

"PV30"

235

POINT BLANC  
METHODIST CHURCH RAIDS

David Webber – DW  
Nyaradzo Muzah – NM (Zimbabwe Exiles Forum)  
Wayne Minnar – WM ( Metro Police Spokesperson)  
Itumeleng Sole – IS ( Lawyers for Human Rights)

Introduction by David Webber

"Close to 300 people mostly Zimbabwean refugees were released from a Johannesburg South African prison yesterday where they had spent the weekend after being arrested shortly after midnight on Friday for charges of loitering. The loitering around the arrest surprisingly came months after such refugees had been sleeping on the pavements in central Johannesburg. The refugees form part of a growing number of mostly Zimbabwean refugees who continue to flock to the country illegally and otherwise seeking refugee from their countries' dead economies and political strife. They were charged with contravening city by-laws after they were seen camping outside the inner city's central Methodist church, a controversial haven that houses refugees.

Joining us from our Pretoria studios we are joined by Nyaradzo Muzah who is a human rights lawyer, she is also a board member of the Zimbabwean Exiles Forum.

Itumeleng Sole who represents Lawyers for Human Rights will be joining us later and joining us on the line is Metro Police Spokesperson, Mr. Wayne Minnaar. To all my guests thank you for joining us on Point Blanc today.

Ms. Muzah, let me start with you in Pretoria. The church Bishop Paul Verryn says the vulnerable group that was sleeping outside the church said they had no where else to go. This is not a new issue in South Africa. Is this true that they had no where else to go?"

NM: Yes David, you know its been known for a long time actually, it's not months like you say but I think its now years that people have been sleeping around the Methodist church in Johannesburg and mostly these people are from Zimbabwe although we do have other nationalities sleeping there, so its true that these people are homeless.

DW: I know that we have millions of other Zimbabwean refugees who flock all over the country. They get absorbed into employment and residence issues, why can't those who are sleeping on pavements in downtown Johannesburg find employment and residency. Why do you think that is Ms Muzah?

NM: Yes well there are several other issues. The issues affecting any other person coming into South Africa would also affect Zimbabweans coming into South Africa like the high level of unemployment and difficulties around finding adequate housing for people. So the same issues which affect South Africans and other and other nationals would affect Zimbabweans and to compound that there are special issues that pertain only to Zimbabweans particularly the fact that most of them fled from Zimbabwe due to political persecution and human rights violations that we have all heard from there. So you know when you are making an unplanned journey you are not coming in terms of the Immigration Act and it has not been easy to access the refugee system so there are extra issues which make the situation of these people much more desperate, like the failure to get the relevant papers, which therefore leads to lower prospects of decent employment and also the fact that if you want to get decent housing you have to get papers, relevant papers, if you go to any agency you must have a work permit or asylum papers, and this has not been easy. But the overriding factor is simply that these people have no means they don't have the financial capability to pay for such housing so in short, all the factors which would affect South Africans and any other nationalities plus the extra factors which affect especially Zimbabweans.

DW: Wayne Minnaar, while you are on the line lets talk about the groups that were arrested over the weekend. this was prompted evidently by complaints by the High Court employees and city centre, business of criminal activity within that area, muggings and other things is this exactly true, was this the reason for the arrest of almost 300 Zimbabwean refugees in central Johannesburg Wayne Minnar?

WM: Yes what I would like to do firstly is to first explain our the responsibility of the Metro Police in terms of the law, we have to do crime prevention operations, we have to enforce the city bylaws and we have to do road policing. Prior to the raid on Friday night, there was complaints of people sleeping on the pavements in such a way that other people couldn't walk on the pavements and that there was criminal activity, meaning that people who were on the pavements were attacking passers-by and robbing them of their belongings. What we did then was use the CCTV cameras to monitor the situation and we discovered that in fact that was true, hence we had the raid and arrested all 300 people and charged them for loitering.

DW: Now Mr. Minnaar, is that the answer to the situation. Fine, you have responsibility to protect the residents in the area, business people and otherwise, but arresting them, was that the only option, was there another way to disperse them or another way to arrest the ones you actually found on the security cameras?

WM: Procedurally, we started Operation Chachamela just prior to the Confederations Cup. Operation Chachamela is a campaign by the Metro Police to enforce al of the city by laws and to clean the city which will be over a period of time up to 2010 soccer world cup and beyond, for us to be able to enforce the law effectively we need to have an impact and to get a clear message because raids were done on those roads where the people were arrested prior to Friday night and on Friday we just had very big raid and we arrested more people that what we normally do on such a raid.

## BREAK

Joining us now in the studio is Candidate Attorney Itumeleng Sole who is part of the legal representation of those who were arrested. Thank you again to all four guests for joining us on Point Blanc.

DW: Tumi let me start with you. Lawyers for Human Rights is representing a group of exiled Zimbabweans who were arrested over the weekend. When we look at this issue, Lawyers for Human rights Head Jacob van Garderen is demanding an undertaking from State Attorney, Pretoria, Johannesburg Metro Police as well as the MEC for Community and Safety that no further operations like this will be conducted. Is that going to happen will there be further operations what have been the outcomes of your findings?

IS: I believe this demand came about especially just after the recent raid on Friday and you know that its unfortunate that in the very same raid women were also arrested one blind woman who is also deaf was arrested. She was part of the people who were arrested and the likes. the reason I think our director is making such a demand is that to prevent such instances from happening. Our position is that, yes, we are not abating criminals, not at all, we believe the SAPs and JMPD are doing a great job to arrest them the cctv in Pritchard Street. Let them use the cctv's to effect proper arrests rather than taking the whole lot and detaining them without appearing in court.

DW: Wayne Minnaar what is your response to what has been said?

WM: The women and the children who were arrested who were taken to the police station were warned not to loiter and they were released. It was only the males who were processed or charged.

DW: If that's the case and you say you have cctv footage of those who were actually perpetuating such crimes why was it not possible to just identify those in your roundup and release the others?

WM: Yes, you see under those circumstances it's very difficult when there is such a huge group of people who so close knitted under those

circumstances to be able to find a person who committed a particular crime. But what has happened was all of those people who we did arrest were loitering in terms of the law.

DW: Mr. Minnar how do you then quantify or qualify allegations that film shot by the security cameras show pedestrians of being robbed of cell phones, cash jewellery by people pretending to be sleeping on the pavement, again could those people have not been identified?

WM: The very loitering is an offence. It's a criminal offence and it's an offence in terms of the bylaws. One may not loiter. For loitering you can get arrested and you may need to pay a fine or be in court for it.

DW: So the loitering aspect is part of your operation Chachamela as you call it. Ms Muzah lets look at this issue from a human rights perspective. When you look at this don't you think these raids will increase the xenophobic hatred and actually completely erode the trust between citizens and law enforcers. Isn't there a fine line that's been cut here?

NM: Yes, you know David, I've just been listening from here in Pretoria and I have to say I am shocked you know, I was just expecting a complete apology from the inspector and from the whole city council. So I am shocked that they can actually come on air like this and defend these actions because, to begin with, I think that they should realise that they are not operated in a vacuum. They are operating with a sect which has got its laws nationally and which has subscribed to certain laws internationally. So if you look firstly from a human rights perspective at the economic social cultural rights of any person within the borders of South Africa there is a treaty which South Africa has signed where South Africa bound itself that it would provide adequate housing and then we come close to home. We see section 26 of the South African constitution where it says that everyone has the right to adequate housing and by everyone it includes a foreigner or citizen, legal or illegal, and if you go to section 26 (2) it goes on to say the state must make the necessary legislative arrangements to ensure that everybody has proper housing so I am shocked that the metro police would like to enforce one part of the law which has to do with loitering, which to me is not necessarily within what they have to do. They are not the only ones who are tasked with that, with the criminal justice system to implement it and they want to be bent on that but they are not looking at the other part of the law, which is the duty of the state through the council, the city council of Johannesburg in this matter to provide adequate housing so I am actually shocked because on one hand they have raised a whole lot of issues; for example you can just generalise and say, because we saw that some people were conducting some criminal activities therefore we arrested that whole bunch of people and other issues are issues of evidence. And you see, that in the criminal law the proof beyond reasonable doubt threshold

would not be met at all in these circumstances and how do you justify babies and elderly people being guilty or of at least suspecting them of being guilty of such conduct, so there are many issues.

- DW: Let me ask Mr. Sole a question. Itumeleng, last week the Johannesburg high court ordered the JMPD to remove vagrants after complaints that were received from judges fearing for their safety as they are actually entering the High Court area which is just opposite the Central Methodist Church. Now, wouldn't then you support this action by the policy by saying that, based on the courts decision they are actually doing the correct thing?
- IS: It's an interesting decision from the High Court. We respect the decision from a higher court in the country. However, what we question is the manner in which certain operations are conducted. That's our position and I would like to also respond to what the spokesperson is saying. You know, loitering is not necessarily a serious offence and it warrants a warning. But detaining people over the weekend and only releasing them at around 18:00, it is totally uncalled for. Hence, our belief is that we need to engage with JMPD and SAPS, and other relevant stakeholders, and discuss such issues. Instead of maybe just detaining people and later on the day releasing people, it's totally uncalled for.
- DW: The spokesperson Wayne Minnaar what do you say to these observations that our guests are referring to.
- WM: The fact that the matter is as the police department, our job is to do our three-pronged legislative function and that is: crime prevention, we have to prevent crime and we have to enforce the city by-laws and we do road policing. And the operation on Friday was part of a campaign which is ongoing. It started prior to the Confederations Cup and will be ongoing and that is to ensure that citizens and people comply with the by-laws and that we clean up the city.
- DW: Mr. Minnaar isn't this not a fact that though we are looking at a situation that has been going on for months. It has been going on for quite some time, since the xenophobic violence that took place last year in South Africa. This is not an issue that is going to go away quickly. Now as much as the city is also trying its best to house individuals who also are in need of help. Your current intervention through your actions, isn't there a better way for you to work with the city for you to make sure that the city streets are safe number one, but also to make sure that human rights are also adhered to.
- WM: There is no doubt that we are working together with other departments. The Department of Housing and the Department of Social Development, to mention a few. So that we can assist where we

can. But our brief as the police department is to ensure that the laws are obeyed.

- DW: Once again, spokesperson Minnaar, Saturday there was a quote by the Gauteng Provincial Minister stating that people who sleep and were loitering in town, especially near the high court building, were blocking accesses to judges and court officials. Is this true?
- WM: Footage which we have shows that people were on pavements in such a way that other people could not walk. So where people were sleeping on the pavements other people were not able to walk. It mean that they had to walk on the street.
- DW: Ms Muzah lets go to you, Home Affairs Minister in South Africa, Ronnie Mamoepa, has called on the world to let lift sanctions against Zimbabwe so as to rebuild the economy of the country adding that the majority of Zimbabweans in South Africa were economic migrants. Now do you think it's correct? Do you think that Zimbabwe has some political reforms that need to be worked on to improve the situation in Zimbabwe?
- NM: Yes, definitely David, there is always a difference between what is said and what is on the ground, because the situation in Zimbabwe itself is that not much has changed for the ordinary person. The institutions and structures which were used to perpetuate violence are still in place and, as you know, there has been fear that the coalition government might not be in its best form and there has been a lot of problems from the highest structures of government to the lowest structures. There is nothing much that has changed on the ground in Zimbabwe and that is why you find people still finding themselves crossing the border as we speak. So, I don't think there is anything so far which people can say, ok we're going back to Zimbabwe for so far.
- DW: Itumeleng, more and more Zimbabweans, as Ms Muzah has pointed out, are finding their way illegally into South Africa. How is the city then supposed to handle this influx?
- IS: It's an interesting question, as I said. I referred to engagement between civil society, SAPS and other relevant stakeholders. I believe also that Home Affairs also including us should devise measures where we regulate or control borders. Whereby you find people coming into South Africa and they are being registered and we have them on a database so that, as Minnaar has said, that as soon as people have committed a crime we can identify them in terms of their prints and the likes and a follow-up could happen. However, I believe that we can engage with other relevant stakeholders and maybe we can necessarily regulate. At the moment I believe personally not speaking on behalf of LHR, that as soon as there are proper measures in place.

We can then monitor who come in and who goes out of the country. So that's the engagement that is needed between all the relevant stakeholders.

DW: Now the visa requirement at the Department of Home Affairs allows a 90 day permit for Zimbabweans to, either gain employment or to be legally in the country. Now, that is to not only to create a database as you mentioned but also to understand the numbers that are actually coming into South Africa. Is that system working?

IS: At the moment, with the dispensation that you are referring to, that is currently on hold and we don't have communication from Home Affairs to say what is the position. Are they still granting the dispensation or not? But I believe, it was a good system to such an extent that we are able to know who is in the country and who is not and I think there should be a link between SAPS and Home Affairs where, if they suspect that a crime was committed they are able to verify the prints and make a follow up on that that is within the law.

DW: Ms Muzah how many more Zimbabwean refugees will be flocking to Johannesburg no one really knows, that's a question we all need to ask but how about the accommodation of these. Recently the Johannesburg Development Agency has renovated a housing unit or a unit within Johannesburg that is supposed to house over 2000 or just about 2000 Zimbabwean refugees, at this day and age in South Africa. South Africa itself and South Africans themselves have a huge issue in relation to accommodation and employment. Is this the proper way that things should be done?

NM: David, I think that, as a small piece of cake, it will do. It's better than nothing. We have to appreciate the effort of all those concerned to address this issue. But, I think the city council could have done more because, if its their genuine concern to remove people from the streets, like I said before, they must not only look at one area of the law. They must look at their obligation in terms of the constitution to make sure everyone, including refugees and asylum seekers, has adequate housing and I don't think the Jo'burg Development Agency is the right tool for this. From what I understand, it's an economic tool. It's for economic development and I don't think this is a primarily economic development issue. This is a matter of a basic right, the right to shelter and David I am very concerned. I need to comment on something which you are saying. You seem to suggest that all the Zimbabweans who are coming in are coming so illegally, and that's the main issue. I am concerned because, from the onset, a refugee does not need to come with any paper to South Africa. He needs to report that he is a refugee. So I think that will perpetuate the wrong perception to the

community it creates a negative attitude which may culminate to xenophobia.

DW: Thank you for highlighting that Wayne Minnaar this operation Chachamela is it still going to be in operation? Can we still expect more arrests?

WM: Look our responsibility is to enforce the law. So we do have operation Chachamela in place, which is for us to ensure that the general public comply with the by-laws. There will be operations which will be conducted from time to time.

DW: Itumeleng what can we expect as far as the outcomes of the High Court decision?

IS: I believe, as I said, that we should engage with the relevant stakeholders. What we are saying however is, if an arrest is effected lawfully, we don't have a problem with that. The only time we have a problem is when vulnerable groups of especially women and children, blind people and disabled people are detained, amongst other people. Let us have a proper procedure. It's their right to obviously to protect the citizens of the country. But it should be done within the confines of the law.

**END OF INTERVIEW**