

Zimbabwe: Towards Constitutionalism And The Return Of The Military To The Barracks

greetings greetings
zimbabweans and friends all over the
world
we are here for the third the series
of the policy dialogue forum on zoom
and as well as on facebook
our topic tonight is zimbabwe towards
concessionism
and the return of the military to the
barracks
i will shortly outline the problematic
but for now let me introduce our
panelists
discussions and of course our moderator
we have alex magaiser who is our lead
panelist
for this topic and he is one who wrote
that concept note for us uh
alex mcgregor needs no introduction he
has become
a virtual legend in the zimbabwean
political
space what is blog
big saturday read which all of us read
whether you like it or not you read it
then i have my sister justin m koko
an activist
one of our luminaries in the in the
human rights movement
she is here often and for good reasons
as you will see soon
there is a mystery panelist i hope he
emerges somewhere in the woodwork as we
proceeded our discussion
but we also have a lineup of very
eminent
zimbabwean academics scholars
politicians alike
we have parker chipoera
a former zipper commander
one who was arrested in 1977

along with other zipper commanders and
was released
in 1980 after independence
we have jonathan moyer who needs no
introduction
welcome johnson robertson
a consumer scholar professor university
zimbabwe
blessing regina the constitutional
lawyer
and very busy and active in the
constitutional
front simkai
based in the uk work and sim card
and last but not least we have
our moderator violet wander
to woman now hand over to take over
and take us through the next two hours
of the discussion towards the
constitutionalism and the return of the
military to the galaxy
thank you very much uh dr ibu mandaza
for the introductions
as we continue with this sape's trust
policy dialogue series on zimbabwe's
deepening crisis and what we have to do
now
as dr mandeza said today's main theme is
zimbabwe towards constitutionalism and
the return of the military to the
barracks
and as the series continues the
fundamental question
we will be asking is how can we stop the
military from policing civilians
how do we make the military understand
their role
we'll start with presentations from our
main panelists
followed by a question and answer
segment which will include
contributions from a number of selected
discussions
hopefully we'll be able to get policy

recommendations on the way forward for
zimbabwe
on the issue of security sector reforms
to our viewers
as usual would like to hear your
thoughts on this you can get in touch
via the sapi's facebook page where we
are live streaming
and to those following on zoom would
like to ask questions or who would like
to ask questions or
contribute directly please raise your
hands and we'll try
and get a few of you in to contribute
later in the program and now it's my
pleasure to introduce our first guest
dr alex magaisa who was who was one of
the designers of the zimbabwean
constitution
alex how are you doing i'm very well
valid thank you for having me here thank
you for agreeing to talk to us
so can you start with an overview of the
relationship between
the military and constitutionalism what
are the facts right now
well thank you very much uh violet
and uh thanks to dr iba mendaza
and zappers tony rita and everybody who
has
played a part in getting this platform
together
my brief requires me to lead
on the question of constitutionalism
and the role of the military within that
framework um i have
10 minutes i am told to do my short
presentation
before we get into the uh
questions that will allow me to
elaborate on
some of the issues which are pettine i'm
going to try to
compress the the key issues within

those 10 minutes i have three particular points i would like to make at the outset the first point is to understand the traditional role of the military within the state or the traditional conception of the state as understood by scholars of constitutionalism political science organization and and so forth it is that the state is divided between three arms the first arm is the executive which many people often refer to as the government the second is the legislature which is often referred to as parliament and the third is the judiciary the the courts of law so state power is traditionally conceived of as being divided between or among those three the arms of the state and a constitutional democracy is guided by both written and unwritten rules these are uh rules that you find in in the constitution which demonstrate what the executive can do what the judiciary can do and what parliament can do the notion is that these three arms of the state are supposed to be checks and balances on each other in other words whatever the executive can do uh the judiciary should be able to to check the power that is exercised by the executive by interpreting the laws as well as uh pronouncing on the legality of the actions that are taken by the executive as well as by

parliament so
so this is the traditional conception of
the state how the state is understood as
organized how political power is
distributed
within the state so where does the
military fit
within that conception well the
idea is that the military is part
of the executive branch of government
or rather that the executive branch of
government
is responsible for oversight
of the military the command structure
is exercised by the civilian leadership
in the executive arm of the state and of
course
you have the operational uh parts of the
military you could call it the security
structure
which then has to pay allegiance to
to those executive heads so
you find that the president or the head
of state in any country
is also the commander-in-chief of the
defense forces you find this in zimbabwe
you find this in the usa in kenya
in the united kingdom this power is
exercised by the queen
uh so so so this is how the the state is
arranged
the military is there but it is there
as as under the executive arm
of of the state now
this is important as i say because the
checks and balances are exercised
between these three arms of the state
however you ask me about the reality and
this is my second point
the second point is that and this is an
argument that i've made
since the november 2017 coup
that we have had a fundamental rupture
of the zimbabwean state that we have had

a massive and serious reconfiguration
of the apparatus of the structure of the
state
so that instead of conceiving the
zimbabwean state
the fact is being the executive the
judiciary and the parliament
it is now also comprised of the military
and i say so not because it is just my
opinion
but i say so because there is judicial
precedent
if you remember during the days of the
coup there were quite a few cases
which were brought before the courts
in zimbabwe and one of those cases was
head by justice to worship
and what it basically said the
conclusion that was drawn by the judge
was that the military had acted
constitutionally
in defending the constitution
and so there was a an authentication
or a confirmation legitimization
of the role of the military in effect as
a as an organ that is the power to
check and balance the other organs of
the state in this particular case
the executive arm of the state and so
my view has been that since
november 2017 we have had
this reconfiguration of the state where
the military
is now acting as indeed a
separate arm which sees itself as
having the power to check and balance to
have
oversight over the other
entities over the other organs of the
state
it's important for us to acknowledge
this i'm not saying that it is the right
thing to do
but i'm saying so because that is the

way it is
that is the de facto position now
some people might say alex you are you
are saying
since november 2017 actually it is
probably
long before then and i would probably
agree with that
that it probably goes back to 2002
probably goes back to 2008
but my point is it has become so
flagrant it's become so obvious so
blatant
since november 2017 and that's why i
use november 2017 as sort of the turning
point or the marker
but i would concede that this position
that i'm putting across now de facto
may probably have always been the case
for a long time before november 2017.
so that was my second point my third
point valid
as i conclude is to
give an understanding of the notion of
constitutionalism
because some of our listeners here may
be unfamiliar with the term
and they may be wondering alex is
talking about the military about the
constitution
but what is this animal called
constitutionalism so allow me to
say a few words about constitutionalism
so
constitutionalism is a is a legal
uh concept which essentially refers to
the limits of power the limits of state
power
the idea of constitutionalism is that
the state should be limited
so you you you have the organs of the
state
but those organs of the state when they
exercise their power

that power has to be limited in some way they have to be what i call auxiliary mechanisms which ensure that there is no abuse of power because you see there is no point in having a state which is based on a constitution but that constitution is oppressive that constitution allows for the abuse of power a hitler reign a state he could easily say my my state was constitutional stalin did the same idiom did the same but they cannot possibly be said to have run a state which is based on constitutionalism there were no limits to to that power of the state so constitutionalism you could say is it rain if you are riding your horse you want to raid it in you want to control it and so it's about control of power now let us understand the organs and these elements of the state the most powerful of them all is the military because the military has guns the military has got coercive power it is able to do things that no other organ of the state can do so it is important to make sure that the military is kept in check and that's why we have these rules which submit the military to civilian command which ensures that while there is an acknowledged role of the military it is nevertheless prohibited from interfering in political matters and so there are

boundaries that are set
the rules in this case violate are both
written rules and unwritten rules
for us to understand constitutionalism i
want to compare it
to a belief system like any religion
that people believe in that religion
requires a text that people refer to
that religion requires preachers it
requires
advocates who sell the word
who teach the word who ensure that
people understand the values the
principles
the norms that are accepted within that
religion
that religion also requires
people to believe in it there must be
someone with a
power to persuade people to believe in
it so constitutionalism in my opinion
is a belief system it doesn't exist on
its own
it exists because people must imagine
that it exists they must believe in it
and so the unknowns some of them
we have written rules like i said the
constitution but actually a lot of them
are norms and written rules taboos that
exist and one of them which is very
important in our context today
are the rules and taboos which say the
military should not interfere in
politics
the military should be submissive to
civilian leaders
you know setting or creating these
boundaries
ensuring that everybody understands what
they have to do
the norms of respect for political
authority
the norms of political accountability
uh all these are important you know they

you you need you need rules that allow
people to understand that
they are even though you have power you
must exercise forbearance
you know forbearance is a norm which
means you have the power to do something
but you choose not to use it this is
what is expected
of those in the military within the
context of constitutionalism
that yes we have the guns we have the
ammunition
we have the tanks we have everything we
can force you to do what
what we want to do but you know what we
are not going to do it
this is what what you expect in a
constitutional democracy
where these norms these taboos these
rules
written and written exist that is a an
unwritten
pact between the politicians and the
soldiers
and now the problem that you have and
i'm going to conclude now
is that when those norms when
when those taboos are broken
you know when people no longer believe
in that system of constitutionalism
if nobody is enforcing them then you
have a problem
and i i want to put it as i conclude
that this is the problem that we have in
zimbabwe
so when we say a return of the military
to the barracks
we are not just talking about a physical
movement
of soldiers from the streets of ferrari
or back to the barracks no no no
it is about a return to the belief
system
that underpins that supports the idea

of constitutionalism and as to what
needs to be done to do that
i think these are the modalities that
we'll be talking about as we go forward
in this conversation
i'm going to stop here definitely thank
you very much alex for that we will be
talking a bit more
about that in the second half of this
program in terms of
how then do we ensure that the military
uh returns to the barracks but i just
have a couple of questions for you
before
i move to the next uh panelists justina
um alex can you tell us what could be
the reason why
soldiers are so involved in our politics
well thank you very much uh you know we
have a lot of experts here and some of
them are probably going to be
touching on on that issue but i will
probably list about two or three things
for the moment
number one zimbabwe
zimbabwe has a legacy of the liberation
struggle
and in the liberation struggle the
parties that led
or that prosecuted the war were
both a political and military so
there was zanu with zandalar there was
zappo with
zebra uh and and
the the soldiers were also
in some ways political they were also uh
political animals they in
in zanu if i if i recall it very well
the experts will correct me
some of the soldiers said also in the
diarrhea chimurenga
which was the sort of supreme court
which was directing the prosecution of
the war so there was always a cross

a a contamination or uh between the
politicians
and and the the military so
this is a legacy that we get maybe in
the early
you know years of independence there
were efforts i know that there was
training which was provided by the
british
and so forth people who came in to try
and assist and professionalize the army
but i suppose the distance between the
soldiers and the politicians
was never quite established and and so
part of what we have now this symbiotic
relationship this deep connection
between the politicians and the soldiers
the lack of respect for the boundaries
is something that goes back a long way
that's one that's one way
one the second one is the political
economy
i think that what we have witnessed and
the many scholars who have written about
uh how zimbabwe has become a predatory
state
and some of the key figures in that
predatory system
are figures from a military background
we've had
a lot of people during the
course of the last 40 years who have
retired from the military and they have
moved seamlessly
into into positions of civilian
authority
in state industry structures now
i'm not an expert in this but my reading
of some of the texts
seems to suggest that upon retirement
even during the war
those who had retired or been redeployed
from the front
the soldiers took positions uh in some

of the
what you might call civilian uh parts
of the prosecution of the struggle so i
guess this is something that also has a
long history but
i stand to be corrected by those who are
better placed on this particular issue
but yes the political economy is
important
the soldiers have amassed a lot of
wealth especially the top
brass they've been involved in all sorts
and
their interests are closely wedded to
the interests of the political
leadership
and so the survival of one is also
a survival of the other and and so you
see
that in 2002 if i remember very well
the generals came out and made their
statement which was interpreted by many
people
and suggesting that they would not
support morgan shangri but they would
back
president mugabe at the time and or
whoever had liberation credentials
we have seen this over time 2008 the
intervention after
the 29th march election which was won by
morgan chang
and of course november 2017 which is the
biggest of them all
the second the sorry the third aspect
could be i think there is a fear
i think there is also fear fear of
prosecution
fear of the unknown what we have
is a lot of people who have been
involved
in situations where human rights have
been violated
you can make reference to perhaps the

biggest of them all which is gukurahundi
in the 1980s but you can also make
reference to the 2008
uh post-election violence we can also
make reference to
august 1 uh 2018 the killing of
civilians as well as
the january 2019 killing of civilians
now you have all these these human
rights violations these atrocities
which uh present prosecutable offence
and so
of course there is a fear there is fear
that
if the political leadership were to
change or if the situation were to
change
what would happen so so this is a
genuine
genuine fear that exists among those who
who have been involved or alleged to
have been involved
in these violations i would i would put
that
in the interest of time as three
important points
that i think are necessary to understand
this continuing relationship
between the two and of course you were
one of those who were
involved in designing the constitution
what did you experts do to ensure that
the political neutrality of the military
was um you know intact or
put in place thank you very much
violet you know one day we might we may
sit down for the whole day
and speak about this topic but i'm going
to try and make it very brief
so the constitution contains
several provisions which were designed
uh with an understanding with
the knowledge the background that we
have a challenge in zimbabwe

which is this uh
relationship between the military
and the politicians which is unhealthy
and and it needed it needed cleansing it
needed a way
of finding a distance so that will
restore the country
back to that situation in which the
military
is at a distance from the political
arena and so you'll find that there are
provisions in the constitution we speak
to the political neutrality
of members of the defense forces that
they should not favor any
individual party that they should not
further the interests of any political
party
they should not be prejudiced against
the
interests of any political party you
know everything
that has been happening for the past 40
years to say that we don't want that
and these provisions don't just apply to
the military they apply also to
other commissions like the zimbabwe
electoral commission the
zimbabwean corruption commission and
other institutions of the state
the whole idea was that those who save
the state
must do so in a manner that
is apolitical that is politically
neutral
so we have a lot of these provisions i
should also mention
him just before the elections as you
remember i used to work with uh former
prime minister the late
morgan changing and i was tasked
to draft a code of conduct
for the military in election
and that that brief came from

both president mugabe and prime minister
morgan changra
i did as instructed the two gentlemen
to my knowledge accepted the code of
conduct
but that was the last i had of that code
of conduct we never heard anything about
it ever
it was probably thrown into the dustbin
probably some people did not like it but
let me just say also that the
constitution has a provision
for what is called the an independent
complaints
mechanism now the reason why we included
this independent complaints mechanism
was to say that
whenever anybody has any grievance with
the military
they don't always have to wait for the
long judicial process
we can create a mechanism which is
constitutional which allows for a
resolution
of any disputes of any concerns that are
raised
by members of the public so for example
if
that independent compliance mechanism
had existed
after august 1 2018 we would not have
needed
the montland commission that independent
complaints mechanism could have dealt
with that matter
same with the january 9 2019 issues
and other concerns that have been raised
over the last seven years
now here is the problem violet this
government
has not been willing to implement all
parts of the constitution
so a lot of zimbabweans including many
people who are listening to this

conversation
probably have no idea that such a body
should exist
but the only reason why it doesn't exist
is because the government
is unwilling to implement it now why
they are unwilling to implement it
nobody knows at this having pressure
from the military which doesn't want it
i would have thought that it actually in
favor
of the military that you have a body
which performs this role
an independent body which includes
civilians which includes retired
personnel from the military who
understand the whole point is to have
something
which is useful something which is
independent something
which provides for an expeditious
resolution
of disputes and finally of course we had
provisions
which require political accountability
so whenever
soldiers are deployed whether in
zimbabwe
or whether they are deployed outside the
country there is a requirement that
parliament must be involved this
provides for
political accountability unfortunately
what we have had so far
is that whenever soldiers have been
deployed
the political leadership has either had
to be forced
to take this position to explain this
or they have taken very long for them to
comply with the constitutional
provisions
so we have a serious problem and the
problem that we have

is that nobody nobody is
uh is there interested in implementing
the constitution and ensuring
that the letter and spirit of the
constitution is in place
and that the spirit of constitutionalism
is upheld
so so that's that's all i can say for
now violet
those are some of the issues we want to
tackle um
today especially on the issue of how do
we then even ensure
or put pressure on the government to
implement
the constitution because that's the most
important issue but
we'll come back to you alex and thank
you for those insights
let me bring in our next panelist
justina
who is the national director of the
zimbabwe peace project
she's also the chairperson of the
zimbabwe human rights ngo
forum and vice chairperson of the
national convergence
platform general council her
presentation today is on the role of the
military
and human rights abuses justina
hi justina you have to unmute your mic
justina okay i think we lost justina
we'll
we'll bring her back um when she comes
in
uh when when she's back online but uh
let me get um dr ibramandaza to come in
here
um dr mandeza alex magaisa has raised
uh quite uh a lot of points and one of
the
the issues that he raises is about this
the fear of

persecution and losing um the assets in terms of the military
how then you know can
can we manage their fear in terms of getting the
the army uh to reform when they have all these
issues that they they're worried about
dr mandaza
pilots i thought i was coming in after just uh justina um maybe i
should just say the following the first is that really
the uh alex has really outlined the issues quite quite sufficiently i
thought
but i thought i highlight three things the first is that for the uh
ease of understanding of the constitutionalism in my view
it means the separation of powers an accountable
executive a vibrant legislature and a fiercely independent judiciary
will agree that
neither of these exist in this modern equality and as alex has also explained
we need non-partisan national institutions
or institutions that are staffed by people who are non-partisan
national patriotic again this cannot be to say
of the same but what is true though is that uh
in summary that the if the both the constitution
and the defense act of zimbabwe prohibits the involvement of persons in
the military
public service the intelligence from getting involved in politics beyond
the right to vote again that principle has been increasingly abrogated over the

years
as one of the first civil servants and
post-independent zimbabwe and a member
of the defense forces commission
from 1982 to 1988
i can confirm that there there was
generally
adherence to the constitution
the defense forces were apolitical
even even though people like george
rex and nongoes was
people who came from the zamla
generally there was an adherence to the
constitution the longest house
constitution
and we had invented
nationalism i think this
principle uh in the constitution has
become
increasingly became increasingly
abrogated
over the years and i think there are
three major reasons for that
the first is the involvement of the
military
in from the very beginning in
post-independence the
secondly the
military the role of the military became
very
uh very very uh prominent
uh especially after the 90s
to the point where the zanu-pf became
weaker and weaker especially elections
and conversely one might say the
military became stronger and stronger
and became the backbone through which
sanu pf was able to
to sustain power yeah
to this day but i would agree with
people like
jonathan moyer and others who have said
now zanu-pf
has become an appendage of the military

very much so and this
is pronounced uh as i've said in my
the political calling of the state in
zimbabwe the rise of the sacrament state
especially after 2008 where
mugabe lost people's school because
forced mugabe to stay on and thereafter
it became
very much a hostage to these people
and also you saw how the
constitution was obligated
the term uh
defense chiefs are supposed to serve two
terms
but just over the time of the coup
people like chihury is
being 27 years in office chuwanga
likewise
your sound is breaking up so we'll come
back to you uh um
but i understand that justinam coco is
back online
justina yes i
am hi how are you doing
i'm very well thanks violet now i
understand your presentation is on the
role of the military and human rights
abuses
can you tell us what has been the
military's involvement in perpetrating
gross human rights violations
i think a lot of the groundwork has been
set
by dr magaisa i think he mentions that
the military has guns and as human
rights defenders we
are concerned that
the guns are running
and what we are seeing at the moment is
that we are continuing to see
violations of human rights
where the military are concerned
i think you will agree with me that um
in the last few years

uh beyond november 2007
we would see the military coming out in
terms of their community assistance week
as we go to uh
zimbabwe defense forces day
where they would go into different
buddhism
different um situation
in the sense that um i think the
violation
of rights that they are involved in
wow the sound quality today is really
bad
i'm not sure what's happening although
we've been hearing that um
they've been internet problems in
zimbabwe so we do apologize for that
we will again try to bring back justina
and also
dr ebermann later but um
let me go to some of our discussions who
are
here i understand professor jonathan
moyo are you online
professor moyo
first of all your thoughts on this uh
whole uh topic in terms of uh
um you know constitutionalism and the
return of the military to the barracks
what are your initial thoughts and then
later i would like to ask you for
you know your comments regarding some of
the points that
dr magaisa has raised
thank you valid and
thank you to surpass for inviting me
on what i believe is a not only
timely discussion but
important one for the future of our
country
uh i would like to also thank the
panelists especially dr magaisa
who has spoken now um
just in terms of my

overview tech um
i think that there's a a a risk
of looking at this uh important issue
from a conclusion which is to say
you take a position and
define what constitutionalism is
and the sub
focus is on the military and
the suggestion is that um they should
return to the barracks
well first regarding the subtopic
it's news to me that
they left the barracks or wherever in
the barracks
to start with you cannot return to where
you have never been
we have never had a military that is a
barack
military we have always right from the
beginning
and in fact perhaps since the earnest
start of the liberation struggle
had a military that was very
much a part of the political process
if not the decisive and political
i mean pivotal part of that
political process the gun has always
dictated politics in zimbabwe
and this is our fundamental problem we
have never had a situation
where politics dictates
the gun that's my first issue my second
issue
violet is that um
we in zimbabwe as far as this
topic is concerned have in my view
two fundamental problems we have two
unsettled
questions which
inform the rather precarious
state of constitutionalism or lack of
constitutionalism in zimbabwe
the first one is that
in our country 40 years now since

independence

we have not settled the question of
the means for getting into power
and the means for staying in power
and finally the means for getting out of
power

this remains an unsettled question

uh and in so far as this is

the case and and we can have a a
more focused discussion on that um
how you get into power determines how
you govern

and if there are no constitutional means
for getting into power

it is unreasonable to then expect
constitutional governance

elections have always been contested in
zimbabwe right from the beginning
and until that question is resolved
you cannot expect people who rig
elections

to then subject themselves to limited
government

you cannot expect people who use the gun
or

as we saw in 2017

an outright military coup you cannot
expect

a military junta to be a constitutional
government

as far as i'm concerned

constitutional government in a

constitutional democracy

is a function of the means for attaining
power

if you attain that power from the people
then you will be accountable to the
people if you attain it on the basis of
the gun

you will be accountable to the gun but i
think

this unsettled question produces a
problem of constitutionalism

largely because as a society we have

never asked
fundamental questions about what is a
good society
what is a good society in terms of
the fundamental rights and freedoms of
the people
and their fears and which of
the freedoms are people prepared to give
up
in the interest of the larger community
in the interest of the society
and to give up to an authority that they
believe
is theirs and represents them and is
there to protect them
in zimbabwe we don't engage in
fundamental questions of the type of
society we are
which are about really right
and wrong fundamental moral questions
we jump into conclusions we approach
issues
armed with a conclusion and then we want
to defend that conclusion
and lastly in relation to this
or these two unsettled questions
regarding how you get into power that is
the fundamental question you settle that
everything else falls into place
there is in my view
the question of the kind of political
culture that we have as a society
what is zimbabwe's dominant political
culture
i think it is very dangerous to ask a
question
which is about some small
part of the society even if it may be
a very powerful one especially if it is
armed
we need to ask fundamental questions of
political culture about
all of us about the whole society
what is our political culture what is

the dominant political culture
it is important to have one standard for
what i find very interesting and useful
from the constitution that
was framed in 2013 and subjected to a
referendum and therefore adopted by
the generality of zimbabweans is that
for the first time
unlike in the lancaster constitution we
have
two fundamental pillars
that in my view we need to use
as a starting point to arrive at some
practical
uh formulation of constitutionalism
and its implications not just on the
military but on other players
number one um
the idea
of a constitution which is the
fundamental law of the land
the prime minister of the constitution
which is
a above
all other laws
uh customs practices
conduct that that are inconsistent with
it
that are not in conformity with it is a
very
important idea that we have not debated
and discussed as zimbabweans
as to its implications it is important
because out of that idea
that this shall be the fundamental law
of the land
and that certain practices that might
come from the liberation struggle
from culture from religion or whatever
else you might have will be inconsistent
with this constitution
or rather will be invalid if they are
inconsistent with this constitution
is very important it is a very important

pillar
of a constitutionalism that we have not
examined as a society this is a a
a a in my view
an important part of the new
constitution
why because out of that idea
we have obligations that are imposed by
the constitution
on everyone not just on the military
not just on the executive but on all
persons
touristic persons or not natural persons
as
a as as we are human beings ourselves
institutions of the state of the
executive
the judiciary and the legislature
there are obligations imposed on them
and we have not really unpacked
this and when when we do
we we we we do it in uh
tit bits we we cherry pick
uh and focus on a an actor
uh in this case the military uh
about whom we might have problems uh or
or concerns and really lastly
violet what i think is very beautiful
about the new constitution a
constitution that we have
we don't engage in it and and and make
it
a la a living document uh there isn't
it it requires that you know the the
public
be exposed to it that there be
discussions but
since 2013 there's been no discussion
of the kind that will make it a living
document but for me
what i think is very crucial and gives
rise
to a real possibility for
a a constitution with constitutionalism

are they founding values
not just of
the constitution but really of zimbabwe
which are in section three of the
constitution that
and and there are nine of them i just
wish that zimbabweans could be
alive to the implications of those nine
founding
values of the pillars of the
constitution and therefore of our
country
that's the number one that the cons the
primary of the constitution
the premise of the constitution over
your customs
over that are inconsistent with it over
your practices
over your conduct and and
and and this is to me
the heart of constitutionalism because
it then creates a common base
for all of us and the second one that
deals with
the importance of the rule of law it
becomes
relevant in so far as it imposes
obligations
on you on me and on everyone
it confronts the zamopf culture
this kind of culture that people are now
saying it must go
they are not saying some individuals
must go or some
political organization called xanopia
must go they are saying a certain
culture
which is very dominant but which is
inconsistent
with our constitution which is
inconsistent with the founding
principles and values
of that constitution must go and then
the fact that there has to be which is

the third one there has to be a focus
on fundamental rights and freedoms
of every human being not some good guys
versus bad guys but of everyone
and the fourth that there has to be a
respect
for the diversity of our
culture diversity of our religion
and diversity of our traditional
values this is a conversation that we
don't have as a zimbabwean because once
we begin to have that
a kind of conversation we will begin to
appreciate
not only what we have in common but more
critically
our differences and those are the
factors that
inform a vibrant and a dynamic
constitutional democracy fifth that we
must
respect the dignity of the individual
and the worth of that individual
any human being all human beings
not some versus the others and
six that we have to cherish
that difference of
uh individuals by respecting
and understanding that all
human beings are equal the equality of
human beings
we in our society don't treat each other
like that we don't relate
to each other from that kind of template
that
we believe we are equal and we have an
equal stake in the political process
and seventh the
question which i think to some extent we
have made quite some progress
regarding gender equality the
the there's obviously still some
challenges that we can see
in our institutions but i think we're

making some progress
and eighth which is what i think really
is the area of
concern when people talk about limited
government
it's the issue of good governance
uh it is very fundamental but you know
it can't
be meaningful alone without the the the
others uh that i've just outlined
and the last one which was a major major
issue of discussion
in our circles in the political bureau
in xanopf
during the constitution making a process
is the
recognition of
and respect for the liberation struggle
when we
stable this initially it was about
cherishing the values and ideals of the
liberation struggle
that we need to be alive to what
they were in order for us to liberate
ourselves from thinking that the most
important thing about the liberation
struggle
is who fought where who did what it
can't
be about who you know zimbabwe is a sick
society there is too much
who is him is who is him
and no focus on the ideals
and values that
drove the liberation struggle which are
now
recognized in the constitution so from
an overall perspective
for me these will be the factors that
lead to not a conclusion
but a discussion and
a debate uh on constitutionalism
in zimbabwe and the question of whether
or not

the military should return to the barracks i i i think they should go to the barracks for the first time they have never we need to build some barracks for them they have never been in the barracks at all for the 40 years that we've had as an independent country thank you very much thank you um professor moya and quite a few messages are coming in um i'll try and combine some of them uh miles anderson us perhaps professor moyo could now give us a practical solution to muzzling the military and also uh i would like to combine that question with a question that i'd asked um dr eberman before he went offline uh which was in response to what alex magaisa had talked about you know this fear of persecution and losing uh the assets so how do we manage their fear and get the military and those in power to accept a democratic transition or um you know follow the rule of law professor moy well um dr mandela i i'm not sure whether he's still here um when he made his uh preliminary remarks he said something about the military having been a oh having adhered to non-interference with politics and so forth in the early years or for independence in 1980 but i was glad that he then in passing referred to gugurahundi i you know the gugrundi project was a military project

not only in terms of the fifth brigade
we know that uh it is not the fifth
brigade that started
the atrocities uh the good ground
atrocities
it was uh one brigade it was the
the formal a structure of the military
and um i'm i'm having some slight uh
connectivity issues we can hear okay
thank you
yes and the question of the fear the
insecurity of the military
and by but by the military i think we
should also
be clear that by and large we are really
not talking about the institution of the
military
because our military does have it must
be said
quite some professional soldiers we are
talking about commanders
we are talking about the gaga commanders
from the zoranda side who have dominated
the leadership of the military and we
have been involved
in virtually all the atrocities that
have been committed in our country
whether against communities uh
individuals foster disappearances
and and so forth these are the people
who have insecurities
but they are limited in number we can
count them
and therefore we can deal with them we
can provide
some some some practical solutions
that address their insecurities we it's
not as if we are dealing with the
insecurity of the entire institution
but also a given number of commanders
it is quite a
a big problem for uh for some of us that
the commanders of gugurah wundi
forces are now at the echelons of the

zimbabwean military it is a major major
problem
only in zimbabwe would you have
something so outrageous
that people who committed atrocities and
it is not a
debatable issue that they did so
this is a well documented issue right
now and nevertheless
presiding over the military today
and some of them
our government and this to me raises
a very obvious question is what should
we do
i think it calls for a truth and justice
process where
arrangements can be made as long as
these people come forward
tell the truth about what happened what
they did in order to assist
the society to heal and they get
some amnesty out of that if they
come forth and tell and and and and
and are truthful
and fast the consequences first the
music
if they don't i mean you can hold people
to account
if they are prepared to comfort and tell
the truth
or if they don't and there's a lot of
available
uh information that can be used
to hold them accountable so for me
the solution lies in some truth and
justice process but
it's so easy to to say that professor
the military is all powerful how do you
even get them
uh to the negotiating table to to talk
is is a a is is that what you're talking
about that
we have to engage uh the the military
they have to come and also talk

about some of these issues but how do
you get them
uh well i didn't say that you should
negotiate with them or engage them i
think
we must be referring to a conversation
elsewhere but
right here i did not say that
you see issues of fundamental rights
human rights and so forth are not
matters of negotiation
we have sufficient instruments now
for for dealing uh with questions uh of
this nature
i just think that
there is in our society an assumption
that these are very powerful people you
can't deal with them yes of course
because they have the guns and they have
these 1945
tanks and and and uh and and in america
but the the real issue is whether the
people of zimbabwe are prepared to stand
up
and accept their rights because
in the final analysis if what the people
do
how far they are prepared to go i don't
think that
the military in sudan
was in any way
special compared to the military in
zimbabwe even more powerful than the
military in zimbabwe
but it was forced to face the
consequences
because the people were prepared to
stand up for their rights
okay let me bring in um alex magazine
here
titanda mashanda asks what is the
incentive for these generals to come
forward
um you know you know first of all

um violet i should say
the comments that have been made by
professor jonathan moyer
and i'm glad that he raised issues
concerning
the supremacy of the constitution as
well as
uh the issues of founding values and
principles
of the constitution i noticed that the
interest of course
of many people is how do you how do you
handle
the military i guess i guess this is the
avenue
to which people were sort of leading or
taking
professor moyle
and and athena is also asking a similar
question
what i would like to do is to continue
with those pillars that professor moyo
mentioned but i want to focus
specifically
on one aspect of the constitution
of which i am quite proud and i hope
that
zimbabweans understand what it it means
and i know that professor mueller was
getting to it
we did not have this provision in the
old constitution
and i know very specifically why
we included this provision it is a
provision which occurs more than once
and it says that authority to govern
derives from the people
you also find this in the constitutional
principles
and the founding values in section 3.
but you also find it under the
executive section of the constitution it
says
executive authority derived from the

people
judicial authority derives from the
people legislative authority
derives from the people now this is
absolutely fundamental because
it provides that ownership of authority
to govern
rest in the people and that those who
are holding it
at any given time are holding it in
trust
or on behalf of the people in other
words
if the people so decide if the people
choose to withdraw that authority
they have every right and every power to
do so
because that power derives from them
now what many people have been told
in the past traditionally is that
once you vote in a government you wait
for five years until that government
comes for an election and you either
voted to remain
or you vote it out this is the
very traditional conception but
what i would like people to understand
is that the constitution
provides for this very fact that
authority derives from the people
and therefore they can withdraw it at
any point
that they wish to withdraw it they can
give notice
that we have given you this authority in
2018 but this is 2020
two years we have seen that you are
unable
to use this authority we have seen that
you are abusing
this authority therefore we want it back
and so the question is how do they do
that
they do that of course using the other

pillar that was referred to by professor
mull
which is a pillar of constitutionalism
which is
the exercise of fundamental rights and
freedoms
which are provided for in chapter four
of our constitution
and in that we have three
very fundamental rights number one
is section 59 sorry section 58
which focuses on freedom of assembly and
association
essentially that people can assemble
anywhere at any time of their choosing
they can associate with anybody that
they wish to associate
with and of course it also includes the
right to
this associate with anybody that you no
longer want
to associate with this is important if
you no longer want to associate
with certain persons who are holding
political power
you are entitled to disassociate
yourself
from those people number two section 59
which is the right to demonstrate and
petition
we had this right under the old
constitution the lancaster house
constitution
but it was subsumed under other rights
under the 2013 constitution we made a
very specific point
that the right to demonstrate and to
present passage petitions
must be provided for separately it is
important to ensure
that anybody who wishes to express
themselves
by way of demonstration are perfectly
entitled

to do so number three we have section
61 which is the freedom of expression
again like the right to demonstrate
everybody anybody
has the right to express themselves in
any manner in any way
and expression is a wide concept as
anybody
who understands constitutional
jurisprudence appreciates
you can express yourself in so many ways
and so
the point i'm making read is that if you
combine
the fact that authority to govern
derived from the people
and therefore people can withdraw it at
any time
you combine it with this right that can
be exercised
then of course you've got yourself and
the reason is people
do not understand people do not know
that they have these rights
and this is the very reason why as
professor moyu said
people have not engaged the constitution
people have not talked about the
constitution
the government is not stupid when it
does that
they have not engaged they have not
taught they have an obligation to
promote constitutional awareness
but they have deliberately not done so
because
how can you arm people with knowledge
and information
that they've got these rights that
they've got these powers
if people knew if people understood that
they do have these powers that their own
constitution
which they are approved by a figure of

more than 94 percent
provide them with this right and that
they do not
they are not exercised at the
benevolence of the state
but they exercise because you are the
custodians you are the owners
of that power so what is the incentive
the incentives can only be
created by the people the incentives can
only be created by the people
expressing themselves using their rights
as provided for
in the constitution are setting their
authority to govern
ensuring that we you have the authority
that we gave you
but you are no longer exercising it in
our interests
but dr maguire says easy to say that but
we all know that
people have tried uh to do some of those
things especially
demonstrate and you've seen what happens
either you get arrested
or beaten up so it's not that easy it's
easy to say but it's not that easy when
you have a vicious state machinery
that uses the law against the people um
there's a question from
yes it's sort of valid to to to catch
you
there you you make a point but you know
one of the biggest challenges
that we have as a people and i include
myself
among those people is that we are very
good at
uh centering ourselves and at
allowing ourselves to police ourselves
uh this is this is something
that is covered by many very very great
scholars
who talk about how in an authoritarian

system
people tend to police themselves they
tend to control
their own behavior so they say this
happened before this happened to so and
so
we have done this before and it hasn't
worked this is exactly what
authoritarian regime's like
they like individuals they like people
to believe that they do not have power
so i do take exception to the argument
that
it's not easy we all understand that
there are challenges
the sudanese said the same thing
the tunisians would have said the same
thing for many years
but at some point at some point there
has to be a point at which you say
i'm able to express myself i'm able
to do that which i feel that
is impossible to be done it is not new
to us
because we have been there before we we
did not get our independence on a silver
platter
thank you um alex let me bring back uh
dr uh mandazer is he back online
dr mendeza yes
i'm back online i'm sorry but we had
been uh either someone had blocked us i
don't know it was uh
almost close to half an hour so i saw
that i didn't follow much of what
uh jonathan moyer to say but i want to i
want to come into the question
uh what what can be done to
uh get the military back to to the
barracks i i disagree with jonathan when
he says the military has always been
very very prominent
in politics i repeat the first 10 years
of the independence

the military were in the barracks
physically
right and i can say so as member of the
defense force commission although of
course it was just during the same
period that the military was very active
i think the three points one is that the
position of the military in zimbabwe is
a very odd situation
it's an oddity in the region
the we have three other countries which
uh which went through a liberation
struggle
uh mozambique south africa
namibia the military
is not dominant in politics in those
countries
i don't even know how many of you even
know that was a
chief of defense in in in the south
african army
or in mozambique or in america so
it's a very odd situation which must
also provoke the region itself it's
anomalous for example that now zimbabwe
is the chair of the
organ on politics defense and security
your sudden
very odd inappropriate
when we have a military military and
military establishment
that's the first so i think it's a it
should be addressed
by the region itself and also by
zimbabweans
this is a very odd situation it is
improper it is unconstitutional
and therefore it must be addressed the
second is that
the coup of 2017 has not worked
restore regardless has not happened the
liberation
narrative has died okay which was
said to be the pretext for the coup it

has not worked
in fact if anything the coup itself
there was a stage in the disintegration
of this
secret state thirdly
it is unsustainable the military must
realize
that to the extent that the crisis is
always deepened
economically politically socially
is also the extent to which the military
the role of the military is
unsustainable
is remotely prepared
for the ultimate where they have to face
the population
should the population continue to
to to to abuse the population
or are they prepared as jonathan hinted
gonna construe
him to sit down and realize that they
must
come to terms with the population do we
have to have more bloodshed before they
realize that
so i think there is the base is not
negotiating with the military
but for them and we know them
the commanders the pvc binders
the isaac moyers the zimandis
testimonials they are zimbabwean
citizens like us
don't they realize that this situation
is unsustainable
this is this is the three points i
wanted to make at this point
okay professor moyo can you come in
yes uh thank you thank you very much
don't want to make uh much
out of this in this context i
i wish we could um focus more on some of
the issues that
dr magista was now elaborating on
especially the question that

the uh
sovereign authority is
with the people and specifically
executive authority judicial authority
and legislative authority and that the
people
are the ones holding the biggest recall
card
it is not monzora it is not
a copay it is not mudenda
is not phenomena it's the people who
who have that and they can use it
quite effectively and also
constitutionally
because it is within their power however
i just want to
say i i i i'm surprised
when i hear my brother
dr mendez saying that
the military was in the barracks
in the in the early years of the
independence
and at the same time
and rather in passing pointing to
gugrahndi it
is not possible these two things cannot
be reconciled
to say that they were in the barracks
and at
the same time they were a
in at least three provinces the two
montevideon provinces and
in the and and parts of the midlands
province committing atrocities
where some twenty thousand people were
massacred
and where there has not even been a full
disclosure
of what exactly happened there you
cannot
have a genocide taking place
and and and and and and say that the
military
were in the barracks they have somehow

acting professionally and i think this is what is wrong with our country i think we have to be honest these problems that the rest of the country is experiencing now we experienced in very brutal ways untold ways uh in matebellin and it was this military that was doing that and we have to remember that when the zamupf central committee made the decision in december 1982 to deploy a political brigade in matebeliline which was then deployed in january 1983 in cholocho it is the military that attended that briefing and that then went to um the affected regions to to to give them the matching orders coming from zanu-pf this was not from kg6 this was from shakshake building and unless we are prepared to confront this issue about the history of the military in zimbabwe and that we have essentially a gugrahundi army which is a very political army if you look at the atrocities that were committed subsequently to the gugurah undies it was the military elements that had been deployed in in in matebela land they are the ones that have been involved you know this even uh operation muramba cena you look at the 2008 uh election atrocities and you look at the coup itself but i am a little bit concerned that when we look at this issue which has now become a problem for everyone in the country once upon a time it was

a problem for a part of the country and we seem not prepared to face it fully and and and and and have the army account for it because the people a very political army political generals the generals the political generals who were involved in gugurawundi are the generals who are heading the army minus the zebra merengue element the sebanda privis vanda uh elson moyo and and and these who have won one foot in the in in the cabinet and another 14 kg6 like a a sb moyo uh and so forth there is an interesting dimension that is at play right now that a significant part of the military leadership is is not tainted by ground they were kind of warehoused and rose through the ranks professionally they had to prove themselves the hard way because politics was not a a good currency for them you have them now on the one hand on the other hand you have these gugurahundi commanders who have been political right from day one going back to 1975 in gaga and they are responsible for the militarization of our politics it is not a coincidence that when the commanders through general chiwenga met president mugabe on the 16th of november 2017 carrying a two-page demand the good demands they had seven demands six of them were about they were political demands through and through and and and all of them having to do

with taking over zanu-pf
only one of those demands related to
their
terms of service and conditions of china
they had not certainly discovered that
you know
politics could be sweet they have they
had been
in politics throughout the 38 years
they had they imposed the president
and the zamopf central committee in 1977
took wholesale the so-called
declaration and made it a central
committee decision
and that was bringing the army right
into in
into politics and it they continued
in that
vein for the 38 year history of
president gabriel's
reign and we have to confront that
and and it is not about fighting anybody
but this is
a a a a better truth about our country
the politics of our country throughout
the history of our independence
have been driven by the military and
since 2017
it has been openly so they've taken over
zanu-pf
and that is why it has become physically
a shell that is also why xanopf
no longer has any hegemonic message
there's nothing that you hear
from zanu-pf headquarters of any
political nature right now
because it's the military that is
calling the shots openly
i will bring in a doctor mendez just now
but there's a question that's also just
coming
saying can professor moyo respond to
this who is the head of the army
if not those who would have been victims

of goku rahundi
i don't think i understand the question
who is the head of the army if
not those were who were victims of goku
yes that's the can you explain i don't
understand that
dr mandela
yes i'm just
referring uh jonathan to the
merengue group to which you made
reference
the the the curious situation in which
those who would have been on the
receiving end of the
namely the former zebra
the pvc banders the alias moyes and so
on
who are now ahead of the of the defense
forces
isn't a curious situation and secondly
yes i would say that the the military
has been very very
very very prominent as you have
explained but you
not not as not not as promised they are
now in the 80s
but all the same we need to deal with
the
fact the composition of the hierarchy of
the army now
how do we explain why the
former zebra about six of them
are in fact the leadership of the
defense and security forces in zimbabwe
today
and and to the point where the
group which we have described very well
almost subsidiary
or or really almost marginal
in terms of the balance of forces within
the defense and security
services of zimbabwe
professor did you want to comment on
this or we can go

to the next speaker to just hear from
some of our discussions
about the issues that have been raised i
understand we have simeon
manza on the line
quite a few are asking if justine namo
coco is going to get a chance to finish
her presentation she's having
internet problems as soon as she's back
we will bring her back in
see me in my wanza what about
hi i'm on the line i didn't think uh i
was going to say anything i'm
enjoying the debate and also you know i
have a two-year-old who is making lots
of noise so i don't think i can
intervene
without getting you on the phone okay
no not a problem what about professor
lloyd sachikoni are you online
violet how are you professor
i just wanted to to to
oh it's professor moyo yeah okay you can
come in
uh i i i just wanted to
proffer what i think is an opportunity
often i think when
we as zimbabweans look at
institutions of government we tend to
think that they are
acting you know in some common purpose
with a shared
approach when in fact
usually that is not the case um
so i i i want to draw your attention to
an anecdote
and then i want to address the issue
about the
former zebra bearing
as it is playing now when there was the
final
push uh i think it was 2001
the historic the famous final push
i i was in government uh

one thing that i remember about
that experience which which which keeps
visiting me now as people
are grappling with the deteriorating
situation in our country is that
actually i remember vividly
how scared these security people wave of
the final
push
and how many of them if not all of them
on the day there were no way to be found
literally in hiding
afraid of the people thinking that the
whole
country is going to dis on them
very very afraid
there is a tendency to think that you
know they are all macho
and go-getters
they are so fearful
so afraid of the people
so uh yes and and i'm addressing
a question you were raising about it
because you were giving the impression
that certain things are easier said
but other things are also is
uh assumed uh and are not quite
um they they they don't match with the
actual experience
so please take note
i don't know when i see certain things
i lose my my my connection are you
hearing me
yes yes yes we can hear you okay thank
you
so i just wanted to point out that in
fact inside there
there isn't that strong main
view the system is very afraid of for
the people the people of zimbabwe unlike
other populations
in the region and elsewhere on the
continent have
not yet discovered the power that they

have
and that is the only difference
so far you know we allow them to do
certain things which they would not get
away
with elsewhere for example when
a parliament recklessly
exercises this recall power in the
manner that
jacob tender and and maybe no money have
been doing
we tend to think the victims and targets
are
members of parliament of the mdc
alliance or the leadership of the mdc
alliance or even a nelson chameza
we don't see it as an attack
on the voter we don't see it as an
attack on the citizen who has
a right to join a political party
and vote for that political party and we
allow
we a political parties to play games
with the right to vote you can imagine
if people were to stand up and say
i'm not going to allow my vote to be
subjected
to the sort of games that are going on
because it's a constitutionally
protected right that is the the one
issue
but lastly a valid i just wanted to
say it seems to me
we should have as a country a
conversation about the new situation
that is emerging
in terms of the leadership of the
military it is not a small
issue that you have at the apex of
choco commanders
from former zebra who have never been
zanu-pf in their lives
but they are commanders on the one hand
and then on the other hand we have the

zanda
commanders who have been
part of the command element throughout
this period
but who right now have their backs
against the wall uh
and most of whom have been retired and
and and and made ambassadors and and so
forth
there is an opportunity that we could
deal with
responsibly by having a conversation on
what this means
for me among other possibilities
it points to a dying xanopf
it points to the possibility something
else
being born and whatever that something
else
might end up being i hope it will be
informed
by the founding values and principles
that we have in section
three of the constitution and these
commanders have an obligation to uphold
that and the constitution imposes
obligations
on them to do that okay all right no
thank you
uh professor moyo and for those who are
watching on zoom
and would like to ask questions or
comment directly please raise your hands
and then
i will call you in to contribute
while we're waiting for contributions
from zoom let me go to
alex with what professor moyer has just
said
would you know what the level of
coordination is between
the so-called um good guys
in the army and civil society and i
think also

on zoom chat someone had even asked that
are there any practical plans to get the
generals
on side in defending the people's rights
that is the constitution
alex you have to unmute
you have to unmute your mic i'm i'm i'm
in now okay thank you thank you
um well i think that
it's important to to emphasize the point
that has been made by professor mull
uh and in some ways i had alluded to it
uh in in my earlier comment
which is that people in authoritarian
regimes tend
to to police themselves uh
we are the first people to say
john you cannot do that
because it is not allowed a chippo if
you do that
this will happen to you because we have
been conditioned to be
in in that in that environment what what
we don't
realize and and i think it's important
to emphasize this point is that
those who are in positions of power and
authority
they often have no clue themselves what
what is going on out there
and they're actually probably very
fearful
of the consequences of what is going on
among the people
a another anecdote was the deed mass
mutasa
anecdote in 2008 he told us
well after of course in 2014 2015
that at that time
people were quite scared if if the mdc
and morgan had asceted themselves
who knows what what might have happened
at the time so i think that
all these things that we are hearing

from people like professor moyo who were insiders
people like tinibus mutasa and others at the time
is he helps us to understand the nature of the beast
and perhaps to take away some of the mythical status that it has you see these fictions these myths that are created around
uh these authoritarian figures they are very important for them we have colleagues who tell us that guys you overthink these issues sometimes you give us eh and they are talking as unpaired people you give us the credit that we don't deserve we are not even thinking the way that we think we are thinking
and so i think it's important to understand that because it helps people to demystify the nature of the beast to demystify the political system to understand exactly what lies beyond the facade of this political system so we we should not create these barriers for ourselves we should not be there to police ourselves so that we are unable to exercise the kind of rights that we need to exercise in order to demonstrate and show the government that it does not have or its authority is based on the consent of the people you see there are two fundamental ways in which a government would be able to assert itself one it is by being able to get the consent of the people and that is what professor mueller spoke about how do you get into power you get into

power by people
voting you into power if you have the
consent of the people
then you are exercising power in a way
that has little difficulty because
people agree with you
people are working with you however
people have the power and authority to
withdraw
that consent and once they do that then
the rule that you're exercising
becomes very precarious and this is what
we are saying
that people should be able to exercise
their power to withdraw
their consent the other way
which which is used to assert authority
by
these regimes is creation the use of
force
but the use of force is very expensive
the use of force is very expensive
because you must sustain
the agents of force you must pay them
well
because the moment they know that you
are relying
on their authority on their power on the
power of the gun
then they continue to extract rent from
you
the relationship can become inverted and
this is why it is expensive
for authoritarian regimes to rely on
force alone
and my view is that this current regime
cannot continue to rely on force
especially when it is unable to
do a quid pro quo with the agents of
force
because at some point the agents of
force will discover that
they have power over those who are
sending them

alternatively they will discover that their interests are more aligned with the people whom they are being asked to suppress we have seen pictures of policemen for example red police arresting and sometimes beating up nurses and doctors and other people who are protesting treating them very unfairly but you know these people are probably earning less than the nurses who are protesting about their conditions of service but it cannot continue like that at some point there will be a realignment of interest and we have seen this in other countries for example the example of sudan has been given who would have known that the soldiers and the security details would at some point begin to align their interests with the people so i think that it's important while understanding the nuances of the zimbabwean situation of course which makes it different from sudan or from other countries that it is not impossible to achieve that particular position i know that there will be a moment when i will talk later about the more the bigger issue but for now i'll stop there yes definitely we'll come back um to to to to get you closer on what really needs to be done what is the way forward but let me just take um a few uh comments um or questions from the zoom chat uh let me start with mr hooper because he's been raising his hand

for a long time now um can you unmute
your mic
and just go for it but can you keep it
short please
i think my mic is now unmuted can you
hear me
yes we can right thank you violet
well i really very shortly will just be
addressing just three issues first of
all
uh has the military always been out of
the barracks as
professor moyo said or is in fact a
position as
dr mandaza said well in a sense
they're both right because
legally and constitutionally
the military did in the beginning
do what was the power within their power
because
when they came out even in gurukul they
were brought there
by the government the executive
brought them in whether the question of
the acts that they perpetrated is
another matter altogether
so that's the first thing but why do i
say that in fact in effect they have
always been
that was down to zanu-pf because zanu-pf
always portrayed themselves as the
liberators
they campaigned elections as liberators
they brought in the military to
do their bidding but it's a the old
uh matter that happens that the dog is
brought in
to a bear command it gets powerful
then the tail begins to wag the dog
that's what's happened in my view in
zimbabwe now
second issue is well this fear of
prosecution
yes there is a fear of prosecution but

people who have perpetrated acts
but this can be a scene to
some of you may recall that uh shortly
after independence
edgar de cara was tried for murder
you may recall that in fact he was
acquitted
lawfully acquitted not because of the
brilliance
of his representation but the fact that
there was
actually a law that had already been put
in force by the previous regime of ian
smith
prepare in preparation for the time when
they may be
brought to book that was done so it is
possible
to have a legal provision
to that who uh give them
sort of lessen their fear and finally
the question of people power well yes
that is in fact in my view something
that
has to happen because hitherto
the pop pop politicians have been
addressing each other
there's been no real attempt to address
the people and by the people in my view
remember this is zimbabwe
and like most of africa most of the
people are in the rural areas
they're not in the towns politics
has tended to be uh something that
only the people in the towns have become
involved in
that is something that must spread
finally in passing
i am of allowing some of you may know uh
malawian and zimbabwe as far as i really
feel
because i've spent probably more time in
zimbabwe than i have spent
in my motherland people power in malawi

should not
people shouldn't think that it can work
the same way in zimbabwe it in fact the
sudan
analogy is probably nearer the situation
i say this because the military in
malawi as you all know
in fact sided with the people the reason
for that is quite simple
military in malawi has never been
political
and most of them in the military when
they're
back home from the barracks they go back
to the village
and that's why for them it was quite
easy to come in
but yes the people in the countryside
the rule
the bulk of the population are the ones
who should be addressed thank you
thank you very much for for that and
just
to read out a comment um i think also
has to do
with the issue of people power
results us what about soldiers shooting
at people with live ammunition
justina mokoko and many others have been
tortured
itaday zamara and many others have been
disappeared
can these real demonstrations of
brutality and evil
be ignored those are some of the
questions coming from
um zoom chat let me take another um
a caller um
tony reeler you have your hand raised
thank you very much um
very interesting discussion this uh
a lot of calls to the people to do
something
and uh two factors i think that are

important one is
is obvious fear the state
lost the political trust of the nation
a very long time ago back in the 90s
and responded to that by dealing with
what alex talked about
by coercion right so
uh there are two factors that operate
here when we ask the citizens to do
something and all the words about
apathy there's both fear and lack of
political trust and that lack of
political trust
that actually the problem is not leaders
in zimbabwe
it's about leadership it's about vision
it's about where to go and that's
partly what we were hoping would come in
these discussions
somebody raised the issues about
accountability and i'm very sorry that
justino is
not able to talk to this very important
report that the human rights forum
brought out
which is specifically looking at the
gross human rights violations
perpetrated by the military
since the coup and those are so
egregious
that the forum has no no compunction
but to call them crimes against humanity
so when this issue of accountability
comes up
the call out there is that they are
in very serious trouble when it comes to
accountability
but those were two just just minor
points i wanted to make
one i wanted to go back to the beginning
and and some
some things that alex pointed out and
about constitutionalism
and it's this issue in the constitution

about how the military are deployed
uh justice tuition argued
and it has not been tested because when
it was tried to be tested
in the constitutional court it was
thrown out on the technicality
he argued that there are certain
conditions in which the military may
take it upon themselves to intervene in
civilian affairs
in other words the military can make up
their mind at what point they want to
intervene
in in civilian affairs now this is
complete nonsense as evo said
the constitution is very clear about
where the
when the military must be deployed how
they must be deployed
and who must be consulted so one of the
big questions that faces us today going
forward
is on on what power what
legal power what constitutional power
are the military actually on the street
today
i am not aware that the president who
holds the responsibility for this thing
and they must be deployed
by his order and he must consult
parliament
immediately about why the military are
being deployed
now this is violated in in in every
single way now
i know that jonathan wale will say well
that's exactly what happens
but the point is we're not testing that
nobody's going to court to say
was jewish's judgment uh correct
and pushing that nobody's asking the
question about
under whose authority are the military
on the street today

and why are they involved in civilian
policing because this is very material
to the whole issue of constitutionalism
and
i think that this you know and and
particularly when
the human rights forum raises the point
that that deployment
then leads to such serious gross human
rights violations
that you can accuse the military right
now of gross human
gross crimes of crimes against humanity
and those are the issues that i think in
when we start talking about getting the
military to the barracks
you have to challenge the basis of it
with all the tools that we have
and and one of those tools is to go to
the courts now if the courts are
captured
and the state is captured at least we
have the possibility
of establishing that of showing the
world exactly
how things work in zimbabwe because if
you accommodate to the fact that the
military on the street
unconstitutionally and illegally then
we don't have any case to make to the
international community
and particularly the regional community
because as ibo said
zimbabwe is an anomaly our military are
doing things that no military in the
whole region does
and we need to expose that and put the
pressure on the military here
from their peers in the region thank you
thanks tony and i'm sure alex will come
in and respond
to some of the issues you've raised and
also alex if you can just
note some of the um

questions from the chat a lot of people
are asking
why are all the legal minds failing to
expose the courts
uh by taking all these matters um uh
to to to i mean to expose the military
by taking all these matters
uh to court and that one is from naomi
tambira
let me take another um participant
review
newton kanema
newton you have to admit yes i did i
did how are you violet thank you for
taking my
taking my questions i have a comment
and two questions and unfortunately they
are directed
at professor moya the first thing
is that professor moyo since you left
zimbabwe i literally thought that
you would be irrelevant and completely
of no use as a citizen but your
contribution tonight
makes me change my mind i see that you
could be a very useful person
as a citizen of zimbabwe so my two
questions
are number one since you left
zimbabwe i am sure you have been
reflecting
on everything that you have you did when
you were part of the government
is there something that you have
reflected on and found that you were
fundamentally wrong in what you did
and what we would like to know what that
could be
the second question is you pointed out
uh the what happened in sudan
and your analysis is perfectly right
except that you did not
you did not mention uh yes
sorry about that you can continue newton

okay
the people of sudan sustained
their revolution mainly because
each and every person who was on that
square knew the provision
of their constitution knew
their rights people in zimbabwe
are pretty ignorant of the provision of
their constitution
professor moyo was one person
among all people in zimbabwe
who had the opportunity to educate
our people on the provision of our
constitution
i would like to know from professor
mueller what stopped
him from educating the people
of zimbabwe on their constitution
i thank you over thank you newton and
professor moyo we'll come back for your
response
let me get a couple of more people um
elena susulu would like to hear from
some women eleanor
okay good evening and uh thank you to
the organizer
organizers for a fascinating
conversation
i think i would like to comment on
well i have a question this question of
the lower ranks of the army
and the generation
hold on please
disturbances take team please can we
remove it
yeah it reminds me of the supper's
meeting when we had some
thugs that uh i was wondering if we were
having a
version of that kind of disturbance they
follow us everywhere
now you can continue okay so the
question about
the lower ranks of the army and and

the upper the appearance oh my god
that and then comment on to make about
constitutionalism is that
there is a real lack of appreciation of
constitutionalism in this
population in general and it's something
that really
has to be addressed because people for
people
it's normal to see the army behaving in
this way
and i just want to recount as a story
about
it's told by the latest uh professor
khandawiri
about just which reflects
this issue of constitutionalism that in
senegal he saw
a a crowd that had caught a thief
and this thief it was a citizen's arrest
and the zhandam they called the jandab
and he came and he
arrested the thief and then the thief
said no
this shandam yeah it's not his job
to be arresting me he's responsible for
state security this is outside
of his mandate it's the police that must
have the right to arrest me so the crowd
debated on this issue and
they said yeah he's right so someone
went to get a policeman and the gender
was told okay this is not your fee
and our reflection on that story was it
would
never ever happen in zimbabwe
first of all the thief would have
probably been beaten by the crowd
but even if they had waited for him to
be arrested if aviva did open his mouth
and be arguing about his constitutional
rights
uh he would have been shut down
immediately and it's

it's a consciousness of constitutionalism and i've seen it in south africa where people who have argued they are taking up issues for example the army's uh beating and killing of someone in alexandre uh that that issue is not going away it's it's it's it's still there and people are going to court and it remains an issue whereas it it hasn't been an issue in zimbabwe at all so i think there's a lot of work to be done about just education of people in general to accept constitutionalism and i think it's it's reflected in the abductions that the state can actually get away with these kind of abductions and perniciously argue in fact that people are faking their own abductions and there's not more of a reaction to this so and i'm often amazed at the lack of reaction in zimbabwe to certain things that happen like when this young man was shot in bulawayo by police it's like it just happens and he dies away and i think unless there's that stronger consciousness of human rights and constitutionalism the military will continue to get away with with what they are doing thanks vader okay thanks helena sicily in south africa um we are running out of time but i can take three more from the floor but please make your contributions very short because would like um the panelists to respond to some of the

issues
that have been raised so it will be
lenin ruizi
fidelis jima and nika messiah
lennon please can you make it short
thank you violet um my question relates
to
the fear factor in zimbabwe people have
vivid memories of
short hand or short hand short sleeve or
long sleeve people have memories of um
august 1 2018 in matebel island a lot of
people have
very vivid memories of gurukuraundi
and those memories are still fresh
amongst our people and the fear factor
has been uh
in my opinion the biggest two in
zanu-pf's hand
my question is directed to dr margarisa
that at a strategic level what do you
think
the opposition could do
to use that
capital that people have in the rural
areas
to bring change to zimbabwe
thank you uh fidelis
chima yes
listen you come here okay
nika you can go ahead hello
hello nika you can go ahead
i wanted to give some maybe some clue on
the command structure of the army which
was uh talked
by professor moyo i think the structure
of the common structure of the army was
a deliberate strategy
by the current president to neutralize
his deputy who was the defense forces
commander
the deputy had as the defense's
commander
he had this royal cadas who directed

the coup so the current president i think he wants to break that uh command structure by doing away with this unless element which was very loyal to the deputy president so that he neutralizes that power by pulling away them away from the army into diplomatic positions and so forth and then he has more comfort in the zipper command running the army that they will not have that uh ability to organize the others to to launch a coup against him i think that's a deliberate strategy to change the command structure of the army as a way to preempt a coup from the loyalists of the deputy president that's my view thank you when you come see uh chorus thank you thank you violet um my question is all to all the panelists the issue about um the soldiers getting back to the barracks what um pressure can they be from the original uh groupings like sadaq a you can they bring their are there any standards which they discipline each other thank you and the last two dr thompson chengeta and francis so dr chengeta uh hello uh thank you very much uh for the question violet uh my first question uh relates to the issue of um alignment or realignment of interest that is of citizens and the military uh the question which i have there is uh you know how can one citizen for example that indeed

your interest as a citizen or as a private citizen
are indeed aligned with those of the military
i asked this question actually uh from a historical perspective of what happened in 2017
where the majority of zimbabweans at one point
actually thought that they are interested those of the military were aligned
only to find out that it was the opposite so in that regard i
what are the precautions which one can take in this far is the idea of a aligning of interest as far as delaying for example
what others are referring to as retaining uh the
the military to the products my second question relates to the issue of citizen knowledge on constitutionalism or knowledge of the power they have which most of the
panelists have been discussing on i i want maybe perhaps to take a sort of a step back
from what i would view as maybe we are being elitist
to just assume that citizens or the majority of citizens
they do not know their constitution constitutional rights
and that they do not know the power which they have and i link this to the aspect of
impunity if in the history of zimbabwe you know whenever the people who are in power are committing crimes or are violating human rights and nothing happens to them
there is no remedial action that is taken

we have for example the examples of soldiers who shot civilians in the streets and nothing happens to that

i wonder if we could say that the reason or perhaps one of the major reason why we are seeing citizens not going into the streets to claim their rights is because they are unaware of their rights or they do not know the power they possess or it's actually a real realization of what actually happens to you and after it happens to you actually there are no remedial actions the comparisons which some panelists have been giving from other african countries for example in south africa

i would say that there are some nuances which you can actually be able to differentiate where you see if a government has been involved in a violation of a right there's some sort of remedial action that is actually taken

in other words there's no such levels of impunity

so in short the the question is to what extent actually the aspect of impunity as far as violation of rights is concerned is a contributor factor on how we are holding our government into account

okay thank you very much now uh alex magaisa can we come back to you uh with your final remarks and would you also respond to some of the issues um that were raised by um our viewers uh especially on the issue of why haven't there been any court cases and also what pressure can the opposition bring about in terms of

putting pressure on on the military alex
okay thank you uh violet look
they they have been a lot of
contributions
um which uh similar questions
but i think that there are contributions
in their own right
and there is no need really for us to go
through each one of them we won't be
able to finish within the limited time
that we have but i want to thank
everybody for the contributions
that they made i just wanted to point
out a point made by
tony tony rila uh regarding the
deployment of soldiers
and the legality of those actions
which can be combined with the question
which someone else asked as to
why is there no action that is taken in
connection
with these issues and other connected
issues which is also similar to what
dr chengeta has mentioned about the
culture of impunity
well you know this all points to
a severe deficit uh within our
our own society a
a deficit which which which is about
resources it's not just about knowledge
but it's also about the judicial system
that we have we haven't had enough time
today
to even talk about the role of the
judiciary
i did mention the role of the judiciary
during the coup
in uh 2017 which essentially endorsed
through the high court what were
unconstitutional acts
that were done which is why a lot of us
have always said from the very beginning
that it was an illegal action
but of course the courts came to a

different conclusion
the fact that the courts you might say
or some parts of the judiciary are
captured
is also a reason why sometimes people
are reluctant and see
no way through the courts it's a
cul-de-sac
whatever they try to do the outcome
is often very unfavorable matters can be
dismissed on on very small issues on on
technicalities
now i think that there is a case to be
made
on the issue of deployment of soldiers
uh i think that uh
that case could have been made on
august 1 august 2018
concerning january 2019 and
of course at the moment we've got
soldiers who are deployed on the basis
of covet 19
but but again these are opportunities to
challenge that system to challenge
whether the legality of the continued
deployment of these soldiers whether
indeed they are consistent with covered
rules
or it's now saving a completely
different purpose they we have
organizations
who do a fantastic job and in this
regard
i'd like to mention the zimbabwe lawyers
for human rights
they don't often get the credit they
deserve
but they are the champions of public
interest litigation
they do a lot of work thank less work
across the country a lot of it
does not get the media coverage that we
see
in a few of the cases maybe when a

public figure has been arrested
when a prominent human rights person or
an opposition politician
but otherwise they do lots more work
across the country because it's a
an organization of lawyers
who are you know all over the country
and whenever people are arrested
on pretty flimsy charges you know
intimidating them
zimbabweans for human rights is almost
always there
so i don't think that it is fair to say
nothing is done i think lots of work is
done
but i would also like to say that
zimbabweans
should also fund their own causes
we don't do this often enough we rely a
lot on
support that we get from donors we rely
a lot on support that we get from
foreigners if you ask
a tennis involvement whether they've
made any
single donation to the zimbabwe lawyers
for human rights you will probably find
that
none of them has ever done that but they
expect
this zimbabwe lawyers for human rights
to be
standing up for them those lawyers to be
standing up for them
whenever they get arrested whenever
their situation we should never do that
i think that it's important for
zimbabweans to take responsibility
seriously
on issues that contain them i know that
we'll find excuses who say that we do
not have money
we will say that we are poor we will say
that we don't have the resources

but i think that we must also get out of
that a
mod of excuses of finding reasons for
not doing things
when it's possible to find reason for
doing things
so i i i could go on
with all these other issues violent but
i thought that i would conclude or at
least i should conclude
with my a view on the
what i expect to see i started with a
presentation of the traditional
conception
of the traditional state and i say that
actually i don't think that exists in
zimbabwe
i think what we have now is an
adulterated form
of that state and that the military is
not just an arm of the state but
probably the most powerful arm of the
state in fact it is the most powerful
arm of the state
which is calling the shots as we speak
whether it's the
executive we saw this with the order to
ban
mobile money payment systems and the
zimbabwe stock exchange
this emanated from the security
structure
there is no question people know this
and they are calling the shots so i
think that we are
at a critical juncture we should be
honest about our situation
zimbabwe is a military state which is a
political
facade the civilian structure is
a facade but otherwise those who call
the shots
are the men in uniform and holding guns
we have to we have to

i i will conclude violet the problem is
that
a my expectation was that
i would explain how constitutionalism
should be should be restored
and i want a minute to do to do that
because otherwise it would be a waste we
don't want to talk problems
we want to talk how do we fix things for
we must begin to understand
constitutionalism
the same way that we understand the
religions
the same way that we understand belief
systems we have to hold
constitutionalism
and something that is sacred i mentioned
that the constitution
should be the sacred text if you go to
other countries
they refer to their constitution as a
sacred text and they hold it as such
we must have preachers defenders bishops
who are able to say the word of the
constitution
to preach the word of the constitution
these are the human rights defenders
we don't have sunday service for
constitutionalism
but all religions have their services
for their belief systems because they
must be defended
we are not going to go anywhere in the
bubble unless
we are able to strengthen the belief
system
in the idea of constitutionalism okay
unfortunately we're running out of time
we'll have to we'll have to come back
again
hopefully another time hopefully another
time you raise a very good point today
uh final words um professor moyo
very briefly just at least if you can

give us some practical solutions in your
final words
because we're running out of time is
professor moyen still there
with uh your indulgence i'd like to
refer to my younger brother who just
spoke well and represented
all of us and you will uh hopefully
invite us
to some other encounter so that we can i
think he
we should not spoil what dr magaisa has
presented
by coming up with other things i would
have been happier had i been
asked to speak before him but on this
occasion
i with your indulgence would like to
defeat
him okay thank you unfortunately we're
actually running out of time
so i have to bring in dr iber mandaza to
give us
his uh final remarks so that at least
we can close on on time dr mendeza can
you
kind of point the way to the future what
do we do
now in your final remarks
well i think first can you hear me yes
we can
first i think uh in the way of
conclusion that
we have a very such situation in
zimbabwe
there is no constitutionalism there is a
clear breach of the constitution the
2013
constitution has not been fully
implemented
secondly the military has moved
from being being a deployee i think the
point was made by
pooper very strongly that uh

in the early days up to 2000 at least
the army was being employed
by the politicians by zanu-pf
and that has led to a situation where
the army is virtually in control
i think that point must be made very
clearly it was zanu-pf
it was the politicians were deploying
an army which in the early days was
really
largely adhering to to the constitution
now it has become very central as
jonathan moyer said in
his book on on exergate jock
is the power in zimbabwe
secondly that zimbabwe is the old man
in the region there is no
situation in the region where the
military is so dominant as it is
involved
it is completely unacceptable and that
it is
an issue that that the region itself
should be
engaged with
it is an issue that must be and they're
very normal situation where zimbabwe
notwithstanding what we just said about
the role of the military
is now the head the chair of the organ
on politics
defense and security very unacceptable
thirdly that
the position that the military holds in
zimbabwe is unsustainable
particularly given the economic and
political
crisis in the country and that this
should prompt
the military itself as citizens
the military i command as citizens
to realize to acknowledge that there is
certainly something wrong in the
situation that prevails in the country

at the moment
uh and that a way one way forward is
really one
not to the question but to find ways in
which
they can be helped out of their dilemma
jonathan moyer spoke of the need for
truth reconciliation
commission which can look at the
atrocities
prepared by the army since independence
right down into the muramba china
the 2008 uh elections
the runoff violence the killings
in august the first in 20
20 2017 2018
the atrocities that uh justin has spoken
about
the the reports by the ngo forum
human rights abuses all these need to be
accounted for but also to offer
opportunity
for the military to make amends
and to make peace with the population
i don't think there is much we can say
beyond that
one hopes that the current discussion
about the way forward the transitional
authority
is one forum through which or organ open
through which
these issues can be dealt with and we
can have
a re introduction
of the constitution 2013 constitution
in the context of political reforms in
the country restoration of the national
institutions
including the military in rightful role
in the barracks and indeed
to have a period during which zimbabwe
can
engage in political and economic reform
for the next elections

i'll stop there and maybe a valid one to
make announcements about why should i do
that

no it's okay i can do thank you thank
you very much uh dr mendez and
thank you all speakers for an
informative session

and interesting inputs from the audience
especially thank you for giving up your
thursday evening to be part of this
discussion which was supposed to be just
two minutes two hours but it became
almost

three hours long so we thank you all for
this

um don't forget the next two programs
will be on the 23rd

of july and that topic will be south
africa's policy towards zimbabwe
a case of the tail wagging the dog
indifference

incapacity or harvesting a neighbor's
economic woes

and then the next one after that will be
on the 31st july

uh protest call and we'll be looking at
what has happened and what's next for
zimbabwe

so we hope to see you all again in the
next couple of weeks

keep safe everyone