

## Fight on

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employers grant access to trade unions.

The commonality of the contract labour system and labour hire is well known to the ordinary Namibian citizens who suffer daily under the labour hire system, some of whom have worked under the old con-

tract labour system. Both the contract labour system and labour hire in Namibia today ensure a cheap labour supply to employers unfettered by labour protections or workers' rights.

Today's labour hire is notorious for its low pay, employment insecurity and the absence of minimum conditions of employment and health and safety protections. Employers

## Zim

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news, the new features that we see when we watch news and many others. These are the people who have brought about these changes that we are so proud to be associated with.

"Is that the best way to say 'thank you'? We are not being fair and humane. I think we should honour our agreement and pay them for what they have done. How will the government of Zimbabwe feel? Something must be done to rectify the situation."

The two Zimbabweans refused to come to work on Tuesday until their grievances were addressed. And TV news on Tuesday was clearly dull, a sign that they were not there. The dullness on the news sent management running up and down the corridors of the NBC to sort out the problems.

Sources at NBC confirmed that cheques of N\$10 000,00 each for the two Zimbabwean experts were made out but were cancelled on the instruction of some senior managers. It is not clear why the NBC has back-paddled on that commitment.

To extend the humiliation further, the NBC did not even bother to invite the two Zimbabwean experts for the end of the year party. However, Tendai Tavagwisa did go, impeccably dressed for the party, only to be sent back in full public view.

"We were ashamed and embarrassed when we saw her being sent back," said another NBC employee. "We could have simply let her enjoy. She is one of us. She should feel home as part of the family. My heart bled when I saw her being sent back. That public humiliation is unbearable."

Although Tendai Tavagwisa and Chivinge are here on a one year contract, the secondment

agreements which the NBC has worked out for them expire on December 31, 2009. Such secondment agreements can be extended at the "sole discretion" of the NBC.

Tendai Tavagwisa and Chivinge have apparently refused to sign the secondment agreements. They are also engaged in discussions on how they could be paid for the work they have done since July and September respectively. Concerned NBC employees said it would be unfair if the NBC did not pay them for what they had done already.

On Monday and Tuesday, the NBC Board met and discussed the crisis, and agreed to pay the two experts N\$10,000 each as living allowance from now on until their secondment agreements expire. But the payments will not be back-dated, which means that the work they have been doing since July and September would not be paid for.

Their secondment agreements expire at the end of this month. It is not clear how long they will be extended. NBC's Public Relations Chief, Cecil Nguvauva, said he knew "very little" about the agreement. He also did not know that the two Zimbabweans had not been paid since their arrival here.

He also said he was not briefed about the Board's decision and promised to come back to *Namibia Today* with more details. He did not. The two Zimbabweans declined to comment when contacted on their mobile phones.

**NB:** NBC Director General, Matthew //Gowaseb, decline to comment on the issue, saying that it would be better to wait for the Chairperson of the NBC Board, Frieda Shimbuli, to come and clarify the situation. He said it appeared someone was out to vilify and destroy him.



Hon. Immanuel Ngajizeko

sometimes create labour hire companies and then move their employees to the payroll of the new company in order to cut labour costs and to shed the responsibility for the employees' well-being. We are aware that, just as was the case in the days of SWANLA, unemployed persons in Namibia take up employment today with labour hire companies because most have few or no other options for gainful employment. It is therefore obvious that labour hire employees are among the most vulnerable workers in our country and that they require protection by the organs of the State. Unfortunately, the Supreme Court, from its perspective, appears not to appreciate that the vestiges of apartheid colonial exploitation continue to plague Namibia today, sometimes in new forms. Without such an appreciation, the Court may fail

in its duty to give effect to the promises made to the Namibian people by the founding mother and fathers who drafted the Constitution.

The short title of Section 128 is "prohibition of labour hire." The Supreme Court in its judgment asserts that the term "labour hire" "has no firm meaning", and therefore gives little assistance to the Court in understanding the meaning of Section 128. Again, I respectfully disagree. I sincerely believe that most Namibians, and in particular, Namibian workers and Namibian employers utilizing labour hire companies, as well as the members of the Namibian Parliament who debated the prohibition of labour hire, understand very clearly what is meant by labour hire and why Parliament sought to ban it.

The Supreme Court, on the other hand, asserts that Section

128 actually prohibits what the Court refers to as "agency work," a term that did not feature in the public discourse over labour hire, in the Parliament debate, in the Court litigation and which cannot be found in the Labour Act, 2007. "Agency work," as the Court has fashioned this term, lumps together the services of persons falling within the Labour Act's definition of "employee", to whom the provisions of the Labour Act apply, and the services of independent contractors, who are expressly excluded from the coverage of the Labour Act. According to the Court, "agency work" is prohibited by Section 128 includes the services, among others of "modelling agencies or casting agencies which make fashion models or actors/characters available to fashion houses, advertising agencies or production agencies under whose direction they are engaged for fashion shows, promotional photography or cinematographic production..." We respectfully disagree with the Court's line of reasoning, which is an important basis for its holding that Section 128 is unconstitutionally overbroad.

We do not comprehend how the Court could interpret Section 128 to address the business activities of persons who fall outside the coverage of the Labour Act. In addition, it is very puzzling, to say the least, that the Court could imagine that Parliament had intended to criminalise the activities of modelling agencies and actor's agents.

Members of the Media, Ladies and gentleman

It is not my intention to analyze the Court's judgment fur-

ther today. I want to talk about what we are going to do. While the Court held that Section 128 as it is presently written does not conform to the requirements of the Constitution, it did not preclude Government from enacting a new law to address the problems of labour hire. In this regard, I remind you that Article 81 of the Namibian Constitution provides as follows.

*"A decision of the Supreme Court shall be binding on all other Courts of Namibia and all persons in Namibia unless it is reversed by the Supreme Court itself, or its contradicted by an Act of Parliament lawfully enacted."*

I therefore wish to assure the Namibian nation-that our Ministry will not allow the Supreme Court's judgment to divert it from its duty to protect the most marginalised and vulnerable workers in our country. In light of the Supreme Court's judgment, the Government is more determined now than ever before to pursue the goals of dignity and justice for employees working in the labour hire system. I hereby pledge that our Ministry, after studying the Court's judgment in the fullest detail and implication, will prepare legislation that will put an end to the practice of labour hire as we know it today, in accordance with Constitutional requirements, and will create a strong administrative framework to enforce such legislation.

We will undertake this project as speedily as possible and will fashion interim measures to afford protection to labour employees under existing law.

# Medvedev says Russia-NATO cooperation necessary



President Dmitry Medvedev

**MOSCOW,** — Russian President Dmitry Medvedev said Wednesday Russia and NATO should cooperate more closely due to a rise in

eral Anders Fogh Rasmussen in Moscow. "We have many reasons for interaction, many subjects for discussion," including joint actions to counter terrorism, crime and other common threats, Medvedev said. "Much depends on relations between Russia and NATO," he said.

Medvedev expressed the hope that Rasmussen's visit would help make Russia-NATO ties "stronger and more productive." Rasmussen told Medvedev that Russia's cooperation on NATO's operation in Afghanistan was beneficial to both sides. "I do believe that it's essential for Russia that we succeed in Afghanistan," the Danish NATO chief said

during the Kremlin meeting. Earlier in the day, Rasmussen also held talks with Russian Foreign Minister Sergei Lavrov.

Admitting differences between the military alliance and Russia, Rasmussen said they should not overshadow common interests in many fields. Lavrov said Russia "was interested in the normalization of relations" with its former Cold War foe. Russia-NATO relations, strained in the wake of the brief war between Russia and Georgia in August last year, have improved in recent months. Rasmussen was expected to raise the issue of Afghanistan and Russia's potential transportation assistance to NATO's mission there on his first visit to Moscow since taking office in August. Russia has allowed the transit of non-lethal supplies for NATO and U.S. troops in Afghanistan through its territory under an April 2008 deal signed in Bucharest. (Xinhua)

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Department of Information and Mobilization.  
Tel: 061-276370/78/79/80  
Fax: 061-276381

Cell: 081 124 2749

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