracting the music and dance audiences that frequently come to Zimbabwe Hall on the weekends and later evenings. In mid-October, it was looking for backers and had a preview/launch for NGOs and the Health Ministry, and quite a few foreign missions. Mukwindidza sent out many invitations to these groups. Fabian Chigayo, who was chairman of the District AIDS Action Committee, was quite excited when he saw the invitation but

³⁰ I paid much of the daily transportation costs myself or gave them video tapes and other items to sell. One actor was trying to sell her crocheted items to support some of the company's daily costs. Some days the women who worked at the print shop would cook lunch for the actors if they were given mealie meal to do so.

³¹ Most plays I saw at TITP were just over or under an hour. This has become even more true as they have instituted a lunch hour performance.

wasn't sure what to expect, However, he passed on the invitation to nurses and people with AIDS that his group serves. After the preview, many of the different groups were formally asked to help sponsor it. A few said that they would consider sponsoring partial performances to Vuka Afrika, so if Mukwindidza could get the various NGOs together, he might be able to do performance. One committed to a performance in December at a theatre festival on World AIDS Day. Most of the donors present were taken aback by the large cast. Chigayo wanted *Hypocrites* to be performed in schools, where he imagined that the audiences would be quite appreciative, but lamented that no one from the Health Ministry or the Education Ministry was present. He also felt strongly that it should be turned into a film so that it could reach a larger audience, like the soaps and Nollywood videos.

Jingo James Mukwindidza and his group Vuka Afrika are fairly illustrative of how the crises of Zimbabwe (political, economic, and public health) serve as both an obstacle and creative force. The use of memory, time, and haunting create a distinct dramaturgy that was becoming panic theatre. His work is haunted by memory and better times that he is unable to forget and wants to recreate. Like Jesca, Vuka Afrika wants to find solutions to current difficulties through traditional practices. Mukwindidza hopes to be able to show that unconventional solutions to problems lie in traditional forms. He strives to write plays that are *nhimbe*—something that can be enjoyed by some and make others uncomfortable. He wants to live up to past storytellers and serve as a *sahwira* to a Zimbabwean theatre that has accompanied too many to the grave made by HIV. Yet the OM and its accompanying crises haunt the group's efforts to find an audience for these two plays. The lack of audience haunted our rehearsals, making me wonder at what point our rehearsals might be a symbolic performance of waste.

In the following chapter I look at Edzai Isu, another group that is based in Highfield. It uses fluidity of time, mediums, and ritual to create a satire that navigates the crisis of the burning house of Zimbabwe during the Operation Murambatsvina. It is haunted by space, history, and the crisis in similar ways that clearly link *All Systems Out of Order* to Vuka Afrika's work. It uses a character that surveils the public toilet and brings forth judgment on wrongdoers. It does so in much of the same fashion as the *nhimbe* that Mukwindidza wants to serve as his model for the type of play necessary for Zimbabwe today.

Chapter 4: Remember Me, O Lord: *All Systems Out of Order*, Haunting and Panic Theatre

What about a toilet? Isn't a toilet a basic right? How many people would be willing to admit that it is relaxing to relieve oneself while sitting on the chamber. I find it quite relaxing to be sitting on the chamber...No one can do without a toilet, but you can deal without fuel or electricity (Muzondo, Interview 2005e).

In the last chapter, I explored how the idea of a *nhimbe*, a worksong for communal working parties, can be used as a model for panic theatre to negotiate a crisis or draw attention to a transgression. I wish to continue to use the *nhimbe* as a model by looking at Edzai Isu's *All Systems Out of Order*. I first saw *All Systems Out of Order* when it was a Rooftop Theatre Production for Theatre in the Park directed by Stanley Mambo. It was the weekend just after I arrived in the country and I was quite impressed with the production, its style of acting, and its reception. It seemed custom-made for my research. It opened with a *n'anga* or medium conducting a bone-throwing ritual¹ and hailed the audience with this ritual, requiring them to remember the past of Zimbabwe as Zimbabwe's crisis-ridden present was being diagnosed. Its invocation of the ancestors and visions for the future were appealing to me because I had come to Zimbabwe with a hypothesis that theatre that used past performance forms mixed with contemporary theatre and TfD would be particularly appealing and effective. Here was hard and fast evidence that this "hybrid" theatre existed

¹ A *n'anga* (health practitioner) or possibly *svikiro* will throw bones in order to help diagnose an illness or problem.

and was thriving. It also fits into how panic theatre uses the past to haunt or ghost the present.

All Systems Out Of Order used images of Zimbabwe's pre-colonial past up through post-independence in the first few minutes of the play. The whole of Zimbabwe as a nation was contained in a public toilet. Using a very physical acting style and costumes, it activated people's memories of the past and of the present. Images of the Second *Chimurenga* haunt the production. At the same time this performance and subsequent productions of it owed much of its popularity to the ongoing crisis in Zimbabwe of which the Operation Murambatsvina was part. The manifestations of the Third *Chimurenga* in turn haunt the following two productions or incarnations of this performance and my memories of the three. In the second chapter, I discuss how the state calls the current land takeovers and now OM as the third *Chimurenga*. The state uses this name to establish legitimacy for these violations of the rule of law. It hopes that people will accept its version and histories of the time rather than their own experiences of state repression.

I started to work with Edzai Isu, the theatre company that created and produced *All Systems Out of Order*, during the first month of the OM. For the first performance that I attended as a researcher, I met the group at Zimbabwe Hall and walked with some of them to a community center that served as a daycare. We had to detour twice as we ran into police knocking down people's homes and walked by many other homes that had been previously burnt or bulldozed. Because of the proximity of the police, I do not have photos of my walk, despite my strong desire to document the destruction and horror I felt. On our way out of Harare to the performance site at a nearby rural mission, our mini-van (khombi) again had to detour as we saw a crowd gathered around police in riot gear—we did not want to be stopped

with me in the car with a video camera and other recording devices. We were uncertain if the crowd would clash with the police or if they were just there en masse to serve as an audience to the police's performance of waste.

Edzai Isu in Shona means try us. Edzai Isu, the theatre group or club that created *All Systems Out of Order*, is a workplace theatre run by Tafadzwa Muzondo and his wife, Shillah Chipamuriwo. Both are actors and appear together in many of their productions. Muzondo writes and directs the plays. Chipamuriwo is basically the managing director—she arranges the venues, tours, and economic side of the club. *All Systems* is their first artistic play or conventional play. Edzai Isu primarily does workplace safety and HIV awareness plays for companies and workplaces. They also tied worker's rights into many of their productions that were commissioned in the five years previous to *All Systems*. Both have fairly nonformal theatre training through Reps and their high school theatre programs, and a few workshops from various agencies. They view themselves as theatre workers and business professionals who have “respect for the field of theatre without which life can never be lively” on a mission “to produce and/or promote communicative and objective masterpieces of theatre which entertain as much as they inform and educate” (Muzondo 2005d).

All Systems Out of Order

My analysis of the play will discuss movement, costuming, characters, music, language and voice from both the script and video. All direct quotations come from the script. Detailed descriptions of movement, costume or voice will come from the video but may use stage directions from the script. I will use the video to fill in some of the audience's reaction—however, the reasons for the reaction will be my own conclusions rather than from audience members' input for the most part.

As stated earlier, the play's opening invocation of the spirits of Zimbabwe uses a bone-throwing ceremony in which the *svikiro* or medium enters the vision or reflection presented by the bones. The *svikiro*, or Ancient Man as the play identifies him, is accompanied by two *mbira* players. Their music assists the *svikiro* in reaching out to the ancestors. He reacts negatively to what he sees. In the script, while in the reflection the medium needs to relieve himself, but is interrupted by the sound of gunfire and the coming of the Europeans (Muzondo 2005a). The University of Zimbabwe production, which Muzondo directed, differs slightly. The Modern Man (European, black elite) interrupts him before he can relieve himself and holds the gun and drives the *mbira* players off stage, leaving the Ancient Man to negotiate with him regarding how to build the toilet. As the Ancient Man starts to disagree, the Modern Man points the gun at him. The scene then continues into the modern era when the "Modern Man,"² wearing a white cowboy hat, forcibly takes over and starts making plans for a flush toilet. As the scene continues the toilet stands for both the colonial history of Zimbabwe and the establishment of the post-independence nation of Zimbabwe. As the flush toilet is completed in an independence ceremony, the new police state/system begins. The modern man takes his place as the toilet cleaner; the ancient man takes on the role of ordinary man. The whole opening scene or movement³ is done largely without words and these transformations take place with the use of pantomime, costume changes, and quick and dirty (emphasis on dirty) scene changes or transitions. The *mbira* music is replaced by whistling, an officious-sounding march, a lament and finally, barking

² The script calls for the Modern Man to be wearing traditional headgear too. In the video of the production at UZ he is wearing a white (or at least a light colored) cowboy hat. My analysis will include the script, the video from the UZ production, photos from the Chishawasha production, and other supporting materials that Muzondo provided me. My later discussion of the TITP production is largely from my memory—any errors or inconsistencies come from the nature of memory and jetlag.

³ The first movement in the play is divided into three scenes. These scenes can be divided into the pre-colonial, colonial, and post-independence.

and yipping. It mixes time and space as it hails the audience into a relationship with the public facilities and the current situation in Zimbabwe. The toilet is the scene for the first, second and now third *Chimurenga*.

Although it is part of the opening movement, Scene 3 bears some discussion of its own. The third portion of this movement introduces all of the characters that come to represent Zimbabwe's post-independence. The ToiletCleaner is central to the idea that the toilet has become dirty and lost its opening luster of independence. The elite authority makes deals over arms, foreign currency, grain and fuel. The YoungMan and WoMan sell basic commodities, cell phones and sex. The Ancient Man cum OrdinaryMan proves worthy of attention as he photographs all that happens at the public toilet. This portion of the movement is accompanied by *makwaya* music praising the toilet and how everyone young and old can use it well. However as the scene gets "dirtier," barking and laughter nearly drown out the *makwaya* song.

This haunting continues into the beginning of the primary conflict in the play. The ToiletCleaner, frustrated with his unending job, decides to stop cleaning the facilities and in order to keep it tidy he must limit access to the toilet. Each scene or movement (a pair of scenes) sets up this same triangular conflict.

Muzondo, the actor, is on stage throughout the production. He starts out as the ancient man and is transformed into the OrdinaryMan, who is both a photojournalist and a war veteran, and he is pitted against the ToiletCleaner, who in the initial scene is also the Modern Man who interrupts and possibly inhabits the ancient man's vision. As the play progresses their rivalry becomes comic.

OM: The gents toilet is "**Out Of Order**" just like this community, just like this bloody community, it's "**All Systems Out of Order**" (Laughs out deliberately not

having noticed an ordinary man who has just entered hurriedly towards the gents toilet only to find it written “Out Of Order.” The Ordinary Man twists his face and holds his tummy at this coinciding with the TC’s laughter (3, emphasis in script)

TC: (laughing) Do not be surprised eh by the way he is a war veterinary I mean war vegetarian oh shit a war veteran, he? (laughs)

OM: O veteran (TC surprised) Original veteran. (5)

The OrdinaryMan with the invocation of being an original child of the soil (mwanawevhu) becomes the voice of the people and the spirit of liberation that was lost with the installation of the toilet cleaner. However, he is not able to access the toilets and is arrested by the police on trumped-up charges. At this point the OM, as he is referred to in the text, assumes the role of the trickster and disguises himself as the blind beggar who continues to observe the corruption of the public toilet and the ToiletCleaner, the whole time singing the song that becomes his signature, “Remember Me, O Lord.” This song is highly important in the processes of ghosting and surrogation. It is a common lament heard on the streets of Harare by real beggars, it is also a lament heard in prayers of ordinary people. The song’s repetition calls for the help of the Mighty God at the same time that the Ordinary Man is attempting to expose for himself the corruption of the world of the toilet. Its reiteration is also a large part of the Ordinary Man’s disguise. The ghosting of the begging class empowers the Ordinary Man to witness with impunity the corruption of the toilet.

The Toilet Cleaner is similarly ghosted and serves as a surrogate for the state. With his opening speech inaugurating the public toilet, ToiletCleaner comes to be seen as Mugabe, or at the very least the old guard of ZANU-PF

TC: This is a public toilet for everyone from all walks which is here for your decent service free of charge and I commit myself to keeping it clean so that it serves the deserving public. Gone shall be the days of bush toilets and blair toilets. It’s now the public systematic toilet where we can flash[sic] our waste and dispose it in a manner

that is healthy, orderly and efficient. I believe that the toilet is a basic human right as I officially declare this Public Toilet Open (2)

With this speech the Toilet Cleaner echoes Mugabe's favorite scapegoats. In scene 3, the OM accuses him of being too old and says that he should retire for the good of the people in the queue as the TC successfully prevents the pressed from accessing the public toilet. The TC defiantly asks "retire? (laughs) You want me to retire with nothing after all the years of cleaning your shit here" (4).

All Systems' characters, like Allen's communal voice in panic poetry (Allen 2006, 130), are archetypes and serve as icons for the communal voice of Zimbabwe. These iconic characters move back and forth to destabilize the audience's identification.

Yet this characterization and haunting are unstable or slippery. As the Ordinary Man channels the spirits of the *Chimurenga*—much of what he says could be as full of propaganda as truth, "For the record we were not kicked out of that colonial club which ties us to a world market over which we have no say. There is nothing common between our wealth and that our former colonizers so we withdrew for the sake of our economic independence which is in the land." (5) As scene 5 continues the role of the Ordinary Man becomes the more militant and the Toilet Cleaner seems to be the voice of reason

T.C.: Okay then *handiti* the rains are falling? We want to see you fill the granaries. *Ehe tinoda kuona muchiazadza matura...*

O.M.: We are very much capable of feeding the nation because we have always played with the soil *he?* (**He dances to a farming song/jingle**) which we obtained by the blood of dedicated sons and daughters of the soil. (**He jumps up in reflection mimicking a rifle and firing, he is now highly charged**) And then some of you want to reverse the gains of our struggle. The struggle for liberation in this...*hiii* if anybody attempts that he will never ever succeed...*hiii*. (5)

The trickster has switched places and the Ordinary Man seems more like a war veteran of the third *Chimurenga* than a *mwanawevhu* of the second, but again he returns to being an ordinary man as his bowels rebel against him. This slippery haunting of the two characters by Mugabe and the war veterans of all sorts is part of panic theatre. This is not sloppy writing or dramaturgy. It demonstrates to its audience that they also have to be careful how they identify and move through the panic. The familiar might be trustworthy, but proceed carefully.

As one starts to look at the other characters and relationships in the performance one continues to see this slipperiness. Each of the scenes following, or sometimes paired with another, pits its characters in a triangular conflict over the services and resources of the public toilet. In the scene Money Buy Love, this corruption is expressed cooperatively by all on stage. The four actors perform an elaborate dance synchronized on stage as the GM brings the WoMan to the public toilet and pays the TC to use the toilet to have sex with her. The sex act becomes one of the most funny and theatrical of all of the 16 scenes. All four actors' movements are synchronized and anchored by the blind beggar's song "Remember Me, O' Lord." The blind beggar uses the coins in his bowl percussively as he chants out "remember me" faster and faster. The GM and WM dance suggestively and the TC wraps his hands around his torso or alternatively grabs his tools as each character moves to the climax of the sex act.

Although the trickster/beggar was successful in exposing the corruption as the play reaches its own climax, the TC is not willing to give up his position without a fight. The opening scene and ritual is invoked as the OM and TC battle it out wearing feathered

headdresses and traditional weaponry.⁴ The police assist the OM rather than the TC and he is finally able to relieve his pressing state. However, the final words of the play are spoken by the policeman:

P.M: Well that could be theft by false pretence but the major case here is the mismanagement of this public toilet. I am a law enforcing agent. I am employed to uphold dearly the sovereignty of this community and to jealously guard the rights of all its people... I think people have a right to use this toilet without prejudice... (Muzondo 2005a, 13).

Although these words leave a feeling that the toilet has been restored and the corruption has been removed, they create doubts that the problem has been corrected.

Three productions

I saw three different productions of this play. Each production was haunted by the stages and locations that they were performed in. Also each stage facilitated various ghostings of the crisis as it shaped the performance and audience expectations. It demonstrates that memories and ghosts can be connected to place as well as an event.

Theatre in the Park

The first venue for this production was the Harare Gardens Theatre in the Park. I have quite a bit of my own memories associated with the garden. Harare Gardens is a public space that has been host to multiple festivals and art. It is a public green and commons. Many people who work in the central business district come to have lunch or to sit admiring the greenery or people watching. However, it is a colonial space as well and has markers of its colonial heritage. There is a memorial to Rhodesian soldiers who fought in World War I

⁴ This is a point that changes between the performances. In the script and the Chishawasha performances both have feathered headdresses for both the OrdinaryMan and the Toilet Cleaner. In UZ's production neither have the opening scene's headdresses.

in the gardens. Although the Gardens were at one time segregated, the National Gallery from its very beginning was a space that exhibited and fostered both white and black artists. So the colonial memories of this place are conflicted. It is also a place where one is told to watch your belongings carefully and in recent times not to bring valuables. Pickpocketing can be common, but it is quite risky for the pickpocket. If an alarm is raised, people are quick to stop a thief and in some cases, cause severe bodily harm. Sounding the alarm must be done carefully in this space because of its public nature. This forum in many ways is a powerful location for panic theatre to thrive.

Zenenga points out that Theatre in the Park, because it is in the Harare Gardens, shares its stage with the Book Fair, HIFA and others (Zenenga June 2005, 240). TITP occupies a grass-thatched structure that was considered a temporary performance space for the Book Fair when it was constructed. The Book Fair's offices are nearby as well as the National Art Gallery and the Sculpture Garden. Theatre in the Park took over the space in 1996, but still shares the space with parkgoers and the majority of the festivals. Although it can be configured in an arena staging—most of the plays I have seen use it as $\frac{3}{4}$ staging. Each of these facts contributes to the haunting or ghosting of the TITP's production of *All Systems Out of Order*.

[T]heater spaces, like dramatic texts and acting bodies, are deeply involved with the preservation and configurations of cultural memory, and so they also are almost invariably haunted in one way or another, and this haunting of the space of performance makes its own important contribution to the overall reception of the dramatic event (Carlson 2003, 131-2).

Zenenga argues that this performance space's location in Harare's city center makes it not only more accessible geographically to a larger audience—it is symbolically accessible—because it is not in what was formerly the white suburbs. Because it is in the city center

rather than the former white suburbs many of the associations⁵ that the Reps and Seven Arts experience are largely absent. Also for a more affluent audience, it is also considered more accessible because it is not in the townships or beer halls. It therefore becomes more accessible to a variety of theatre groups and their various target audiences and as such is the busiest performance space in Harare. TITP produces 14-17 performances per year. In addition it is used for both the Book Fair and Harare International Festival of the Arts performances and events. Because it is a relatively more neutral performance space more and more actresses can perform there without some of the stigma associated with the township halls and beer gardens.

This space and its other uses haunt the reception of *All Systems* in a variety of ways. Past performances of other groups inhabit the space. Performances from the Book Fair, HIFA and other TITP productions bring their own associations with the space. Audiences come to expect a certain type of theatre and quality in this space. The thatched round performance space brings into play cultural memory as ghosting of the rural homesteads of many of the viewers. Furthermore, in a process called site sacralization, a space can be vested with a sort of celebrity or “fame...so deeply implanted in the consciousness of a culture that individuals in that culture, actually encountering them for the first time, inevitably find that experience already haunted by the cultural construction of these...spaces.” (Carlson 2003 135) To continue this argument I wish to note Diane Thram’s very cogent discussion of the transformation of performance spaces associated with rain

⁵ Audiences and theatre groups have the impression that the Reps does not welcome blacks. Although to some extent this is exaggerated—Rep teens is a strong theatre arts education program that the majority of students are black—it is not unfounded. Many of the productions are very much from the British tradition. Also the members-only club that the theatre is part of is primarily white. To get a bite to eat or drink before the play or after requires membership. Prominent members’ portraits are placed throughout the theatre lobby—all are white.

rituals, *mapira* and then into secular dance performances. Theatre in the Park's thatched enclosure recreates the circular space of the *bira*, the kitchens of the kumusha, which is both mundane and sacred. It is the space where meals are prepared, grain, water and beer are stored, and rituals to call out the ancestral spirits are conducted.

The kitchen huts used for *bira* have the same circular shape as the shrine enclosure, but the tree that has become the altar of the rushanga is replaced by the pot shelf (*rukova*) located directly across from the entrance. The *rukova*, a symbol of fertility because of its use as the storage place for the life sustaining water and grain, now serves as the altar at which the beer is consecrated and the offerings to the spirits are made. The people sing and dance to call the spirits facing the *rukova* and therefore the mediums and drummers who sit in front of *rukova*, in the same way as the people face the tree and the mediums and the drummers who sit in front of the tree at the Chipwa. ... [In secular performances] the performers face the drummers and audience rather than the drummers, mediums and the *rukova* or *muhacha* tree. The dancer's communications is directed at the audience rather than the spirits...The audience...are seated beyond the drummers thus in the position of the tree and the *rukova* inside the kitchen huts of *biras*...It is now the communication between the dancers and their audience that completes the circle (Thram 1999, 102-3).

STRUCTURE OF PHYSICAL SPACE

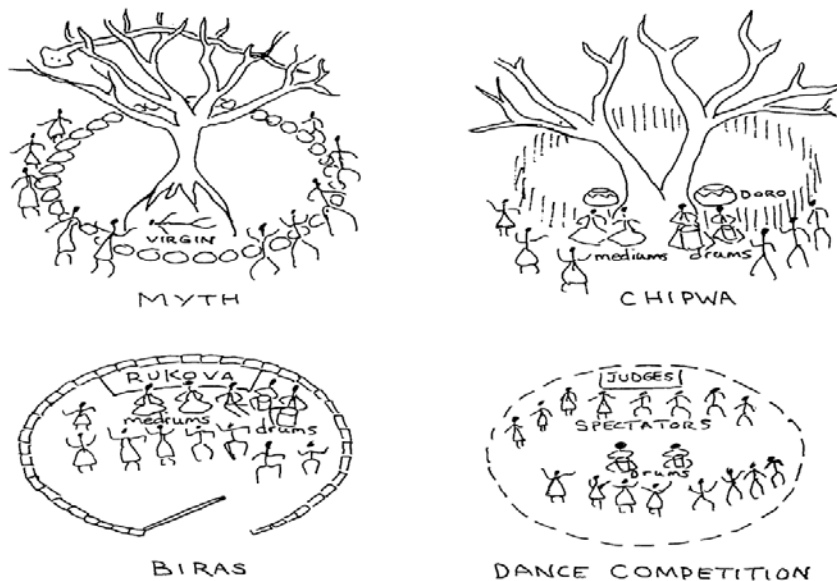


Fig. 3.1 Myth: Virgin is sacrificed beneath the roots of the tree growing out of the ant heap.
 Chipwa: Tree becomes the altar where the *doro* (ritual beer) is offered to the ancestral spirits.
Biras: *Rukova* (pot shelf) inside the kitchen hut becomes the altar where the *doro* is offered to the ancestral spirits.
 Dance Competition: Audience (judges and spectators) becomes the altar to whom the performance is directed.

Figure 6 Structure of Physical Space by Diane Thram. Used with permission. (Thram 1999, 104)

The kitchens of the kumusha haunt *All Systems Out of Order*'s bone-throwing ritual and make it particularly powerful. The $\frac{3}{4}$ staging used has a very similar architecture to the kitchens used by *svikiro* and the performers associated with the *bira* to begin their healing trances or to bring ancestors out. Additionally, one can feel the haunting of storytelling performances from an imagined past taking place here. These *bira* performances haunt this temporary structure and make this mundane space sacred (Carlson 2003, 136) in the opening scene as the bones show the audience their vision through the actions of the ancient man. Yet I would argue that rather than the audience taking the place of the altar, the performers are at the place of the altar at Theatre in the Park and for this performance of *All Systems Out of Order*. This difference between Thram's dance contest and the theatrical performance just emphasizes the fluidity between performer and spectator in these contexts. During a *bira* who is performing and who is the audience changes throughout the ritual. The *svikiro* and

the ancestors are the audience of the dancers until the particular ancestral spirit comes out in the body of the medium (*svikiro*). Once the medium is possessed they (*svikiro* and the ancestor) perform for the dancers and drummers—the medium’s body takes on a new posture and stature and her voice changes representing the presence of the ancestor. The medium then performs stories and gives advice that provides comfort and wisdom to the dancers. The *svikiro*’s possession is the center of the entire performance, the dancers/audience are the frame for this performance. This haunting of the *bira* over the space does provide some fluidity between performer and spectator but not to the same extent for theatre as for the dancers.

TITP’s location also provides the scene of a more mundane haunting. The toilet in Harare Gardens near TITP haunts *All Systems Out of Order* in a very literal fashion. One does not need to take a great leap of imagination to envision the toilet that the simple backdrops represent. It is only a short distance from where the audience is sitting and they will have to use it if they need the facilities. It is important to note that part of the expenses for Rooftop to produce plays at TITP is the daily maintenance of the toilets (Zenenga June 2005). This public toilet is also near a relatively major taxi rank.

Chishawasha Mission

The other two performance spaces also haunted the production to some extent, although not as completely. The second performance I attended was at the Italian NGO COSV Sustained Dialogue Youth Conference at the Chishawasha Mission in June 2005 roughly eight months after I first saw the Theatre in the Park production. This conference was co-sponsored by Amani Trust. It was one of a series of retreats sponsored by these two groups to discuss unemployment, HIV/AIDS, the role of youth in nation-building, political tolerance, and delivery of public services. The conference encouraged the youth to develop

skills in community building and negotiating differences. Each retreat would have a performance that was geared to the subject of the dialogue (Nemeroff nd).

The grounds of the mission were beautifully maintained and serene, a strange counterpoint after our journey to the Mission. On the way there, we drove through the remains of several neighborhoods that were now just rubble and smoldering ruins after more than a month of Operation Murambatsvina. It was a welcome respite for most of us.

Sisters help with the administration, practical work and motherly care of both the students and the staff. They are assisted by a team of young men and women from the neighbourhood, who care for the garden, kitchen, laundry, cleaning and maintenance. We also have two secretaries and a library assistant. All these wonderful people ensure that our campus is beautiful, filled with trees and flowers, a delight to all who visit. The campus backs onto a hillside, which makes it cool in the hot weather, but can be very cold in the dry season from May to September. It is a place of meditation and reflection (Bex 2006).

Yet the feeling of serenity had an oddness to it that permeated the performance.

Chishawasha, itself, has a mixed history. Those who went to mission schools may have felt some of the ghosts of nuns and teachers lecturing in the space. The audience was captive—Edzai Isu was their entertainment before dinner. So as much as the students at the mission were regulated, so was our audience.

Edzai Isu with the help of Rooftop had performed at the Zambian National Theatre Festival and while there had received some awards. Some of the actors were unavailable at the time of the festival because of other obligations and had been replaced. The organizers of the conference wanted the original cast for the performance, so the cast was back together. Most of them had started or were busy with other projects, notably *Conquered Plans*. So it was only a brief reunion—the cast did only minimal rehearsing prior to this performance. In

many ways it was to be a revival. The TITP production haunted the production both with its cast and its direction. But the success of the Zambian National Theatre Festival was present too. So they intended to change the staging as little as possible.

The room they performed in at the mission brought home Brook's comments regarding the will to perform before an audience in any space in the *Empty Space* (1968) to fulfill a "hunger for the missing things in life." We were in a long narrow room better fitted for a lecture than a performance but the audience was as eager as the performers to see *All Systems Out of Order*. The classroom in which Edzai Isu performed was a very difficult space to use. It had three doors and windows all along the sides. It also had only one bank of lights. But one similarity with TITP was surprisingly present. Because of the space and limited entrances and lighting, the audience was therefore not separated from the performers. The room had been used during one of the conference sessions prior to our arrival and the room was set up for a small group session with a white board. We had to quickly work out how to set up the stage and achieve the effects of the second and third scenes that call for the most effects and changes to the set. I was enlisted to help with some of the stage effects so I was no longer just a researcher and there to document the performance for my research, but was there as a temporary member of the company. We had just enough time to do a run through in the space. As a result of me working this performance, I have fewer memories of

the audience and no video. My memory and a few photos of the performance are all that I



managed.

Figure 7 All Systems Out of Order at Chishawasha Mission. Photo J Wrolson

The space and its ghosting of the performance and the audience’s possible reception of it was most noticeable in scenes 2 and 3. As the second scene begins, the scenery changes with the installation of the toilet. As the public toilet comes closer to completion the music transforms from a *mbira* song to a song that is officious and bears resemblance to “Pomp and Circumstance.” As the Modern Man becomes the Toilet Cleaner by putting on his own badge, “the toilet signs are officially raised from the ground in a magical flag style using invisible twine as an official sound plays. When the signs reach the appropriate level the TC signals stop as he delivers his official opening speech” (Muzondo 2005a, 2). Although the

script wants this to happen in a magical manner, we had trouble creating the magic and Shillah and I struggled to get the signs to the right height and keep them in place. The twine was far from invisible and the audience could see us easily to either side through the windows.

Again this scene like the opening scene at the TITP production has a different resonance because of the ghosting of what the space is primarily used for. It was on the Chishawasha Catholic Mission, a significant site in Zimbabwe's colonial history. This mission was first established in 1892 on a large farm by a Jesuit priest (Chishawasha-Wikipedia 2008). Its founder was heavily involved in the settling of the area around Ft Salisbury and even had a role in providing counseling to Nehanda and Kaguvi after they were sentenced to death for the murder of a colonial official in the first *Chimurenga*. During the first *Chimurenga*, the area around Chishawasha was devastated and many of the people who lived near the mission became fairly dependent on it. It provided food, employment and initially a religious-based education. It was one of the earliest contributors to the creation of the black elite (Correira 1997). Missions and mission schools were an important part of the colonial state because they assisted in removing people from their past cultural and economic practices and because they helped "domesticate" the black population in much the same way as the Ancient Man is coerced into becoming the Ordinary Man and is shown how to use the toilet. But the mission also has a place in the history of Zimbabwe's independence movements. Its seminary first ordained two black priests Father Isidore Chikore and Father Simon Tsuru, in 1947,

In those days, many of the guests were European, as well as some Africans, and their children were amazed to see their parents kneeling before the new priests and kissing their anointed, priestly hands. They also attended their first

Masses, receiving the Eucharist from their hands. A first, and invaluable lesson, in inculturation (Bex 2006).

So through its seminary it was preparing the white population for being a part of a new country under majority rule. So this space brings many different sorts of ghosts to scene 2. Its ghosts domesticated or “toilet-trained” the ordinary man, but also made possible Mugabe’s rise to power⁶. Through the conference, it provided a place for political tolerance and a means for youth to see a different means to disagree with each other.. This close linkage to the first two *Chimurenga(s)*⁷ gave extra weight to the power of these two scenes. And the final scene and the battle were particularly appreciated by the audience.

Beit Hall at the University of Zimbabwe

The final performance of *All Systems* that I saw was in the last couple of weeks that I was in Zimbabwe. The department of theatre arts requested that it be performed for its students. By this time the cast was essentially brand new. Muzondo and Ndlovu remained from the original cast; the other parts were replaced with a former student and a graduate instructor from the department. The economic situation had gotten exceedingly worse. Zimbabwe was just a few short weeks away from the senatorial elections that everyone knew were a sham and had caused a split in the opposition party over whether they should even bother to participate. Operation Murambatsvina had become Operation Garikai (Rebuilding and Reconstruction) in name, but the government had done absolutely no rebuilding. And amazingly enough, theatre groups like Edzai Isu were still performing and planning. They continued planning and rehearsing and on rare occasions such as this performing. They did this because to do otherwise was to give up. Giving up would

⁶ Mugabe was educated at another mission nearby.

⁷ The true Shona plural is *zvimurenga*.

have been as Kajotoko also states saving their necks by cutting their throats. They were living off of memories of past successes to sustain the present struggle.

The play about a rundown toilet controlled by a corrupt civil servant could not have found a more apropos venue than Beit Hall. Students frequently had to deal with dormitory toilets that could not be fixed and were permanently out of order. The once-beautiful campus and theatre were long past their prime. The stage had holes in it, the lighting board could only control very few instruments, the nearby toilet, although it was functioning, had not been cleaned or stocked with toilet paper and the sinks no longer functioned so there wasn't a means to wash your hands. This satire was definitely an imitation of life. Additionally, the stage had been built and designed in the 1950s—with white, western theatre in mind.

Yet this stage was also home to Zambuko/Izibuko in the 1980s and early 1990s. This group was founded by Robert McLaren, who also later helped form the theatre department. Its plays used the *pungwe* structure and were greatly influenced by the Kamiriithu Cultural Center theatre group. After the Ngugis and Mugo were exiled they came to Zimbabwe. For a short time all three were on the faculty in Zimbabwe. They worked with McLaren and Zambuko/Izibuko extensively.⁸ This group, although no longer performing or associated with the University of Zimbabwe or the theatre department, continues to haunt the curricula of the department and the style of original productions coming from within the department. Many people from outside of the University are unaware that McLaren is no longer chair of the theatre department or even teaching classes. It seems as if McLaren is doomed to haunt Beit Hall.

⁸ For more information on Zambuko/Izibuko and Kamiriithu linkages and partnerships, see Bjorkman, Ingrid. *Mother Sing for Me: Peoples's Theatre in Kenya*. London: Zed, 1989; McLaren, Robert Mshengu. "Theatre on the Frontline: The Political Theatre of Zambuko/Izibuko," *TDR* 36.1 (1992) 90-114; Or Ukpokodu, I. Peter. Plays, Possession, and Rock and Roll: Political Theater in Africa. *TDR* 36-(1992) 28-53.

All Systems Out of Order, however, was less haunted by this space per se, then by its previous productions. Many of the students had seen it at TITP or had friends who saw it at TITP and more than a few audience members were echoing the lines as they heard them. Although some of this was coming from memory and haunting, quite a bit could be explained as enthusiastic responses to something that reflected their circumstances. The graffiti on the set had been changed to incorporate how informal traders had adapted after the Murambatsvina. Much of the graffiti referred to how to find juice (minutes for cell phones) or the current cost of basic necessities posted on the walls. Also the characters played by Bekithemba Ntini and Gift Marotsvanga (the actors from UZ) had quite a bit of new attention. The Toilet cleaner also mimicked a popular lecturer's means of expressing disgust—something that the students in the audience were very quick to pick up on. This parody is one of many uses of ghosting in this play.

Satire and panic theatre

All Systems is a satirical farce. It can easily be defined as a farce. The Ordinary Man disguises himself as the Blind Beggar to expose corruption, he uses verbal humor liberally, sexual innuendo, and word play. The play's ending uses a strange twist that is a bit hard to follow and a healthy dose of absurd, stylized fighting that serves as a *deus ex machina* to resolve the Ordinary Man's need to relieve himself. Satire⁹, using its most basic definition, is a type of performance that uses ridicule to expose a society's follies and excesses with the intention of effecting change. It often does so by using parody. Parody, according to Carlson, functions as a device to encourage community and collectivity. Pleasure and laughter in parody come from "the shared recognition of the parody's references, in their

⁹ It comes from Latin satira which was a dish filled with various kinds of fruits, food composed of various ingredients, a mixture, a medley (Webster's Revised Unabridged Dictionary)

exaggerated and distorted form, and also of the fact that the recognition *is* shared” (Carlson 2003, 39) (Emphasis in the original). The original sense of the term satire (medley) also is clearly represented in ASOO and Muzondo’s work. It is clearly a combination of western theatre, allegory, ritual, storytelling and the *nhimbe*. Muzondo has a strong sense of satire that comes from his heavily “English” schooling. He states in an interview that most of his influences come from an English and drama teacher who worked at Highfield high school. This teacher instilled a strong affection for scripted dramas and genres in Muzondo. Yet when asked about the satire in *All Systems*, he indirectly cited the *nhimbe*,

The power of the satire is in laughing at something then once that something has been laughed at it, then either the people who are doing it feel ashamed, they feel naked because we laughed at them, you see. Or the people who are laughing also feel angered. We are laughing at the end of the day we are being shortchanged. So that is how satire works (Muzondo 2005e).

All Systems uses images of the past to point to the excesses of the present. Its satire uses the hidden transcripts common in *nhimbe* to create both laughter and anger at the perpetrators of the wrongs of the ModernMan/ToiletCleaner. The communal context of the *nhimbe* performances ghosts *All Systems* and brings the audience together briefly into a work party. Additionally, it uses parodies of familiar personages. For example, the imitation of the chair of the department by the actor who played the Toilet Cleaner from the UZ production caused quite a stir. Also in the UZ production, the costuming choice of putting the white hat on the Modern Man brings out ghosts from the political sphere. The Modern Man’s white cowboy hat in UZ’s production adds ambiguity to the critique of the crisis because Morgan Tsvangirai is the most recent politician to wear a cowboy hat. However he does not wear a white hat, but a tan hat. But with character doubling, the white-hatted Modern Man is doubled with the Toilet Cleaner. This doubling makes a simplistic reading of the role of the

doubled MM/TC difficult¹⁰. This can be a strategy to keep from being censored as well. But it also signals the audience not to expect Tsvangirai to be able to solve Zimbabwe's problems. It also has a bit of an ominous feel that suggests that the cowboy-hat-wearing politician may not be all that different than the current politicians. Muzondo argues that his allegorical satire wishes to draw attention to the desire to adopt ideas or systems without adapting them to contemporary realities.

Edzai Isu's production of *All Systems after the Operation Murambatsvina*, was not censored because it used the stealthy criticism of the *nhimbe* and satire. Like the *nhimbe*, much of its criticism relies on the audience being able to decode the hidden transcripts and to recognize its ghosts. This can be seen as a strategy and characteristic of panic theatre. Panic theatre, in its quest for an audience, both wants to entertain the audience and make it possible to provide an alternative to the panic of the situation. So it wants to make people laugh like the *nhimbe*, and once they have laughed they can work to shame those who have been seen naked. Satire, farce and parody serve well in doing so. All of them require the audience and performer to recognize the ghosts of pre-OM to analyze and interpret the hidden texts. Because Edzai Isu can find an audience, it hopes to interrupt the state's ability to keep people focused on their daily lives and to deflect direct attention to the figurative house burning down. One audience member stated that "what I wanted was, is the message, in my home there is few ... it is the most painful satire I have ever come across, I think you visited my home" (video of UZ production). This student's stumbling to find the words is just one indication of the extent that the play haunted this audience member.

The Censorship Board finally banned *All Systems Out of Order* in 2006 because it wasn't able to stay ahead of its own haunting. Before its banning, it had reached a larger and

¹⁰ Up to now it has seemed that the MM/TC is haunted more by Mugabe.

larger audience. If the students were any indication, they were able to release ghosts of memory in their willingness to repeat and remember the lines of the OrdinaryMan and the ToiletCleaner. Because of the cholera outbreak¹¹, ASOO has greater resonance in 2009, than it had in its initial performances. Muzondo's allegory has become reality and its ghosts have materialized in actual disease. Muzondo's inspiration, the pleasure of sitting on the toilet to relieve oneself, has been reduced to the OrdinaryMan's state of being pressed as well as oppressed.

Edzai Isu's play *All Systems* is one example of panic theatre that uses satire and traditional elements to bring out the ghosts of the past to deal with the crisis of Operation Murambatsvina. In its varied performances it brings attention to the burning house of Zimbabwe and interrupts the panic. Other theatre groups utilize memory in other ways to create a similar effect. Stanley Mambo's group Mambo Entertain Productions performance of *Conquered Plans* uses similar physical performances to create a sense of nostalgia for its audience. It does not challenge the political system, but in its call for justice and equality in a folkloric past the play actually draws attention to the present. This play can be said to be theatre done for the sake of the performer as much as an attempt to stop the house from burning down. What is the role of the audience in a play that is essentially coming from the desire (therapeutic or political) to articulate what is happening to your community and self?

¹¹ Cholera, a disease associated with poor sanitation, spread nearly nationwide in Zimbabwe from August 2008-February 2009. Approximately 98,000 were infected. More than 4000 died.

Chapter 5: *Conquered Plans: Playing Games with Memory and Panic theatre*

One of the universals of performance, both East and West, is its ghostliness, its sense of return, the uncanny but inescapable impression imposed on its spectators that “*we are seeing what we saw before*”¹ (Carlson 2003, 1).

Is it right to be watching strangers in a play in this strangest of theatres?

Elizabeth Bishop, “Questions of Travel” (Blau 2006, 1).

In the previous chapters I have discussed how the OM affected groups that work with community based theatre. I explored how these groups used memory and memories of the past in order to navigate the crises that they found themselves in to deal with day-to-day life. I examined the need to perform and speak out about the crises was as important to them as finding food, how in Jingo Mukwindidza’s case that life was not worth continuing without trying to perform. These groups struggled to find audiences in spite of the obstacles the OM put before them. The content, and to some extent the style, of their performances were haunted by the crises. *Conquered Plans* and Mwedzi Entertainment Productions (MEP) are no different. This group, unlike Edzai Isu and Vuka Afrika, works primarily with what theatre for development scholars would classify as art or literary theatre. Art theatre, although sometimes theatre for elite, does have a community it reaches out to (at times other theatre practitioners are the most faithful and critical of this type of theatre). TFD scholars frequently set up their work in opposition to what they call art or literary theatre. Although not really akin to Peter Brook’s deadly theatre, many TFD practitioners argue that art theatre

¹ Emphasis in the original.

is theatre that causes complacency or separation from the community and a creation of an elite and complacent consumer audience.

MEP through the play *Conquered Plans* wanted to attract an audience and community inside and outside Zimbabwe. It was sponsored by Alliance Française, the cultural division of the French Embassy, and was written in Shona, Ndebele, English, French, Swahili, and other non-Zimbabwean languages. The majority of the dialogue was in English, Shona or Ndebele², but the songs and gameplay in the inbetween scenes which the group called installations were in a multitude of languages. Its co-director, Mickael Fontaine from Reunion, also added to its international composition. According to the Alliance Française public relations website, the organization underwrote his trip to Zimbabwe to conduct rehearsals. The group consciously attempts to set itself apart from community theatre and advertises itself to attract an upper middle-class audience or even an expatriate audience.

Yet despite wanting to reach out beyond Zimbabwe, it is very much a Zimbabwean play and a product of the OM. It, too, can be classified as panic theatre because the crisis brings together all types of theatrical groups attempting to produce during this time. In reaching out to an audience outside of Zimbabwe, it could call for help to the international community. It might reach a new source of rescue. Like *ASOO*, *Hypocrites*, and *You Have No Right*, it plays with time and memory, putting images of the past into the present or future. *Conquered Plans* addresses the ideas of justice and fairness in an allegorical fashion like *You have no right* and *All Systems Out Of Order*. It exploits an urban fantasy about the rural past and uses that nostalgia to address the current crisis in Zimbabwe. However, even this urban fantasy is haunted by memories that the group cannot control.

² The English would be substituted by French in its expected tour when it is performed in a francophone country. The play has gone to Reunion to be performed.

Conquered Plans was the brainchild of George Nyamudzinga and Stanley Mambo. Mambo and Nyamudzinga had worked together on the TITP's production of *All Systems Out of Order*. Nyamudzinga was trained through high school and through the Repteens program in Harare. Mambo was the director of TITP's production of *All Systems Out of Order* and had worked with Nyamudzinga as an actor. Mambo had been trained by Amakhosi and was very much influenced by the physical style of acting that is very typical of Amakhosi's productions and was also influenced by his work with Mickael Fontaine's group Talipot in Reunion. The group's own memories and the ghosts associated with them have created a pastiche of competing ghosts, traditions and reinvented tropes.

I first became aware of this production when I went with Tafadzwa Muzondo and the original cast of *All Systems Out of Order* when they performed at the Chishawasha Mission in June 2005. After the performance I was discussing my interest in the play and its audience and George was quick to tell me about his project with Stanley Mambo and how it was using folklore and rituals to connect with an audience. The play has a folkloric feel but does not necessarily come from a specific folktale. It uses imagery and traditions from Shakespeare, the Bible and Shona Spirit Religion³ fairly equally. All together they haunt the performance through the script, costumes, dance, and movement. Each of these ghosts brings out memories that play together and against each other. Additionally, the production has ghosts that possess its actors' bodies and lurk with intent to subvert and trouble its utopia.

According to its public relations site, *Conquered Plans* is divided between scenes and installations (Alliance Francaise n.d.). The scenes are fairly text- and dialogue-driven. The installations serve as transitions between each major movement or scene in the play. Each installation involves a basic scenic and mood change from the scene(s) that precede it. The

³ I use this term rather than indigenous religion following Presler's reasoning (Pressler 1994).

majority of them are associated with children's games, dance, and song. These songs may have an actual meaning outside of the play but in these installations they serve more as rhythm of the dance. The highly nasal delivery further emphasizes the playful nature and feeling that each installation is part of a game. These transitory moments change the focus of the emotional intensity of the scene. These children's games and songs create a doubling of nostalgia and memory. The games were used to educate children. Grandparents would impart histories and encourage certain survival behaviors in their younger relatives. Grandparents used games, songs and riddles in this way because the physical activity of the games helped to enhance memory and retention of culture (Kreutzer 2001). MEP uses these games like Mukwindidza and Vuka Afrika use song and the idea of *nhimbe*. The games, like the play, are a pastiche of various traditions and languages. The playfulness of the games stand in contrast to the seriousness of the tragic story in which boy meets girl, is an inappropriate partner, gets girl, everyone dies in the end that serves as the backbone of the play.

The fast-paced delivery of the chants associated with the games sounds like the whirlwind of the *chihwerure*. This diction plays against the delivery of the dialogue in the scenes. The language of each of the scenes has weight and feels more like a lament or psalm rather than a riddle or tongue twister. The Tete speaks mostly in proverbs in English, Shona and Ndebele:

Now you are a mother *Muzukuru*. The center and spirit of your family keep your head up and humble yourself before your in-laws. *Mwana wamambo muranda kumwe Mzukuru*. Seek the richness of your Love and life, a poor man is also human. *Usaita gumbo mumba gumbo panze*, sweep your house and heart clean for the visitors and passers-by. Swim above your weaknesses and problems and always cherish your husband as the head and cornerstone of your life, your future.

Seek and you will find knock and door will open, watch out the eye of the enemy is moving. She is a virgin (Mambo 2005a, sc 6).

The phrase “*Mwana wamambo muranda kumwe*,” is a proverb. However, it has literal meaning here as well (The king’s child is a servant elsewhere). Taru, as wife, will be a servant to her in-laws literally. But it is also used to warn people to treat people well and with deference and respect, no matter their station in life. It argues that you should be both a good guest and host as the opportunity presents itself. The second phrase, *Usaita gumbo mumba gumbo panze*⁴, is idiomatic and encourages Taru to be faithful. The Tete’s advice with the proverbial style and solemn delivery greatly contrasts with the overall scene and its action (See Figures 10 and 11). The language of the play and its diction and delivery starts the functions of memory and nostalgia as the ghosts of childhood games compete with biblical and folkloric imagery.

Ghosting of Text

The basic storyline comes from Shona folklore and written romances but also owes a lot to *Romeo and Juliet*. Like many of the folkloric romances written in the 1960s in Zimbabwe, it is set in what can be described as *pasichigare* (the long ago idyllic past). George Kahari describes it as the *Guruuswa*⁵ golden age in his book, *The Romances of Patrick Chakaipa*. *Guruuswa* (literally tall grass) is the mythical or literal origin of the Vakaranga (a Shona subgroup). Much of Zimbabwe’s oral literature and myth traces every major clan and historical figure to the tall grass plateau. Kahari argues that the literature of the late 1950s and 1960s looked back on these myths and historical figures and idealized

⁴ You shouldn’t make legs in the house and outside.

⁵ *Guruuswa* is both a literal place near the Kalahari Desert and a metaphorical place. David Lan looked at multiple origin myths from multiple Shona groups and concludes that even though they are at times contradictory it is fair to assume that *Guruuswa* can be a “literal place, mythical place, as source of water, as source of natural life, as vagina (Lan 1985, 78).

them. They created this golden age as they played with memory in order to create a sense of nostalgia and surrogation. This idealized surrogate could stand against their current urban realities. These romances and the folklore that they draw from have a structure that is important for the analysis of *Conquered Plans*. In these stories, young men of lowly birth and/or stature triumph over the huge bullies and win the love of princesses. Kahari argues further that this “mythological hero’s adventure is thus a reworking of the formula represented in the rites of passage—separation, initiation, and return” (Kahari 1994, 42). This structure of the hero’s quest is present in all aspects of *Conquered Plans*. Much of the play’s action and conflict stems directly from this same structure. Without a memory of these tales and romances the audience would be left at a loss for much of its performance.

Conquered Plans is about a young common boy and the daughter of a king. They meet, fall in love, and try to get married. Rather than elope they manage to get the king’s permission, but because of other barriers they end up dying rather than living happily ever after. It also has strong imagery from the Bible—the young princess is confronted by a snake that tempts her with the knowledge of good and evil, angels are asked to watch over and protect them, the villain prays for forgiveness so that he will not fall into a lake of sulfur. Like the previous two groups, MEP invokes Shona spirit religion and makes it present on stage. This invocation seems to be an important haunting for panic theatre. The lovers’ spirits are “brought back from the dead” in a *bira* ceremony by a spirit medium near the end of the play. Additionally, the play uses types of marriages associated with a precolonial past to bring out memories of all of these sources. Again going back to Kahari’s argument that folktales are basically about different rites of passages, this play’s preoccupation with the

rites of passage associated with marriage and becoming an adult shows how these romances and folktales haunt the play's text.

The haunting of the text begins with its names. As in many plays of both African and non-African origin, the names of characters tell its audience something about what they can expect of the characters. This is done in part because of the denseness of the text—little time can be wasted in exposition in a play and obviously character development. *Conquered Plans* characters have names that link them to expected behaviors or events. Tambaoga⁶ means literally to play or dance alone. As king it is expected that he be above reproach. He is able to see beyond tradition and make decisions that are fair. His son-in-law, Garapo, carries a similarly weighted name. His name means “stay there”. But it also suggests persistence. Playing with this double entendre, Garapo is seen as someone who has little imagination and deals with obstacles to his desires in only one way, with violence. Taruwana, the king's daughter's name means “we have found it” or “we have it.” Although typically such a name would suggest her either being the only child or only daughter, or a child born after several miscarriages—in *Conquered Plans* this is not the case. She has at least one older sister, but no brothers. But in *Conquered Plans* she is more the object sought after by more than one suitor, Matanda and her brother-in-law, Garapo. Matanda, her fiancé, has an entirely inappropriate name to be the future son-in-law of a king. Matanda means logs or wood. When a person has that name, it suggests that they are dull or highly unintelligent or not ambitious. Again Matanda's name can be said to be haunted by the folktales—many heroes have names that suggest they are reaching higher than what others have expected of them. The name Matanda has other sources of haunting. The ghosting of the practice of

⁶ Tambaoga is also a name that comes from the written romances. Giles Kuimba wrote *Tambaoga, mwangangu* in 1965. Tambaoga is a man of action in a play about the dangers of women in polygamous marriages (Chiwome 1998). It is set in a similar time period as *Conquered Plans*.

mutanda, a type of marriage negotiated with the neighboring villages by bringing a large log to a prospective bride, competes with Matanda's inappropriateness as a mate to Taruwana. In mutanda marriages a father or grandfather selects an infant girl for a member of his family by leaving a log outside the girl's mother's home. The log, preferably large, represents a phallus that is requesting entry into the home or vagina (Aschwanden, *Symbols of Life* 1982, 138).⁷ MEP uses these names to build and play with audience expectations.

These expectations are used and developed by other hauntings of the text. A variety of different spirits⁸ haunt the play. Mermaids, pangolins, lions and snakes have many different associations within the world of this play. Its viewers will bring a variety of ghosts to their reception of it. These ghosts compete with each other in its audience's memories for control of the images of these spirits. Zimbabwe, like other parts of Africa and the world, has a murky mythology associated with beings that live in rivers or water. At times these creatures promise wealth or represent great risk. The young man dreams of fish and successfully fishing, and Taru is part of that dream as a mermaid or *njuzu* spirit. *Njuzu* are defined as water sprites in Hannan's Shona-English dictionary. In the Shona dictionary edited by Herbert Chimhundu, they are identified as a small spirit or wild animal who has the head of a person and a fish tail. The definition also suggests that people are taken or kidnapped by *njuzu* and are put in pools of water (drowned) and have little hope of return without the help of a healer (350). *Njuzu* are also seen as healing spirits associated with female ancestors (Thram 1999, 62).⁹ *Njuzu* appear in many folktales and also in written

⁷ Aschwanden says this type of marriage was abandoned or became unpopular because it was a form of compulsion for both the boy and girl involved in the transaction (Aschwanden, *Symbols of Life* 1982, 149).

⁸ I am using spirit to refer to a being and not as Carlson uses ghosts or haunt. Spirits could be considered as an image or motif as opposed to ghost.

⁹ Thram argues that women are more frequently possessed than men. However, they are possessed by male *vadzimu* more frequently than female *vadzimu*. If they are possessed by female spirits, these spirits are more likely to be *njuzu* or other healing spirits associated with n'anga (healers) (62).

Shona romances. Kahari suggests that *njuzu* symbolize female sexuality and fertility. Matanda's father, who is helping to interpret the dream, warns his son to "hold firm your spear" and proceed with caution because his dream has summoned the dawn (Mambo 2005a). It is only with the haunting of the *njuzu* tales that the audience can decipher the father's concern over this dream. In these same folktales, men's spears, arrows or attempts to catch fish bring out male eroticism and potency (Kahari 1994, 99).

Like the *njuzu*, understanding the significance of the snake requires more than one ghost from a text. The snake in the second scene haunts the play in many different ways and is ghosted by more than one tradition. In the second scene Taru is approached by a large spiritual snake who threatens her well being as well as tempting her much as Eve was tempted.

Taru: Get away, you serpent of wickedness.

Snake: (laughs) let me spit on you, then your eyes can see. You will surely not die but realize the good and the evil.

Matanda: What good and what evil (Scene 2) [while spearing the snake] (Mwedzi Entertainment Productions 2005) (Mambo, unpublished script 2005a)¹⁰

Matanda kills or mortally injures the snake to drive it away from Taru. This act encourages him to approach her for the first time about his love for her.

His killing of the snake is quite a compelling moment. He attacks the snake with his spear (oddly enough it is a flute too¹¹). The snake after it is impaled screams and runs off stage. The physical movements of the actors are very stylized throughout this portion. The snake is a large man who moves onto stage mimicking a snake. His tongue juts out and

¹⁰ Direct quotations are from the unpublished script of *Conquered Plans*. Description of action comes from the video from the performance at Alliance Francaise and from the promotional DVD made by MEP from rehearsals at University of Zimbabwe Beit Hall.

¹¹ This flute is used throughout the performance as a spear and phallus.

flutters between sentences. He moves menacingly and seductively. Taruwana is quite startled and becomes quite helpless and vulnerable to the snake's suggestions (See Figure 8). Matanda, in contrast to both the snake and Taruwana, moves furtively, trying to keep concealed. It is only at the point where he is attacking the snake that he moves decisively and powerfully. He drives his spear/flute/phallus between the legs of the actor who is playing the snake. The snake's reaction to the attack changes the mood and intensity of the scene. The dramatic tension switches to humor as the snake flees in the midst of its death throes.

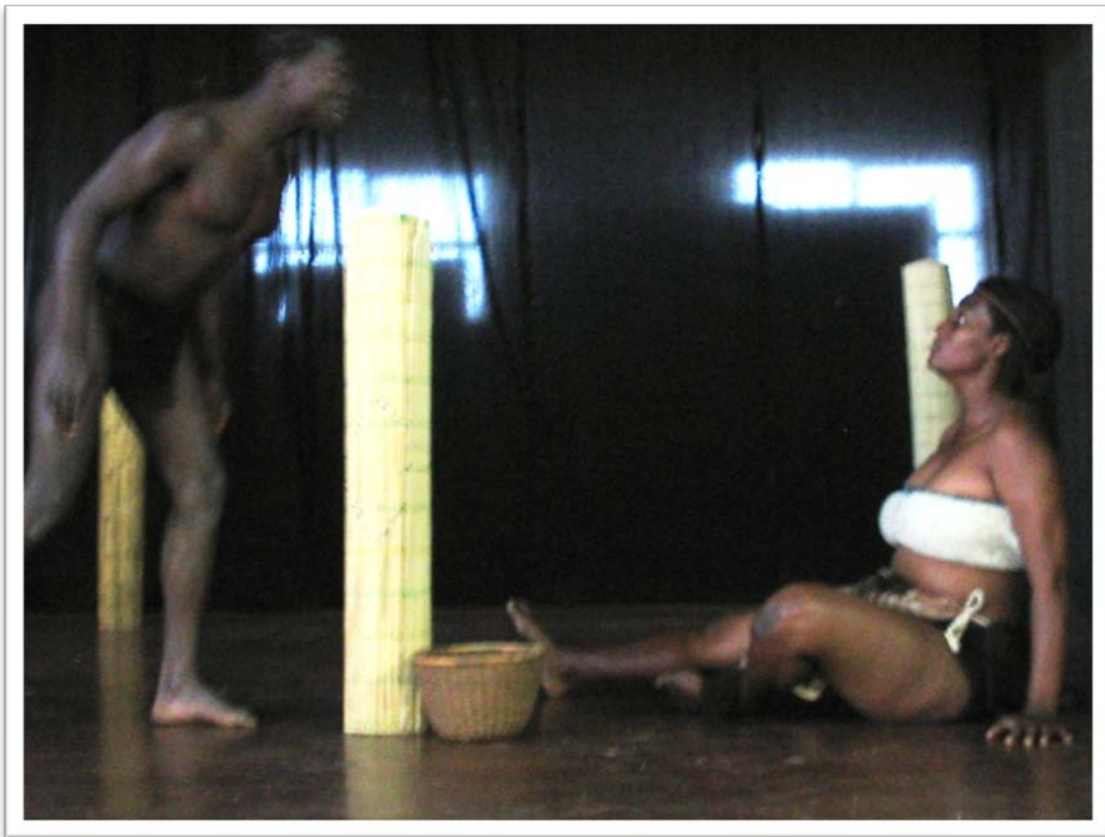


Figure 8 Snake spirit confronts Taru. From rehearsal at Beit Hall July 21, 2005. Photo by J Wrolson

Matanda is successful and the play's story rewards him, just as the folktales and romances would. Taruwana falls in love with Matanda and agrees that they should try to get married with or without her family's blessing. This victory and its reward are problematic

and set up much of the subtext to the conflict. His victory over the evil spirit creates a conflict of the haunting spirits of this play. The biblical snake from the Garden of Eden fights it out with the *makombwe* spirits in haunting this part of the script. Although the biblical snake dominates the scene, other snake spirits are also present. *Makombwe* or *gombwe remvura* are snake spirits and an integral part of Shona cosmology and mythology. They are the children of Mwari (creator god) and bring rain. They are different from the better known *mhondoro* who are territorial spirits and believed to be lions. These spirits are more powerful than the *mhondoro* and *vadzimu* (ancestral spirits). Thram suggests that is because they may never have had an earthly existence and were the children of the creator god, Mwari. The *makombwe* are only one step down from god and can heal without medicine and cause the rain to come. In the Mbila myth recorded by Leo Frobenius in the 1930s, a group sacrifices a virgin in an attempt to end a drought—as soon as she is buried at the base of a tree that tree grows and grows for three days while people dance. Once the branches reach the sky, “a snake crawled out of its branches and sent the rain” (quoted in Thram 1999, 76). This myth provides one of the clear sources that the spirits associated with rain and fertility are snakes. Shona cosmology is founded on the ideas of reciprocity and respect which establishes that the spirits are active in human beings’ lives and can intervene on day to day situations and problems. Humans can ask for their help through ceremonies in which the spirits’ intervention is expected but not necessarily guaranteed. Spirits, including *makombwe*, will intervene if the supplicant follows the advice of the spirit medium in addition to following a basic moral code that forbids murder, incest, killing of four types of snakes, and eating the meat of one’s totem (Thram 1999, 41).

Matanda's rescue of Taru through killing the snake becomes problematic as one considers these competing hauntings. In most heroic folklore, the victor (boy) gets the girl. *Romeo and Juliet* and *Conquered Plans* diverge from this paradigm. Although he has won the attention and love of Taru, his vision of the *njuzu* and the promise of wealth seem less certain. Matanda kills the snake and gets the girl—he has removed the source of his true love's temptation and metaphorically triumphs over the Christian devil. In this first level of haunting of the snakes, the ghosts of the missions' objectives of replacing and conquering indigenous myths, metaphors, ghosts and replacing them with Christian ones could be a success.

Although it is tempting to read this as Christian imagery supplanting and appropriating indigenous spiritual imagery and belief, this conflict of ghosts and haunting does not fit so simply in this play. I think it is only part of the conflict and development of the overall dramatic conflict. Like *Romeo and Juliet*, the play uses these ghosts to develop a sense of inevitability of this tragic end. For those who are familiar with the *makombwe*, it is a foregone conclusion that they have committed a taboo. For those who are steeped in a Christian perspective and the romances, it seems less inevitable. These conflicts of ghosts provide ambiguity and therefore cover to discuss Mugabe and a possible end to his rule.

In scenes seven and eight, lions and pangolins come forth in association with Taruwana's father and her brother-in-law, Garapo. These new spirits compete for of the audience's memory. Garapo, the son-in-law of the king, is both a vassal and competitor of the king. It seems that he was the descendent of a conquered people and Tambaoga is the occupier and ruler of the land that Garapo's ancestors lost. Lions and pangolins are symbols of Shona royalty and the territorial spirits known as *mhondoro*. In Garapo's vision/dream he

moves like a lion. He huffs and roars his lines as he argues with his father-in-law. He moves on all fours menacing Tambaoga. In this overemphasis of his totem,¹² he is seen as grotesque and unbalanced. He wants to marry Taruwana because his wife has died due to complications in childbirth and when the king refuses, Garapo kills him. This is the ultimate taboo—not only is this murder but he has killed his father-in-law and king. Garapo's actions haunt the play more than Matanda's own violation of a taboo.

Garapo's actions haunt the rest of the play, but do so with ambiguity. This ambiguity follows *All Systems Out of Order's* and Vuka Afrika's strategies of dealing with making direct statements and uses hidden texts to comment on Zimbabwe's political situation. Garapo has committed the ultimate taboo, regicide. Reading it as a tragedy, Garapo has made a tragic mistake and is doomed to failure. However, Garapo is not an Aristotlean tragic character in some ways; he is over-determined by his totem. He acts knowingly with rage. Garapo's act of regicide has precedence and some sense of authorization in its haunting. In Herbert Aschwandan's *Symbols of Death* (1987), the king can be ritually killed with impunity, if he is old, impotent, sterile or unable to protect his people. In most ritual deaths or killings, the king commits suicide. But if the king could not be persuaded to do so, he would be poisoned by a wife or strangled by a stranger (223). Garapo's murder of Tambaoga does not fit this model though because he is not a stranger. He will not be able to replace the king. Mugabe has not killed Ian Smith the conqueror, he has just replaced him. However, he has removed all of his rivals for his presidency through any means possible. So like Garapo, who is also persistent, he becomes king but without the authority of the spirits. However, like Garapo, he will not be able to pass it on, because he has destroyed it and been destroyed by it.

¹² It is uncertain if he actually has a lion as a totem but it is plausible.

Tambaoga gives Matanda rather than Garapo the kingship, “Matanda. My son, you are my only son, my Kingdom is yours. Fight for it and inherit it. Courage is your defense, my body is broken” (Mambo 2005a, 9). However, Matanda never hears that he is now the king’s heir. His own violation of the taboo of killing snakes comes to play in the last bit. The spirits come to earth to hold a *bira* and bring back Matanda and Taruwana into the company of the ancestors. Garapo does not join the lovers as an ancestor; he is condemned to the Christian hell. Yet the lovers do not stay in the company of the ancestors, but are seen again as prospective partners in contemporary times. In the closing scene, Taru asks to take Matanda’s photo, but he declines. Again the ambiguity of calling for help without a clear plan for rescue seems to be present in this play. The two lovers are unable to connect in the past or in Zimbabwe’s present.

Ghosting of Actors’ bodies

The actors themselves haunt the performance too. The actors had performed together at times at Theatre in The Park and elsewhere. For some their most recent work together was *All Systems Out of Order*. The director had increasingly been using actors’ bodies to push for comedic and bodily associations. Some of the physicality of *All Systems Out of Order* bleeds into *Conquered Plans*. This similarity of physicality of the fights can come from training of the director and the actors—Mambo trained with Cont Mhlanga at Amakhosi Theatre in Bulawayo. Or it can come from Mambo’s directorial imprint.

It is clear that MEP has a specific style that it feels the audience can come to rely on and expect. According to Carlson, this is common in theatrical cultures where theatrical companies develop and perform for regular audiences. Zimbabwean theatre companies have never developed the stability or regularity of the commedia, the French *emploi*, or British

lines of business that he discusses (Carlson 2003, 55-57), but it is true that Zimbabwe has developed a strongly persona/personality based system that does have parallels to them. Ghosting clearly comes through in personalities, as we have seen in the chapter with Vuka Afrika and Cont Mhlanga and from Mukwindidza's grandmother. Mhlanga has also influenced this production through Mambo's training and style. It can be no mistake that it is the fight scenes that show the greatest similarity of style and movement. Mhlanga started Amakhosi from a self-defense community group that practiced karate and wanted to provide scenarios for their bouts (Lunga, Rohmer 1999). The acting styles associated with Amakhosi are also very physically based. But the actors' bodies have more associations that bleed through than simply their associations as a company and as it is associated with Amakhosi, Mhlanga and others.



Figure 9 Scenes from *Conquered Plans* and *All Systems Out of Order*, both directed by Stanley Mambo. Photos by J. Wrolson

The costumes that Mambo uses in *Conquered Plans* greatly accentuate the actors' bodies. They clearly celebrate the bodies of the actors. Mambo says that they use animal skin, shells, seed, reed and bone to create the majority of the costumes in an attempt to attain some historical accuracy. The costumes for most of the men are the loincloths as in the above picture. As can be seen in Figure 8, the women's costumes do cover more of the body than the men's costumes, but again their bodies are fairly exposed. The woman who plays Taruwana is wearing a white covering over her breasts and skins and fur (over black short shorts meant to preserve some contemporary modesty). This level of exposure of the body is uncommon in Zimbabwe today. It plays against the now relatively common occurrence for young women wearing mini-skirts who have been attacked and stripped by others to humiliate and even beat them for wearing something "against their culture."¹ In contrast, Kimberly Masamvi, who plays Taruwana, exposes much more of her body than any woman wearing a mini-skirt. She also is a larger woman. As the young, beautiful woman, her body poses a standard of beauty that is more traditional than the current norm. Her casting draws attention to the differences between current ideals and expectations—drawing attention to the ironies of whose culture is celebrated in contemporary Zimbabwe. In fact, it plays with current ideas of modesty and morality with more than just the costumes. This play's celebration of its actors' bodies and athleticism plays against Zimbabwe's adoption of a Victorian morality that needs to control and conceal sexuality of not only women, but men. This morality during the colonial era targeted every part of the colonized body and declared

¹ Other plays have addressed this irony/issue more directly. I saw one play directed by Tsungai Garise at the African Child's day that had an actor fighting against her attacker stating that she was his mother, sister, grandmother, daughter; she also was his ancestor and that not so long ago she would be wearing copper or gold bangles, skins and nothing else.

it immoral. This play confronts this colonial morality at the material level of its actors' bodies.

Although the costumes draw attention to the bodies of the actors, Mambo wants this attention to be directed to the ghosting of this irony of cultural norms. He wants the audience to see "The free almost naked bodies in movement express[ing] the inner and outer emotion, vision and thought, life, dreams and stories that are alive" (Alliance Francaise n.d.). This production continues to play against the ghosts of the attacks associated with the mini-skirt. Women's and men's sexuality comes to the fore in two separate scenes that come from traditional rituals associated with sex education. Both scenes are somewhat shocking to an urban contemporary audience. These rituals, although rarely practiced today, have some remnants in women's tea parties that also serve as wedding showers. These showers, like the initiation of Taruwana, are women's spaces where older and presumably married women can educate the bride on what is expected of her as a wife, both sexually and domestically. Current wedding showers are quite bawdy and large quantities of alcohol are drunk.² These scenes bring the audience a taste of the past that for some is present only in their imaginations and not memories. These rituals and their enactment in supposed historical accuracy might be more of an instance of living museums than a memory that can serve to change a current belief about what is appropriate. The strength of Christianity's influence on morality has replaced memories of the skin, shell, reed and bone that emphasize the body.

This sedimentation of memory on the actors' bodies is quite intentional. Mickael Fontaine's website discusses it quite plainly. It states,

² I have attended only one tea party. At the time, I was not married and my friends kept trying to teach me how to dance a particular way. When I tried to follow the hip movement, I was told that I had over exaggerated a quite precise movement.

Stanley Mambo et Michael [sic] Fontaine interrogent les rites qui nourrissent encore aujourd'hui leurs traditions respectives. La représentation des rituels est entièrement assumée car il ne s'agit point d'emprunts pour mettre en scène en quête de théâtralité, mais bien de re-créeer un espace initiatique où les tabous seraient enfin levés. Le corps, la sueur, le sexe de la femme, le sexe de l'homme, la mort, l'union, la séparation, le devoir, le fils, le père... sont autant d'archétypes qui se retrouvent ici "désencombrés"³ (TIJAC n.d.).

As promised, this scene enacts much of the ritual that is a testing of Taruwana's chastity. As she is determined to be a virgin—her mentor/guardian played by Olivia Chipundu, the older more experienced woman teaches her how she should move her body during sex by putting thorns underneath her hips. As she is instructed in the "moves," the scene becomes quite intense and until Matanda enters the scene, has overtones of homoeroticism. As he enters the scene and starts participating in the instruction of Taruwana, all three move toward a climax. None of the three actually touches each other, but the sex act is quite explicitly mimed. Everson Ndlovu who plays Matanda, turns his back to the audience as he mimes having sex. All three enthusiastically head toward climax.

In an earlier scene that mirrors Taruwana's initiation, Matanda has his own initiation. This scene, although less drawn out than the scene with Taru, surprises the audience. His initiation begins as a wrestling match with his father. His father takes Matanda's flute that he has carried since his dream of the *njuzu* and used to spear the snake. His father raises it above his head and then lowers it and fondles and touches it suggestively. The audience squirms as it is handled and caressed. This initiation scene like Taru's also contains intense overtones of homoeroticism.

³ Stanley Mambo and Mickael Fontaine question the rites that feed their respective traditions. The representations of ritual are completely authentic for there is no quest for theatricality here but instead a desire to recreate an initiative space where taboos will finally be purged. The body, sweat, female and male sex, death, union, separation, duty, the son, father are as much archetypes that find themselves here unburdened/relieved.

I found myself becoming quite uncomfortable at the performance at the Alliance Francaise during Taruwana's initiation (See Figure 10, Figure 11, and Figure 12). My own discomfort with this scene haunts my memories of this scene. Even the video of that performance has many of the Zimbabwean spectators laughing with what I can only presume as uncomfortable laughter based on my own reactions to the scene. The audience cannot help but feel like too much has been exposed to the public in these two scenes. It seems they were discomfited or resisting their own initiation. Their laughter and at least one audience member's sudden departure to get more beer (Mambo 2005b) was likely precipitated by the actors' embodiment of these initiation rituals. The person who left tripped over the tripod legs of my camera in his sudden departure. It made a fair amount of noise and made quite a few people look to see what had caused the disturbance. He came back later with a beer in hand and another for a friend who had remained in the audience. But his return was done quietly with some stealth that his exit lacked. The act of fleeing for beer could be as much a product of boredom as discomfort. But the uncomfortable laughter and fleeing from the theatre (in a panic) can have as much to do with not knowing where to look—the explicitness of the scenes can draw the eyes to see if they are really going to go that far as well as trying to avert the eyes to preserve modesty as a reaction to the haunting of expectations of being able to sit in the dark and consume theatre (Brecht's culinary theatre) (Blau 2006, 83). Their reactions could come from this ghosting of actual rituals with the actors' bodies. Because of

its explicitness, the posters state that no one under 16 will be allowed in the audience.



Figure 10 Tawurana's initiation and instruction. Photo J. Wrolson



Figure 11 Matanda joins the two. Photo J. Wrolson



Figure 12 Matanda's initiation. Photo J. Wrolson

My spectating of this performance was mediated by my job having to videotape it. But I felt very alienated by this performance in comparison to some of the rehearsals I attended. I had an additional discomfort as I watched and realized that some unexpected ghosts haunted my reception of *Conquered Plans*. In its celebration and nostalgia that it was recreating, I worried that it was bringing back and even celebrating the problematic trope of the noble savage. The ghosts of *Heart of Darkness*, Tarzan movies and comics, and Stanley and Livingstone were not far off stage. These two initiation scenes had a voyeuristic feel much like that of Malinowski's *The Sexual Lives of Savages*. *Conquered Plans*, like Malinowski, seemed to want us or to compel us to watch (Torgovnick 1990, 7). These scenes in rehearsal did not seem so extreme, but in front of an audience in the Alliance Francaise's performance space, this colonial subtext came to life to ghost these scenes for me. It seemed to be a continuation, doubling and reversing of the problematic discussion of colonialism present in the *Heart of Darkness*. Conrad uses the book to make an argument for the colonial mission of the British as opposed to the Belgians' violent exploitation of the Congo (Torgovnick

1990, 143-4). This performance space, along with the actors' bodies, and costumes, haunts the various embodiments of the colonial body. How does one look at this play without these ghosts that in turn celebrated the "primitive" and exploited the looking on in Malinowski's belief that "to study [the primitive mind] is to study human nature writ large" (Torgovnick 1990, 8)? How can this trope be exorcized without placing the present in opposition to a primitive ideal that can show the examiner how to deal with contemporary conundrums? MEP clearly had adopted these tropes as a reaction to Zimbabwe's present. But it was not clear to me if they did so to exploit these tropes for a non-Zimbabwean audience. I had strong misgivings of seeing this play on tour outside of Zimbabwe. Yet outside of the Alliance Francaise performance, these ghosts did not haunt my own reception.

Performance Space and the Ghosting of the OM

As stated earlier in the chapter, I heard about this project through my work with *Edzai Isu*. However, my research and work with Vuka Afrika prevented me from attending its earliest rehearsals. MEP was rehearsing initially in a space that was claimed by the Operation Murambatsvina. The group was forced out of its rehearsal space in Chitungwiza, so it started to rehearse in George Nyamuzinga's home. Ironically enough, his house was in the process of construction, which he stopped and started to live only in his kitchen in order to accommodate the rehearsals. The house was relatively modest—it was originally designed to be a four-roomed house—kitchen, bedroom, living room, bathroom. Each room in the house had a new function. The bathroom became the group's dressing room, what was to be the living area and bedroom became the rehearsal studio. I remained in contact with the group after its forced relocation and brought Ntare Mwine to visit. When we arrived, its members had taken a break from rehearsing and were working on focusing lights from the

rafters. They decided to make the rehearsal an impromptu dress rehearsal with the newly focused lights controlled from the rafters. Our small delegation (Ntare, our driver, Ntare's escort from the embassy and I) stood in a corner to become its first audience. We looked on with awe as they performed the opening scenes as the space had transformed from Nyamuzinga's small home in Chitungwiza to a ritual space where Matanda's dream and initiation were embodied. The same homoerotic scene with the flute that bothered me later, did not register in the same way. It was a transitory moment, simply part of the ritual of the performance. In early July with the signs of the OM all around us as we had driven to Chitungwiza, it was easier to see this scene as a rite of passage for this group and to feel that not only was Tambaoga's kingship in peril, but so was Zimbabwe. It was clear that Garapo (the son-in-law of the king) had succeeded in usurping the kingship of the Zimbabwe that we were living in. That Garapo had succeeded and had not died.

The OM influenced more than just the rehearsals of *Conquered Plans*. The group had difficulties finding performances spaces. In mid July, Mickael Fontaine, the production's co-director, had arrived from Reunion, and they moved to rehearse at Beit Hall at the University of Zimbabwe. For those group members who were based in Chitungwiza, this made the commute quite long.⁴ Some would have to be on at least three separate khombis to make it to the University. By this time lack of fuel was causing fewer khombis to be on the road and the price of transportation was also increasing. Coming to rehearsal was a burden and without sponsorship or a paying audience, it was going to be just as hard for MEP to keep a cast and company together as any other of the community-based theatre groups. MEP was able to use the rehearsal space at UZ and to have a couple of performances on campus.

⁴ Chitungwiza is a large high density suburb. It is nearly as large in population as Harare. It is about 30 km from the City Centre.

However, UZ's audience is limited to students and faculty for the most part. The regular theatre-going public who attend Reps or even performances at Theatre in the Park are frequently unaware of performances at UZ. Also many believe that coming onto campus is dangerous. Campus security gates close at the end of the day and people coming onto campus have to go through security, which for many is a strong deterrent. It feeds into the idea that campus is not safe. These performances helped to some extent and gave a larger audience to the production as it was developing. It needed a more central venue and one that could attract a wider audience. The group was able to move to the Alliance Francaise and had a premier there in October 2005.

Keeping a steady cast together was difficult and the cast changed significantly over the three performances I have a record of or was able to attend. The women's roles had the most changes. Musamvi, who played Taruwana, quit the group briefly between the UZ and the Alliance performance. The role of the gogo, or grandmother, was played by a man and became a sekuru (uncle). In the Bulawayo performance only Jerry Gambiza and Kenny Jonathan remained from the original cast of five. Musamvi quit because she had too many other obligations to family and could not afford to not be paid and spend the time traveling. She came back but the rest of the group was quite angry with her. I had already left the country so I am uncertain why the other cast changes occurred. All three performances had slightly different casts.

The script of *Conquered Plans* plays games with its audience's expectations of the multiple genres that it draws from. As it plays with its expectations, it plays with its memories. It uses *pasichigare* to create a sense of nostalgia. As Vambe argues the use of the folktale frees its audiences and its performers "from the constraints of time" (Vambe 2004a,

3). *Conquered Plans* uses the idea of a golden age to draw its spectators in; it soothes its audience showing that life can reward the lowly. But as the audience starts to expect a reward, it uses other ghosts to show that even the golden age was not safe. But as MEP searched for both a venue and audience only the performers could appreciate these ghosts. While calling attention to gender inequities and contradictions of contemporary culture regarding women's sexuality, authenticity and searching for that golden age, it used humor and a pointed ambiguity to call for help at a political level as well. So what has this play added to my study of panic theatre in Zimbabwe? It places the past, present and future on stage. The play is affected by the present (it needs to find places to rehearse and perform) while it embodies memories of the past and future on its stage. It clearly uses nostalgia and plays with time in similar ways to the other plays in this dissertation. It does so even though it is outside of theatre for development and well within what is considered as art theatre. But its need for an audience and venue are impacted by the crisis in very similar ways. The discomfort of the feeling of being a voyeur is clearly ghosted into the performance as well and may be an unintentional revenant or it can be a means to make the prospective audience question their discomfort or, at least in one case, cause them to seek more beer.

Chapter 6: From TfD to Panic Theatre

The job of the poet...is to remember where the water holes are. The survival of the whole group depends on a few water holes scattered around the desert. When his people forget where the water is, the poet can lead them to it. –Ann Bogart, *And Then You Act*, 5

I have used Allen to define panic theatre as the type of theatre “if, say, our house were on fire and we had to complete a [play or scene] before we escaped” (Allen 2006, 130). Allen argues that the play written before the house had burned down was “an inarticulate scream out across the flatlands, the great expanses of fallow farms, rather than a collection of individual voices singing particular songs” (Allen 2006, 130). But I have found rather than an inarticulate scream, panic theatre fights to be heard by its audiences using a hidden language to communicate with its hoped-for audiences. Like the anonymous Senegalese poet to which Ann Bogart refers, panic theatre artists are responding to a crisis similar to the forgotten water holes. However, in Zimbabwe, it might not be so much the act of forgetting where the water is, but that the watering holes have moved, been taken over or poisoned. So panic theatre artists have to remember not only where the water is, but that they also have to find new sources of water. Another possibility is that they have to warn their audience of the corruption of the sources of water.

Memory, nostalgia and haunting are all fundamental to panic theatre and how it reaches out to an audience. Like Vera’s divining calabash, panic theatre presents the audience with memories of the future by using the ghosts of past memories. The groups use

rituals, songs, dances, games and, to a lesser extent, space to bring out memories of the past to deal with the present crisis. It hails the audience into being by using these shared memories and ghosts. As the audience starts to recognize the hauntings, these ghosts assist them in creating/using a hidden language of criticism that panic theatre shares with the *nchimbe* and funerary rituals. This process provides the vehicle for theatre groups to sound the alarm and panic as the country burns and they are calling for a means to resuscitate a new Zimbabwe out of the ruins of the old. I showed how groups used both the *bira* and the *nchimbe* to do this in each of the preceding chapters.

The roots of panic theatre are found in Zimbabwe's past as much as the present crisis. Panic theatre uses elements of *pungwe* (*mapira*), *nchimbe* and other performance forms associating with healing rituals and those that bring back the dead. Not ghosts in a Western sense of the term, but *vadzimu*, or ancestral spirits. These rituals restored the dead to an afterlife in which their descendents sought their counsel and believed that they could influence outcomes in the world of the living.

In Chapter 2, I explored the political roots of Zimbabwe's crisis. Although it is tempting to blame Mugabe, the president of Zimbabwe, for the entire crisis; the crisis is multivalent and much more complex than the farm takeovers that have been in the Western press. His efforts to hold onto power and thwart his opponents and potential successors have certainly caused the deepest crashes of the economy and extremity of violence. However, I note that the roots of the current crisis come from the colonial era and the distribution of land, education and health care. The crisis also has its roots in the nationalist movements, the *Chimurenga* and the Cold War politics of the 1960s and 1980s. The colonial era's repressive legal system was never fully dismantled by the Mugabe regime, which during this crisis of

legitimacy, the government has used the Smith regime's laws to stifle dissent. This repression and economic crisis particularly impacted theatre groups through POSA, AIPPA and public decency laws.

With the beginning of the OM, the crisis was deepening as these groups were attempting to revive past performance forms and memories. This crisis overwhelmed prospective audiences and performers. The sheer urgency created by the crisis, and the need to attend to survival quelled the crying out for an ambulance. The act of surviving day to day made it rather difficult to coordinate the inarticulate scream that would bring "light to the dark places" (Bogart 2007, 11). Everyone was too busy. It was hard if not impossible for the groups in this study to remain stable and maintain regular rehearsal schedules. Groups had to be innovative to find rehearsal spaces. Once they had venues for their performances, groups found it difficult to draw an audience away from the fuel queues. They could also unwittingly break laws as the state might close down a performance and those who were in the audience risked imprisonment under POSA.

Chapter 3 looked at how Vuka Afrika was specifically impacted by the OM and how the crisis caused it to adapt its aesthetic. This group had been quite successful prior to 2003. However, it was still stuck within the NGO as sponsor paradigm and had been less successful in building its own audience base. During the OM, Vuka Afrika actively attempted to reform its performances in order to bring back audiences in the same manner it used the *kurova guva* and other rites of passage to deal with the HIV crisis. The group also employed its memories of audiences of the past to encourage a new type of interaction with the audience. Jingo James Mukwindidza strives to write plays that are *nhimbe*—something that can be enjoyed by some and make others uncomfortable. Both *You Have No Right* and *Hypocrites* use this

model to create meaning and haunt the stage and the state. He does so from Highfield, the symbolic home of ZANU-PF. He wants to live up to past storytellers and serve as a *sahwira* to a Zimbabwean theatre that has accompanied too many to the grave made by HIV.

Chapter 4 dealt with another theatre, Edzai Isu, also operating from Highfield. Group members took their workplace safety theatre background to the popular stage of Theatre in the Park and used what worked for them in reaching an audience—the use of n’angas and healing rituals—to create a satire that attempted to warn its audience of trusting easy solutions and substitutions to deal with crises and problems. Unlike Vuka Afrika and Mwedzi Entertainment Productions, it found a ready audience through the help of Rooftop Productions franchise. Because Edzai Isu found an audience, they interrupted the state’s capacity to keep people focused on their daily lives and in turn directed attention to the figurative house burning down. *All Systems* used images of the past to point to the excesses of the present. Its satire used the hidden transcripts common in *nhimbe* to create both laughter and anger at the perpetrators of the wrongs of the ModernMan/ToiletCleaner. The communal context of the *nhimbe* performances haunted *All Systems* and brought the audience together briefly into a work party. Additionally, it used parodies of familiar personages which depended on the haunting of both its audiences’ memories and the *nhimbe*.

Chapter 5 discussed MEP’s *Conquered Plans*, a play that saw its audience as part of the the pan-African and expatriate communities. It tried to set itself apart and outside of Zimbabwe, yet it clearly used the same narrative and aesthetic strategies of the *nhimbe* and the *bira*. Its game-playing mimicked the *chihwerure* in its whirlwind nature. Its heightened language and style of speaking drew attention to its playful and haunted nature. Its text was thoroughly haunted by ghosts from Zimbabwe’s precolonial and colonial past and also from

Christianity. These ghosts do not offer a solution to the crisis between the two young lovers or the Operation Murambatsvina. They offer instead just a chance to make the audience feel uncomfortable and discomfited, like the targets of the *nhimbe*. *Conquered Plans* hails the audience with the intention of creating childlike wonder and makes voyeurs of its audience. But both work together to call attention to the narrative and its mythical past as an allegory for the present Zimbabwe. Its *bira*, or bringing back the dead ceremony, inducts the young lovers as ancestors, but this ceremony is denied to Garapo, the usurper. The play condemns him to die and go to the Christian hell.

The *nhimbe*, *bira*, and healing rituals provide the foundations of panic theatre. Because of this foundation similarities occur in the dramaturgy of these groups and performances. As I look at these similarities, a few common characteristics emerge: Movement back and forth in time during the play (sometimes using flashbacks); conscious use of memory and ghosting to create a sense of nostalgia; use of *chihwerure*; use of satire and parody, frequently using ghosting/haunting to create a hidden language within the parody; use of the dare forum or some similar trope to couch criticism within poetic license, and most importantly using a healing metaphor and ritual to attempt to diagnose a condition. I argue that this does not always or even rarely offers a solution to the problem. Of the four plays discussed, only *Hypocrites* expresses a partial remedy to the crisis.

Memories of *nhimbe*, funerary and healing rituals inspired the artists who were dealing with the current crisis. They found counsel and comfort with the ghosts of these performances, just like someone would seek advice from their ancestors. They recreated these forms to navigate an uncertain terrain and to try to call for an ambulance or reach out to an audience to instill the urgency of the panic that they were feeling. George Nyamudzinga,

Jingo James Mukwindidza and Tafadzwa Muzondo all expressed such motivation of trying to recreate and enact past performance forms in the plays that they wrote during this period.

Jingo was actually responding in part to my research, but it was also part of the response to the crisis of HIV, AIDS and finally the socio-economic crisis of the OM that encouraged him to attempt to reform his aesthetic and enact rituals of healing on stage.

Some groups discovered the cure for the crisis in their recreations of healing rituals and *nhimbe*. Others did not. Vuka Afrika, using the *dare* in *You have no right*, to ask its audience to make a judgment against one or both of the journalists at the end of the play. The ghosts of the *dare* and *Mutambo wapanyika* haunted the structure of this play. Yet in their second play, *Hypocrites*, the use of healing rituals and memory to raise ghosts and reform ghosts only partially resolves the overall crisis of HIV and its stigmatization. The divining ritual opens the play *All Systems Out of Order*, but again only uncertainty comes from its own enactment of the ritual. Its use of language cleverly conceals its own criticism of the state in jokes and satire that are sanctioned by the *nhimbe*. Finally the ritual to bring back the dead in *Conquered Plans* leaves the feeling that the story and its crisis could be repeated. These elements of past performance forms have entered the kinesthetic imagination in order to haunt and reform, or reinvent, memories of where the water is. They provide a vehicle to reach an audience and their own memories of performance.

All of the plays use satire and parody to varying extents. *All Systems* and *You Have No Right* are the most overt and biting. *All Systems'* ToiletCleaner and Police become caricatures through their language, costuming and physical actions. *You Have No Right* also comments on the state apparatus through the actions of the police, the Cameraman, and through news reports either on the radio or television. *Hypocrites* also caricatures the

medical field, and through its caricature it lampoons the state. It also uses a self-referential metanarrative to parody HIV awareness plays through the portrayal of the nurse at the clinic. *Conquered Plans*' transitional installations parody the forms of marriage in its utopian past. Much of their parodies rely on use of voice and rhythm.

Panic theatre uses language in the tradition of *chihwerure*: the whirlwind. Prime examples come from *Conquered Plans* and *All Systems*. *Conquered Plans* use of multiple languages and biblical rhythms in the dialogue and in the transitional installations create a sense of the whirlwind, particularly in the songs. The actors sing in a high nasal fashion using rhythm and puns and what amounts to blahblahblah or yadayadayada to the audience. It is the songs contrast with the dialogue that provides the most aesthetic weight to the language. The dialogue feels as if it is written like a psalm using the King James Version.

Mata: Nhai vari kumhepo,¹ I am distraught at the voice of my enemy, my heart is in anguish within me. Fear and trembling have beset me. I am in the midst of lions, men whose teeth are arrows and spears. Where have you been...turn this hard rock into springs of water for me and Taru. My courage has melted away. (Mambo 2005a, Scene 9)

This rhythm and choice of register create an aesthetic similar to the *chihwerure*, and gives the play use of the whirlwind's poetic license to criticize the system of marriages and succession within its world. *All Systems Out of Order*'s ToiletCleaner and the OrdinaryMan exchange fast dialogue that puns and plays with language such as "TC: (laughing) Do not be surprised eh by the way he is a war veterinary I mean war vegetarian oh shit a war veteran, he? (laughs) (Muzondo 2005a, 5).

¹ Now there is the wind (ghost).

This study came out of my frustration with the state of scholarship and lack of accounting for the aesthetic and theatrical perspectives of theatre for development. Most of Tfd's scholarship comes from the development field and much lip service is paid to the importance of the spectator and changing the spectators' behaviors. But in quite a bit of the literature, these spectators are not their own agents but blank slates in need of change. I started this research hoping to look at how audiences interact with Tfd, and discover if African audiences were actually as active spectators of theatre and the performing arts as the literature surrounding Tfd suggested. Also, audiences in African theatres are traditionally participatory, but because this is true, the Tfd scholarship rarely looks at the role of the audience, other than as a means to measure efficacy of an initiative. I also was very interested in how theatre in Zimbabwe made a place for itself in people's lives—how it dealt with change and crisis and how it was adapting to meet the needs of an audience. I was operating within the academic realm of Tfd and had great suspicion and frustration with many of the reports that I read that did not come from a theatre perspective or assumed one style of performance was the best. Or in one case, an account even expressed surprise when people had their own style of telling stories and performances (cf Kidd). I wanted Tfd to be discussed from a performing aspect as frequently as it was discussed from a development point of view. I was happy to find that other theatre practitioners in Zimbabwe were expressing the same frustration and desires when I got there. I also found that new research was being conducted on the role of the audience and NGOs in shaping an aesthetic of Tfd in Zimbabwe (Zenenga).

I have attempted to create a genealogy of what I call panic theatre. Panic theatre, as I have shown, is a response to the political and economic crises in Zimbabwe. But it is also a

response to the crisis in TfD or community-based theatres. The crisis in Zimbabwe has prevented community-based theatre from reaching the community as Cont Mhlanga argues so well in his answers to Stephen Metcalf (Mhlanga 2008). This crisis within TfD is a product of both the lack of institutions and infrastructure within theatre². But the overall socio-political environment has prevented Theatre for Development from reaching its community. Although I might disagree with Mhlanga's desire to analyze TfD in stages of progress—it is a bit too teleological—I do agree that its purpose should be to reach an audience and be able to reproduce itself and an audience regularly. Theatre and performance should be community based, and should be able to identify and meet the needs of the community. If that means it is public health awareness theatre or political theatre or educational theatre, it should be. But it should also meet the community's emotional and spiritual needs too, not just its material needs. Mhlanga passionately insists that TfD needs to do and I argue panic theatre wishes to do.

This study has attempted to examine the “origins” of panic theatre in Zimbabwe. However, I have been and remain skeptical of defining it as an entirely separate genre. I am hesitant in arguing that panic theatre should be considered a separate genre from TfD or that should be considered a subset for it. Maybe it can more accurately be described as a period of Zimbabwean theatre history that may emerge into a stable genre and dramaturgy. Panic theatre is definitely community-based and because of this it shares many characteristics with TfD. Panic theatre also has some characteristics in common with hit-and-run theatre and the protest theatres of South Africa and elsewhere because it is responding to political crises. It is a response to both the crisis within TfD and within Zimbabwe. Like Jingo James

² He argues that this infrastructural problem goes far outside of Zimbabwe and that TfD suffers because of it wherever it is practiced.

Mukwindiza, those artists involved in panic theatre need to perform, need to sacrifice for their work.

Despite this uncertainty, I have documented an important part of Zimbabwean theatre history. I have documented a very particular time, theatre groups' response to that time, and the emergence of a set of tactics that became a dramaturgy. I have also put into conversation the role of memory, haunting, and politics that influenced this dramaturgy and aesthetic. I have shown how this theatre is not only a product of crisis but also a hybrid of Zimbabwean, Western and avant garde performance styles.

Panic theatre comes from the desire and need to call for help during a crisis. This leads to an urgency of message and the need to communicate with other people experiencing the same emergency. It attempted to find audiences using the old models and had some success. This theatre was also directed at other artists and an expatriate audience as it looked for other means to call for an ambulance.

The Operation Murambatsvina limited my ability to conduct research as it became difficult to travel outside of Harare. It also became increasingly difficult for groups to find audiences or for me to follow up with anyone who was part of an audience. Therefore I have not been able to follow up on how audiences have received panic theatre or if it was able to influence a response or solution to the crisis; or if they were able to find comfort in the healing rituals and *nhimbe*. So I am still guilty of what I am so frustrated with. However, this aspect of the panic theatre may be recoverable as I go back to do follow up research in the future. I may find some of the audience members through the UZ performances. I can also interview regular theatre goers at Theatre in the Park and at Zimbabwe Hall. I can also expand this research to Bulawayo using the resources of Amakhosi and Cont Mhlanga. This

research will rely on the very processes of memory, forgetting and ghosting as audiences are interviewed about their experiences during the OM as theatre audiences.

What will be important to address in future research is if panic theatre has emerged as a fully realized genre or if it is simply a period of theatre history. To do so I will also have to look at audiences more specifically, I will have to look more closely at the role of state violence in shaping this period and how it helped influence the emerging aesthetic that I have observed. In order to see the full beauty of panic theatre's dramaturgy, in order to understand the aesthetic that it uses to create memories of the past and future, I will have to look at other performance traditions in Zimbabwe that also have a didactic role such as *ngano*. Also I need to address some more of the problems that I have seen in TFD, specifically gender issues that I observed redeveloping in panic theatre. I can look at women's participation as actors, audience members and managers and look at the reduplication of character stereotypes within the plays. Again an understanding of women's prominence in the performance of *ngano* can provide a base to develop a more cogent analysis.

Afterword: Panic Theatre in the time of Cholera and Diamonds

Much has happened in Zimbabwe since I completed the research for this dissertation. As I have alluded to in the dissertation, the economy has continued to spiral out of control. Zimbabwe has had a senatorial election (November 2005) and two Presidential elections (both in 2008). The first of the presidential elections was on March 29, 2008 and it was combined with the parliamentary elections. ZANU-PF lost its majority in parliament, with the two separate Movement for Democratic Change parties gaining the majority.³ The results for the Presidential portion were delayed for many days before the announcement that

³ The Movement for Democratic Change split into two in the run up to the elections for the Senate over whether it should participate in the election at all.

Morgan Tsvangirai had won with less than 50 percent of the vote. Run-off elections were declared. However, Tsvangirai withdrew before Election Day citing numerous attacks and the killing of 89 MDC members, the displacement of thousands, and “the use of massive violence as a weapon to influence the ballot” he made the following statement as his reasons for withdrawing from the election:

Given the totality of these circumstances, we believe a credible election, which reflects the will of the people is impossible. We remain unreservedly committed to free and fair elections in the country. The conditions prevailing as of today do not permit the holding of a credible poll. The militia, war veterans and even Mugabe himself have made it clear that anyone that votes for me in the forthcoming election faces the very real possibility of being killed.

Zimbabweans have also shown how brave and resilient they can be. They have withstood years of brutality, impoverishment and intimidation. They are dedicated to a New democratic Zimbabwe.

But, we in the MDC, cannot ask them to cast their vote on June 27th when that vote could cost them their lives. (Tsvangirai, newzimbabwe.com 2008)

As we prepare for the next election, our people stand on a precipice of fear and expectation. They voted for change and now they face many risks. Indeed we all stand on a bridge between yesterday's betrayal and tomorrow's promise. We as leaders have a historic responsibility to reverse the tide of intolerance, violence, corruption, inequality, discrimination, hatred, division, and patronage (Tsvangirai, Address to the MDC Parliamentary Caucus 2008).

Mugabe declared himself the winner of the runoff and a long period of negotiations was repeated. The fragile Government of National Unity emerged out of these talks and Morgan Tsvangirai was sworn in as Prime Minister in February 2009. Mugabe remains president. Neither agrees where each as authority or to what extent authority is shared. The CIO and police continue to hound the majority MDC parliament and many MPs have been arrested.

The economic crisis still has not been halted. The breakdown of all basic services enabled the cholera outbreak in August 2008 to reach epidemic proportions. Many people continue to get sick and die. The opening of a diamond field in southeastern Zimbabwe has done little to alleviate the economic crisis and exacerbates the political crisis. The wealth coming out of this field is not making it to the national coffers, nor is it helping the people who live nearby as the army confiscates the diamonds. Human Rights Watch reports that army brigades have been rotated into Marange to ensure that key front-line units have an opportunity to benefit from the diamond trade. Soldiers have bullied and threatened miners and other civilians into forming syndicates so that the soldiers can control diamond mining and trade in Marange (Human Rights Watch 2009, 3).

The army basically has replaced the illegal traders/miners but has done nothing to regularize the trade. The report argues that the new unity government has not been able to use the funds for any number of economic recovery programs. Additionally, the report continues that army and the police have committed gross human rights violations that include: forced labor of children and adults, harassment, extortion, arbitrary arrests, beatings, torture, ex-judiciary executions, and massacres.

Theatre groups have continued to navigate the difficulties that these events have created. Theatre in The Park continues to have productions in the Harare Gardens. For awhile they would provide lunch with the ticket to attract an audience. At the same time they were having no evening performances, because of lack of transportation. HIFA continues to put on an international arts festival every April.

The crisis of the OM has not abated and continues to haunt theatre groups and those who are crying out for assistance. But the house still burns despite all of their efforts. Many of the people that I worked with both at UZ and in Highfield have left Zimbabwe because of the impossibility of the economic situation. Stanley Mambo of MEP divides his time between Reunion and South Africa. Tafadzwa Muzondo works in Botswana, but returns to Zimbabwe occasionally to act and see his family. Shillah Chipamuriwo remains in Zimbabwe, but travels regularly to South Africa to purchase trade goods. Jingo James Mukwindidza has worked with the US Embassy, the German embassy and UZ as an actor and director periodically. The Theatre Arts department is down to two faculty members—all of the rest of the faculty are elsewhere.

The house is burning, panic theatre calls for our attention to what needs to be done to put out the fire, but has not yet found a way to stop new fires from starting.

Appendices ¹

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PUBLIC ORDER AND SECURITY ACT [CHAPTER 11:17]

Act 1/2002, 6/2005 (s. 18)²

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¹ I obtained the texts of both of these laws in their entirety from kubatana.net's archives.

² General Laws Amendment Act, 2005 (No. 6 of 2005), with effect from 3rd February, 2006

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ACT

To make provision for the maintenance of public order and security in Zimbabwe; to amend the Citizenship of Zimbabwe Act [*Chapter 4:01*], the Criminal Procedure and Evidence Act [*Chapter 9:07*] and the Miscellaneous Offences Act [*Chapter 9:15*]; to repeal the Law and Order (Maintenance) Act [*Chapter 11:07*]; and to provide for matters connected with or incidental to the foregoing.

ENACTED by the President and the Parliament of Zimbabwe.

PART I
PRELIMINARY

1 Short title

This Act may be cited as the Public Order and Security Act [*Chapter 11:17*].

2 Interpretation

In this Act—

“act of insurgency, banditry, sabotage or terrorism” means any act referred to in subsection (1) of section *six* that is undertaken for a purpose referred to in paragraph (a), (b) or (c) of that subsection;

“bomb” means—

- (a) any device consisting of or carrying an explosive charge or fused to detonate upon impact or percussion or through a timing contrivance or by an electrical or electronic device; or
- (b) any other device capable of causing an explosion;
but excludes ammunition for a firearm;

“essential service” means—

- (a) any service relating to the generation, supply or distribution of electricity; or
- (b) any fire brigade or fire service; or
- (c) any health, hospital or ambulance service; or
- (d) any service relating to the production, supply, delivery or distribution of fuel; or
- (e) any service relating to the supply or distribution of water; or
- (f) any communications service; or
- (g) any transport service; or
- (h) any other service or occupation whose interruption would endanger the life, health or safety of the whole or a part of the population and which the Minister may declare by statutory instrument to be an essential service;

“insurgent, bandit, saboteur or terrorist” means a person who—

- (a) is about to commit, is committing or has committed an act of insurgency, banditry, sabotage or terrorism; or;
- (b) has attended a course or undergone training, is about to attend a course or undergo training or is attending a course or undergoing training referred to in subsection (1) of section *eight*;

“law enforcement agency” means the Police Force (including a member of the Police Constabulary as defined in section 2 of the Police Act [*Chapter 11:10*]) or an intelligence

service maintained by the Government, or any agency assigned by an enactment to maintain and enforce the law;

“meeting” means a meeting held for the purpose of the discussion of matters of public interest or for the purpose of the expression of views on such matters;

“Minister” means the Minister of Home Affairs or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“offensive material” means any inflammable, dangerous, noxious, or deleterious substance, material or thing capable of killing or injuring persons, including—

- (a) low or high explosives and the ingredients thereof;
- (b) all types of fuse used in the ignition of explosives;
- (c) detonators;
- (d) timing devices, especially time pencils;
- (e) wire cutters;
- (f) acids;
- (g) ammunition as defined in the Firearms Act [*Chapter 10:09*];
- (h) biological or chemical warfare agents;
- (i) any other substance, material or thing declared by the Minister, by notice in a statutory instrument, to be an offensive material for the purposes of this definition;

“official” means—

- (a) a member of any law enforcement agency; or
- (b) an ancillary member of the Police Force as defined in section 2 of the Police Act [*Chapter 11:10*]; or
- (c) a member of the Defence Forces; or
- (d) a provincial or district administrator or an assistant provincial or district administrator or any other employee of the State acting in that capacity;

“peace officer” has the meaning given to that term in section 2 of the Criminal Procedure and Evidence Act [*Chapter 9:07*];

“police district” means an area designated by the Commissioner of Police as a police district for the purposes of the administration of the Police Force;

“procession” means a procession in a public place;

“public gathering” means a public meeting or a public demonstration;

“public demonstration” means a procession, gathering or assembly in a public place of persons and additionally, or alternatively, of vehicles, where the gathering is in pursuit of a common purpose of demonstrating support for, or opposition to, any person, matter or thing, whether

or not the gathering is spontaneous or is confined to persons who are members of a particular organisation, association or other body or to persons who have been invited to attend;

“public meeting” means any meeting in a public place or meeting which the public or any section of the public is permitted to attend, whether on payment or otherwise;

“public place” means any thoroughfare, building, open space or other place of any description to which the public or any section of the public have access, whether on payment or otherwise and whether or not the right of admission thereto is reserved;

“publication” includes a document, book, magazine, film, sound or visual broadcast, tape, disc or other material, medium or thing whatsoever in which, on which or by means of which a statement may be made;

“regulating authority”, in relation to any area, means the police officer who, in terms of section *four*, is the regulating authority for that area;

“statement” means any expression of fact or opinion, whether made orally, in writing, electronically or by visual images;

“thoroughfare” means any road, street, lane, path, pavement, sidewalk or similar place which exists for the free passage of persons or vehicles;

“weaponry” means any of the following kinds of offensive material—

- (a) artillery of all kinds;
- (b) a firearm or other apparatus for the discharge of bullets or other kinds of projectiles which are designed to be lethal, whether solid, explosive or gas diffusing;
- (c) a flame-thrower;
- (d) high or low explosive, whether or not manufactured as a bomb, grenade or similar missile or device and whether capable of use with a firearm or not, including a fuse, detonator or timing device therefor.

3 Realisation of risk or possibility as an element of offences under this Act

(1) Where realisation of a risk or possibility is an element of any offence under this Act, the test is whether or not the person whose conduct is in issue realised or must have realised that there was a risk or possibility, other than a remote risk or possibility, that—

- (a) his act or omission might give rise to the relevant consequence; or
- (b) the relevant fact or circumstance existed when he acted or omitted to act.

(2) For the avoidance of doubt it is declared that the common-law test for constructive or legal intention shall not apply to any offence under this Act of which the realisation of a risk or possibility is an element.

4 Regulating authorities

The police officer in command of each police district shall be the regulating authority for that police district.

PART II

OFFENCES AGAINST CONSTITUTIONAL GOVERNMENT AND PUBLIC SECURITY

5 Subverting constitutional government

(1) In this section—

“coercing” means constraining, compelling or restraining by—

- (a) physical force or violence or, if accompanied by physical force or violence or the threat thereof, boycott, civil disobedience or resistance to any law, whether such resistance is active or passive; or
- (b) threats to apply or employ any of the means described in paragraph (a);

“unconstitutional means” means any process which is not a process provided for in the Constitution and the law.

(2) Any person who, whether inside or outside Zimbabwe—

- (a) organises or sets up or advocates, urges or suggests the organisation or setting up of, any group or body with a view to that group or body—
 - (i) overthrowing or attempting to overthrow the Government by unconstitutional means; or
 - (ii) taking over or attempting to take over Government by unconstitutional means or usurping the functions of the Government; or
 - (iii) coercing or attempting to coerce the Government;
- or
- (b) supports or assists any group or body in doing or attempting to do any of the things described in subparagraphs (i), (ii) or (iii) of paragraph (a);

shall be guilty of an offence and liable to imprisonment for a period not exceeding twenty years without the option of a fine.

6 Insurgency, banditry, sabotage or terrorism

(1) Any person who, for the purpose of—

- (a) causing or furthering an insurrection in Zimbabwe; or
- (b) causing forcible resistance to the Government or the Defence Forces or any law enforcement agency; or
- (c) procuring by force the alteration of any law or policy of the Government;

commits any act accompanied by the use or threatened use of weaponry with the intention or realising that there is a risk or possibility of—

- (i) killing or injuring any other person; or
- (ii) damaging or destroying any property; or
- (iii) inflicting financial loss upon any other person; or

- (iv) obstructing or endangering the free movement in Zimbabwe of any traffic on land or water or in the air; or
- (v) disrupting or interfering with an essential service;

shall be guilty of an offence, whether or not any purpose referred to in paragraph (a), (b) or (c) is accomplished, and be liable—

- A. where the act of insurgency, banditry, sabotage or terrorism results in the death of a person, to be sentenced to death or to imprisonment for life;
- B. in any other case, to imprisonment for life.

(2) For the avoidance of doubt, where any act of insurgency, banditry, sabotage or terrorism does not result in any of the consequences referred to in subparagraph (i), (ii), (iii), (iv) or (v) of subsection (1), the competent charge shall be one of attempting to commit an offence in terms of subsection (1).

7 Recruiting or training insurgents, bandits, saboteurs or terrorists

Any person who intentionally—

- (a) recruits, assists or encourages any other person to undergo training inside or outside Zimbabwe in order to commit any act of insurgency, banditry, sabotage or terrorism in Zimbabwe; or
- (b) provides training to any person, whether inside or outside Zimbabwe, in order to commit any act of insurgency, banditry, sabotage or terrorism in Zimbabwe;

shall be guilty of an offence and liable to imprisonment for life.

8 Training as insurgent, bandit, saboteur or terrorist

(1) Any person who attends or undergoes any course of training, whether inside or outside Zimbabwe, for the purpose of enabling him to commit any act of insurgency, banditry, sabotage or terrorism in Zimbabwe shall be guilty of an offence and liable to imprisonment for life.

(2) If it is proved in a prosecution for an offence under subsection (1) that the accused person attended or underwent a course of training whose effect was to enable him to commit an act of insurgency, banditry, sabotage or terrorism in Zimbabwe, it shall be presumed, unless the contrary is proved on a balance of probabilities, that he did so for that purpose.

9 Supplying weaponry to insurgents, bandits, saboteurs or terrorists

Any person who, inside or outside Zimbabwe, supplies weaponry to an insurgent, bandit, saboteur or terrorist, knowing that the person to whom such weaponry is supplied is an insurgent, bandit, saboteur or terrorist or realising that there is a risk or possibility that such person is an insurgent, bandit, saboteur or terrorist, shall be guilty of an offence and liable to imprisonment for life.

10 Possessing weaponry for insurgency, banditry, sabotage or terrorism

(1) Any person who has any weaponry in his possession or under his control with the intention that such weaponry will be used in the commission of an act of insurgency, banditry, sabotage or terrorism shall be guilty of an offence and liable to imprisonment for life.

- (2) If it is proved in a prosecution for an offence under subsection (1) that—
- (a) the accused person was in unlawful possession of any weaponry; and
 - (b) the weaponry consists of any weapon, firearm or ammunition—
 - (i) referred to in section 24 of the Firearms Act [*Chapter 10:09*]; or
 - (ii) for the purchase, acquisition or possession of which the accused person has no good ostensible reason; or
 - (iii) that was part of a cache or was found in the possession of the accused person in such a quantity as cannot be accounted for by reason of personal use alone;

it shall be presumed, unless the contrary is proved on a balance of probabilities, that he possessed the weaponry with the intention that it should be used in the commission of an act of insurgency, banditry, sabotage or terrorism.

(3) A person charged with an offence in terms of subsection (1) may be found guilty of the offence specified in subsection (1) or (2) of section *thirteen* if such are the facts proved.

11 Harboursing, concealing or failing to report insurgent, bandit, saboteur or terrorist

(1) Subject to subsection (5), any person who, knowing that another person is an insurgent, bandit, saboteur or terrorist, or realising that there is a risk or possibility that such person is an insurgent, bandit, saboteur or terrorist, intentionally harbours or conceals that other person shall be guilty of an offence and liable to a fine not exceeding level twelve³ or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

(2) Subject to subsection (5), any person who becomes aware of the presence in Zimbabwe of another person whom he knows to be an insurgent, bandit, saboteur or terrorist and who fails, within the period prescribed in subsection (3), to report to an official the presence of that other person in Zimbabwe and any information it is in his power to give in relation to that other person shall be guilty of an offence and liable to a fine not exceeding level seven⁴ or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(3) A person shall make a report in terms of subsection (2) as soon as is reasonably practicable after he becomes aware of the presence in Zimbabwe of the insurgent, bandit, saboteur or terrorist concerned, and in any event within seventy-two hours of becoming so aware.

(4) Subject to subsection (5), any person who is aware of the presence in Zimbabwe of another person whom he knows to be an insurgent, bandit, saboteur or terrorist or realises that there is a risk or possibility that such person is an insurgent, bandit, saboteur or terrorist and who, upon being questioned by an official, intentionally—

- (a) omits or refuses to disclose to the official any information it is in his power to give in relation to that other person; or
- (b) gives the official false information in relation to that other person;

³ Before 3rd February, 2006, this was \$200 000 dollars.

⁴ Before 3rd February, 2006, this was \$50 000 dollars.

shall be guilty of an offence and liable to a fine not exceeding level ten⁵ or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

(5) For the avoidance of doubt, a person who—

- (a) has committed an act of insurgency, banditry, sabotage or terrorism; or
- (b) has attended a course or undergone training referred to in subsection (1) of section *eight*;

for which he has been convicted and sentenced or granted a pardon or amnesty shall not be regarded as an insurgent, bandit, saboteur or terrorist in respect of that conduct.

12 Causing disaffection among Police Force or Defence Forces

If any person—

- (a) causes, or attempts to cause, or does any act calculated to cause, disaffection amongst the members of the Police Force or Defence Forces with the result that any member of the Police Force or Defence Forces withholds his services, loyalty or allegiance or commits breaches of discipline, or causes, or attempts to cause, or does any act calculated to cause such disaffection with the intention of bringing about such result; or
- (b) induces, or attempts to induce, or does any act calculated to induce, any member of the Police Force or Defence Forces to withhold his services, loyalty or allegiance or to commit breaches of discipline;

he shall be guilty of an offence and liable to a fine not exceeding level seven⁶ or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

13 Possession of dangerous weapons

(1) Any person who has unlawful possession of any of the following weapons—

- (a) artillery of any kind or any shell or other ammunition therefor; or
- (b) a flame thrower; or
- (c) a bomb, grenade or similar missile or device, whether capable of use with a firearm or not, including any fuse, detonator or timing device therefor; or
- (d) a machine-gun or sub-machine-gun; or
- (e) any automatic or semi-automatic firearm, other than a pistol, that is or has been in use in the Defence Forces, the Police Force or the armed or police forces of any neighbouring State;

shall be guilty of an offence and liable to a fine not exceeding level twelve⁷ or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

(2) Where any firearm or ammunition in respect of which a firearm certificate is capable of being granted in terms of the Firearms Act [*Chapter 10:09*] is found in the possession of any person who does not hold such certificate, the competent charge is contravening section 4 of the Firearms Act [*Chapter 10:09*] and not contravening subsection (1).

⁵ Before 3rd February, 2006, this was \$100 000 dollars.

⁶ Before 3rd February, 2006, this was \$20 000 dollars.
Before 3rd February, 2006, this was \$200 000 dollars.⁷

(3) A person charged with an offence in terms of subsection (1) may be found guilty of contravening section 4 of the Firearms Act [*Chapter 10:09*] if such are the facts proved.

14 Temporary prohibition of possession of certain weapons within particular police districts

(1) Without derogation from section *thirteen*, if a regulating authority believes that the carrying in public (whether openly or by concealment in a public place or public thoroughfare) or public display of any of the following weapons or items capable of use as weapons—

- (a) catapults, machetes, axes, knobkerries, swords, knives or daggers;
- (b) any traditional weapon whatsoever;

is likely to occasion public disorder or a breach of the peace, he may within his police district prohibit for a specified period of time not exceeding three months the carrying in public or public display of any such weapons or items capable of use as weapons as he shall specify.

(2) A prohibition issued under subsection (1) shall not have effect until it is published—

- (a) in a newspaper circulating in the area to which the prohibition applies; or
- (b) by notices distributed among the public or affixed upon public buildings in the area to which the prohibition applies; or
- (c) by announcement of a police officer broadcast or made orally.

(3) Any person who is aggrieved by a prohibition issued under subsection (1) may appeal against it to the Minister, and the Minister may confirm, vary or set aside the prohibition or give such order or direction in the matter as he thinks just.

(4) Any person who fails to comply with a prohibition made under subsection (1) shall be guilty of an offence and liable to a fine not exceeding level five⁸ or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(5) A police officer may, without warrant, seize any weapon or item capable of use as weapon found in the possession of any person in contravention of subsection (1), and shall place in safe custody every weapon or item so seized so that it may be submitted to the jurisdiction of the court to be dealt with in accordance with section *thirty-nine*.

15 Publishing or communicating false statements prejudicial to the State

(1) Any person who, whether inside or outside Zimbabwe, publishes or communicates to any other person a statement which is wholly or materially false with the intention or realising that there is a risk or possibility of—

- (a) inciting or promoting public disorder or public violence or endangering public safety; or
- (b) adversely affecting the defence or economic interests of Zimbabwe; or
- (c) undermining public confidence in a law enforcement agency, the Prison Service or the Defence Forces of Zimbabwe; or
- (d) interfering with, disrupting or interrupting any essential service;

⁸ Before 3rd February, 2006, this was \$10 000 dollars.

shall, whether or not the publication or communication results in a consequence referred to in paragraph (a), (b), (c) or (d), be guilty of an offence and liable to a fine not exceeding level ten⁹ or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

(2) Any person who, whether inside or outside Zimbabwe and whether with or without the intention or realisation referred to in subsection (1), publishes or communicates to any other person a statement which is wholly or materially false and which—

- (a) he knows to be false; or
- (b) he does not have reasonable grounds for believing to be true;

shall, if the publication or communication of the statement—

- (i) promotes or incites public disorder or public violence or endangers public safety; or
- (ii) adversely affects the defence or economic interests of Zimbabwe; or
- (iii) undermines public confidence in a law enforcement agency, the Prison Service or the Defence Forces of Zimbabwe; or
- (iv) interferes with, disrupts or interrupts any essential service;

be guilty of an offence and liable to a fine not exceeding level ten¹⁰ or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

16 Undermining authority of or insulting President

(1) In this section—

“publicly”, in relation to making a statement, means—

- (a) making the statement in a public place or any place to which the public or any section of the public have access;
- (b) publishing it in any printed or electronic medium for reception by the public;

“statement” includes any act or gesture.

(2) Any person who publicly and intentionally—

- (a) makes any false statement about or concerning the President or an acting President knowing or realising that there is a risk or possibility of—
 - (i) engendering feelings of hostility towards; or
 - (ii) causing hatred, contempt or ridicule of;the President or an acting President, whether in person or in respect of his office; or
- (b) makes any abusive, indecent, obscene or false statement about or concerning the President or an acting President, whether in respect of his person or his office; or

shall be guilty of an offence and liable to a fine not exceeding level six¹¹ or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

⁹ Before 3rd February, 2006, this was \$100 000 dollars.

¹⁰ Before 3rd February, 2006, this was \$100 000 dollars.

¹¹ Before 3rd February, 2006, this was \$20 000 dollars.

PART III

OFFENCES AGAINST PUBLIC ORDER

17 Public violence

- (1) Any person who, acting in concert with one or more other persons, forcibly—
- (a) disturbs the peace, security or order of the public or any section of the public; or
 - (b) invades the rights of other people;

intending such disturbance or invasion or realising that there is a risk or possibility that such disturbance or invasion may occur, shall be guilty of public violence and liable to a fine not exceeding level twelve¹² or imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

(2) It shall be an aggravating circumstance if, in the course of or as a result of the offence of public violence—

- (a) there was an attack on the police or on other persons in lawful authority; or
- (b) bodily injury or damage to property occurred; or
- (c) the person who has been convicted of the offence instigated an attack on the police or other persons in lawful authority or instigated the infliction of bodily injury or the causing of damage to property.

(3) A person accused of any contravention of subsection (1) may be charged concurrently or alternatively with the common-law offence of public violence.

18 Throwing articles at persons, motor vehicles, etc.

Any person who—

- (a) throws or propels or prepares to throw or propel any missile, article or thing likely to cause damage or injury at any person, motor vehicle, boat, aircraft or building; or
- (b) without lawful excuse, the proof whereof lies on him, overturns or attempts to overturn any motor vehicle, boat or aircraft; or
- (c) otherwise than under and in accordance with any other enactment, leaves or places on or over any road any thing so as to obstruct such road or endanger persons using it;

shall be guilty of an offence and liable to a fine not exceeding level twelve¹³ or imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

¹² Before 3rd February, 2006, this was \$100 000 dollars.

¹³ Before 3rd February, 2006, this was \$100 000 dollars.

19 Gatherings conducing to riot, disorder or intolerance

(1) Any person who, acting together with one or more other persons present with him in any place or at any meeting—

- (a) forcibly—
 - (i) disturbs the peace, security or order of the public or any section of the public; or
 - (ii) invades the rights of other people;intending to cause such disturbance or invasion or realising that there is a risk or possibility that such disturbance or invasion may occur; or
- (b) performs any action, utters any words or distributes or displays any writing, sign or other visible representation that is obscene, threatening, abusive or insulting, intending thereby to provoke a breach of the peace or realising that there is a risk or possibility that a breach of the peace may be provoked; or
- (c) utters any words or distributes or displays any writing, sign or other visible representation—
 - (i) with the intention to engender, promote or expose to hatred, contempt or ridicule any group, section or class of persons in Zimbabwe solely on account of the race, tribe, nationality, place of origin, national or ethnic origin, colour, religion or gender of such group, section or class of persons; or
 - (ii) realising that there is a risk or possibility that such behaviour might have an effect referred to in subparagraph (i);

shall be guilty of an offence and be liable to a fine not exceeding level ten¹⁴ or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

(2) An offence under subsection (1) is committed whether the action constituting it is spontaneous or concerted, and whether the place or meeting where it occurred is public or private.

20 Assaulting or resisting peace officer

Any person who assaults or by violent means resists a peace officer acting in the course of his duty and who—

- (a) intends the assault or resistance to provoke or encourage public violence or public disorder or a breach of the peace; or
- (b) realises that there is a risk or possibility that the assault or resistance will have the effect referred to in paragraph (a);

shall be guilty of an offence and liable to a fine not exceeding level twelve¹⁵ dollars or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

21 Undermining of police authority

Any person who—

- (a) in a public place and in the presence of—

¹⁴ Before 3rd February, 2006, this was \$50 000 dollars.

¹⁵ Before 3rd February, 2006, this was \$200 000 dollars.

- (i) a police officer who is present on duty; or
- (ii) a police officer who is off duty, knowing that he is a police officer or realising that there is a risk or possibility that he is a police officer;

makes any statement that is false in a material particular or does any act or thing whatsoever;

or

- (b) in a public place and whether or not in the presence of a police officer referred to in subparagraph (i) or (ii) of paragraph (a) makes any statement that is false in a material particular;

with the intention, or realising that there is a risk or possibility, of engendering feelings of hostility towards such officer or the Police Force or exposing such officer or the Police Force to contempt, ridicule or disesteem, shall be guilty of an offence and liable to a fine not exceeding level seven¹⁶ or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

22 Intimidation

Any person who, with the intention of unlawfully furthering a political objective in Zimbabwe, and by means of an express or implied threat of unlawfully inflicted harm, compels or induces another person—

- (a) to do something which he is not legally obliged to do; or
- (b) to refrain from doing something which he is legally entitled to do;

shall be guilty of an offence and liable to a fine not exceeding level ten¹⁷ or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

PART IV

PUBLIC GATHERINGS

23 Interpretation in Part IV

In this Part—

“organiser”, in relation to a public gathering, means every person who or organisation or association which executes or assists in executing the arrangements for or promotes the holding of the public gathering.

24 Organiser to notify regulating authority of intention to hold public gathering

(1) Subject to subsection (5), the organiser of a public gathering shall give at least four clear days’ written notice of the holding of the gathering to the regulating authority for the area in which the gathering is to be held:

Provided that the regulating authority may, in his discretion, permit shorter notice to be given.

¹⁶ Before 3rd February, 2006, this was \$20 000 dollars.

¹⁷ Before 3rd February, 2006, this was \$100 000 dollars.

(2) For the avoidance of doubt, it is declared that the purpose of the notice required by subsection (1) is—

- (a) to afford the regulating authority a reasonable opportunity of anticipating or preventing any public disorder or a breach of the peace; and
- (b) to facilitate co-operation between the Police Force and the organiser of the gathering concerned; and
- (c) to ensure that the gathering concerned does not unduly interfere with the rights of others or lead to an obstruction of traffic, a breach of the peace or public disorder.

(3) Any Saturday, Sunday or public holiday falling within the four-day period of notice referred to in subsection (1) shall be counted as part of the period.

(4) Where there are two or more organisers of a public gathering, the giving of notice by any one of them in terms of subsection (1) shall be a discharge of the duty imposed upon the other or others by that subsection.

(5) This section shall not apply to public gatherings of a class described in the Schedule.

(6) Any organiser of a public gathering who fails to notify the regulating authority for the area of the gathering in accordance with subsection (1) shall be guilty of an offence and liable to a fine not exceeding level five¹⁸ or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

25 Regulation of public gatherings

(1) If a regulating authority, having regard to all the circumstances in which a public gathering is taking or is likely to take place, has reasonable grounds for believing that the public gathering will occasion—

- (a) public disorder; or
- (b) a breach of the peace; or
- (c) an obstruction of any thoroughfare;

he may, subject to this section, give such directions as appear to him to be reasonably necessary for the preservation of public order and the public peace and preventing or minimising any obstruction of traffic along any thoroughfare.

(2) Without derogation from the generality of subsection (1), directions under that subsection may provide for any of the following matters—

- (a) prescribing the time at which the public gathering may commence and its maximum duration;
- (b) prohibiting persons taking part in the public gathering from entering any public place specified in the directions;
- (c) precautions to be taken to avoid the obstruction of traffic along any thoroughfare;
- (d) prescribing the route to be taken by any procession;

¹⁸ Before 3rd February, 2006, this was \$10 000 dollars.

(e) requiring the organiser to appoint marshals to assist in the maintenance of order at the public gathering.

(3) Whenever it is practicable to do so, before issuing a direction under subsection (1) a regulating authority shall give the organiser of the public gathering concerned a reasonable opportunity to make representations in the matter.

(4) A direction given under subsection (1) shall have effect immediately it is issued and may be published—

(a) in a newspaper circulating in the area to which the direction applies; or

(b) by notices distributed among the public or affixed upon public buildings in the area to which the direction applies; or

(c) by announcement of a police officer broadcast or made orally.

Provided that, where practicable, the regulating authority shall ensure that the direction is reduced to writing and served on the organiser of the public gathering to which it relates.

(5) Any person who is aggrieved by a direction issued under subsection (1) may appeal against it to the Minister, and the Minister may confirm, vary or set aside the direction or give such order or direction in the matter as he thinks just.

(6) An appeal in terms of subsection (5) shall be dealt with as quickly as possible.

(7) The noting of an appeal in terms of this subsection shall not have the effect of suspending the direction appealed against.

(8) A police officer may order the persons taking part in any public gathering to disperse if—

(a) any direction given under subsection (1) in relation to that gathering has been violated; or

(b) the police officer has reasonable grounds for believing that public order is likely to be endangered if the gathering continues.

(9) Any person who fails to comply with an order given under subsection (8) shall be guilty of an offence and liable to a fine not exceeding level five¹⁹ or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

26 Prohibition of public gatherings to avoid public disorder

(1) Without derogation from section *twenty-five*, if a regulating authority believes on reasonable grounds that a public gathering will occasion public disorder, he may by notice in terms of subsection (3) prohibit the public gathering.

(2) Whenever it is practicable to do so, before acting in terms of subsection (1), a regulating authority shall afford the organiser of the public gathering concerned a reasonable opportunity to make representations in the matter.

(3) A notice given under subsection (1) shall have effect immediately it is issued and shall be published—

(a) in a newspaper circulating in the area to which the direction applies; or

¹⁹ Before 3rd February, 2006, this was \$10 000 dollars.

- (b) by notices distributed among the public or affixed upon public buildings in the area to which the direction applies; or
- (c) by announcement of a police officer that is broadcast or made orally:

Provided that, where practicable, the regulating authority shall ensure that the notice is reduced to writing and served on the organiser of the public gathering to which it relates.

(4) Any person who is aggrieved by a notice given under subsection (1) may appeal against it to the Minister, and the Minister may confirm, vary or set aside the notice or give such other order in the matter as he thinks just:

Provided that the noting of an appeal in terms of this subsection shall not have the effect of suspending any notice appealed against.

(5) Any person who knowingly opposes or fails to comply with a notice given under subsection (1) shall be guilty of an offence and liable to a fine not exceeding level five²⁰ or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

27 Temporary prohibition of holding of public demonstrations within particular police districts

(1) If a regulating authority for any area believes on reasonable grounds that the powers conferred by sections *twenty-five* and *twenty-six* will not be sufficient to prevent public disorder being occasioned by the holding of public demonstrations or any class thereof in the area or any part thereof, he may issue an order prohibiting, for a specified period not exceeding one month, the holding of all public demonstrations or any class of public demonstrations in the area or part thereof concerned.

(2) Whenever it is practicable to do so, before acting in terms of subsection (1), a regulating authority shall—

- (a) cause notice of the proposed order to be published in the *Gazette* and in a newspaper circulating in the area concerned and to be given to any person whom the regulating authority believes is likely to organise a public demonstration that will be prohibited by the proposed order; and
- (b) afford all interested persons a reasonable opportunity to make representations in the matter.

(3) The regulating authority for the area in respect of which an order has been made under subsection (1) shall ensure that the order and any amendment or revocation thereof is published—

- (a) in the *Gazette*; and
- (b) in a newspaper circulating in the area; and
- (c) in such other manner as, in his opinion, will ensure that the order or its amendment or revocation, as the case may be, is brought to the attention of persons affected by it.

(4) Any person who is aggrieved by an order given under subsection (1) may appeal against it to the Minister, and the Minister may confirm, vary or set aside the order or give such other order in the matter as he thinks just:

²⁰ Before 3rd February, 2006, this was \$10 000 dollars.

Provided that the noting of an appeal in terms of this subsection shall not have the effect of suspending any order appealed against.

(5) Any person who organises or assists in organising or takes part in or attends any public demonstration held in contravention of an order under subsection (1) shall be guilty of an offence and liable to a fine not exceeding level six²¹ or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

28 Civil liability in certain circumstances of organiser of public gathering

(1) If the organiser of a public gathering—

- (a) has not given notice of the holding of the gathering in terms of subsection (1) of section *twenty-four*; or
- (b) fails or refuses to comply to the best of his ability with any direction, notice or order given in terms of section *twenty-five*, *twenty-six* or *twenty-seven*; or
- (c) incites or encourages persons taking part in the gathering to engage in conduct which amounts to or could reasonably be expected to lead to public disorder or a breach of the peace;

he shall be liable, at the suit of any injured party, for any loss of or damage to property and any injury to or death of a person occasioned by any public disorder or breach of the peace caused by or arising out of or occurring at the gathering.

(2) Where there is more than one organiser of a public gathering, their liability under this section shall be joint and several.

(3) In any proceedings in which it is alleged that an organiser of a public gathering is liable in terms of subsection (1) for any loss, damage, injury or death, the organiser shall bear the onus of proving on a balance of probabilities—

- (a) that he gave notice of the holding of the gathering in terms of section *twenty-four*;
- (b) that he complied to the best of his ability with any direction or order that is proved to have been made in relation to the gathering.

(4) This section shall be construed as adding to, and not as derogating from, any other law under which an organiser of a public gathering or any other person may be liable for any loss, damage, injury or death caused by or arising out of or occurring at the gathering.

(5) Subject to Part XIX of the Criminal Procedure and Evidence Act [*Chapter 9:07*], a court which has convicted a person of any offence in terms of section *twenty-four*, *twenty-five*, *twenty-six* or *twenty-seven* that involves any loss, damage, injury or death for which that person is liable in terms of this section shall forthwith award compensation to any person who has suffered personal injury or whose right or interest in property of any description has been lost or diminished as a direct result of the offence.

29 Dispersal of unlawful public gatherings

(1) A police officer and any person assisting him may do all things reasonably necessary for—

²¹ Before 3rd February, 2006, this was \$5 000 dollars.

- (a) dispersing the persons present at a public gathering the holding or continuance of which is unlawful by virtue of any direction or order under section *twenty-five, twenty-six* or *twenty-seven*; and
- (b) apprehending any such persons;

and, if any such person makes resistance, the police officer or the person assisting him may use such force as is reasonably justifiable in the circumstances of the case for overcoming any such resistance.

(2) If a person is killed as a result of the use of reasonably justifiable force in terms of subsection (1), where the force is directed at overcoming that person's resistance to a lawful measure taken in terms of that subsection, the killing shall be lawful.

30 Prohibition of offensive weapons at public gatherings

(1) In this section—

“offensive weapon” means—

- (a) any weaponry; or
- (b) any object made or adapted to be used for causing injury to the person; or
- (c) any stone.

(2) Any person who, while present at a public gathering, has with him any offensive weapon, otherwise than in pursuance of lawful authority, shall be guilty of an offence and liable to a fine not exceeding level ten²² or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

(3) For the purposes of subsection (2), a person shall be deemed to be acting in pursuance of lawful authority only if he is acting in his capacity as a police officer, a member of the Defence Forces or an employee of the State or a local authority.

31 Disrupting public gatherings

Any person who, at a public gathering—

- (a) engages in disorderly or riotous conduct; or
- (b) uses threatening, abusive or insulting words; or
- (c) behaves in a threatening, abusive or insulting manner;

intending to prevent the transaction of the business for which the gathering was called together, or realising that there is a risk or possibility that the transaction of business may be prevented, shall be guilty of an offence and liable to a fine not exceeding level seven²³ or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

²² Before 3rd February, 2006, this was \$100 000 dollars.

²³ Before 3rd February, 2006, this was \$50 000 dollars.

PART V

ENFORCEMENT AND PRESERVATION OF PUBLIC ORDER AND SECURITY

32 Persons to carry identity documents

(1) In this section—

“arrestable offence” means an offence specified in the First Schedule to the Criminal Procedure and Evidence Act [*Chapter 9:07*];

“identity document” means—

- (a) a document issued to a person in terms of subsection (1) or (2) of section 7 of the National Registration Act [*Chapter 10:17*], or a passport or drivers licence issued by or on behalf of the Government of Zimbabwe; or
- (b) any visitors entry certificate or other certificate or permit issued to a person in terms of the Immigration Act [*Chapter 4:02*], or in terms of any enactment relating to refugees; or
- (c) any passport, identity document or drivers licence issued by a foreign government.

(2) Subject to this section, every person of or above the age of sixteen years shall, when in a public place, carry an identity document on his person.

(3) Subject to this section, a police officer may at any time require a person of or above the age of sixteen years in a public place to produce an identity document.

(4) Any person who fails to produce his identity document immediately on being required to do so by a police officer—

- (a) acting in good faith in the course of investigating or preventing an arrestable offence; or
- (b) at the scene or in the immediate vicinity of the commission of an arrestable offence committed within the preceding forty-eight hours; or
- (c) within a police cordon; or
- (d) at a police road block; or
- (e) in the immediate vicinity of any area controlled or protected in terms of the Defence Act [*Chapter 11:02*], the Protected Places and Areas Act [*Chapter 11:12*] or the Parks and Wild Life Act [*Chapter 20:14*]; or
- (f) at a public gathering or a public meeting of a political nature;

may be detained by the police officer until such time as his identity is established or verified to the satisfaction of the police officer:

Provided that the police officer shall afford the person detained every reasonable facility to enable him to establish or verify his identity.

(5) Any person who is found without an identity document on his person in circumstances other than those specified in subsection (4) shall be afforded an opportunity, within seven days thereafter,

of producing his identity document at a police station specified by notice in writing issued by the police officer who required him to produce his identity document.

(6) Any person who, on being required to do so in terms of subsection (5), fails to produce his identity document at a police station specified in terms of that subsection, may be detained by a police officer until such a time as his identity is established or verified to the satisfaction of the police officer.

33 Cordon and search

(1) A police officer of or above the rank of inspector may establish a cordon round any area if he considers it reasonably necessary—

- (a) to contain any public disorder or public violence within the area; or
- (b) to protect the area from any public disorder or public violence.

(2) Any person who, otherwise than in terms of a written permit issued by a police officer, knowingly enters or leaves any area round which a cordon has been established under subsection (1) shall be guilty of an offence and liable to a fine not exceeding level five²⁴ or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(3) A peace officer may without warrant, within the area round which a cordon has been established in terms of subsection (1)—

- (a) conduct a search for—
 - (i) any person reasonably suspected of having committed an offence relating to or arising out of public disorder or public violence which gave rise to the establishment of the cordon; or
 - (ii) any evidence relating to an offence referred to in subparagraph (i);

or

- (b) arrest any person referred to in paragraph (a).

34 Powers of stopping and searching

(1) A police officer may stop and, without warrant—

- (a) search any person, vehicle or vessel entering or leaving Zimbabwe and any person in or upon such vehicle or vessel; and
- (b) seize any thing;

in circumstances where there are reasonable grounds for believing that the search or seizure is necessary in the interests of public safety, public order or public health or for the prevention, investigation or detection of a criminal offence.

(2) If a police officer of or above the rank of inspector considers it reasonably necessary in the interests of public safety, public order or public health to exercise without warrant the powers referred to in subsection (1) in respect of vehicles, vessels and persons in or upon such vehicles or vessels anywhere in Zimbabwe, he may authorise the erection of a road block or checkpoint for the purposes

²⁴ Before 3rd February, 2006, this was \$10 000 dollars.

of stopping vehicles or vessels so that they can be searched, and thereupon such powers may be so exercised.

(3) Any person who fails or refuses to stop when so required in terms of this section or takes any measures to prevent being stopped or searched in terms of this section shall be guilty of an offence and liable to a fine not exceeding level six²⁵ or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

35 Powers of police officers in relation to aircraft, aerodromes and airstrips

(1) In this section—

“aerodrome” has the meaning given to it by section 2 of the Civil Aviation Act [*Chapter 13:16*];

“airstrip” means a cleared area for the landing and taking-off of aircraft.

(2) A police officer may without warrant—

(a) board any aircraft that has landed in or is about to depart from Zimbabwe and search it and any person in or upon such aircraft; and

(b) for the purpose of paragraph (a) but subject to subsection (4)—

(i) enter upon and search any aerodrome or airstrip; and

(ii) remain at any aerodrome or airstrip for so long as he considers it necessary for the proper performance of his duties;

and

(c) search any person present within the aerodrome or airstrip or in the immediate vicinity of the aerodrome or airstrip; and

(d) seize any thing;

in circumstances where there are reasonable grounds for believing that the search or seizure is necessary in the interests of public safety, public order or public health or for the prevention, investigation or detection of a criminal offence:

(3) If a police officer of or above the rank of inspector considers it reasonably necessary in the interests of public safety, public order or public health to exercise without warrant the powers referred to in subsection (2) in respect of aircraft, aerodromes or airstrips and persons in or upon such aircraft, aerodromes or airstrips anywhere in Zimbabwe, he may, subject to subsection (4), authorise the presence of any police officer at such aerodrome or airstrip and thereupon such powers may be so exercised.

(4) Subject to subsection (5), no police officer shall, for the purposes of subsection (2) or (3), be authorised to remain at an aerodrome or airstrip for more than forty-eight hours at a time without the consent of the Civil Aviation Authority referred to in section 4 of the Civil Aviation Act [*Chapter 13:16*] or the owner of the aerodrome or airstrip, as the case may be.

(5) If the Minister is of the opinion that it is desirable in the interests of defence, public safety, public order or public health to do so, he may, by notice in a statutory instrument, declare that during

²⁵ Before 3rd February, 2006, this was \$10 000 dollars.

such period as may be specified in such notice, police officers may, without warrant, exercise the powers referred to in subsection (2) or (3) in respect of aircraft, aerodromes or airstrips and persons in or upon such aircraft, aerodromes or airstrips anywhere in Zimbabwe, and for that purpose to remain at an aerodrome or airstrip for more than forty-eight hours at a time without the consent of the Civil Aviation Authority referred to in section 4 of the Civil Aviation Act [*Chapter 13:16*] or the owner of the aerodrome or airstrip, as the case may be.

(6) Any person who hinders or obstructs any police officer in the exercise of his powers in terms of this section or takes any measures to prevent an aerodrome, airstrip or aircraft or any person in or upon such aircraft, aerodrome or airstrip being searched in terms of this section shall be guilty of an offence and liable to a fine not exceeding level six²⁶ or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

PART VI

GENERAL

36 Attorney- General to authorise certain prosecutions under this Act

No proceedings shall be instituted or continued against any person in respect of an offence in terms of section *five, six, seven, eight, nine, ten, eleven, twelve, fifteen, sixteen, seventeen or eighteen*, other than proceedings for the purposes of remand, without the authority of the Attorney-General.

37 When Defence Forces may assist Police Force under this Act

(1) If, upon a request made by the Commissioner of Police, the Minister is satisfied that any regulating authority requires the assistance of the Defence Forces for the purpose of suppressing any civil commotion or disturbance in any police district, he may request the Minister responsible for defence to authorise the Defence Forces to assist the police in the exercise of their functions under this Act in the police district concerned.

(2) Where authority is given under subsection (1) for the Defence Forces to assist the police—

- (a) every member of the Defence Forces who has been detailed to assist the police in any police district in the exercise of their functions under this Act shall be under the command of the regulating authority concerned; and
- (b) a member of the Defence Forces who is assisting a police officer in the exercise of his functions under this Act shall have the same powers, functions and authority, and be subject to the same responsibilities, discipline and penalties, as a member of the Police Force, and liable in respect of acts done or omitted to be done to the same extent as he would have been liable in the same circumstances if he were a member of the Police Force, and shall have the benefit of any indemnity to which a member of the Police Force would in the same circumstances be entitled.

²⁶ Before 3rd February, 2006, this was \$10 000 dollars.

38 Powers of seizure and forfeiture in relation to vehicles, aircraft and vessels

(1) Where any person is convicted of an offence under this Act, the court may order that any vehicle, aircraft or vessel used for the purpose of or in connection with the commission of the offence shall be forfeited to the State:

Provided that, if it is proved that such vehicle, aircraft or vessel is not the property of the person convicted and that its owner was—

- (a) unaware that the vehicle, aircraft or vessel, as the case may be, was being so used; or
- (b) unable to prevent its use for the purpose of or in connection with the commission of the offence;

the court shall not make any such order in respect thereof.

(2) Subject to subsection (3), where a police officer believes on reasonable grounds that any vehicle, aircraft or vessel which is liable to forfeiture in terms of subsection (1) is likely to be removed from Zimbabwe unless it is detained, he may seize and detain any such vehicle, aircraft or vessel so that it may be submitted to the jurisdiction of the court to be dealt with in accordance with subsection (1).

(3) A magistrate may, on application by the owner of a vehicle, aircraft or vessel seized in terms of subsection (2), permit such owner, or such sureties as the magistrate may approve—

- (a) to enter into a bond for an amount approved by the magistrate; and
- (b) to deposit with the clerk of court such sum, if any, as may be fixed by the magistrate to satisfy any judgment which may be given on the bond;

whereupon the vehicle, aircraft or vessel shall be returned to the owner.

(4) A bond entered into in terms of subsection (3) shall be subject to the condition that the owner shall submit the vehicle, aircraft or vessel to the jurisdiction of the court trying the offence concerned when so required, and may be subject to such other conditions as the magistrate thinks fit to impose in the circumstances.

(5) Upon breach of any condition of a bond entered into in terms of subsection (3), any court may, on application by the Minister, give judgment against such person or his sureties in accordance with the provisions of the bond.

39 Powers of search, seizure and forfeiture generally

(1) For the avoidance of doubt it is declared that—

- (a) an arrest or search of any person or premises or of any person or premises in any area in terms of this Act shall be conducted in accordance with Parts V and VI of the Criminal Procedure and Evidence Act [*Chapter 9:07*] or any other enactment which regulates such arrest or search, and, in particular, subsection (4) of section 41 of the Criminal Procedure and Evidence Act [*Chapter 9:07*] shall apply to the search of any woman;
- (b) except to the extent expressly provided in this Act, Part VI of the Criminal Procedure and Evidence Act [*Chapter 9:07*] shall apply to any weapon, item capable of use as a weapon,

publication, equipment, vehicle, aircraft, vessel or other article seized or detained in terms of this Act.

(2) The powers conferred by Parts V and VI of the Criminal Procedure and Evidence Act [*Chapter 9:07*] on a police officer may be exercised by any peace officer within the area round which a cordon has been established in terms of subsection (1) of section *thirty-three*.

40 Special jurisdiction of magistrates

(1) Notwithstanding anything in the Magistrates Court Act [*Chapter 7:10*] or in any other enactment, where a person is convicted of a contravention of any of the provisions of this Act—

- (a) a court of a magistrate, other than a regional, provincial or senior magistrate, shall have special jurisdiction to impose, on summary trial or on remittal by the Attorney-General of the case for trial or sentence, a fine not exceeding level eight²⁷ or imprisonment for a period not exceeding three years;
- (b) a court of a senior or provincial magistrate shall have special jurisdiction to impose, on summary trial or on remittal by the Attorney-General of the case for trial or sentence, a fine not exceeding level twelve²⁸ or imprisonment for a period not exceeding ten years;
- (c) a court of a regional magistrate shall have special jurisdiction to impose, on summary trial or on remittal by the Attorney-General of the case for trial or sentence, a fine not exceeding level fourteen or imprisonment for a period not exceeding twenty years²⁹.

(2) Subsection (1) shall apply in relation to a person who is convicted of—

- (a) attempting to contravene or inciting another person or conspiring with another person to contravene any of the provisions of this Act; or
- (b) being an accessory after the fact to the commission of the crime of contravening any of the provisions of this Act;

as though he had been convicted of a contravention of any of the provisions of this Act.

(3) Nothing in this section shall be construed as authorising a court to impose for any contravention of any provision of this Act a punishment greater than may, under the relevant provision of this Act, be imposed therefor, or as preventing a court from imposing, as often as it is specially authorised by any enactment to do so, any other punishment than the punishment mentioned in this section.

(4) The President may, by proclamation, suspend the operation of subsection (1) and may, in similar manner, restore its operation.

41 Amendment of Schedule

(1) Subject to subsection (2), the Minister may, by notice in a statutory instrument, at any time add to, amend or replace the Schedule.

²⁷ Before 3rd February, 2006, this was \$75 000 dollars.

²⁸ Before 3rd February, 2006, this was \$200 000 dollars.

²⁹ Before 3rd February, 2006, this was "three hundred thousand dollars or imprisonment for a period not exceeding fifteen years".

(2) Where the Minister seeks to amend the Schedule by reducing the classes of public gathering described in the Schedule, the Minister shall, within the next fourteen days on which Parliament sits after he makes a statutory instrument in terms of subsection (1), lay it before Parliament, and the statutory instrument shall not come into force unless approved by resolution of Parliament.

42 Saving of other laws as to riotous gatherings, etc.

Nothing in this Act shall be construed as affecting the right or duty of any person under any other law to disperse riotous gatherings and to prevent or suppress other unlawful acts, or to assist in such dispersal, prevention or suppression.

43 Amendment of Cap. 4:01

The Citizenship of Zimbabwe Act [*Chapter 4:01*] is amended in the Schedule by the repeal of subparagraph (a) of paragraph 5 and the substitution of—

“(a) any provision of the Public Order and Security Act [*Chapter 11:17*], or the Law and Order (Maintenance) Act [*Chapter 11:07*] before its repeal by the Public Order and Security Act [*Chapter 11:17*];”.

44 Amendment of Cap. 9:07

The Criminal Procedure and Evidence Act [*Chapter 9:07*] is amended—

(a) in section 32 by the repeal of subsection (2) and the substitution of—

"(2) Subject to subsections (3) and (4), a person arrested without warrant shall as soon as possible be brought to a police station or charge office and, if not released by reason that no charge is to be brought against him, may be detained for a period not exceeding forty-eight hours unless he is brought before a judge or magistrate upon a charge of any offence and his further detention is ordered by that judge or magistrate or a warrant for his further detention is obtained in terms of section *thirty-three*:

Provided that if the person arrested without warrant is charged with any offence referred to in paragraph 10 of the Third Schedule—

(a) the judge or magistrate before whom he is brought in terms of this section shall not decline to order his further detention or to issue a warrant for his further detention solely on the basis that there are no *prima facie* grounds for the charge; and

(b) no court shall admit such person to bail for a period of seven days from the date when an order or warrant for his further detention was issued in terms of paragraph (a).";

(b) in section 50—

(i) in subsection (1) by the insertion in paragraph (a) after “premises” of “or area”;

(ii) in subsection (2) by the insertion in paragraph (a) after “warrant” of “, or any premises within an area identified in the warrant,”;

(c) in section 116 by the deletion from subsection (2) of “Law and Order (Maintenance) Act [*Chapter 11:07*]” and the substitution of “Public Order and Security Act [*Chapter 11:17*]”;

(d) in section 121 in subsection (1) by the repeal of paragraph (a) of the proviso;

- (e) in section 123 by the deletion from subsection (2) of “Law and Order (Maintenance) Act [Chapter 11:07]” and the substitution of “Public Order and Security Act [Chapter 11:17],”;
- (f) in section 124 by the repeal of subsection (8);
- (g) by the repeal of the Third Schedule and the substitution of—

“THIRD SCHEDULE (Sections 116 and 123)
OFFENCES IN RESPECT OF WHICH POWER TO ADMIT PERSONS TO BAIL IS
EXCLUDED OR QUALIFIED

1. Treason.
 2. Murder.
 3. Rape.
 4. Robbery accompanied by the use of a firearm or lethal weapon.
 5. Kidnapping.
 6. Arson.
 7. Theft of a motor vehicle as defined in section 2 of the Road Traffic Act [Chapter 13:11].
 8. A conspiracy, incitement or attempt to commit any offence referred to in paragraph 5 or 6.
 9. Any offence where the Attorney-General has notified a magistrate of his intention to indict the person concerned in terms of subsection (1) of section *one hundred and one* or subsection (1) of section *one hundred and ten*.
 10. Contravening section 5, 6, 7, 8, 9, 10 or 11 of the Public Order and Security Act [Chapter 11:17].”;
- (h) by the repeal of the Fourth Schedule.

44 Amendment of Cap. 9:15

The Miscellaneous Offences Act [Chapter 9:15] is amended—

- (a) in section 2 by the insertion of the following definition—
 - ““constabulary member of the Police Force” means a member of the Police Constabulary established in terms of section 27 of the Police Act [Chapter 11:10];”;
- (b) in section 6 by the deletion from subsection (1) of “five hundred dollars” and “three years” and the substitution of “ten thousand dollars” and “two years” respectively;
- (c) in section 7 by the deletion of “two hundred dollars” and “twelve months” and the substitution of “five thousand dollars” and “one year” respectively.

45 Repeal of Cap. 11:07.

The Law and Order (Maintenance) Act [Chapter 11:07] is repealed.

SCHEDULE (Sections 24 (5) and 41)

CLASSES OF PUBLIC GATHERINGS TO WHICH SECTION 24 DOES NOT APPLY

Public gatherings—

- (a) held exclusively for *bona fide* religious, educational, recreational, sporting or charitable purposes or any two or more such purposes;
- (b) held exclusively for the purposes of—
 - (i) baptism; or
 - (ii) wedding; or
 - (iii) funeral; or
 - (iv) cremation;
- (c) of members of professional, vocational or occupational bodies held for purposes which are not political;
- (d) for the purposes of agricultural shows;
- (e) at any *bona fide* theatrical, cinematographic or musical entertainment or any circus or fireworks display;
- (f) at any *bona fide* sale of goods or animals;
- (g) at a draw for prizes in any lottery held in terms of the Lotteries and Gaming Act [*Chapter 10:26*];
- (h) for the purposes of a luncheon, dinner or dance given or held by any club, association or organization which is not of a political nature;
- (i) held by any club, association or organization which is not of a political nature and at which the discussions and matters dealt with are not of a political nature;
- (j) held by a registered trade union for *bona fide* trade union purposes for the conduct of business in accordance with the Labour Relations Act [*Chapter 28:01*];
- (k) held to form any club, association or organisation which is not of a political nature;
- (l) for the purposes of an industrial show.

**SHOWING *FORTHCOMING* AMENDMENTS
(i.e. THE AMENDMENTS TO BE MADE BY THE
ACCESS TO INFORMATION AND PROTECTION OF PRIVACY
AMENDMENT ACT, 2003 (NO. 5 OF 2003),
APPROVED BY PARLIAMENT ON 11 JUNE 2003,
BUT NOT YET ASSENTED TO BY PRESIDENT OR PUBLISHED IN
GOVERNMENT GAZETTE, AND ACCORDINGLY NOT YET LAW)**

CHAPTER 10:27

ACCESS TO INFORMATION AND PROTECTION OF PRIVACY ACT

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ACT

To provide members of the public with a right of access to records and information held by public bodies; to make public bodies accountable by giving the public a right to request correction of misrepresented personal information; to prevent the unauthorised collection, use or disclosure of personal information by public bodies; to protect personal privacy; to provide for the regulation of the mass media; to establish a Media and Information Commission and to provide for matters connected therewith or incidental to the foregoing.

ENACTED by the President and Parliament of Zimbabwe.

PART I
PRELIMINARY

1 Short title

This Act may be cited as the Access to Information and Protection of Privacy Act [*Chapter 10:27*].

2 Interpretation

(1) In this Act—

“applicant” means a person requesting access in terms of section *six* to a record or information held by a public body;

“Commission” means the Media and Information Commission established by section *thirty-eight*;

“controlling interest”, in relation to a mass media service company, means—

- (a) the majority of the shares in the company; or
- (b) shares representing more than half the share capital of the company; or
- (c) shares of a value in excess of half the share capital of the company; or
- (d) shares entitling the holder or holders thereof to a majority or preponderance of votes in the affairs of the company;

“dissemination”, in relation to any mass media product, includes the sale, subscription, delivery, diffusion or distribution of periodically printed publications, audio-recorded programmes, electronically distributed information or teletext programmes;¹

“excluded information” means records excluded from the application of this Act in terms of section *four*;

“Fund” means the Media and Information Fund established by section *forty-three*;

“head”, in relation to a public body, means—

- (a) the person designated as the head of a public body in the second column of the Second Schedule; or
- (b) any other person whom the Minister may, from time to time, designate as the head of a public body for the purposes of this Act;

“journalist” means a person who gathers, collects, edits or prepares news, stories, materials and information for a mass media service, whether as an employee of the service or as a freelancer;²

¹ Definition inserted by s. 2 of Act 5/2003.

² Definition inserted by s. 2 of Act 5/2003.

“judicial administration record” means a record containing information relating to a presiding officer or a justice of the peace, including—

- (a) scheduling of presiding officers and trials;
- (b) the content of judicial training programmes;
- (c) statistics of judicial activity prepared by or for a judge;

“law enforcement” includes—

- (a) policing, including criminal intelligence operations; or
- (b) investigations that lead to a penalty or sanction being imposed; or
- (c) proceedings that result in a penalty or sanction being imposed; or
- (d) control of immigration; or
- (e) national defence and security; or
- (f) maintenance of public order;

“legal representative” means—

- (a) the liquidator of a company;
- (b) the representative recognised by law of any person who has died, become insolvent or bankrupt or assigned his estate, is an infant or a minor, is of unsound or is otherwise under a disability;

“local government body” means—

- (a) a municipality as defined in the Urban Councils Act [*Chapter 29:15*];
- (b) a council as defined in the Rural District Councils Act [*Chapter 29:13*];
- (c) a catchment council or subcatchment council established in terms of the Water Act [*Chapter 20:24*];
- (d) a board of cemetery trustees established under the Cemeteries Act [*Chapter 5:04*];
- (e) any board, committee, commission, panel, agency or corporation that is created or owned by a body referred to in paragraphs (a) to (d) and all the members or officers of which are appointed or chosen by or under the authority of that body;

“mass media owner” means—

- (a) in the case of a mass media service company, the person who holds a controlling interest in the company; or
- (b) in the case of a mass media service that is not a company, the person who owns or co-owns the service;

³“mass media” includes any service, medium or media consisting in the transmission of voice, visual, data or textual messages to an unlimited number of persons, and includes an

³ Definition repealed by s. 2 of Act 5/2003 (see new definitions of "mass media", mass media products" and "mass media service".

advertising agency, publisher or, except as otherwise excluded or specially provided for in this Act, a news agency or broadcasting licensee as defined in the Broadcasting Services Act [*Chapter 12:06*];⁴

“mass media products” means an advertisement, the total print or part of the total print of the separate issue of a periodically printed publication, a separate issue of a teletext programme, the total data or part of the data of any electronically transmitted material, or audio or video recorded programme;⁵

“mass media service” means any service that produces mass media products, whether or not it also disseminates them;⁶

“Minister” means the Minister responsible for information and publicity or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“National Archives” means the National Archives of Zimbabwe established in terms of the National Archives of Zimbabwe Act [*Chapter 25:06*];

“periodically printed publication” means a regular newspaper, magazine or journal, bulletin or any other publication with a constant name;⁷

“personal information” means recorded information about an identifiable person, and includes—

- (a) the person's name, address or telephone number;
- (b) the person's race, national or ethnic origin, colour, religious or political beliefs or associations;
- (c) the person's age, sex, sexual orientation, marital status or family status;
- (d) an identifying number, symbol or other particulars assigned to that person;
- (e) fingerprints, blood type or inheritable characteristics;
- (f) information about a person's health care history, including a physical or mental disability;
- (g) information about educational, financial, criminal or employment history;
- (h) anyone else's opinions about the individual; and
- (i) the individual's personal views or opinions, except if they are about someone else;
- (j) personal correspondence, home and family;

“personal information bank” means a collection of personal information that is organised or retrievable by the name of an individual or by an identifying number, symbol or other particular assigned to that individual and includes personal images;

“prescribe” means prescribe by regulations made in terms of section *ninety-one*;

⁴ Definition inserted by s. 2 of Act 5/2003.

⁵ Definition inserted by s. 2 of Act 5/2003.

⁶ Definition inserted by s. 2 of Act 5/2003.

⁷ Definition inserted by s. 2 of Act 5/2003.

“press card” means a document issued to a journalist in terms of section *seventy-nine*;

“public body” means any body prescribed as a public body in terms of the first column of the Second Schedule to this Act.

“record” includes books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means, but does not include a computer programme or any other mechanism that produces records;

“third party”, in relation to a request for access to a record or for correction of personal information, means any person, group of persons or organisation other than the person who made the request;

“trade secret” means information, including a formula, pattern, compilation, programme, device, product, method, technique or process, that is used, or may be used, in business or for any commercial advantage and—

- (a) derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and
- (b) is the subject of reasonable efforts to prevent it from becoming generally known; and
- (c) the disclosure of which would result in harm or improper benefit.

(2) Where a mass media owner does not manage the mass media service of which he is the owner, any reference to a mass media owner in sections *forty-six*, *sixty-six*, *sixty-seven*, *seventy-one*, *seventy-three* and *eighty-six* shall be construed as a reference to the mass media service.

3 Application of Act in relation to other laws

(1) This Act shall apply to matters relating to access to information, protection of privacy and the mass media and shall be construed as being in addition to and not in substitution for any other law which is not in conflict or inconsistent with this Act.

(2) If any other law relating to access to information, protection of privacy and the mass media is in conflict or inconsistent with this Act, this Act shall prevail.

4 General application of Act

(1) This Act shall apply to all records in the custody or under the control of a public body, but shall not include the records listed in the First Schedule.

(2) This Act shall not limit the information available by law to a party to a legal proceeding.

PART II

ACCESS TO INFORMATION

5 Right to information

(1) Subject to section *ten*, every person shall have a right of access to any record, including a record containing personal information, that is in the custody or under the control of a public body:

Provided that such access shall not extend to excluded information.

(2) Where information can be extracted from a record that contains excluded information, an applicant may have access to the part of the record that is not excluded information.

(3) Nothing contained in this Act shall confer any rights to information or to a record to—

- (a) a person who is not a citizen of Zimbabwe, or is not regarded as permanently resident in Zimbabwe by virtue of the Immigration Act [*Chapter 4:02*], or is not the holder of a temporary employment or residence permit or students permit issued in terms of that Act;
- (b) any mass media service which is not registered in terms of this Act, or to a broadcaster who is not registered in terms of the Broadcasting Services Act [*Chapter 12:06*]; and
- (c) any foreign state or agency thereof.

6 Request for record

An applicant who requires access to a record that is in the custody or control of a public body shall make a request, in writing, to the public body, giving adequate and precise details to enable the public body to locate the information so requested.

7 Fees for access to records and related services by public body

Subject to any exemption prescribed under this Act or any other enactment, an applicant shall be required to pay such fee as may be so prescribed for—

- (a) obtaining access to any record; and
- (b) any service rendered in connection with the provision of access to any record by the public body concerned.

8 Duty to assist applicants

(1) The head of a public body shall take every reasonable step to assist an applicant and shall, subject to section *eleven* or *twelve*, respond as soon as is reasonably possible in the circumstances, but not later than thirty days, to each request for access to a record.

(2) Where necessary, the head of a public body shall create a record for an applicant if—

- (a) the record can be created from a machine readable record in the custody or under the control of the public body using its normal computer hardware and software and technical expertise; and
- (b) creating the record will not unreasonably interfere with the operations of the public body.

9 Contents of response

(1) A response by the head of a public body to a request made in terms of section *six* shall inform the applicant—

- (a) whether or not he is entitled to access to the record or a part of the record; and
- (b) the place where, time when and manner in which such access will be given.

(2) Where the head of a public body refuses access to a record or part of a record, he shall inform the applicant of the reasons therefor.

(3) An applicant whose request for a record or part of a record has been refused by the head of a public body may request the Commission to review the public body's decision.

(4) The head of a public body may refuse a request for a record or part of a record if granting access to such a record—

- (a) will contravene this Act; or
- (b) will result in the disclosure of personal information pertaining to a third party that is protected from disclosure in terms of Part III; or
- (c) is not in the public interest.

10 Access to information

(1) Where an applicant is granted access to a record or part of a record, the head of a public body shall—

- (a) give him the opportunity to take notes from such record or part thereof; or
- (b) where the applicant has requested a copy of a record or part of a record, provide him with such copy if it can be reproduced, and where it cannot be reproduced, give the applicant an opportunity to examine such record or part thereof.

11 Extension of time limit for responding

(1) The head of a public body may extend the time for responding to a request by a further period not exceeding thirty days or, with the Commission's permission, for a longer period if—

- (a) the applicant does not give sufficient detail to enable the public body to identify the requested record; or
- (b) a large number of records is requested or is required to be searched, and meeting the time limit will unreasonably interfere with the operations of the public body; or
- (c) more time is needed to consult with a third party affected by the request or another public body before the head of the public body can decide whether or not to give the applicant access to the requested record.

(2) Where the time is extended in terms of subsection (1), the head of the public body shall inform the applicant—

- (a) of the reason for such extension; and
- (b) when he should expect a response.

12 Transfer of request

(1) The head of a public body may, within ten days after a request for access to a record is received, transfer the request to another public body if it appears to him that the record is in the custody or under the control of that other public body or affects that other body.

(2) Where a request or a record is transferred in terms of subsection (1), the head of the transferring public body shall notify the applicant of such transfer.

(3) The head of the public body to whom the transfer was made shall respond to the applicant's request not later than thirty days after receiving the request, unless the time for responding has been extended in terms of section *eleven*.

13 Delegation by head of public body

(1) The head of a public body may delegate to any person any function of a head of a public body under this Act, except such power of delegation.

(2) A delegation made in terms of subsection (1) shall be in writing and may contain any conditions or restrictions the head of the public body considers appropriate.

PART III

PROTECTED INFORMATION

14 Protection of deliberations of Cabinet and local government bodies

(1) No information relating to the deliberations of Cabinet or any of its committees shall be revealed or disclosed to any person who is not authorised to have access to such information.

(2) The information referred to in subsection (1) shall include—

- (a) any advice, policy considerations and recommendations made to Cabinet; and
- (b) any draft legislation or regulations prepared for submission or submitted to Cabinet.

(3) Subsection (1) shall not apply to information contained in a record that has been in existence for twenty-five or more years.

(4) No information relating to the deliberations of a local government body which were held *in camera* shall be revealed or disclosed to any person who is not authorised to have access to such information.

(5) Subsection (4) shall not apply to circumstances where the deliberations, resolution or draft resolution was made or considered in the presence of members of the public.

15 Protection of advice relating to policy

(1) The head of a public body may not disclose to an applicant information relating to advice or recommendations given to the President, a Cabinet Minister or a public body.

(2) Subsection (1) shall not apply to the following classes of information—

- (a) a public opinion poll;
- (b) a statistical survey;
- (c) an appraisal of an employee of the public body;
- (d) a forecast of the economy;
- (e) information relating to the state of the environment;
- (f) an audit or performance report of a public body;
- (g) a consumer test report or a report of a test carried out on a product to test equipment of the public body;

- (h) a feasibility or technical study, including a cost estimate, relating to a policy or project of the public body;
- (i) a report on the results of a field research undertaken before a policy proposal is formulated;
- (j) a report of a committee, council or similar body that has been established to consider any matter and make reports or recommendations to a public body;
- (k) a plan or proposal to establish a new programme or to change a programme, where the original plan or proposal had been approved or rejected by the head of the public body;
- (l) information that the head of the public body has cited publicly as the basis for making a decision or formulating a policy;
- (m) a decision, including the reasons thereof, that is made in the exercise of a discretionary power or an adjudicative function that affects the rights of the applicant;
- (n) information contained in a record that has been in existence for ten or more years.

16 Protection of information subject to client-attorney privilege

The head of a public body shall not disclose to an applicant information that is subject to client-attorney privilege.

17 Protection of information whose disclosure will be harmful to law enforcement process and national security

(1) The head of a public body shall not disclose to an applicant information whose disclosure would—

- (a) prejudice the law enforcement process in any way, including the following—
 - (i) revealing the identity of a confidential source of law enforcement information;
 - (ii) revealing information relating to criminal intelligence that has a reasonable connection with the detection, prevention or suppression of organised criminal activities;
 - (iii) compromising the effectiveness of investigation techniques and procedures used by the law enforcement agencies;
 - (iv) endangering the life or physical safety of a law enforcement officer or any other person;

or

- (b) prejudice the defence and national security of the country and the safety or interests of the country; or
- (c) prejudice the defence and national security of a foreign country with which Zimbabwe has entered into a defence pact; or
- (d) prevent the detection, prevention or suppression of espionage, sabotage or terrorism; or
- (e) reveal any information relating to or used in the exercise of prosecutorial discretion; or
- (f) facilitate the escape from custody of a person who is under lawful detention; or

- (g) harm the security of any property or system, including a building, a vehicle, a computer system or a communications system; or
 - (h) prejudice the operations of the defence and security forces within or outside Zimbabwe; or
 - (i) result in or facilitate the commission of an offence; or
 - (j) result in exposing a person to civil liability for disclosing personal information contained in a law enforcement record; or
 - (k) prejudice the custody, supervision or release of a person in custody.
- (2) Notwithstanding subsection (1), the head of a public body may disclose—
- (a) the contents of a report prepared in the course of routine inspections by an agency that is authorized to enforce compliance with any enactment;
 - (b) the contents of a report, including statistical analysis, on the degree of success achieved in a law enforcement programme; or
 - (c) statistical information on decisions made by the Attorney-General on the prosecution of offences:

Provided that the disclosure of such information will not contravene the prohibitions set out in subsection (1).

- (3) The head of a public body may disclose, after the completion of an investigation by the police, the reasons for a decision not to prosecute to—
- (a) a person who was aware and had an interest in the investigation, including a victim or complainant, or relative or friend of a victim or complainant; or
 - (b) any member of the public, where the investigation had been made public.

18 Protection of information relating to inter-governmental relations or negotiations

(1) The head of a public body may, on the advice of the Minister responsible for local government or the Minister responsible for foreign affairs, as the case may be, refuse to disclose information to an applicant if such disclosure may—

- (a) affect the relations between the government and—
 - (i) a municipal or rural district council; or
 - (ii) the government of a foreign state; or
 - (iii) an international organisation of states;
- (b) divulge information received in confidence from a government, council or organisation referred to in paragraph (a).

(2) Subsection (1) shall not apply to information, other than law enforcement information, contained in a record that has existed for twenty or more years.

19 Protection of information relating to the financial or economic interests of public body or the State

(1) The head of a public body may refuse to disclose to an applicant information which may result in harm to the planning, financial or economic interests of the public body or the State.

- (2) The information referred to in subsection (1) shall include—
- (a) trade secrets of a public body or the State; or
 - (b) financial, commercial, scientific or technical information that belongs to a public body or to the State and has monetary value; or
 - (c) plans that relate to the management of personnel of or the administration of a public body or the State and that have not yet been implemented or made public; or
 - (d) information whose disclosure may result in the premature disclosure of a proposal or project or in undue financial loss or gain to a third party;
 - (e) information relating to negotiations made by or for a public body or the State.

(3) Subsection (1) shall not apply to the results of product or environment testing carried out by or for a public body, unless the testing was done—

- (a) as a service to a person, group of persons or organisation who paid a fee for such service; or
- (b) for the purpose of developing methods of testing.

20 Protection of research information

The head of a public body shall not disclose research information to the applicant if such disclosure will result in the loss by the researcher of the right of first publication of the results of such research or any intellectual property rights.

21 Protection of information relating to conservation of heritage sites

(1) The head of a public body may refuse to disclose information to an applicant if the disclosure will result in damage to, or interference with the conservation of—

- (a) fossil sites, natural sites or sites that have an anthropological or heritage value; or
- (b) an endangered, threatened or vulnerable species, subspecies or race of plants, vertebrates or invertebrates; or
- (c) any other rare or endangered living species.

22 Protection of information relating to personal safety⁸

(1) ⁹

(2) The head of a public body may refuse to disclose to an applicant personal information concerning the applicant if such disclosure will result in a threat to the applicant's or another person's safety or mental or physical health.¹⁰

23 Information otherwise available to public

(1) The right of access to information in terms of section *five* shall not be held to be denied where under this Act or any other law the head of a public body refuses to disclose information—

⁸ ⁹ Subsection repealed by s. 3 of Act 5/2003.

⁹ Subsection repealed by s. 3 of Act 5/2003.

¹⁰ Subsection substituted by s. 3 of Act 5/2003.

- (a) that is otherwise available to members of the public upon payment of a specific fee; or
- (b) that will be published or released to members of the public within sixty days of the date of receiving the applicant's request.

(2) If the head of a public body refuses to disclose information on the ground referred to in paragraph (b) of subsection (1) and the information is not published after the expiry of sixty days from the date of receiving the request for the information, the applicant may make another request for the information and the head of the public body shall reconsider it.

24 Protection of information relating to business interests of a third party

(1) The head of a public body may refuse to disclose to an applicant information that will reveal the trade secrets or commercial, financial or employment, scientific or technical information of a third party that was supplied, implicitly or explicitly, in confidence to the public body, and the disclosure of which could reasonably be expected to—

- (a) significantly harm the competitive position or interfere with the negotiating position of the third party; or
- (b) result in similar information being no longer provided to the public body when it is in the public interest that such information continues to be so provided; or
- (c) result in undue financial loss or gain to any person or organisation; or
- (d) reveal information supplied to an arbitrator, mediator, labour officer or other person or body appointed to resolve or inquire into a labour relations dispute; or
- (e) reveal information that will harm the economic interests of the State.

(2) The head of a public body shall not disclose to an applicant information contained in a tax return form or gathered for the purpose of determining a person's tax liability or collecting outstanding tax.

(3) Subsections (1) and (2) shall not apply where—

- (a) the third party consents to the disclosure; or
- (b) the information is contained in a record that is in the custody or control of the National Archives; or
- (c) the information is contained in a record that is in the archives of a public body and has been in existence for thirty or more years.

25 Protection of information relating to personal privacy

(1) The head of a public body shall not disclose personal information to an applicant if the disclosure will result in the unreasonable invasion of a third party's personal privacy.

(2) In determining whether or not a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body shall consider all the relevant circumstances, including whether—

- (a) the disclosure is desirable or necessary for the purpose of subjecting the activities of the government or a public body to public scrutiny;

- (b) the disclosure is likely to promote public health and safety or the protection of the environment;
- (c) the personal information is relevant to a fair determination of the applicant's rights;
- (d) the disclosure will assist in researching or validating the claims, disputes or grievances of indigenous people;
- (e) the third party will be exposed unfairly to financial or other harm;
- (f) subject to subsection (5), the personal information has been supplied in confidence by the third party about himself or herself, or by the third party about another person;¹¹
- (g) the personal information is likely to be inaccurate or unreliable;
- (h) the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant.

(3) A disclosure of personal information shall be presumed to be an unreasonable invasion of a third party's personal privacy if the personal information—

- (a) relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation; or
- (b) was compiled and is identifiable as part of an investigation into a possible violation of law, unless disclosure is necessary to prosecute such violation or to continue the investigation; or
- (c) relates to eligibility for income assistance or social welfare benefits or to the determination of benefit levels; or
- (d) relates to employment, occupational or educational history; or
- (e) is contained in a tax return or gathered for the purpose of collecting a tax; or
- (f) describes the third party's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness; or
- (g) consists of personal recommendations or evaluations, character references or personnel evaluations concerning the third party; or
- (h) could reasonably be expected to reveal that the third party supplied, in confidence, a personal recommendation or evaluation, character reference or personnel evaluation; or
- (i) indicates the third party's religious or political beliefs or associations¹²; or
- (j) consists of the third party's name, address, or telephone number and is to be used for mailing lists or solicitations by telephone or other means; or
- (k) constitutes intrusion into personal or family grief.

(4) A disclosure of personal information shall not be considered an unreasonable invasion of a third party's personal privacy if—

- (a) the third party has, in writing, consented to or requested the disclosure; or

¹¹ Paragraph substituted by s. 4 of Act 5/2003.

¹² Paragraph amended by s. 4 of Act 5/2003.

- (b) there are compelling circumstances affecting another person's health or safety and notice of disclosure is mailed to the last known address of the third party; or
- (c) disclosure is authorised by any enactment other than this Act; or
- (d) the disclosure is for purposes of research or the compilation of statistics in a manner authorised by law; or
- (e) the information concerns the third party's position, functions or remuneration as an officer, employee or member of a public body; or
- (f) the disclosure reveals financial and other details of a contract to supply goods or services to a public body; or
- (g) the information is about expenses incurred by the third party while travelling on the business and at the expense of a public body; or
- (h)¹³ the disclosure reveals the details of, or the reasons for the grant by, a public body or authority of, a licence, permit or other benefit whatsoever to the third party:

Provided that—

- (i) the reasons for the grant of the benefit shall not be disclosed if the law under which the benefit was granted provides that the grant is at the sole discretion of the public body or authority, or that that the reasons for the grant or refusal of the benefit shall not be disclosed to the beneficiary or any other person;
- (ii) personal information supplied in support of the application for the benefit shall not be disclosed;
- (i) the disclosure reveals details of a discretionary benefit of a financial nature granted to the third party by a public body, not including personal information that is supplied in support of an application for the benefit referred to in paragraph (c) of subsection (3).

(5) The head of a public body shall, when refusing to disclose personal information supplied in confidence as described in paragraph (f) of subsection (2), give the applicant a summary of the information, if such summary can be prepared without disclosing the identity of the third party who supplied such personal information.¹⁴

(6) The head of a public body may allow the third party to prepare the summary of personal information referred to in subsection (5).

PART IV

INFORMATION PERTAINING TO THIRD PARTIES

26 Requirement to notify third party

(1) The head of a public body shall, if he intends to give an applicant access to a record that he has reason to believe contains information pertaining to a third party that may be protected from disclosure in terms of Part III, notify the third party, in writing, of his intention to give such access

¹³ Paragraph substituted by s. 4 of Act 5/2003.

¹⁴ Subsection amended by s. 4 of Act 5/2003.

and afford him an opportunity within twenty days after the notice is given to make written representations to the public body explaining why the information should not be disclosed.

(2) Where the head of a public body has been approached by an applicant with a request to give information pertaining to a third party and he does not intend to give the applicant access to such information, he shall notify the third party, in writing, of his intention not to give such access to a record.

(3) The head of a public body shall, when giving notice in terms of subsection (1), also give the applicant a notice stating that—

- (a) the record he has requested contains information whose disclosure may affect the interests or invade the personal privacy of a third party; and
- (b) the third party is being given an opportunity to make representations concerning disclosure; and
- (c) a decision will be made within thirty days on whether or not to give the applicant access to the record.

(4) The notice referred to in subsection (2) shall—

- (a) advise the third party that a request has been made by an applicant for access to a record containing information whose disclosure may affect his interests or invade his personal privacy; and
- (b) describe the contents of the record; and
- (c) state that, within twenty days after the notice is given, the third party may, in writing, consent to the disclosure thereof.

27 Time limit to give notice of decision

(1) Within thirty days after notice is given in terms of subsection (1) or (2) of section *twenty-six*, the head of the public body shall decide whether or not to give access to the record or to part of the record, but no decision may be made before—

- (a) the lapse of twenty-one days after the day notice is given; or
- (b) the day a response is received from the third party;

whichever occurs first.

(2) After reaching a decision in terms of subsection (1), the head of the public body shall give notice, in writing, of his decision to both the applicant and the third party.

(3) If the head of the public body decides to give access to the record or to part of the record, the notice shall state that the applicant will be given access to the record within twenty days after the date the notice is given, unless the third party requests a review in terms of Part X.

28 Information to be disclosed if in the public interest

(1) The head of a public body shall have a duty to disclose to—

- (a) an applicant; or

- (b) members of the public or interested or affected persons, whether or not a request has been made;

information concerning—

- (i) the risk of significant harm to the health or safety of members of the public; or
- (ii) the risk of significant harm to the environment; or
- (iii) any matter that threatens national security; or

¹⁵

- (iv) any matter that is in the interest of public security or public order, including any threat to public security or public order:¹⁶

Provided that information concerning any threat to public security or public order shall only be disclosed to the relevant law enforcement authorities;

or

- (v) any matter that assists in the prevention, detection or suppression of crime.¹⁷

(2) Before disclosing any information in terms of subsection (1), the head of a public body shall, if possible, notify any third party to whom the information relates or directly affects and the Commission.

(3) If it is not reasonably possible to comply with subsection (2), the head of the public body shall mail a notice of disclosure in the prescribed form to the last known address of the third party and to the Commission.

PART V

COLLECTION, PROTECTION AND RETENTION OF PERSONAL INFORMATION BY PUBLIC BODIES

29 Purposes for which personal information may be collected

A public body may only collect personal information if—

- (a) the collection of that information is expressly authorized in terms of an enactment;
- (b) the information is to be collected for the purposes of national security, public order and law enforcement; or
- (c) the information is to be collected for the purposes of public health; or
- (d) the information relates directly to and is necessary for an operating programme, function or activity of the public body;
- (e) the information will be used to formulate public policy.

¹⁵ Paragraph repealed by s. 5 of Act 5/2003.

¹⁶ Paragraph inserted by s. 5 of Act 5/2003.

¹⁷ Paragraph substituted by s. 5 of Act 5/2003.

30 Collection of personal information

(1) A public body shall collect personal information directly from the person to whom it relates unless—

(a) another method of collection is authorized by—

- (i) that individual; or
- (ii) the Commission; or
- (iii) another enactment;

or

(b) the information is to be collected for the purpose of—

- (i) determining the suitability for granting an honour or award, including an honorary degree, scholarship, prize or bursary; or
- (ii) proceedings before a court or judicial or quasi-judicial tribunal; or
- (iii) collecting a debt or fine or making a payment; or
- (iv) law enforcement.

(2) A public body shall inform a person from whom it intends to collect personal information of the purpose for which the personal information is being collected and the legal authority for collecting it.

(3) Subsection (2) shall not apply if—

- (a) the information relates to law enforcement; or
- (b) the Commission excuses a public body from complying with the subsection if doing so would result in the collection of inaccurate information, or defeat the purpose of, or prejudice the use for which, the information is to be collected.

31 Accuracy of personal information

A public body shall, if it intends to use an individual's personal information to make a decision that will directly affect that individual, take every reasonable step to ensure that the information is accurate and complete.

32 Right to request correction of personal information

(1) Where a person has reason to believe that personal information relating to him that is in the custody or control of a public body contains an error or omission, he may request the head of that public body to correct such information.

(2) The head of a public body shall, upon receiving a request in terms of subsection (1), correct or annotate the personal information on the record pertaining to the person making the request.

(3) The head of a public body shall, when correcting or annotating personal information upon a request made in terms of subsection (1), notify the correction to any other public body or any third party to whom that information has been disclosed during the last twelve months preceding the request for a correction.

33 Protection of personal information

The head of a public body shall protect personal information that is under his custody or control by taking reasonable steps to ensure that there is adequate security and there is no unauthorised access, collection, use, disclosure or disposal of such personal information.

34 Retention of personal information

If a public body uses an individual's personal information to make a decision that directly affects the individual, the public body shall retain that information for at least one year after using it so that the individual has a reasonable opportunity to have access to it.

35 Penalty for deliberately falsifying personal information

Any person who, when required under any enactment to supply to a public body any personal information verbally or in writing about himself or herself or a third party, supplies any information which he or she knows to be false or does not have reasonable grounds for believing to be true, shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.¹⁸

PART VI

USE AND DISCLOSURE OF PERSONAL INFORMATION BY PUBLIC BODIES

36 Use of personal information

A public body may only use personal information—

- (a) for the purpose for which that information was obtained or compiled, or for a use consistent with that purpose; or
- (b) if the person to whom the information relates has consented, in the prescribed manner, to such use.¹⁹

37 Disclosure for archival or historical purposes

The National Archives, or the archives of a public body, may disclose personal information to a third party for the purpose of historical research or any other lawful purpose²⁰—

- (a) such disclosure would not result in an unreasonable invasion of a person's personal privacy in terms of this Act; or
- (b) the information is about a person who has been deceased for thirty or more years.

¹⁸ Section substituted by s. 6 of Act 5/2003.

¹⁹ Paragraph amended by s. 25 of as read with Schedule to Act 5/2003.

²⁰ Words substituted by s. 25 of as read with Schedule to Act 5/2003.

PART VII

MEDIA AND INFORMATION COMMISSION

38 Establishment of Media and Information Commission

(1) For the purposes of this Act, there is hereby established a Commission, to be known as the Media and Information Commission, which shall be a body corporate capable of suing and being sued in its own name and, subject to this Act, of performing all acts that bodies corporate may by law perform.

39 Functions and powers of Commission

- (1) Subject to this Act, the powers and functions of the Commission shall be—
- (a) to ensure that Zimbabweans have access to information and effective control of mass media services; and
 - (b) to receive and act upon comments from the public about the administration and performance of the mass media in Zimbabwe; and
 - (c) to comment on the implications of proposed legislation or programmes of public bodies on access to information and protection of privacy; and
 - (d) to comment on the implications of automated systems for collection, storage, analysis or transfer of information or for access to information or protection of privacy; and
 - (e) to inform the public about this Act; and
 - (f) to engage in or commission research into anything affecting the achievement of the purposes of this Act; and
- 21
- (h) to advise the Minister on the adoption and establishment of standards and codes relating to the operation of mass media; and
 - (i) to receive, evaluate for accreditation and consider applications for accreditation as a journalist; and
 - (j) to enforce professional and ethical standards in the mass media; and
 - (k) to review the decisions of public bodies in terms of Part X; and
 - (l) to bring to the attention of the head of a public body any failure to meet the prescribed standards for fulfilling the duty to assist applicants; and
 - (m) to authorise a public body, at the request of its head, to disregard requests that would unreasonably interfere with the operations of the public body; and
 - (n) to accredit journalists; and
 - (o) to monitor the mass media and raise user awareness of the mass media; and
 - (p) to register mass media in Zimbabwe; and

²¹ Paragraph repealed by s. 25 of as read with Schedule to Act 5/2003.

(q) to investigate and resolve complaints against any mass media service in terms of the provisions of this Act.

(2) In the exercise of its functions, the Commission shall have regard to the desirability of securing the following objects—

- (a) to foster freedom of expression in Zimbabwe;
- (b) to make information easily accessible to persons requiring it;
- (c) to ensure accurate, balanced and unbiased reporting by the mass media in Zimbabwe;
- (d) the development of mass media that uphold professional and ethical codes of conduct;
- (e) to promote the preservation of the national security and integrity of Zimbabwe;
- (f) to foster a Zimbabwean national identity and integrity;
- (g) to be responsible for enforcing and monitoring the enforcement of provisions of this Act, and to ensure that its purposes are achieved.

(3) Subject to this Act, for the better exercise of its functions, the Commission shall have power to do or cause to be done, either by itself or through its agents, all or any of the things specified in the Third Schedule, either absolutely or conditionally and either solely or jointly with others.

40 Appointment and composition of Media and Information Commission

(1) The operations of the Commission shall, subject to this Act, be controlled and managed by a Board.

(2) Subject to subsection (3), the Board shall consist of no fewer than five members and not more than seven members (at least three of whom shall be nominated by an association of journalists and an association of media houses) appointed by the Minister after consultation with the President and in accordance with any directions that the President may give him.

(3) The Fourth Schedule shall apply to the qualifications of members of the Board and the Commission, their terms and conditions of office, vacation of office, suspension and dismissal, and the procedure to be followed by the Commission at meetings.

41 Financial and miscellaneous provisions relating to Commission

The Fifth Schedule shall govern the financial and certain other aspects of the operation of the Commission.

42 Annual report of Commission

(1) As soon as possible after the end of each year, the Board shall submit to the Minister an annual report on matters dealt with by the Commission during that year.

(2) At any time the Commission may submit a special report to the Minister on any matter upon which the commission considers it desirable to report.

PART VIII

MEDIA AND INFORMATION FUND

43 Establishment and vesting of Media and Information Fund

(1) There is hereby established a fund to be known as the Media and Information Fund.

(2) Subject to this Part, the Fund shall be vested in and administered by the Commission as trustee.

44 Objects of Fund

The objects of the Fund shall be—

- (a) the standardisation of mass media services and the maintenance of high standards of quality in the provision of such services; and
- (b) to assist in the training of persons in the provision of mass media services; and
- (c) to promote and contribute towards research and development in the field of information and mass media;
- (d) to promote public awareness on the right of access to information and protection of privacy;

in accordance with an annual implementation plan prepared by the Commission in consultation with registered mass media services²².

45 Moneys of Fund

The Fund shall consist of—

- (a) such moneys as may be raised by levies imposed in terms of section *forty-six*;
- (b) such moneys as may be payable to the Fund from moneys appropriated by an Act of Parliament for the purpose of the Fund; and
- (c) any surplus of income over expenditure at the end of the Commission's financial year appropriated in terms of paragraph 3 of the Fifth Schedule;
- (d) any other moneys to which the Fund may be lawfully entitled; and
- (e) accreditation fees.

46 Levies

(1) Every mass media owner, other than a broadcasting licensee as defined in the Broadcasting Services Act [*Chapter 12:06*], shall pay the prescribed annual levy to the Fund.

(2) The dates on which the levies to the Fund become payable and the manner in which they shall be paid shall be as prescribed.

(3) Where any mass media owner fails to pay the whole or any part of a levy within seven days after the date when it is due to the Fund the owner shall be liable to pay to the Fund an amount equivalent to double the levy due.

²² Concluding words amended by s. 25 of as read with Schedule to Act 5/2003.

(4) The Commission may, by action in a competent court, recover the amount of a levy or penalty payable in terms of this section.

47 Holding of Fund

(1) All moneys received on behalf of the Fund shall be paid into a banking account and no money shall be withdrawn therefrom except by means of cheques signed by such persons as are authorised in that behalf by the Commission.

(2) Any part of the Fund not immediately required for the purposes of the Fund may be invested in such manner as the Minister may determine:

Provided that such moneys shall not be invested directly in any securities issued by an mass media service company²³.

48 Financial year of Fund

The financial year of the Fund shall be the period of twelve months ending on the 31st December in each year.

49 Accounts and audit of Fund

(1) The Commission shall cause proper books of accounts of the Fund to be kept, together with adequate financial and other records in relation thereto, and, within three months after the end of the financial year to which the accounts relate, shall submit the accounts to the Comptroller and Auditor-General for audit in terms of subsection (2).

(2) The accounts of the Fund shall be audited by the Comptroller and Auditor-General, who shall have all the powers conferred upon him by section 9 of the Audit and Exchequer Act [*Chapter 22:03*] as though the assets of the Fund were public moneys or State property.

PART IX

FURTHER POWERS OF COMMISSION

50 Power of Commission to conduct investigations, audits or inquiries

(1) For the purpose of conducting an investigation, inquiry or hearing in terms of this Act, the Commission shall have the same powers, rights, and privileges as are conferred upon a Commissioner by the Commissions of Inquiry Act [*Chapter 10:07*], other than the power to order a person to be detained in custody, and sections 9 to 13 and 15 to 18 of that Act shall apply, *mutatis mutandis*, in relation to any hearing and determination of any matter before the Commission under this Act and to any person summoned to give or giving evidence before the Commission.

(2) The Commission may require any record, including a record containing personal information held by a public body, to be produced as evidence.

(3) A public body requested by the Commission to produce a record in terms of subsection (2) shall do so within a period of ten days from the day that such record was requested

²³ Proviso amended by s. 25 of as read with Schedule to Act 5/2003.

51 Restrictions on disclosure of information by Commission and staff

(1) The Commission and any person acting for or under its direction shall not disclose any information obtained during the performance of their duties, powers and functions under this Act, except in the circumstances provided for in subsections (2) to (5).

(2) The Commission may disclose, or may authorize anyone acting on its behalf or under its direction to disclose, information that is necessary to—

- (a) conduct an investigation, audit or inquiry under this Act; or
- (b) establish the grounds for findings and recommendations contained in a report made under this Act.

(3) In conducting an investigation, audit or inquiry under this Act and in a report made under this Act, the Commission and anyone acting for or under the direction of the Commission shall take every reasonable precaution to avoid disclosing information that a head of a public body may not disclose in terms of this Act.

(4) The Commission may disclose to the Attorney-General information relating to the commission of an offence if it considers that there is enough evidence to prove the commission of an offence.

(5) The Commission may disclose, or may authorize anyone acting for or under its direction to disclose, information in an appeal.

52 Delegation of powers by Commission

(1) The Commission may delegate to any person any duty, power or function under this Act except the power to delegate in terms of this section.

(2) A delegation made in terms of subsection (1) shall be in writing and may contain any conditions or restrictions that the Commission considers appropriate.

52A Power of Commission to issue orders²⁴

(1) Subject to sections *fifty-two B* and *ninety-one A*, the Commission shall have power—

- (a) to issue orders in relation to any matter referred to in paragraphs (a) to (e) or (g) of subsection (1) of section *fifty-two B*;
- (b) on its own initiative or at the request of any person, to issue orders—
 - (i) requiring that a duty imposed by or under this Act be performed;
 - (ii) extending a time limit in terms of section *eleven* or extending any other time limit in terms of this Act;
 - (iii) confirming, exempting or reducing a fee, or ordering a refund, in the appropriate circumstances;
 - (iv) confirming a decision not to correct personal information or specify how personal information is to be corrected;

²⁴ Section inserted by s. 7 of Act 5/2003.

- (v) requiring a public body to stop collecting, using or disclosing personal information in contravention of this Act;
- (vi) requiring the head of a public body to destroy personal information collected in contravention of this Act.

(2) The Commission may specify any terms or conditions subject to which an order is issued in terms of this section, including the time within which the person to whom the order is issued shall comply with the order.

52B Determinations and inquiries by Commission²⁵

(1) The Commission shall, in relation to the determination by it of the following matters—

- (a) a request for a review in terms of Part X;
- (b) an application for registration of a mass media service, in terms of Part XI;
- (c) whether to suspend or cancel any registration certificate or make any other order in terms of section seventy-one;
- (d) whether to exercise any power referred to in subsection (2) of section eighty-five;
- (e) an appeal received in terms of section eighty-six or eighty-seven;
- (f) whether to issue an order in terms of paragraph (b) of subsection (1) of section fifty-two A;
- (g) any other matter in terms of this Act which is required or empowered to determine;

do either of the following—

- (i) if it considers that the matter involves no substantial dispute of fact or law, and after affording any party concerned an opportunity to make written representations to it within the time it specifies, determine the matter and give notice of its determination orally or in writing to the party or the parties concerned; or
- (ii) if it considers that the matter involves any substantial dispute of fact or law, conduct an inquiry in terms of the following provisions of this section.

(2) The Commission shall conduct an inquiry and may decide all questions of fact and law arising in the course of the inquiry.

(3) An inquiry in terms of subsection (2) may be conducted in camera.

(4) The Commission shall give every person who has an interest in the matter an opportunity to make representations during the inquiry.

(5) The Commission may decide—

- (a) whether representations are to be made orally or in writing; and
- (b) whether a person other than the persons referred to in subsection (4) is entitled to be present during or to have access to or to comment on representations made to the Commission by another person.

²⁵ Section inserted by s. 7 of Act 5/2003.

(6) Every person appearing before the Commission at an inquiry may be represented at the inquiry by a legal practitioner.

(7) An inquiry into any matter shall be completed within ninety days from the date of commencement of the inquiry.

(8) On completing an inquiry the Commission shall make a written determination of its findings and may, on the basis of those findings, issue an appropriate order to the parties concerned in the matter and give a copy of it to the Minister and any other party considered by the Commission to have an interest in the matter.

(9) Any person aggrieved by any order or determination of the Commission made in terms of section *fifty-two A* or *fifty-two B* may, within twenty-eight days after being notified of that order or determination, appeal to the Administrative Court.

PART X

REVIEWS BY THE COMMISSION

53 Right to request a review

(1) A person who makes a request to a head of a public body, other than the Commission, for access to a record or for correction of personal information may request the Commission to review any decision or act of the head of that public body that relates to that request.

(2) A third party notified of a decision to give access may request the Commission to review any decision made by the head of the public body.

54 Procedure for seeking review

(1) For the purposes of this section, the failure by a head of a public body to respond within the time limit to a request for access to a record shall be deemed to be a decision to refuse access to the record.

(2) A person requesting a review in terms of this Part shall make such request, in writing, to the Commission.

(3) A request for a review of a decision of the head of a public body in terms of subsection (1) shall be made within thirty days from the date of the decision:

Provided that the Commission may allow a longer period upon a request made to the Commission for the extension of the period.

55 Notice of review

The Commission shall, on receiving a request for a review, give a copy of the request to the head of the public body and any other person that the Commission considers appropriate

²⁶**57 Onus of proof**

(1) At an inquiry into a decision to refuse an applicant access to all or part of a record, the head of the public body shall bear the onus of proving that the applicant has no right of access to the record or part thereof.

(2) If the record or that part that the applicant is refused access to contains personal information about a third party, the applicant shall bear the onus of proving that disclosure of the information would not be an unreasonable invasion of the third party's personal privacy.

(3) At an inquiry into a decision to give an applicant access to all or part of a record containing information that relates to a third party, the third party shall bear the onus of proving that the applicant has no right of access to the record or part thereof.

²⁷²⁸²⁹³⁰**PART XI**

REGULATION OF MASS MEDIA SERVICES

³¹**63 Application of Part XI**

This Part shall apply to all mass media owners in Zimbabwe and foreign mass media that disseminate mass media products in Zimbabwe.

64 Abuse of freedom of expression³²

A person registered in terms of this Part who makes use, by any means, of a mass media service for the purposes of publishing—

- (a) information which he or she intentionally or recklessly falsified in a manner which—
 - (i) threatens the interests of defence, public safety, public order, the economic interests of the State, public morality or public health; or
 - (ii) is injurious to the reputation, rights and freedoms of other persons;
 - or
 - (b) information which he or she maliciously or fraudulently fabricated; or
 - (c) any statement—
 - (i) threatening the interests of defence, public safety, public order, the economic interests of the State, public morality or public health; or
 - (ii) injurious to the reputation, rights and freedoms of other persons;
- in the following circumstances—

²⁶ Section repealed by s. 8 of Act 5/2003.
²⁷ Section repealed by s. 8 of Act 5/2003.
²⁸ Section repealed by s. 8 of Act 5/2003.
²⁹ Section repealed by s. 8 of Act 5/2003.
³⁰ Section repealed by s. 8 of Act 5/2003.
³¹ Section repealed by s. 8 of Act 5/2003.
³² Section substituted by s. 9 of Act 5/2003.

- A. knowing the statement to be false or without having reasonable grounds for believing it to be true; and
- B. recklessly, or with malicious or fraudulent intent, representing the statement as a true statement;

shall be guilty of an offence and liable to a fine not exceeding level fourteen or to imprisonment for a period not exceeding three years.

65 Restriction on ownership of mass media service

- (1) The following persons and bodies may not be mass media owners—
 - (a) any individual who is not a citizen of Zimbabwe or any body corporate in which a controlling interest is not held, directly or indirectly, whether through any individual, company or association or otherwise, by one or more individuals who are citizens of Zimbabwe;
 - (b) an association of persons or an organisation whose activity is banned or prohibited by law; or
 - (c) any person who is insolvent or bankrupt under a law in force in Zimbabwe or any other country, and has not been rehabilitated or discharged.
- (2) No person other than—
 - (a) a citizen of Zimbabwe or person who is regarded as permanently resident in Zimbabwe by virtue of the Immigration Act [*Chapter 4:02*]; or
 - (b) a body corporate in which a controlling interest is not held, directly or indirectly, whether through any individual, company or association or otherwise, by one or more individuals who are citizens of Zimbabwe or are regarded as permanently resident in Zimbabwe by virtue of the Immigration Act [*Chapter 4:02*];

may hold or acquire any shares in a mass media service.

(3) Nothing contained in this section shall prevent any person who is an existing mass media owner as at 31st January, 2002, from continuing to be a mass media owner after that date to the extent of his ownership on that date.

66 Registration of mass media services

- (1) Subject to section *sixty-eight*, a mass media owner shall carry on the activities of a mass media service only after registering and receiving a certificate of registration in terms of this Act.³³
- (2) An application for the registration of a mass media service whose products are intended for dissemination in Zimbabwe shall be submitted by its owner to the Commission in the form and manner prescribed and accompanied by the prescribed fee.
- (3) The Commission shall, upon receiving an application for registration, send a notification of receipt of the application to the owner or person authorised by him indicating the date when the

³³ Subsection amended by s. 10 of Act 5/2003.

application was received, and the Commission shall consider such application within a month of receiving it.

(4) A mass media service shall be registered when it is issued with a certificate of registration by the Commission.

(5) A certificate issued in terms of subsection (4) shall be valid for a period of two years and may be renewed thereafter.

(6) The registered owner shall start circulating his mass media's products six months from the date of the issue of the registration certificate, failing which the registration certificate shall be deemed to be cancelled.

(7) The owner of a registered mass media service may, in the form and manner and subject to payment of the fee prescribed, apply to the Commission for the renewal of the registration of the mass media service upon the same terms and conditions that applied when the mass media service was originally registered:

Provided that if there are any material changes in the particulars furnished in connection with the original application for registration, the owner concerned shall make a new application for registration of the mass media service in terms of subsection (2).³⁴

67 Notification of changes

A mass media service shall be required to notify the Commission of any changes if—

- (a) the owner is replaced;
- (b) the co-owners change;
- (c) the name, language, form and frequency of the periodical dissemination of mass media products is altered;
- (d) the area where the mass media products are circulated is changed;
- (e) the editorial office changes its place of location and form.

68 Exemption from registration³⁵

The following mass media services are exempted from registering in terms of this Act—

- (a) a mass media service founded under an Act of Parliament;
- (b) a mass media service consisting of the activities of a person holding a licence issued in terms of the Broadcasting Services Act [*Chapter 12:06*], to the extent that such activities are permitted by such licence; or
- (c) a representative office of a foreign mass media service permitted to operate in Zimbabwe in terms of section *ninety*;

³⁴ Subsection inserted by s. 10 of Act 5/2003.

³⁵ Section substituted by s. 11 of Act 5/2003.

- (d) the production of publications by any enterprise, association, institution or other person that are disseminated exclusively to members or employees of that enterprise, association, institution or other person:

Provided that the Commission may require the enterprise, association, institution or other person producing any such publication to register in terms of this Part if—

- (i) the publication is sold in a public place to members of the public or is otherwise not disseminated exclusively to members or employees of the enterprise, association, institution or other person concerned; or
- (ii) the number of publications produced significantly exceeds the number of members or employees to whom the publication is intended to be disseminated, or exceeds a prescribed number.

69 Refusal of registration of mass media service

- (1) The Commission may not refuse to register a mass media service unless—
 - (a) it fails to comply with the provisions of this Act ; or
 - (b) the information indicated in an application for registration is false, misleading or contains any misrepresentation; or
 - (c) that mass media service seeks to be registered in the name of an existing registered mass media service;

and the Commission shall forward a written notification of the refusal of registration, stating the grounds upon which such refusal is based.

(2) An appeal shall lie to the Administrative Court against any decision made or action taken by the Commission in terms of this section.³⁶

³⁷70 Registration fee

The registration fee shall be as prescribed by the Minister:

Provided that the Minister may prescribe a higher fee for established mass media services specialising in commercial mass media services and advertising and a lower fee for a mass media service specialising in producing materials intended for children, adolescents and disabled persons and used for educational, philanthropic and social purposes.

71 Suspension, cancellation and enforcement of registration certificates

(1) Subject to this section, the Commission may, whether on its own initiative or upon the investigation of a complaint made by any interested person against the mass media service, suspend or cancel the registration certificate of a mass media service if it has reasonable grounds for believing that—

³⁶ Subsection substituted by s. 12 of Act 5/2003.

³⁷ Subsection repealed by s. 12 of Act 5/2003.

- (a) the registration certificate was issued in error or through fraud or there has been a misrepresentation or non-disclosure of a material fact by the mass media owner concerned; or
- (b) a mass media service concerned does not publish or go on air within twelve months from the date of registration; or
- (c) the mass media service concerned has contravened sections *sixty-five, seventy-five, seventy-six, seventy-seven* or *eighty-nine* of this Act.³⁸

(2) The Commission shall not refund the registration fee if a certificate of registration is cancelled in terms of subsection (1).

(3) A mass media service whose certificate of registration is cancelled in terms of this section by reason of fraud, misrepresentation or non-disclosure of a material fact or contravention of sections *sixty-five, seventy-five* and *eighty-nine* shall cease to operate forthwith and may not reapply for registration until after the expiry of a period of one year.

(4) Before taking any action in terms of subsection (1), the Commission shall notify the mass media service in writing of its intention to suspend or cancel the registration certificate of the mass media service and the reasons for doing so, and shall call upon the mass media service to show cause, within such reasonable period as may be specified in the notice, why the registration certificate should not be suspended or cancelled, as the case may be.

(5) If, at the expiry of the period specified in the notice given in terms of subsection (4), and after considering any representations made by the mass media service, the Commission is satisfied for any reason specified in subsection (1) that the registration certificate concerned should be suspended or cancelled, the Commission may, by notice in writing to the mass media service, suspend or cancel the registration certificate or take such other action as it considers appropriate.

(6) Without derogation from its powers in terms of subsection (1), where the Commission is satisfied that a mass media service is contravening, has contravened or is likely to contravene any of the provisions of this Act, the Commission may serve upon the mass media service an order—

- (a) requiring the mass media owner to do, or not to do, such things as are specified in the order for the purpose rectifying or avoiding any contravention or threatened contravention of this Act; and
- (b) stipulating the period within which any requirement referred to in paragraph (a) shall be commenced and completed.

(7) Before serving an order in terms of subsection (6), the Commission shall serve a notice upon the mass media owner concerned—

- (a) specifying the grounds upon which the order is to be issued and what the Commission considers is required for the purpose of rectifying or avoiding any contravention or threatened contravention of this Act; and
- (b) stipulating the maximum period that the Commission considers reasonable for the implementation of any requirement it proposes to order; and

³⁸ Paragraph amended by s. 25 of as read with Schedule to Act 5/2003.

(c) calling upon the mass media owner, if he wishes to make representations, to make them to the Commission within such period from the date of service of the notice as it shall specify.

(8) After considering any representations made in terms of paragraph (c) of subsection (7), the Commission may serve, or refrain from or defer serving, an order in terms of subsection (6), or serve an order on different terms.

(9) An order served in terms of subsection (6) may specify a penalty for each day that the mass media service subjected to the order is in default of compliance with the order, not exceeding the period and amount prescribed.

(10) The amount of any penalty imposed in terms of subsection (9) shall form part of the funds of the Commission.

(11) Any mass media owner who is aggrieved by any decision or order of the Commission made in terms of this section may, within twenty-eight days after being notified of the decision or action of the Commission concerned, appeal in writing to the Minister, submitting with his appeal such fee as may be prescribed.

(12) For the purpose of determining an appeal noted in terms of subsection (11), the Minister may require the Commission to furnish him with the reasons for the decision or action that is the subject of the appeal and a copy of any evidence upon which the reasons are based.

(13) The Minister, after due and expeditious inquiry, may make such order on any appeal noted in terms of subsection (11) as he considers just.

(14) An appeal shall lie to the Administrative Court against any order of the Minister in terms of subsection (12).

(15) An appeal in terms of subsection (14) shall be made in the form and manner and within the period prescribed in rules of court.

72 Penalties for operating mass media service without registration certificate

(1) No person shall carry on or operate a mass media service without a valid registration certificate, licence or permit issued in terms of this Act or any other law.

(2) A person who contravenes subsection (1) shall be guilty of an offence and liable, upon conviction, to a fine not exceeding level twelve or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.³⁹

(3) In addition to any fine imposed in terms of subsection (2) and without derogation from any of its powers granted under any enactment a court convicting a person of contravening subsection (1) may declare forfeited to the State any product, equipment or apparatus used for the purpose of or in connection with the offence.

(4) The proviso to subsection (1) and subsections (3), (4), (5) and (6) of section 62 of the Criminal Procedure and Evidence Act [*Chapter 9:07*] shall apply, *mutatis mutandis*, in relation to a declaration made in terms of subsection (3).

³⁹ Subsection amended by s. 25 of as read with Schedule to Act 5/2003 (level twelve substituted for former three hundred thousand dollars).

40-74 News agencies

(1) Subject to this Act, no person shall carry on or operate a news agency without a valid registration certificate issued in terms of this Part.

(2) Sections *sixty-eight to seventy-two* shall apply to the registration of a news agency.⁴¹

(3) A person who contravenes subsection (1) shall be guilty of an offence and liable, upon conviction, to a fine not exceeding level twelve or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.⁴²

(4) In addition to any fine imposed in terms of subsection (2) and without derogation from any of its powers granted under any enactment, a court convicting a person of contravening subsection (1) may declare forfeited to the State any equipment or apparatus used for the purpose of or in connection with the offence.

(5) The proviso to subsection (1) and subsections (3), (4), (5) and (6) of section 62 of the Criminal Procedure and Evidence Act [*Chapter 9:07*] shall apply, *mutatis mutandis*, in relation to a declaration in terms of subsection (3).

(6) Any messages or materials belonging to a news agency and distributed by another mass media service shall state the name of the news agency.

(7) A registration certificate issued in terms of subsection (1) shall be valid for two years.⁴³

(8) A registered news agency may, in the form and manner and subject to payment of the fee prescribed, apply to the Commission for the renewal of its registration upon the same terms and conditions that applied when it was originally registered:

Provided that if there are any material changes in the particulars furnished in connection with the original application for registration, the news agency concerned shall make a new application for registration in terms of subsection (1).⁴⁴

75 Publisher's imprint

Every issue of a periodically printed publication or electronic programme shall contain a publisher's imprint as prescribed.

76 Deposit copies

The mass media service shall send free deposit copies of a periodical to the Commission and the National Archives.

77 Obligatory reports⁴⁵

A mass media service shall, if ordered to do so by the Commission, publish, free of charge the full particulars or a summary approved by the Commission of the substance of a decision of a court or the Commission pertaining to its mass media service that has come into effect—

⁴⁰ Section repealed by s. 13 of Act 5/2003.

⁴¹ Subsection amended by s. 14 of Act 5/2003.

⁴² Subsection amended by s. 14 of Act 5/2003 (level twelve substituted for three hundred thousand dollars).

⁴³ Subsection inserted by s. 14 of Act 5/2003.

⁴⁴ Subsection inserted by s. 14 of Act 5/2003.

⁴⁵ Section substituted by s. 15 of Act 5/2003.

- (a) on the front page or centrespread, if it is a newspaper; or
 - (b) if it is an electronic mass media service, on three consecutive occasions during prime time;
- or in such other manner as the Commission may prescribe.

PART XII
JOURNALISTS

78 Rights of a journalist

Subject to this Act and any other law, a journalist shall have the following rights (hereafter collectively referred to as "journalistic privilege")⁴⁶—

- (a) to enquire, gather, receive and disseminate information;
- (b) to visit public bodies with the express purpose of carrying out duties as a journalist;
- (c) to get access to documents and materials as prescribed in this Act;
- (d) to make recordings with the use of audio-video equipment, photography and cine-photography;
- (e) to refuse to prepare under his signature reports and materials inconsistent with his convictions;
- (f) to prohibit the publication of, remove his signature from or attach conditions to the manner of using a report or material whose content was distorted, in his opinion, in the process of editorial preparations; or⁴⁷
- (g) to circulate reports and materials he prepared under his signature, under a pseudonym or without any signature.

79 Accreditation of journalists

(1) No journalist shall exercise the rights provided in section *seventy-eight* in Zimbabwe without being accredited by the Commission.

(2) Subject to subsection (4), no journalist shall be accredited who is not a citizen of Zimbabwe, or is not regarded as permanently resident in Zimbabwe by virtue of the Immigration Act [*Chapter 4:02*].

(3) Any person who wishes to be accredited as a journalist shall make an application to the Commission in the form and manner and accompanied by the fee, if any, prescribed:

Provided that a mass media service or news agency may file an application for accreditation on behalf of journalists employed by such mass media service or news agency.

(4) A journalist who is not a citizen of Zimbabwe, or is not regarded as permanently resident in Zimbabwe by virtue of the Immigration Act [*Chapter 4:02*] may be accredited for any period specified by the Commission not exceeding thirty days:

⁴⁶ Introductory words amended by s. 16 of Act 5/2003.

⁴⁷ Paragraph substituted by s. 16 of Act 5/2003.

Provided that the Commission may, for good cause shown or for the purpose of enabling the journalist to work for the duration of any event he or she is accredited to cover, extend the period by a specified number of days.⁴⁸

(5) The Commission may accredit an applicant as a journalist and issue a press card to the applicant if it is satisfied that the applicant—

- (a) has complied with the prescribed formalities; and
- (b) possesses the prescribed qualifications; and
- (c) is not disqualified by virtue of subsection (2), or applies for accreditation in terms of subsection (4).

(6) Every news agency that operates in Zimbabwe, whether domiciled inside or outside Zimbabwe, shall in respect of its local operations not employ or use the services of any journalist other than an accredited journalist who is a citizen of Zimbabwe, or is regarded as permanently resident in Zimbabwe by virtue of the Immigration Act [*Chapter 4:02*]:

Provided that the news agency may employ or use the services of a journalist referred to in subsection (4) for the duration of that journalist's accreditation.

80 Abuse of journalistic privilege⁴⁹

A journalist who abuses his or her journalistic privilege by publishing—

- (a) information which he or she intentionally or recklessly falsified in a manner which—
 - (i) threatens the interests of defence, public safety, public order, the economic interests of the State, public morality or public health; or
 - (ii) is injurious to the reputation, rights and freedoms of other persons;
- or
- (b) information which he or she maliciously or fraudulently fabricated; or
- (c) any statement—
 - (i) threatening the interests of defence, public safety, public order, the economic interests of the State, public morality or public health; or
 - (ii) injurious to the reputation, rights and freedoms of other persons;

in the following circumstances—

- A. knowing the statement to be false or without having reasonable grounds for believing it to be true; and
- B. recklessly, or with malicious or fraudulent intent, representing the statement as a true statement;

shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years.

⁴⁸ Subsection substituted by s. 17 of Act 5/2003.

⁴⁹ Section substituted by s. 18 of Act 5/2003.

⁵⁰82 Roll of journalists

The Commission shall maintain a roll of all journalists and shall issue to every person whose name is entered in the roll, a certificate of accreditation in the prescribed form.

83 Prohibition against practice by, or in association with, unaccredited journalists

(1) No person other than a accredited journalist shall practise as a journalist nor be employed as such or in any manner hold himself out as a journalist.⁵¹

(2) No person who has ceased to be a accredited journalist as a result of the deletion of his name from the roll, or who has been suspended from practising as a journalist, shall, while his name is so deleted, or is so suspended, continue to practice directly or indirectly as a journalist, whether by himself or in partnership or association with any other person, nor shall he, except with the written consent of the Commission, be employed in any capacity whatsoever connected with the journalistic profession.

84 Evidence and duration of accreditation of journalists

(1) A press card shall constitute evidence that the holder thereof is accredited as a journalist, and shall be valid for a period or any part of a period of twelve months ending on the 31st December each year.

(2) The holder of a press card may, in the form and manner and accompanied by the fee, if any, prescribed, make an application to the Commission for its renewal upon the same terms and conditions that applied when the initial press card was issued:

Provided that if there are any material changes in the particulars furnished in connection with the original application for accreditation, the holder of a press card concerned shall make a new application for accreditation in terms of section *seventy-nine*.

85 Conduct and discipline of journalists

(1) The Commission shall, in consultation with such organisations it considers to be representative of journalists, develop a code of conduct governing the rules of conduct to be observed by journalists.

(2) The Commission shall be responsible for enforcing the code of conduct referred to in subsection (1) and shall, for that purpose, have the following powers in relation to any journalist who contravenes the code or any provision of this Act—

- (a) deleting his name from the roll of journalists; or
- (b) ordering his suspension for a specified period; or
- (c) imposing such conditions as it deems fit subject to which he shall be allowed to practice; or
- (d) ordering him to pay a penalty not exceeding fifty thousand dollars; or
- (e) cautioning him; or
- (f) referring the matter for prosecution.

⁵⁰ Section repealed by s. 19 of Act 5/2003.

⁵¹ Subsection amended by s. 25 of as read with Schedule to Act 5/2003.

(3) Before exercising any power in terms of subsection (2), the Commission shall notify the journalist in writing of its proposed action and the reasons for it, and shall call upon the journalist to show cause, within such reasonable period as shall be specified in the notice, why the proposed action should not be taken.

(4) At the expiry of the period specified in the notice given in terms of subsection (3), and after considering any representations made by the journalist and affording the journalist a fair hearing, the Commission may, by notice in writing to the journalist, take such action as it considers appropriate.

(5) The amount of any penalty imposed in terms of paragraph (d) of subsection (2) shall form part of the funds of the Commission.

(6) An appeal shall lie to the Administrative Court against any decision made or action taken by the Commission in terms of this section.

⁵²**86 Correction of untruthful information**

(1) A person or his legal representative shall have the right, at no cost, to demand from a mass media service correction of untruthful information that denigrates his honour and dignity and that was published by that mass media service.⁵³

(2) A mass media owner shall be obliged to publish a correction in the next issue after the date of receipt of the demand for a correction of its text.

(3) If a person has submitted a text of the correction, the text shall be disseminated as long as it does not contravene a provision of this Act.

(4) A person aggrieved by a decision of a mass media owner to refuse to publish a correction may appeal to the Commission.

87 Manner in which correction is to be made

(1) A correction shall indicate the information published by the given mass media service that was not truthful, and when it was published by that mass media service.⁵⁴

(2) A correction shall be published in the same manner as the refuted report or material was published and shall be set up with the same type and featured under the heading “Correction”.

(3) A person aggrieved by the manner in which a correction in terms of this section is made or published may appeal in the time and manner prescribed to the Commission.⁵⁵

88 Grounds for the refusal of correction

(1) A correction may be refused if the demand or the submitted text of correction—

- (a) represents an abuse of the freedom of expression as set out in section *sixty-four*;
- (b) contradicts a decision of a court;
- (c) is anonymous;

⁵² Subsection repealed by s. 25 of as read with Schedule to Act 5/2003.

⁵³ Subsection amended by s. 25 of as read with Schedule to Act 5/2003.

⁵⁴ Subsection amended by s. 20 of Act 5/2003.

⁵⁵ Subsection inserted by s. 20 of Act 5/2003.

- (d) was received by the mass media service after the expiration of one year since the day of the publication of the information to be corrected by the mass media service.

⁵⁶89 Right of reply

(1) A person or organisation in respect of whom a mass media service has published information that is not truthful or impinges on his rights or lawful interests shall have a right of reply in the same mass media service at no cost to him, and the reply shall be given the same prominence as the as that accorded to the offending information.⁵⁷

(2) The reply shall be published in the earliest possible issue of the publication in which the offending information appeared after the request for the reply is received.⁵⁸

90 Representative offices of foreign mass media services

(1) A representative office of a foreign mass media service shall not be set up or operated in Zimbabwe except with the permission of the Commission.⁵⁹

(2) Application for permission in terms of subsection (1) shall be made in the form and manner prescribed.

(3) The permission to set up or operate a representative office of a foreign mass media service shall be valid for twelve months.⁶⁰

(4) A foreign mass media service may, in the form and manner and subject to payment of the fee prescribed, apply to the Commission for the renewal of permission to operate a representative office upon the same terms and conditions that applied when it originally applied for permission:

Provided that if there are any material changes in the particulars furnished in connection with the original application for permission, the foreign mass media service concerned shall make a new application for permission in terms of subsection (1).⁶¹

PART XIII

GENERAL PROVISIONS

91A Appeals to Administrative Court⁶²

(1) Any appeal to the Administrative Court shall be made in the form and manner prescribed and within the period prescribed in the rules of court.

(2) For the purpose of determining an appeal in terms of subsection (1) the President of the Administrative Court shall be assisted by two assessors.

⁵⁶ Subsection repealed by s. 25 of as read with Schedule to Act 5/2003.

⁵⁷ Subsection amended by s. 21 of Act 5/2003.

⁵⁸ Subsection substituted by s. 21 of Act 5/2003.

⁵⁹ Subsection amended by s. 22 of Act 5/2003.

⁶⁰ Subsection inserted by s. 22 of Act 5/2003.

⁶¹ Subsection inserted by s. 22 of Act 5/2003.

⁶² Section inserted by s. 23 of Act 5.2003.

(3) On an appeal in terms of subsection (1), the Administrative Court may, subject to subsection (1), confirm, vary or set aside the order, determination or decision appealed against and may make such order, whether as to costs or otherwise, as it thinks just.

(4) Any person whose appeal against a refusal by the Commission to register a mass media service in terms of section sixty-nine or news agency section seventy-four, or give permission for the setting up within Zimbabwe of a representative office of a foreign mass media service in terms of section *ninety*, is upheld shall not be entitled to be registered or permitted but shall have his matter remitted to the Commission for re-determination in terms of Part XI or section *ninety*, as the case may be.

91B Offences and penalties⁶³

(1) Any person who wilfully—

- (a) makes a false statement to, or misleads or attempts to mislead the Commission or any other person in the performance of their duties, powers or functions in terms of this Act;
- (b) obstructs the Commission or any other person in the performance of their duties, powers or functions in terms of this Act;
- (c) fails to comply with an order made by the Commission;

shall be guilty of an offence and liable to a fine not exceeding level 7 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(2) Any person who wilfully contravenes section *sixty-five*, *seventy-five*, *seventy-six*, *seventy-seven* or *eighty-nine* shall be guilty of an offence and liable to a fine not exceeding level 5 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment

91 Regulatory powers of the Minister

(1) The Minister may, by regulation, order or notice, prescribe matters that, by this Act, are required or permitted to be prescribed or that in the opinion of the Minister are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without derogating from the generality of subsection (1), regulations, orders or notices made in terms of subsection (1) may provide for—

- (a) the form, manner and period in which applications for registration shall be made;
- (b) the form, manner and period in which complaints against public bodies, mass media services and journalists shall be dealt with;
- (c) the amount of annual levy payable to the Fund;
- (d) the manner in which moneys held in the Fund may be invested;
- (e) the fees to be paid for applications, accreditation and registration and the manner of their payment;
- (f) the form, manner and period in which requests for information from public bodies shall be made;

⁶³ Section inserted by s. 23 of Act 5.2003.

- (g) the standards to be observed by employees of public bodies when responding to requests for information;
- (i) the procedures to be followed when disclosing information;
- (j) persons, organisations or institutions exempted from the provisions of this Act;
- (k) the fee to be paid to a public body to access information or a record;
- (l) personal information that may be disclosed by a public body;
- (m) the information to be contained in an application for registration of a mass media service;
- (n) information to be disclosed for research or statistical purposes;
- (o) the form and manner of publisher's imprints;
- (p) the qualifications for accreditation as a journalist;⁶⁴
- (q) the period for when contributions to the Fund will be made;
- (r) periodicals or publications exempt from registration.

92 Amendment of section 4 of Cap. 11:09

The Official Secrets Act [*Chapter 11:09*] is amended in section 4 by the insertion after subsection (1) of the following subsection—

“(1a) For the avoidance of doubt it is declared that subsection (1) shall not apply to the disclosure in accordance with the Access to Information and Protection of Privacy Act [*Chapter 10:27*] (Act No. 5 of 2002) of any document or information by a person who, being the head of a public body as defined in that Act, has lawful access to that document or information.”.

93 Transitional provisions

(1) Any person who, immediately before the date of commencement of this Act, was lawfully operating a mass media service shall be deemed to be registered for the purpose of providing the same service for a period of three months from the date of commencement of this Act, and any application for registration made after that date in terms of this Act for a certificate of registration to provide that service shall be treated as an application for a new certificate and not for the renewal of a certificate.⁶⁵

(2) Any journalist who was accredited before the coming into operation of this Act shall be deemed to be accredited for the remainder of the year 2002.

FIRST SCHEDULE (*Section 4*)

RECORDS EXCLUDED FROM APPLICATION OF ACT

- (a) A personal note, communication or draft decision of a person who is acting in a judicial or quasi-judicial capacity;

⁶⁴ Paragraph amended by s. 25 of as read with Schedule to Act 5/2003.

⁶⁵ Subsection amended by s. 24 of Act 5/2003.

- (b) any record that is protected in terms of the Privileges, Immunities and Powers of Parliament Act [*Chapter 2:08*];
- (c) a record that is created by or for, or is in the custody or control of a person in terms of the Children's Act [*Chapter 5:06*] and relates to the exercise of that person's functions under that Act;
- (d) a record of a question that is to be used in an examination or test;
- (e) a record containing teaching materials or research information of employees of a post-secondary educational body;
- (f) material placed in the National Archives or the archives of a public body by or for a person or agency other than a public body;
- (g) any record or information relating to any matter or issue referred to in section 31K of the Constitution, and any matter or issue relating to the exercise of the functions and powers of the President.

SECOND SCHEDULE (*Section 2*)

PUBLIC BODIES AND HEADS OF PUBLIC BODIES

PART I

<i>Public Body</i>	<i>Head</i>
Any government department	The Permanent Secretary
Any statutory corporation, authority, board, committee, commission or council, or other statutory body	The chairperson, chief executive officer, director-general, general manager
Any government agency or office of which the Permanent Secretary is not the head	The person in charge of such agency or office
Office of the Registrar General	The Registrar-General
Office of the Registrar of the High Court/Supreme Court/Administrative Court/ Office of the Labour Relations Tribunal	The registrar of that court
Office of the Clerk of the Magistrates Court/Community Court	The clerk of court of that court
Local authority	Executive Mayor, Town Clerk, Chief Executive Officer

A body referred to in Part II

The chairperson, chief executive officer, director-general, general manager, registrar or other person by whatever title called having responsibilities similar to those attaching to the foregoing offices

PART II

Estate Agents Council of Zimbabwe

Medical Council of Zimbabwe

Medicines Control Council of Zimbabwe

Bankers Association of Zimbabwe

Institute of Bankers in Zimbabwe

Institute of Chartered Secretaries and Administrators in Zimbabwe

Institute of Chartered Accountants of Zimbabwe

Zimbabwe Institution of Engineers

Chartered Institute of Management Accountants

Law Society of Zimbabwe

Institute of Architects of Zimbabwe and Architects Council

Institute of Directors

Institute of Environmental Studies

Institute of Mining Research

Institute of Personnel Management (Zimbabwe)

Zimbabwe Congress of Trade Unions

Zimbabwe Federation of Trade Unions

Medical aid societies

Zimbabwe Stock Exchange

Zimbabwe National Traditional Healers Association

Commercial Farmers Union

Zimbabwe Farmers Union

Indigenous Commercial Farmers Union

Public companies.

THIRD SCHEDULE (*Section 39(3)*)

ANCILLARY POWERS OF COMMISSION

1. To acquire by lease, purchase, or otherwise, immovable property and to construct buildings thereon.
2. To buy, take in exchange, hire or otherwise acquire movable property, including vehicles, necessary or convenient for the performance of its functions.
3. To maintain, alter and improve property acquired by it.
4. To mortgage or pledge any assets or part of any assets and, with the approval of the Minister, to sell, exchange, let, dispose of, turn to account or otherwise deal with any assets or part of any assets which are not required for the exercise of its functions for such consideration as the Commission may, with the approval of the Minister, determine.
5. To open bank and building society and post office accounts in the name of the Commission and to draw, make, accept, endorse, discount, execute and issue for the purposes of its functions, cheques, promissory notes, bills of exchange, bills of lading, securities and other instruments.
6. To insure against losses, damages, risks and liabilities which it may incur.
7. To enter into contracts and suretyships or give guarantees in connection with the exercise of its functions and to modify or rescind such contracts or rescind suretyships or guarantees.
8. With the approval of the Minister, to enter into, renew, cancel or abandon arrangements with any government or authority, local or otherwise, that may seem conducive to the exercise of its functions or any of them and to obtain from such government or authority rights, privileges and concessions which the Commission thinks desirable to obtain and carry out, exercise and comply with such arrangements, rights, privileges and concessions.
9. With the approval of the Minister, to raise loans or borrow money in such amounts and for such purposes and under such conditions as may be approved by the Minister.
10. To employ, upon such terms and conditions as the Commission may think fit, such persons as may be necessary for conducting its affairs, and suspend or discharge any such persons.
11. Subject to section 39 of the Audit and Exchequer Act [*Chapter 22:03*], to pay such remuneration and allowances and grant such leave of absence and to make such gifts and pay bonuses and the like to its employees as the Commission thinks fit.
12. To provide pecuniary benefits for its employees on their retirement, resignation, discharge or other termination of service or in the event of their sickness or injury and for their dependants, and for that purpose to effect policies of insurance, establish pension or provident funds or make such other provision as may be necessary to secure for its employees and their dependants any or all of the pecuniary benefits to which this paragraph relates.
13. With the approval of the Minister, to purchase, take in exchange, hire and otherwise acquire land or dwellings for use or occupation by its employees.
14. To construct dwellings, outbuildings or improvements for use or occupation by its employees on land purchased, taken in exchange, hired or otherwise acquired by the Commission.

15. To sell or let dwellings and land for residential purposes to its employees.
16. With the approval of the Minister, to guarantee loans to its employees or their spouses for the purchase of dwellings or land for residential purposes, the construction of dwellings and the improvement of dwellings or land which are the property of its employees or their spouses.
17. To provide security in respect of loans guaranteed in terms paragraph 16 by the deposit of securities.
18. With the approval of the Minister, to make loans to any employee of the Commission—
 - (a) for the purpose of purchasing vehicles, tools or other equipment used by him in carrying out his duties; or
 - (b) not exceeding three months' salary or wages payable to him, for any purpose;

on such security as the Commission considers adequate.
19. To do anything for the purpose of improving the skill, knowledge or usefulness of its employees, and in that connection to provide or assist other persons in providing facilities for training, education and research and to pay for the aforesaid, where necessary.
20. To provide such services as the Commission considers could properly be provided by the Commission.
21. With the approval of the Minister, to provide financial assistance to any person, association, organisation or institution whose activities are such as to be, in the opinion of the Commission, of benefit to the Commission.
22. Generally, to do all such things as may be necessary, conducive or incidental to the exercise of the powers and the performance of the functions of the Commission under this Act or any other enactment.

FOURTH SCHEDULE (*Section 40(3)*)

PROVISIONS APPLICABLE TO MEDIA AND INFORMATION COMMISSION

Terms of office and conditions of service of members

1.(1) Subject to this Schedule, a member shall hold office for such period, not exceeding three years, as the Minister may fix on his appointment.

(2) A member shall continue in office after the expiry of his term until he has been re-appointed or his successor has been appointed:

Provided that a member shall not hold office in terms of this subparagraph for longer than six months.

(3) Subject to paragraph 9, a member shall hold office on such terms and conditions as the Minister may fix in relation to members generally.

(4) A retiring member is eligible for re-appointment as a member.

(5) The terms and conditions of office of a member shall not, without the member's consent, be altered to his detriment during his tenure of office.

Disqualifications for appointment as member

2.(1) The Minister shall not appoint a person as a member and no person shall be qualified to hold office as a member who—

- (a) is not a citizen of Zimbabwe; or
- (b) has a financial interest in any business connected with broadcasting services or systems, or is engaged in any activity connected with any such service or system, or is married or connected to or associated with a person who has such an interest or is engaged in such an activity, unless the Minister is satisfied that the interest or activity will not interfere with the person's impartial discharge of his duties as a member; or
- (c) has, in terms of a law in force in any country—
 - (i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or
 - (ii) made an assignment to, or arrangement or composition with, his creditors which has not been rescinded or set aside;

or

- (d) has, within the period of five years immediately preceding the date of his proposed appointment, been convicted—
 - (i) in Zimbabwe, of an offence; or
 - (ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would constitute an offence;

and sentenced to a term of imprisonment exceeding six months imposed without the option of a fine, whether or not any portion has been suspended, and has not received a free pardon.

(2) A person who is—

- (a) a member of Parliament; or
- (b) a member of two or more other statutory bodies;

shall not be appointed as a member of the Commission, nor shall he be qualified to hold office as a member.

(3) For the purposes of subparagraph (b) of subparagraph (2) a person who is appointed to a council, board or other authority which is a statutory body or which is responsible for the administration of the affairs of a statutory body shall be regarded as a member of that statutory body.

Vacation of office by member

3. A member shall vacate his office and his office shall become vacant—

- (a) three months after the date upon which he gives notice in writing to the Minister of his intention to resign, or on the expiry of such other period of notice as he and the Minister may agree; or
 - (b) on the date he begins to serve a sentence of imprisonment imposed without the option of a fine—
 - (i) in Zimbabwe, in respect of an offence; or
 - (ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe, would constitute an offence;
- or
- (c) if he becomes disqualified in terms of subparagraph (a), (b) or (c) of subparagraph (1) of paragraph 2, or in terms of subparagraph (2) of that paragraph, to hold office as a member; or
 - (d) if he is required in terms of paragraph 4 to vacate his office.

Dismissal or suspension of members

- 4.(1) The Minister may require a member to vacate his office if the member—
- (a) has, subject to subparagraph (3), been found to have conducted himself in a manner that renders him unsuitable as a member, including a contravention of paragraph 9; or
 - (b) has failed to comply with any term or condition of his office fixed by the Minister in terms of subparagraph (3) of paragraph 1; or
 - (c) is mentally or physically incapable of efficiently carrying out his functions as a member; or
 - (d) has been absent without the permission of the Board from two consecutive meetings of the Commission of which he was given at least seven days' notice, and there was no just cause for the member's absence.
- (2) The Minister may suspend a member—
- (a) whom he suspects on reasonable grounds of having been guilty of conduct referred to in subparagraph (a) of subparagraph (1); or
 - (b) against whom criminal proceedings have been instituted for an offence in respect of which a sentence of imprisonment without the option of a fine may be imposed;

and while that member is so suspended he shall not carry out any functions as a member.

(3) A member suspended in terms of subparagraph (a) of subparagraph (2) shall be given notice in writing of the grounds for the suspension and may, within fourteen days of being so notified, make written representations to the Minister showing cause why no finding of misconduct rendering him unsuitable to be member of the Board should be made.

(4) The Minister, shall require a member suspended in terms of subparagraph (a) of subparagraph (2) to vacate his office if—

- (a) no representations are made by the member in terms of subparagraph (3); or

- (b) the Minister finds that, notwithstanding representations made in terms of subparagraph (3), the member is guilty of the misconduct alleged.

Filling of vacancies on Board

5. On the death of, or vacation of office by, a member, the Minister may appoint a qualified person to fill the vacancy:

Provided that if as a result of the vacancy the number of members falls below the minimum number specified in paragraph 5, the Minister shall fill the vacancy within three weeks.

Chairman and vice-chairman of Board

6.(1) The Minister shall designate one of the members as chairman of the Board and another member as vice-chairman of the Board.

(2) The vice-chairman of the Board shall perform the chairman's functions whenever the chairman is for any reason unable to perform them.

(3) The chairman or vice-chairman of the Board may at any time resign his office as such by one month's notice in writing to the Minister.

(4) Whenever the office of chairman or vice-chairman of the Board falls vacant, the Minister shall fill the vacancy within three weeks.

Meetings and procedure of Board

7.(1) The Board shall hold its first meeting on such date and at such place as the Minister may fix, being not more than three months after the fixed date, and thereafter the Board shall meet for the dispatch of business as often as is necessary or expedient and, subject to this paragraph, may adjourn, close and otherwise regulate its meetings and procedure as it thinks fit:

Provided that the Board shall meet not less than six times in each year.

(2) The chairman of the Board—

(a) may at any time convene a special meeting of the Board; and

(b) shall convene a special meeting of the Board on the written request of—

(i) the Minister, within such period as the Minister may specify; or

(ii) not fewer than two members, not later than fourteen days after his receipt of such request.

(3) Written notice of any special meeting convened in terms of subparagraph (2) shall be sent to each member not later than seven days before the meeting and shall specify the business for which the meeting has been convened:

Provided that if, in the opinion of the chairman or Minister, as the case may be, the urgency of the business for which the meeting is to be convened so requires, notice of not less than forty-eight hours may be given.

(4) No business shall be discussed at a special meeting convened in terms of subparagraph (2) other than—

- (a) such business as may be determined by the chairman of the Board, where the chairman of the Board has convened the meeting in terms of subparagraph (a) of subparagraph (2); or
- (b) the business specified in the request for the meeting, where the chairman of the Board has convened the meeting in terms of subparagraph (b) of subparagraph (2).

(5) The chairman or, in his absence, the vice-chairman shall preside at all meetings of the Board:

Provided that, if the chairman and the vice-chairman are both absent from a meeting of the Board, the members present may elect one of their number to preside at that meeting as chairman.

(6) Three members shall form a quorum at any meeting of the Board.

(7) All acts, matters or things authorised or required to be done by the Board may be decided by a majority vote at a meeting of the Board at which a quorum is present.

(8) Subject to paragraph 9, at all meetings of the Board each member present shall have one vote on each question before the Board and, in the event of an equality of votes, the chairman shall have a casting vote in addition to a deliberative vote.

(9) Any proposal circulated among all members and agreed to in writing by a majority of all members shall have the same effect as a resolution passed at a duly constituted meeting of the Board and shall be incorporated in the minutes of the next succeeding meeting of the Board:

Provided that, if a member requires that such proposal be placed before a meeting of the Board, this subparagraph shall not apply to such proposal.

Remuneration and expenses of members

8. Members of the Board shall be paid—

- (a) such remuneration, if any, as the Minister, may from time to time fix for members generally; and
- (b) such allowances, if any, as the Minister, may from time to time fix to meet any reasonable expenses incurred by members in connection with the business of the Board.

Members to disclose certain connections and interests

9.(1) In this paragraph—

“relative”, in relation to a member, means the member’s spouse, child, parent, brother or sister.

(2) Subject to subparagraph (4)—

- (a) if a member of the Board—
 - (i) knowingly acquires or holds a direct or indirect pecuniary interest in any matter that is under consideration by the Board; or
 - (ii) owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of persons which results in the member’s private interests coming or appearing to come into conflict with his functions as a member; or
 - (iii) knows or has reason to believe that a relative of his—

- A. has acquired or holds a direct or indirect pecuniary interest in any matter that is under consideration by the Board; or
- B. owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of persons which results in the member's private interests coming or appearing to come into conflict with his functions as a member;

or

- (b) if for any reason the private interests of a member come into conflict with his functions as a member;

the member shall forthwith disclose the fact to the Board.

(3) A member referred to in subparagraph (2) shall take no part in the consideration or discussion of, or vote on, any question before the Board which relates to any contract, right, immovable property or interest referred to in that subparagraph.

(4) Any person who contravenes subparagraph (2) or (3) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.⁶⁶

Validity of decisions and acts of Board

10. No decision or act of the Board or act done under the authority of the Board shall be invalid on the ground that—

- (a) the Board consisted of fewer than the minimum number of persons prescribed in subsection (1) of section *forty*; or
- (b) a disqualified person acted as a member of the Board at the time the decision was taken or act was done or authorised:

Provided that the Board shall ratify any such decision or action as soon as possible after it becomes aware that the decision or action was taken in the circumstances described in subparagraph (a) or (b).

Minutes of proceedings of Board

11.(1) The Board shall cause minutes of all proceedings of and decisions taken at every meeting of the Board to be entered in books kept for the purpose.

(2) Any minutes referred to in subparagraph (1) which purport to be signed by the chairman of the meeting to which the minutes relate or by the chairman of the next following meeting of the Board or the committee concerned, as the case may be, shall be accepted for all purposes as *prima facie* evidence of the proceedings of and decisions taken at the meeting concerned.

(3) The Board shall cause copies of all minutes that have been signed as provided in subparagraph (2) to be sent without delay to the Minister for his information.

⁶⁶ Subparagraph amended by s. 25 of as read with Schedule to Act 5/2003.

FIFTH SCHEDULE (*Section 41*)

FINANCIAL AND MISCELLANEOUS PROVISIONS RELATING TO COMMISSION

PART I

FINANCIAL PROVISIONS

Funds of Commission

1. The funds of the Commission shall consist of—
 - (a) fees, charges and other income accruing to the Commission from licences issued and other things done by it in terms of this Act; and
 - (b) the proceeds of any monetary penalties imposed by the Commission; and
 - (c) such moneys as may be payable to the Commission from moneys appropriated for the purpose by Act of Parliament; and
 - (d) such other moneys as may vest in or accrue to the Commission, whether in the course of its operations or otherwise.

Financial year of Commission

2. The financial year of the Commission shall be the period of twelve months ending on the 31st December in each year.

Surplus funds of Commission to be appropriated to Fund

3. Any surplus of income over expenditure at the end of the Commission's financial year shall be appropriated to the Fund.

Accounts of Commission

4.(1) The Board shall ensure that proper accounts and other records relating to such accounts are kept in respect of all the Commission's activities, funds and property, including such particular accounts and records as the Minister may direct.

(2) Not later than three months after the end of each financial year of the Commission, the Commission shall prepare and submit to the Minister a statement of accounts in respect of that financial year or such other period as the Minister may direct.

Audit of Commission's accounts

5.(1) Subject to the Audit and Exchequer Act [*Chapter 22:03*], the Commission shall appoint as auditors one or more persons approved by the Minister who are registered as public auditors in terms of the Public Accountants and Auditors Act [*Chapter 27:12*].

(2) The accounts kept by the Commission in terms of subparagraph (1) of paragraph 4 shall be examined by the auditors appointed in terms of subparagraph (1).

(3) The auditors appointed in terms of subparagraph (1) shall make a report to the Board and the Minister on the statement of accounts prepared in terms of subparagraph (2) of paragraph 4 and such

report shall state whether or not in their opinion the statement of accounts gives a true and fair view of the Commission's affairs.

(4) In addition to the report referred to in subparagraph (3), the Minister may require the Board to obtain from its auditors appointed in terms of subparagraph (1) such other reports, statements or explanations in connection with the Commission's operations, funds and property as the Minister may consider expedient, and the Board shall forthwith comply with any such requirement.

Powers of auditors

6.(1) An auditor referred to in paragraph 5 shall be entitled at all reasonable times to require to be produced to him all accounts and other records relating to such accounts which are kept by the Commission or its agents and to require from any member of the Board or employee or agent of the Commission such information and explanations as in the auditor's opinion are necessary for the purposes of his audit.

(2) Any member of the Board or employee or agent of the Commission who fails without just cause to comply with a requirement of an auditor in terms of subparagraph (1) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.⁶⁷

PART II

MISCELLANEOUS PROVISIONS RELATING TO COMMISSION

Execution of contracts and instruments by Commission

7. Any agreement, contract or instrument approved by the Board may be entered into or executed on behalf of the Commission by any persons generally or specially authorised by the Board for that purpose.

Reports of Commission

8.(1) In addition to any report which the Authority is required to submit to the Minister in terms of this Act or the Audit and Exchequer Act [*Chapter 22:03*], the Commission—

- (a) shall submit to the Minister such other reports as the Minister may require; and
- (b) may submit to the Minister such other reports as the Commission considers advisable;

in regard to the operations and property of the Commission.

(2) The Minister shall, within six months of the end of the Commission's financial year, lay before Parliament a report submitted to him by the Commission in terms of subparagraph (1), together with the statement of accounts and auditor's report for the preceding financial year of the Commission referred to in paragraphs 4 and 5.

⁶⁷ Subparagraph amended by s. 25 of as read with Schedule to Act 5/2003.

Chief Executive and other employees of Commission

9.(1) For the better exercise of the functions of the Commission the Board may, in consultation with the Minister, appoint a person to be the Chief Executive of the Commission, on such terms and conditions as the Board, with the approval of the Minister, may fix.

(2) The Board shall terminate the appointment of the Chief Executive if he would be required in terms of subparagraph (b) or (c) of paragraph 3 of the Fourth Schedule to vacate his office had that paragraph and subparagraphs (a), (b) and (c) of subparagraph (1) of paragraph 2 of the Fourth Schedule, and subparagraph (2) of that paragraph, applied to him.

(3) The Board shall not terminate the services of the Chief Executive on a ground other than one referred to in subparagraph (2) without the approval of the Minister.

(4) The Board shall employ such persons in addition to the Chief Executive as it considers expedient for the better exercise of the functions of the Commission.

(5) Subject to the general control of the Board, the Chief Executive shall be responsible for—

- (a) managing the operations and property of the Commission; and
- (b) supervising and controlling the activities of the employees of the Commission in the course of their employment.

(6) The Board may assign to the Chief Executive such of the functions of the Board as the Board thinks fit:

Provided that the Board shall not assign to the Chief Executive any duty that has been assigned to the chairman of the Board.

(7) Any assignment of functions in terms of subparagraph (6) may be made either generally or specially and subject to such reservations, restrictions and exceptions as the Board may determine, and may be revoked by the Board at any time.

(8) The Chief Executive shall have the right to attend meetings of the Board and, except in the case of any discussion relating to the terms and conditions of his appointment, to take part in the proceedings of the Board as if he were a member, but shall not have a vote on any question before the Board.

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