

# DEFAMATION OF THE PRESIDENT, RACIAL NATIONALISM, AND THE ROY CLARKE AFFAIR IN ZAMBIA

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## **Abstract**

In January 2004, residents of Zambia's capital, Lusaka, were treated to a disturbing sight. Over 200 members of the governing Movement for Multiparty Democracy (MMD) party marched through the streets of the capital carrying a mock coffin bearing the name of Roy Clarke, a prominent newspaper satirist and white British national who had been a permanent resident in the country since the early 1960s. The protesters accused Clarke of insulting and defaming President Levy Mwanawasa in his previous column and demanded his immediate deportation. The Minister of Home Affairs obliged, but the satirist successfully challenged his deportation in Zambia's courts. Drawing from newspaper sources, court documents and interviews with key informants, this article shows these protests were anything but a spontaneous demonstration of public outrage. Instead, they had been carefully orchestrated by Mwanawasa and his close allies to bolster Mwanawasa's beleaguered presidency. The article argues that deportation orders and racial nationalism against racial minorities are strategies adopted by political elites during periods of weakness, even when these ideas have little or no popular support. More broadly, we argue that the status of racial minorities and other foreigners in Zambia is often provisional, depending on political considerations.

## Introduction

Residents of Zambia's capital Lusaka were disrupted on the morning of 5 January 2004 by a disturbing sight. Over 200 members of the governing Movement for Multiparty Democracy (MMD) thronged the streets carrying a mock coffin bearing the name of Roy Clarke, a prominent satirist and weekly columnist for *The Post*, the country's leading independent newspaper.<sup>1</sup> The protesters were marching to Cabinet Office to demand the immediate deportation of Clarke, a white British national resident in Zambia since the early 1960s, for penning a satirical column entitled 'Mfuwe', the district hosting a national park that was a favoured holiday destination of then President Levy Mwanawasa. Clarke's column depicted the country's leadership as animals in the park. It included a thinly veiled reference to Mwanawasa as a fat elephant named *Muwelewele*, or 'fool' in the local language, Cinyanja. Other government officials were described in similarly unflattering terms as 'mischievous monkeys', 'bureaucratic buffaloes', 'a long-fingered baboon', 'hungry crocodile', 'knock-kneed giraffe' and 'red-lipped snake'.<sup>2</sup>

The Mfuwe column had angered MMD members, and further protests occurred in urban areas with a noticeable white population across the country. Demonstrators claimed that Clarke's language was 'reminiscent of the apartheid era in South Africa and Zambia's colonial days when black people were disparagingly referred to as dogs, monkeys or baboons by whites.'<sup>3</sup> Zambia's government agreed, and on arrival at Cabinet Office, demonstrators were received by the Minister of Home Affairs, Ronnie Shikapwasha, who assured them Clarke would be deported immediately. 'You can't go to the UK, call the Queen names, and expect to

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<sup>1</sup> *Zambia Daily Mail*, 'Leave Zambia! Clarke ordered', 6 January 2004.

<sup>2</sup> *The Post*, 'Mfuwe', 1 January 2004.

<sup>3</sup> *The Post*, 'Shikapwasha resists Clarke's court order', 7 January 2004.

stay in that country. They will deport you immediately’, Shikapwasha claimed. ‘[Clarke] does not need to be in Zambia where he considers us to be animals, therefore, the word is deportation’.<sup>4</sup>

All was not as it seemed, however. What appeared to be a spontaneous demonstration of widespread outrage had been carefully orchestrated by President Mwanawasa to bolster his beleaguered presidency. President Mwanawasa and his allies sought to use the politics of racial nationalism to overcome divisions within the ruling party and secure popular support by presenting Clarke’s criticism as an insult towards Zambia. This effort backfired. Clarke, who had evaded capture, successfully challenged his deportation in the courts and attracted considerable support. Racial nationalism lacked wider appeal beyond political elites, and Clarke soon resumed his weekly column.<sup>5</sup>

This article uses the Clarke affair to make two arguments that contribute to broader debates on the interaction between race, nationalism, and citizenship in Africa. The first is that racial nationalism – used here to refer to nationalism in which the only legitimate members of the nation are black – is a strategy adopted by political elites when their positions are threatened. As will be seen, the Clarke affair had precedent in Zambia, and there were previous instances where those deemed foreigners were targeted and removed during moments when the position of political elites was insecure. The political context in early 2000s Zambia, which is discussed below, and the threats Mwanawasa perceived to his presidency are crucial to understanding why this critical column provoked such an immediate and dramatic reaction.

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<sup>4</sup> *Ibid.*

<sup>5</sup> *BBC News*, ‘Zambia writer to continue satire’, 25 January 2008. <<http://news.bbc.co.uk/1/hi/world/africa/7209130.stm>> (30 August 2022)

Criticism of the sitting president is a sensitive subject in many countries.<sup>6</sup> Insulting the president is a criminal offence in Zambia, Zimbabwe, Malawi, Tanzania and Uganda, among others, and one that is often interpreted widely and enforced harshly.<sup>7</sup> Political criticism deemed an insult by the state or ruling party can provoke an immediate and large-scale response, such as in the Clarke affair when the machinery of the state was directed to locate and expel Clarke for writing a newspaper column. Many incumbent presidents position themselves as the embodiment of the nation who should therefore be protected from certain kinds of criticism, as criticism and perceived insults are interpreted as insults towards the whole country. This became especially pertinent in the Clarke case, where it was an alleged white foreigner penning the insults, something the Zambian government considered unacceptable.

The second argument is that deportation is a tool used by states to discipline and remove political opponents, especially opponents from racial minorities. There is a long tradition of this in Zambia, as will be seen, but many other states in Africa do the same. The status of racial

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<sup>6</sup> Already in the mid-1970s, the Zimbabwean nationalist Eddison Zvobgo identified the phenomenon of ‘president-monarchs’ in newly-independent states in West and East Africa who changed ‘ the constitutions make it a crime to insult or cast improper motives upon the actions of the president.’ Eddison Zvobgo, ‘The Abuse of Executive Prerogative: a Purposive Difference Between Detention in Black Africa and Detention in White Racist Africa’, *African Issues* 6, 4 (1976), p. 39. This sensitivity can also extend to family of the president. In November 2022, a student in Nigeria was imprisoned and allegedly tortured for suggesting that the First Lady had embezzled money. *BBC News*, Nigerian student Aminu Adamu Mohammed apologises to Aisha Buhari over tweet’, 4 December 2022 <<https://www.bbc.co.uk/news/world-africa-63854699>> (16 December 2022)

<sup>7</sup> Christopher Phiri, ‘Defamation of the president of Zambia: Contextualising the decriminalisation debate’, *Southern Africa Public Law* 36, 2 (2021), pp. 1-20; Badala Tachilisa Balule, ‘Insult laws : A challenge to media freedom in the SADC's fledgling democracies?’, *Comparative and International Law Journal of Southern Africa* 41, 3 (2009), pp. 403-427; Charlotte Cross, ‘Dissent as cybercrime: Social media, security and development in Tanzania’, *Journal of Eastern African Studies* 15, 3 (2021), pp. 442-463; Michael Meyen, Anke Fiedler and Kerem Schamberger, ‘It is a crime to be abusive towards the president’: A case study on media freedom and journalists’ autonomy in Museveni's Uganda’, *African Journalism Studies* 37, 3 (2016), pp. 1-18.

minorities and other foreigners is often provisional, and dependent on political considerations. As Emmanuel Akyeampong argued, ‘the prospect of non-black citizenship was considered problematic’ in newly independent nations during decolonisation and tensions over this continued long after independence.<sup>8</sup> This was especially the case for individuals from groups whose physical presence was linked to colonialism, such as whites in Southern Africa, Asians in East Africa or Lebanese in West Africa.<sup>9</sup> Scholars have long acknowledged that citizenship is not a fixed, immutable category, and the definition of citizenship can change. In several countries, including Zambia, labelling political opponents foreigners is an established political strategy.<sup>10</sup> We extend this analysis by looking at the tactic of deportation as a state strategy for dealing with critics who could be termed foreigners. The Zambian state regularly prosecutes people for defamation of the president, but in this case opted not to attempt such a prosecution and moved immediately to deport Clarke.

Sources for this article are primarily drawn from interviews conducted by the authors with the key actors who were centrally involved in the Roy Clarke affair. These interviewees were identified from contemporary reports of the affair and accessed through the existing contacts of the authors, one of whom is a longstanding Zambian political commentator and scholar and the other a British historian who has conducted research in Zambia for over a

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<sup>8</sup> Emmanuel K. Akyeampong, ‘Race, identity and citizenship in Black Africa: The case of the Lebanese in Ghana’, *Africa* 76, 3 (2006), p. 332.

<sup>9</sup> For instance, Akyeampong termed the Lebanese in West Africa ‘colonial sidekicks’ to describe how ‘colonial rule eased their entry into Africa’ and assigned them an economic role. Emmanuel K. Akyeampong, ‘Africans in the diaspora: The diaspora and Africa’, *African Affairs* 99, 395 (2000), p. 200.

<sup>10</sup> Beth Elise Whitaker, ‘Citizens and foreigners: Democratization and the politics of exclusion in Africa’, *African Studies Review* 48, 1 (2005), pp. 109–126; Sara Dorman, ‘Citizenship in Africa: The politics of belonging’, in Engin Isin and Peter Nyers (eds.), *Routledge handbook of global citizenship studies* (Routledge, London, 2014), p. 165.

decade.<sup>11</sup> Our professional status as academics also smoothed our connections and interactions with informants, several of whom are members of Zambia's political elite.

Interviews were conducted with Clarke himself, his then newspaper editor Fred M'membe, Ronnie Shikapwasha, the Minister of Home Affairs, and Philip Musonda the High Court judge who presided over the case and overturned the deportation order.<sup>12</sup> Interviews were also conducted with Paul Moonga, who was MMD Lusaka District Chairperson and responsible for organising the protest, and Peter Mumba, then Permanent Secretary in the Ministry of Home Affairs. Although interviews were conducted almost twenty years after the events that took place, the Roy Clarke affair was widely reported at the time in the Zambian and international press. All the people interviewed in this article are quoted, sometimes extensively, in contemporary press reports, and we cross-checked information from interviews with these reports as well as with court judgements. The views expressed by interview informants were remarkably consistent with those expressed in print at the time. It appears that none had changed their views on Clarke's attempted deportation and whether it was justified. Events since then also encouraged interviewees to discuss the role of the party in organising supposedly spontaneous political demonstrations. As we argue, those in the MMD who organised the protests were interested in protecting the position of President Mwanawasa and the MMD. Mwanawasa died in 2008, and the MMD has long been out of government, and subsequently disintegrated as a political force, and this encouraged greater openness from interviewees.

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<sup>11</sup> All our interviewees are public figures who commented in the press at the time about the affair. The one exception is an intelligence officer whom we have anonymised.

<sup>12</sup> Interviews with the main participants were conducted by both authors jointly. The only key participant not interviewed was President Levy Mwanawasa, who died in 2008.

The interviews are supplemented with contemporary newspaper articles from the Zambian and international press that are either online or housed at the National Archives of Zambia in Lusaka. We also draw upon the texts of the court judgements, both the original case at the High Court and the subsequent appeal in the Supreme Court.<sup>13</sup> There are significant limitations to available written sources from this period. The material produced by the Ministry of Home Affairs in the 2000s is not available at the National Archives and the MMD has no institutional archive.

The article is divided into seven sections. Following this introduction, we provide an overview of the literature on racial nationalism and deportation orders in independent Zambia and Africa more generally. The article then turns to the political context in Zambia in the early 2000s within which the Clarke incident is better understood. The next two sections foregrounds Clarke's background and discusses the incident itself. The article then examines the response of the government to the *Mfuwe* article. The final section concludes.

### **Nationalism, racial minorities, and politics in post-colonial Zambia**

Racial nationalism is a political tendency that has been evident in various forms in different parts of the African continent, and of course elsewhere in the world, for a long period of time.<sup>14</sup> In the colonial period, as Mahmood Mamdani argued, colonial states assigned and denied rights to subjects on racial grounds, producing and reproducing racial identity in the subjects of the

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<sup>13</sup> Attorney General v Clarke (96 of 2004) [2008] ZMSC 4 (23 January 2008). <<https://zambialii.org/zm/judgment/supreme-court-zambia/2008/4>> (28 June 2022).

<sup>14</sup> Rogers Brubaker, 'Ethnicity, Race and Nationalism', *Annual Review of Sociology* 35 (2009), pp. 21-42; Sivamohan Valluvan, *The clamour of nationalism: Race and nation in twenty-first-century Britain* (Manchester, Manchester University Press, 2021).

state. This form of rule in the colonial period had an enduring legacy.<sup>15</sup> In settler states, citizenship and the accompanying political rights were usually limited to white settlers, or sometimes shared with a small class of évolués.<sup>16</sup>

Although rooted in the colonial period, the politics of racial nationalism are not confined to it. Mamdani later argued that ‘anticolonial nationalism was the antidote to enforced difference’, though there was often no agreement even within nationalist groups about how to resolve the position of settlers.<sup>17</sup> Many newly independent African states contained substantial minority populations whose position in the new nation was at best an uneasy one. In East Africa, Asian communities were often subject to restrictions, or in the case of Uganda summarily expelled en masse in 1972, and scholars have traced this to the emergence of racial nationalism in political thought in the region.<sup>18</sup> In the case of Southern Africa, Sabelo Ndlovu-Gatsheni has argued that Zimbabwe and South Africa have experienced a ‘metamorphosis of nationalism’ with nationalism increasingly articulated in racial terms, where in some cases ‘authentic citizens were to be the “sons and daughters of the soil” as opposed to the alien whites’.<sup>19</sup>

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<sup>15</sup> Mahmood Mamdani, *Citizen and subject: Contemporary Africa and the legacy of late colonialism* (Princeton, NJ, Princeton University Press, 1996).

<sup>16</sup> There were also settler states where white settlers did not have much in the way of political rights, like Angola and Mozambique under Portuguese rule.

<sup>17</sup> Mahmood Mamdani, *Define and rule: Native as political identity* (Cambridge, MA, Harvard University Press, 2012), p. 3.

<sup>18</sup> Ashwin Desai and Goolam Vahed, ‘Indians in Africa: Roots, recognition and racial nationalism’, in Ruben Gowricharn (ed.), *New perspectives on the Indian diaspora* (New Delhi, Routledge India, 2021), pp. 110-131; Jonathan Glassman, *War of words, war of stones: Racial thought and violence in colonial Zanzibar* (Bloomington IN, University of Indiana Press, 2011); James R. Brennan, ‘Realizing civilization through patrilineal descent: the intellectual making of an African racial nationalism in Tanzania, 1920–50’, *Social Identities* 12, 4 (2006), pp. 405-423.

<sup>19</sup> Sabelo Ndlovu-Gatsheni, ‘Africa for Africans or Africa for “natives” only? “New nationalism” and nativism in Zimbabwe and South Africa’, *Africa Spectrum* 44, 1 (2009), pp. 61-78.



Racial nationalism has not been seen as relevant for Zambia. Nationalism in Zambia has generally been viewed as a benign force, with no history of external aggression or territorial demands, though more recent work has highlighted that exclusionary tendencies were present from independence.<sup>20</sup> The country officially had a policy of multi-racialism at independence, and Zambians of European and Asian descent have played a prominent role in national-level politics since then.<sup>21</sup> The memorable slogan of Zambia's first president Kenneth Kaunda of "One Zambia, One Nation" is still widely and readily recalled.<sup>22</sup>

Politics in Zambia has usually been analysed in ethnic terms, with a focus on political actors building or undermining ethnic coalitions.<sup>23</sup> As one influential account by Daniel Posner argued 'language and tribal identity are the only two options in the [identity] option set' in Zambia.<sup>24</sup> The emphasis on ethnicity as an explanatory factor has been criticised, particularly for the 2000s when scholars have emphasised that political actors, notably Michael Sata and the Patriotic Front (PF), articulated populist politics alongside ethno-regional appeals.<sup>25</sup> Racial nationalism too was deployed by political elites in the 2000s. Work by Sishuwa Sishuwa has

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<sup>20</sup> Duncan Money, 'Aliens' on the Copperbelt: Zambianization, nationalism and non-Zambian Africans in the mining industry', *Journal of Southern African Studies* 45, 5 (2019), pp. 859-75.

<sup>21</sup> Perhaps best illustrated by the fact that a white Zambian, Guy Scott, became acting president following the death of President Michael Sata.

<sup>22</sup> Lyubov Ya. Prokopenko, 'The Principle 'One Zambia, One Nation': Fifty Years Later', *Social Evolution & History*, 17, 1, (2018), pp. 60-75

<sup>23</sup> Elena Gadjanova, 'Ethnic wedge issues in electoral campaigns in Africa's presidential regimes', *African Affairs* 116, 464 (2017), pp. 484-507.

<sup>24</sup> Daniel Posner, *Institutions and ethnic politics in Zambia* (Cambridge, Cambridge University Press, 2005), p. 9.

<sup>25</sup> Miles Larmer and Alastair Fraser, 'Of cabbages and king cobra: Populist politics and Zambia's 2006 election', *African Affairs* 106, 425 (2007), pp. 611-637; Nic Cheeseman and Marja Hinfelaar, 'Parties, platforms, and political mobilization: The Zambian presidential election of 2008', *African Affairs* 109, 434 (2010), pp. 51-76; Nic Cheeseman and Miles Larmer, 'Ethnopolitism in Africa: Opposition mobilization in diverse and unequal societies', *Democratization* 22, 1 (2015), pp. 22-50.

established that this was the case in the immediate post-independence period by examining the case of Chief Justice James Skinner, a white Zambian who headed the country's judiciary who was forced to resign and then leave the country after making a politically unpopular ruling.<sup>26</sup>

In this article, we use the Clarke Affair to show that political elites continued to use racial nationalism as a tool for decades after Zambian independence, and that its use was tied to moments of political weakness. There is a remarkable similarity with the Skinner case, which also involved protests orchestrated by members of the ruling United National Independence Party (UNIP) and appeals to the government to rid the country of an alien foreigner.<sup>27</sup> Notably, however, we find that there is not a ready constituency for racial nationalism in Zambia. Rather than a popular expression of anger rooted in memories of colonial injustices, the protests in 2004 were staged by the ruling MMD as a kind of political theatre.

The case of Justice Skinner is the clearest parallel to the attempt to deport Clarke in 2004. There are others, however, in Zambia and more widely. Perhaps the clearest contemporary parallel is the deportation of the Australian political scientist Kenneth Good from Botswana in 2005. Good had been a long-term resident of Botswana and was expelled for his criticisms of the government.<sup>28</sup> As in the case of Clarke, official acceptance of his position in Botswana was tied to political considerations. Similarly, the radical sociologist Patrick Wilmot, a long-term resident of Nigeria, was abruptly deported to the UK in 1988, though he was born

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<sup>26</sup> Sishuwa Sishuwa, 'A white man will never be a Zambian': Racialised nationalism, the rule of law, and competing visions of independent Zambia in the case of justice James Skinner, 1964–1969', *Journal of Southern African Studies* 45, 3 (2019), pp. 503-523.

<sup>27</sup> Clarke himself, who had been in Zambia when Skinner was removed, drew the same parallel. Interview with Roy Clarke, Lusaka, Zambia, 25 June 2022.

<sup>28</sup> Mokganezi Zara Botlhomilwe, David Sebudubudu and Bugalo Maripe, 'Limited freedom and intolerance in Botswana', *Journal of Contemporary African Studies* 29, 3 (2011), pp. 333-334.

in Jamaica, after he criticised then military ruler Ibrahim Babangida. Like Clarke, Wilmot was married to a national of the country he resided in, but political considerations trumped this.<sup>29</sup> More broadly, the residency rights and citizenship of individuals or groups deemed to be political threats can be revoked and they could be physically removed. Many Ghanaian nationals of Lebanese descent, for instance, had their nationality revoked in the late 1970s after the community became politically suspect.<sup>30</sup>

The use of deportations as a means of removing critics identified as foreigners has long been a political strategy in Zambia. In 1975, President Kaunda detained and deported five white academics, all committed anti-colonial activists from the University of Zambia, whom he accused of orchestrating student protests against the government's position towards the liberation struggle in Angola. All five had lived in Zambia for several years, some had permits for permanent residency, and one, Robert Molteno, had no citizenship, having been stripped of his South African citizenship for anti-Apartheid activism.<sup>31</sup> Kaunda was to deport more government critics in the 1980s, many of whom were hurriedly arrested before they were swiftly bundled onto the earliest available planes.

This strategy continued with the return to multi-party democracy in the 1990s. The UNIP, now in opposition, was targeted. Most notably, the government tried to deport the increasingly critical former President Kaunda to Malawi and briefly stripped him of his

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<sup>29</sup> Michael Oládèjo Afoláyan, *Higher education in postcolonial Africa: Paradigms of development, decline, and dilemmas* (Trenton NJ, Africa World Press, 2007), p. 65. We are grateful to Akinyinka Akinyoade for this example.

<sup>30</sup> Akyeampong, 'Race, Identity and Citizenship', pp. 317-18.

<sup>31</sup> Morris Sheftel, 'Robert Molteno, 11 January 1943–31 January 2022', *Africa* 92, 3 (2022), pp. 414–16.

citizenship on the grounds that his parents had been born in Malawi.<sup>32</sup> Prior to this, the government had successfully deported William Banda and John Chinula, who were critics of the government and prominent UNIP members. Both were stripped of their citizenship and removed to Malawi. The government also threatened the Bangladeshi owner of a newly-established independent newspaper, *The Sun*, with deportation for printing critical stories and eventually pressured him to sell the publication to an MMD supporter.<sup>33</sup> This was followed by attempts to deport Dipak Patel, a Zambian of Indian descent who had played a key role in the founding of the MMD and served as a cabinet minister, for opposing President Frederick Chiluba's third term and speaking out against corruption.<sup>34</sup> Expelling offending individuals from the country was therefore a common political practice by the early 2000s.

### **Political life in Zambia during the early 2000s**

Targeted deportations of critics are linked to moments when political elites feel challenged or weak and the political context in early 2000s Zambia explains the reaction by Mwanawasa's government to Clarke's column. This was the narrow and contested nature of Mwanawasa's victory in the 2001 election, infighting within the MMD and the continued lacklustre economic performance. These factors, discussed below, left Mwanawasa in an uncertain and threatened position.

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<sup>32</sup>'Kaunda faces deportation' *The Independent*, 17 October 1995 <<https://www.independent.co.uk/news/world/kaunda-faces-deportation-1578183.html> > (21 December 2022).

<sup>33</sup> Chisepo J.J. Mphaisha, 'Retreat from democracy in post one-party state Zambia', *The Journal of Commonwealth & Comparative Politics* 34, 2 (1996), pp. 74, 77.

<sup>34</sup> Gero Erdmann and Neo Simutanyi, 'Transition in Zambia: The hybridisation of the Third Republic', Konrad-Adenauer-Stiftung, Occasional Papers (December 2003), p. 53. *The Post*, 'Deport Dipak, demands MMD cadres', 27 August 2001.

By January 2004, the MMD had been in power for 13 years and the euphoria that had accompanied the party's first election had long evaporated. In 1991, the MMD, a broad coalition of diverse interest groups including academics and students, trade unionists, politicians, and businesspeople, had succeeded in overturning one-party rule and restoring multiparty democracy. Under the leadership of Frederick Chiluba, the party went on to convincingly win the first multiparty election held in 23 years, defeating UNIP, the pre-eminent political force in Zambian society from independence in 1964 to 1991.<sup>35</sup>

President Chiluba was re-elected in 1996, but in a contentious election in which his main opponent, former president Kaunda, was barred from standing.<sup>36</sup> The new Constitution limited the presidency to two five-year terms, but by the late 1990s Chiluba was pushing for an amendment that would allow him to stand for a third term. This move proved enormously unpopular both within the MMD and across the country. Widespread opposition emerged within civil society, the military and even the ruling party.<sup>37</sup> Chiluba was forced to back down, and instead named Mwanawasa as his successor.

Mwanawasa had previously been vice-president of both Zambia and the MMD, and Chiluba believed his former deputy was someone he could control. Mwanawasa narrowly won the 2001 elections, but the opposition alleged serious irregularities and immediately filed a

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<sup>35</sup> Carolyn Baylies and Morris Szeftel, 'Democratisation and the 1991 elections in Zambia', in J. Daniel, Roger Southall and Morris Szeftel (eds.), *Voting for democracy: Watershed elections in contemporary Anglophone Africa* (Ashgate, Aldershot, 1999), pp. 83-109.

<sup>36</sup> Carolyn Baylies and Morris Szeftel, 'The 1996 Zambian elections: Still awaiting democratic consolidation', *Review of African Political Economy* 24, 71 (1997), pp.113-128.

<sup>37</sup> Sishuwa Sishuwa, 'Surviving on borrowed power: Rethinking the role of civil society in Zambia's third-term debate,' *Journal of Southern African Studies*, 46, 3 (2020), pp. 471-490.

legal challenge.<sup>38</sup> This took several years to resolve, and it was not until February 2005 that the Supreme Court ruled in Mwanawasa's favour, though the court confirmed that some irregularities had taken place.<sup>39</sup> Of significant consequence was that the election petition hung over the first few years of Mwanawasa's presidency and delegitimised his leadership.

It did not help that the MMD had problems of its own. Rebuffed in his attempts to secure the national presidency, Chiluba did succeed in amending the MMD constitution and securing re-election as party president for a third term. This meant that there were effectively two centres of power in the party after the 2001 election: one around Mwanawasa, as president of the Republic, and the other around Chiluba, as president of the party. Infighting between them began as Mwanawasa sought to assert his independence and initiated an anti-corruption campaign that saw the prosecution of his predecessor and several of his former close officials.<sup>40</sup>

While Chiluba's supporters felt that Mwanawasa was trying to use state institutions to attack his factional opponents, those aligned to Mwanawasa considered judges, many of whom were appointed by Chiluba, as loyal to the former president. Mwanawasa's allies tied the failure of the anti-corruption campaign to secure any convictions by 2004 to this supposed bias. In this polarised context, Mwanawasa became intensely suspicious that senior figures in the party were not sufficiently loyal to him, including those in government.<sup>41</sup> This culminated in the expulsion from cabinet of several MMD leaders suspected to be pro-Chiluba in 2003. The consequence was that by the beginning of 2004, Mwanawasa, with a weak electoral mandate,

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<sup>38</sup> Sishuwa Sishuwa, *I am Zambia's redeemer': Populism and the rise of Michael Sata, 1955-2011*, (University of Oxford, unpublished DPhil thesis, 2016), p. 214.

<sup>39</sup> *The Post*, 'Levy toasts victory with champagne', 18 February 2005.

<sup>40</sup> Sishuwa, *I am Zambia's redeemer'*, pp. 233-47.

<sup>41</sup> Interview, MMD spokesperson under Mwanawasa, Akashambatwa Mbikusita Lewanika, Lusaka, Zambia, 12 April 2022.

unresolved legal issues around his election, and serious infighting within his own party, felt that he was in an uncomfortably weak position.

Adding to Mwanawasa's woes was Zambia's lacklustre economy. The MMD under Chiluba embarked on a comprehensive programme of Structural Adjustment that proved deeply unpopular and failed to revive the economy. Opposition parties and trade unions held regular protests over the state of the economy and austerity measures that the government was implementing as part of the requirements for securing debt relief. Many urban residents, dissatisfied with years of high unemployment, high taxes and housing shortages, turned up to these protests.<sup>42</sup> This context provided sufficient ready material for newspaper columnists, including satirical ones such as Roy Clarke.

### **Situating Roy Clarke in post-colonial Zambia**

By 2004, Roy Clarke had spent his entire adult life in Zambia. Born in the United Kingdom, he had first arrived in colonial Zambia in 1962 while a metallurgy student and got a job working underground on a copper mine. The copper industry regularly recruited white workers from overseas, but Clarke was unusually well-informed about the colony, having not only followed developments in the press but also having read the anthropologist Hortense Powdermaker's book *Copper Town*.<sup>43</sup> After completing his studies in London, he returned again to Zambia and went back to the mines, leaving in 1966 because, as he put it, nothing had changed in the industry after independence. Many of his white colleagues were racist and treated black Zambians poorly. Instead, he sought to become a teacher because he wanted to do something

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<sup>42</sup> Larmer and Fraser, 'Cabbages and king', p. 635.

<sup>43</sup> Hortense Powdermaker, *Copper town: Changing Africa. The human situation on the Rhodesian Copperbelt* (New York, Harper & Row, 1962)

useful for Zambia and contribute towards independence, a commitment which would subsequently become highly relevant in the court case.<sup>44</sup> He ended up teaching in Luanshya where he met and married a black Zambian woman Sara Longwe, which again was to become an important feature of the case. He spent the next decade working in a series of jobs for government before studying for a Master's degree in the United Kingdom. On return in 1979, Clarke joined the University of Zambia as a lecturer, a position he held for the next ten years.<sup>45</sup>

There is one additional feature of Clarke's biography and career that is worth highlighting. Despite his many years in Zambia, he never became a Zambian citizen and instead retained British citizenship. This was because of a peculiar incentive structure established by many companies in Zambia at independence and later subsidised by the British Government. In the colonial era, there was a sharp racial division of labour and white workers received much higher wages than Africans, especially on the mines where Clarke first worked. At independence, the mining companies introduced a new dual pay structure to restrict pay increases for African mineworkers and graded all employees as either 'expatriates' or 'locals'. This was almost entirely a racial category. All whites, even though born in Zambia, were regarded as expatriates whereas all Africans, even those born in Malawi or Tanzania, were treated as locals.<sup>46</sup>

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<sup>44</sup>'The Insult', *The Guardian*, 7 January 2004  
<<https://www.theguardian.com/media/2004/jan/07/pressandpublishing.g2>> (30 August 2022).

<sup>45</sup> Interview, Clarke, 25 June 2022.

<sup>46</sup> Duncan Money, *White mineworkers on Zambia's Copperbelt: In a class of their own* (Brill, Leiden & Boston, 2021), pp. 219-225



There was one aspect in which this system was non-racial: any white employee who adopted Zambian citizenship would be graded as local employee, and thus receive a sharp pay cut. This provided a very strong incentive not to take up Zambian citizenship while Clarke worked on the mines. Similar salary structures were established in Zambia's new independent government, and this was subsidised by the British Government. Britain established schemes to supplement the salaries of British nationals working in government posts in Zambia, including the Overseas Supplementation Aid Scheme for schoolteachers and the British Expatriate Supplementation Scheme for university employees.<sup>47</sup> This too had direct consequences for Clarke. He had to remain a British citizen to receive this salary supplement but also had to periodically return to Britain to maintain a fiction that he was being induced to remain in Zambia through these inducement payments. These schemes continued long after independence.<sup>48</sup> Even when Clarke worked at the University of Zambia in the late 1980s, his salary was supplemented by the British Government.

Political changes in Zambia in the 1990s offered Clarke a new career direction. Until 1991, the print media, television and radio stations were owned and run by the state. Partly in response to donor demands for political liberalisation, restrictions on private media were lifted and many independent outlets were established. Notable here was *The Post*, which became the country's leading independent newspaper and a fierce critic of the government. The MMD had an adversarial relationship with the new independent press. During the 1990s, several *Post* journalists were arrested and charged with defamation of Chiluba, while the offices were

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<sup>47</sup> Langazye Henry Kaluba, *International cooperation in education: A study of education aid policies and management – with particular reference to British and Swedish aid in Zambia, 1964-1989*, (Institute of Education, University of London, unpublished PhD thesis, 1990), p. 245.

<sup>48</sup> In Southern Africa, they were still in operation in the early 1990s. James Cobbe, 'Possible negative side effects of aid to South Africa's neighbours', *African Affairs* 89, 354 (1990), pp. 85-96.

ransacked by armed police on one occasion.<sup>49</sup> Clarke had joined the state-owned *Times of Zambia* as a weekly columnist, but had a satirical article rejected by the editor for fear it would annoy the government. In protest, he joined *The Post* in 1996 and by 2004 was an established columnist, whose weekly article regularly targeted politicians with thinly veiled allegory.<sup>50</sup> The column was popular and incensed government officials. Then Minister of Home Affairs, Ronnie Shikapwasha, recalled that the government had been monitoring Clarke and his column for some time. But it was only in 2004, after the publication of his column on New Year's Day, that they decided to act.<sup>51</sup>

### **Mfuwe: 'We can't start a new year by insulting people'**

Clarke's article portrayed President Mwanawasa on holiday at Mfuwe, addressing the animals of the park as his constituency. As well as depicting the government as a pack of duplicitous jungle animals, taking the Zambian people for fools, the article hinted at damning allegations of electoral fraud, corruption, and incompetence. Clarke referenced snakes slithering into ballot boxes to stuff them with votes and hyenas as political cadres chasing away opposition voters. It was a thinly veiled criticism of Zambian politics. Most damning though was the portrayal of Mwanawasa and senior government figures as animals. Mwanawasa was described as a great elephant *Muwelewele*. 'His dishevelled safari suit was unbuttoned', the satirist began, 'and his huge belly hung over his trousers. In front of him sat all the assembled animals of Mfuwe, waiting for the Great Elephant Muwelewele to begin his Christmas Message':

Distinguished elephants, honourable hippos, mischievous monkeys, parasitic politicians, bureaucratic buffalos and other anonymous animals. I have just returned from one of my very brief

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<sup>49</sup> Mphaisha, 'Retreat from democracy', p. 73.

<sup>50</sup> Interview, Clarke, 25 June 2022.

<sup>51</sup> Interview, Ronnie Shikapwasha, Lusaka, Zambia, 20 July 2022.

visits to Lusaka in order to be with you at this time of celebration. My message to you is that the last year has been a resounding success, and Mfuwe has never been more prosperous...

I have appointed jackals as my district administrators, and put the long-fingered baboons in charge of the treasury. I have put the knock-kneed giraffe in charge of agriculture, the hungry crocodile in charge of child welfare, and the red-lipped snake in charge of legal reform. And best of all, all the pythons are now fully employed, squeezing the taxpayers!<sup>52</sup>

The article appeared on New Year's Day when Mwanawasa was in fact on holiday in the South Luangwa National Park at Mfuwe. Clarke had no inkling that his article would produce a reaction and mainly worried that nobody would read his column as it was published on a national holiday.<sup>53</sup> By his own account, he only became aware of imminently impending difficulties when his deportation was announced, three days later, on the prime-time national television news at 19:00hrs. Carrying the message was Peter Mumba, the Permanent Secretary in the Ministry of Home Affairs, who said, 'We can't start a new year by insulting people' and that the 'government is particularly not happy that Clarke is referring to President Mwanawasa as *Muwelewele*, meaning he is foolish and confused'. The reason why this was so serious, Mumba added, is because 'When you insult the president, you are insulting the people. When you insult the leaders, you are insulting the people they represent' and emphasised that 'marrying a Zambian does not make Clarke a Zambian'.<sup>54</sup> Clarke's offence was so grievous

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<sup>52</sup> *The Post*, 'Mfuwe', 1 January 2004.

<sup>53</sup> Interview, Clarke, 25 June 2022.

<sup>54</sup> Mumba further added that 'I don't see Clarke staying long in the country. I have been following his writings but this time he has gone too far. He should go back [to the UK] and start writing about his own people... We are not monkeys', *The Post*, 'PS seeks deportation of Spectator Clarke', 5 January 2004. Sara Longwe, Clarke's wife, is a prominent activist and there was some speculation that the government had targeted him also as a way of silencing her. *The Guardian*, 'The Insult', 7 January 2004.

because he was a foreigner and this status transformed his criticism into an insult against the whole nation, one that could only be remedied by removing him from that nation.

Clarke evaded deportation by immediately going into hiding at the urging of the editor of *The Post*, Fred M'membe.<sup>55</sup> M'membe portrayed the imperative to protect Clarke as a matter of freedom of speech and freedom of the press.<sup>56</sup> The government had anticipated a swift capture and removal of Clarke and had even purchased a ticket for him on a British Airways flight to London that was scheduled to depart on the same day when his deportation was announced.<sup>57</sup> M'membe took a central role in defending Clarke. He even published the offending column in *The Post* under his own by-line and openly demanded the government take action: 'I am responsible and totally answerable for Roy's column. It's me who published it, not Roy. Come for me and deport me.'<sup>58</sup> No action was taken against M'membe.

As discussed above, deportation had become a regular feature of Zambian politics by the early 2000s. M'membe was well aware of the government's tactics, as he had been involved in the cases of Banda and Chinula who had been deported to Malawi in 1994. The government had swiftly removed the two to Malawi after grabbing them in the middle of the night. M'membe and other supporters found that a legal challenge to this action was impossible with

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<sup>55</sup> Clarke disclosed that he hid in a servant's quarters of a house in Lusaka's Kabulonga suburb and only came out a week later when it was safe to do so. Interview, Clarke, 25 June 2022.

<sup>56</sup> Interview, Fred M'membe, Lusaka, Zambia, 25 June 2022.

<sup>57</sup> *Zambia Daily Mail*, 'Clarke manhunt launched', 7 January 2004.

<sup>58</sup> *BBC News*, 'Zambia Court Blocks Deportation', 2 January 2004 <<http://news.bbc.co.uk/1/hi/world/africa/3371827.stm>> (20 August 2022)

the claimants out of the country, and so considered it imperative for Clarke to remain in Zambia while a legal challenge was mounted.<sup>59</sup>

A judicial review was immediately brought to the High Court to stay the minister's decision to deport Clarke. The case came before judge Philip Musonda, who was appointed to the High Court by President Chiluba in February 2001.<sup>60</sup> Musonda first ordered the Minister of Home Affairs to halt the deportation of the hiding Clarke, pending determination of the main matter, though this was initially ignored by the government.<sup>61</sup> When trial in the case got underway, the Minister for Home Affairs Ronnie Shikapwasha argued that his decision to deport Clarke was motivated by the belief that the British national's 'continued presence in Zambia was a threat to peace and good order because Clarke's description of Zambian people in the article as animals could incite hatred and lead to violence.' Clarke's actions, Shikapwasha argued, fell under legislation that give him the power to deport any person 'who in the opinion of the Minister is by his presence or his conduct likely to be a danger to peace and good order in Zambia'.<sup>62</sup> The MMD's orchestration of public demonstrations was crucial to giving this impression.

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<sup>59</sup> Interview, M'membe, 25 June 2022. The government too learned through experience. When two Brazilian pastors were deported in 2006, the government deported them from Ndola, rather than Lusaka, as officials knew it would be more difficult to obtain legal representation at short notice in Ndola. Interview, Peter Mumba, Lusaka, Zambia, 22 August 2022.

<sup>60</sup> Interview, Philip Musonda, Lusaka, Zambia, 26 June 2022.

<sup>61</sup> *The Post*, 'Shikapwasha Resists Clarke's Court Order', 7 January 2004.

<sup>62</sup> *Roy Clarke v The Attorney General* (2004)/ HP/ 003, 11. Shikapwasha had by this time his own reasons to be angry at Clarke. While in hiding, Clarke penned another column about the reaction to his previous column, featuring 'the dreaded Shaky Shikashiwa, Minister of Law and Disorder' kneeling in a 'wobbly grovel' in front of the president. *The Post*, 'Baboon', 7 January 2004.

The court case was intensely politicised. The PF, one of the leading opposition parties at the time, swung its support behind Clarke and rallied its supporters at the court, who were clad in T-shirts that printed Clarke's offending column, in its entirety, on the front. The ready adoption of these T-shirts gives some indication that many did not consider the column controversial or offensive at all. The PF leader Michael Sata, who became the country's president in 2011, came personally to the court to support Clarke.<sup>63</sup>

There was also intense political pressure behind the scenes in a manner that sheds light on executive interference in Zambia's judiciary. Musonda alleged that he was offered the position of chairperson of the Electoral Commission of Zambia, which would have been a substantive promotion, in return for ruling in the government's favour. Two emissaries reportedly sent by President Mwanawasa visited Musonda while he was presiding over the case to offer him the deal. This kind of approach from government, he added, was not that unusual.<sup>64</sup> The plausibility of these allegations is bolstered by comments from Shikapwasha who revealed that he had attempted to contact the High Court judge privately during the case via one of his relatives, who was a friend of Musonda.<sup>65</sup>

Musonda rejected these inducements and on 26 April 2004 overturned the deportation order. In his judgement, Musonda stated that even though he considered the article 'overstretched satire, irritating and insulting', Clarke's rights to freedom of expression and protection of the law had been infringed by the decision to deport him. Musonda further argued

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<sup>63</sup> Interview, Clarke, 25 June 2022. For an analysis of Sata's earlier and later political career, see Sishuwa Sishuwa, 'Patronage politics and parliamentary elections in Zambia's one-party state c. 1983–88', *Journal of Eastern African Studies* 14, 4 (2020), pp. 591-612; and Sishuwa Sishuwa, 'Roots of contemporary political strategies: Ethno-populism in Zambia during the late colonial era and early 2000s', *Journal of Southern African Studies* 47, 6 (2021), pp. 1061-1081.

<sup>64</sup> Interview, Musonda, 26 June 2022.

<sup>65</sup> Interview, Shikapwasha, 20 July 2022.

that since no action had been taken against the black Zambian newspaper editor who had republished the offensive article under his name, Clarke had been individually targeted and discriminated against on the grounds of his origin and race. ‘Our constitution does not create one set of offences for aliens and another for Zambians’, the judge ruled. ‘Equality is the symbol of liberty.’<sup>66</sup>

This ruling was portrayed as a victory for freedom of the press, and Clarke’s lawyers had presented the case in these terms.<sup>67</sup> These considerations, however, did not play a primary role in Musonda’s ruling. Instead, Musonda emphasised the importance of family and Clarke’s connection to Zambia in his personal assessment of the case as well as the influence of the US judicial system on him. Musonda, who received his education in Zambia and the UK, had regularly travelled to the United States as part of official exchanges to view the American court system. He noted that he had attended an appeal case in New York in 1998 where a Mexican man convicted of drug offences had been sentenced to deportation and then had the deportation order overturned because he was married to an America woman and the two had a family together.<sup>68</sup> It was of paramount importance, according to Musonda, that Clarke was married to a Zambian woman and had children and grandchildren. Rather than talking about principles of freedom of the press, Musonda emphasised that it was immoral to deport Clarke because he had a family in Zambia: ‘You will be indirectly denying them Zambian citizenship by forcing them to go and live with him in England’.<sup>69</sup> Musonda also rejected the idea that Clarke was a racist, emphasising that he was ‘not on the side of colonialism but the liberation struggle’, even

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<sup>66</sup> *Roy Clarke v The Attorney General* (2004)/ HP/ 003, p. 29.

<sup>67</sup> Clarke’s Patrick Matibini argued the deportation order was ‘illegal, oppressive and irrational and a violation of press freedom’ and the case was one of freedom of speech. ‘Clashes as columnist appears in court’, *Mail & Guardian*, 26 January 2004.

<sup>68</sup> Interview, Musonda, 26 June 2022.

<sup>69</sup> *Roy Clarke v. The Attorney General*, p. 34

though Clarke had played no role in the struggle for independence.<sup>70</sup> Clarke's perceived contribution to the nation and his connection through family meant he should stay.

Musonda also referenced the influential U.S. Supreme Court case, *New York Times Company v. Sullivan (1964)*, in which the court limited the right of public officials to sue for defamation. The judge found the argument by the government that Clarke's article was a direct insult on President Mwanawasa and his ministers unconvincing, stating that '[t]hough deportation is authorised by law, in this case, it was unlawful and an excessive measure. The State officials should unlearn the negativity of satire and the applicant should also learn the positivity of cultural accommodation sensitivity'.<sup>71</sup> American influence on judicial practice in Zambia is worthy of further research.

At the instigation of President Mwanawasa, the government appealed Musonda's decision to the Supreme Court. Four years later, in 2008, the appellate court reversed the decision of the lower court on every position but stopped short of ruling in favour of Clarke's deportation, noting that the deportation was 'too extreme an action' and 'disproportionate' in relation to the offence.<sup>72</sup>

### **'Roy Clarke called me Muwelewele': President Mwanawasa's response**

The idea that Clarke's column represented a threat to public order was central to the government's strategy for removing a prominent critic. Unpacking the chronological sequence of events is key to showing how this threat was deliberately manufactured by President

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<sup>70</sup> Interview, Musonda, 26 June 2022.

<sup>71</sup> *Roy Clarke v The Attorney General*, p. 34.

<sup>72</sup> *Attorney General v Clarke (23 January 2008)*, p. 39.



Mwanawasa and other senior MMD figures as a conscious political strategy. Racial nationalism was deployed by political elites to bolster their position, unify warring elements within the ruling party and mobilise support across government institutions.

Clarke's article was published on Thursday, 1 January 2004. The following day the article was brought to President Mwanawasa's attention while he was on holiday in Mfuwe. According to a then senior director in the Zambia Intelligence and Security Services, the President was reportedly angered not so much by the article's contents but the race and nationality of its author and Clarke's presumed political affiliations:

The President was extremely angered by that article and thought that Mr Clarke had attacked him personally. I remember him telling us that "I do not mind being insulted by Zambians, but I will not accept being insulted by a white person who is not even Zambian". He also thought Mr. Clarke was somewhat connected to the PF of Mr. Michael Sata which at the time was really making his life difficult.<sup>73</sup>

Mwanawasa himself was to make a similar point when publicly commenting on Musonda's decision a day after the judge overturned the deportation order:

Roy Clarke insulted [and] called me *Muwelewele*. I might be useless in the eyes of my people but not foreigners. If you go to the United Kingdom, you cannot insult the leadership without being deported. We will appeal so that the Supreme Court can determine whether Clarke was right to call us kaffirs. It is government's intention to test the law. Why is it that human rights only arise when someone of the Western origin is punished for wrongdoing? We fought for independence, not for foreigners to start insulting us.<sup>74</sup>

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<sup>73</sup> Interview, senior intelligence officer, Lusaka, Zambia, 21 July 2022. The officer was based at State House at the time of the Clarke incident.

<sup>74</sup> *The Post*, 'Roy Clarke called me Muwelewele – Levy', 28 April 2004.

On Saturday, 3 January, the Minister of Home Affairs signed the deportation order of Clarke. Later, he claimed he did so because ‘I was under pressure from the structures of the MMD to act’.<sup>75</sup> On the same day, the entire leadership of the MMD in Lusaka, led by district chairperson Paul Moonga, was summoned to State House. Moonga recalled that he was instructed to bring MMD leaders from all eight urban constituencies in Lusaka and ‘Once we were at State House, we were given instructions and cash to organise cadres, hire buses and buy a coffin for the protest against Roy Clarke that we were told was planned for Monday.’<sup>76</sup> Similar efforts were underway on the Copperbelt and Livingstone to engineer protests in the country’s main urban areas and create the impression of genuine grassroots anger. This was done with a strong degree of secrecy and organised through the party, rather than the government.

The Lusaka district MMD chairperson recalled that the organisation of the demonstrations was really a work matter. Moonga revealed that many of his colleagues in the party had not even read the satirical piece that they were asked to protest. He personally felt no outrage over the article, labelling it simply as a ‘satire in the mould of animal farm’, which interestingly is precisely the same terms that Clarke used to describe his work.<sup>77</sup>

On Sunday, 4 January, Peter Mumba, the Permanent Secretary for Home Affairs, appeared on national news, to announce that he would be petitioning the minister to sign the deportation order of Clarke.<sup>78</sup> This was pure political theatre. The Minister of Home Affairs

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<sup>75</sup> Interview, Shikapwasha, 20 July 2022.

<sup>76</sup> Interview, Paul Moonga, Lusaka, Zambia, 19 July 2022.

<sup>77</sup> *Ibid.*

<sup>78</sup> Interview, Mumba, 22 August 2022.

had already signed the deportation order the previous day. When he appeared before the High Court, Shikapwasha also emphasised that Clarke's article was not seen simply as an insult against Mwanawasa; it was also an attack on his government and the whole country:

At the time of meeting Movement for Multiparty Democracy members and other concerned citizens who were protesting over the insulting article, I had already issued the warrant of deportation, but the applicant was evading service. In my opinion, the applicant is likely by his presence in Zambia to be a danger to peace and good order. In particular, his reference to the people of Zambia as animals – monkeys and hippos – has excited and encouraged racial hatred in Zambia. Under the law, I am not obliged to disclose how I arrived at the decision to deport him.<sup>79</sup>

On Monday, 5 January 2004, MMD cadres appeared in various cities across Zambia protesting against Clarke and carrying coffins bearing his name. Clarke's column was depicted as a racialised insult, one that was part of a long tradition of comparing Africans to animals, and he was portrayed as a supporter of colonialism. State media quoted MMD protestors in Kitwe who were reportedly 'incensed' by Clarke's column because it was 'reminiscent of the Apartheid era in South Africa and Zambia's colonial days' and because insulting Mwanawasa showed 'disrespect for the people of Zambia'.<sup>80</sup> Mwanawasa publicly alleged that Clarke had called him a 'kaffir', an extremely offensive racist term for Africans common in the colonial period, one that the satirist never used in the article.<sup>81</sup>

Mwanawasa's supporters also made strenuous efforts to connect the supposed popular anger against Clarke to support for Mwanawasa. Mumba claimed publicly that 'when you insult the president, you insult the people he represents', a claim echoed by an MMD official

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<sup>79</sup> *The Post*, 'Shikapwasha resists Clarke's court order', 7 January 2004.

<sup>80</sup> *Zambia Daily Mail*, 'Leave Zambia! Clarke Ordered', 6 January 2004.

<sup>81</sup> *The Post*, 'Roy Clarke called me Muwelewele – Levy', 28 April 2004.

in Ndola who condemned Clarke for ‘insulting the nation through its leaders’.<sup>82</sup> State media emphasised that protestors were ‘singing solidarity songs in support of President Mwanawasa’s leadership’.<sup>83</sup>

These claims seem to have had little popular resonance. Many figures in civil society, opposition politicians, and the wider public defended Clarke in letters published in the independent media.<sup>84</sup> Supporters of Clarke tried to contest the idea that he and his work were foreign by arguing it was part of a national tradition. M’membe, for instance, argued that Clarke’s columns were ‘an outgrowth from the more direct style of political criticism practised by the late Lucy Sichone and Jowie Mwiinga’, and that chiefs and kings could traditionally be subject to ridicule.<sup>85</sup>

The aim of punishing and removing Clarke was shaped by the factional politics of the MMD in other ways. Mwanawasa’s demand for loyalty motivated senior party figures to publicly demonstrate that loyalty to secure their own position in a context when Mwanawasa was purging suspected Chiluba supporters from government. Akashambatwa Mbikusita Lewanika, who was then the MMD spokesperson, provided insights into these internal party politics in which ‘loyalty was performed’:

Levy [Mwanawasa] constantly complained that his ministers were not defending him enough from criticism and that many of them were not loyal to him but to former president Chiluba. So, when

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<sup>82</sup> *BBC News*, ‘Zambia “deports” writer over slur’, 5 January 2004. *Zambia Daily Mail*, ‘Clarke manhunt launched’, 7 January 2004.

<sup>83</sup> *Zambia Daily Mail*, ‘Leave Zambia! Clarke Ordered’, 6 January 2004.

<sup>84</sup> For example, see Staff reporters, ‘Judge Musonda stops Clarke’s deportation’, *The Post*, 6 January 2004, ‘1-4.

<sup>85</sup> Lucy Sichone and Jowie Mwiinga were prominent Zambian journalists and activists. A book compiling Clarke’s columns was dedicated to Sichone. Roy Clarke, *The worst of Kalaki and the best of Yuss* (Bookworld Publishers, Lusaka, 2004), pp. ix-x.

the Roy Clarke incident happened, those around President Mwanawasa used the incident to demonstrate loyalty. Individuals like Shikapwasha and Peter Mumba used their offices and the processes set in motion by the case to endear themselves to him, to show him that they were firmly on his side, and, that way, secure their own positions in government at a time when many ministers and MMD officials were being removed from Cabinet for suspected loyalty to Chiluba.... Mumba and Shikapwasha saw an opportunity in his anger to secure their positions by deporting the person who had caused that anger. This probably explains why they wanted a swift deportation of Clarke without due process. It was a theatre in which loyalty to the leader who held state power was performed.<sup>86</sup>

Shikapwasha subsequently interpreted his role in the Clarke affair in a similar vein: ‘Our duty as cabinet ministers is to protect the President. How do you protect him? Number one is to do his will. Number two is to bring the will of the people to him, and number three is to become the buffer between the good, the bad and the ugly.’<sup>87</sup>

The suspicion by Mwanawasa and his faction that leading members of the government were more loyal to Chiluba than to him extended to the judiciary. In Zambia, the law dealing with defamation of the President, created in 1965, provides that:

[a]ny person who, with intent to bring the President into hatred, ridicule or contempt, publishes any defamatory or insulting matter, whether by writing, print, word of mouth or in any other manner, is guilty of an offence and is liable on conviction to imprisonment for a period not exceeding three years.<sup>88</sup>

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<sup>86</sup> Interview, Lewanika, 12 April 2022.

<sup>87</sup> Interview, Shikapwasha, 20 July 2022.

<sup>88</sup> Penal Code Act, Section 69. <<https://www.parliament.gov.zm/sites/default/files/documents/acts/Penal%20Code%20Act.pdf> > (21 August 2022).

While most cases of defamation of the president are prosecuted as such, in this instance, the government moved straight away to deport Clarke. This shows that the authorities were well aware of his status in Zambia – that he was not a citizen – and reflects deep-seated government suspicion of the judiciary. Shikapwasha explained that the government moved immediately to deport Clarke because ‘I did not trust the judiciary... Many of my colleagues in cabinet felt the same way too, especially that some of the judges at the time were appointed by President Mwanawasa’s predecessor, Dr. Chiluba’.<sup>89</sup> In this sense, the eventual judgement from Justice Musonda against the government simply confirmed their fears and explains why the government immediately appealed the High Court’s ruling.

The appeal took four years in Zambia’s overburdened court system. As noted earlier, the Supreme Court ruled that deporting Clark was disproportionate to the offence he committed. Here, however, in the eventual ruling, the court went to great lengths to criticise Clarke for insulting Zambian culture. It even rejected his view that he was exercising freedom of expression. In a move that was widely seen as meant to placate the incensed President Mwanawasa, the seven-member bench stated that Clarke’s *Mfuwe* article went beyond what is protected by the Constitution, that deportation was not a violation of his right to free speech, and that section 26 (2) of the Immigration and Deportation Act was wide enough to allow the Minister to deport an individual in his situation because the term ‘peace and good order’ is wider than ‘national security’.<sup>90</sup> Moreover, the judges opined:

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<sup>89</sup> Interview, Shikapwasha, 20 July 2022.

<sup>90</sup> *Attorney General v Clarke*, p. 28.

It is not for the Respondent to accommodate the cultural values and norms of the Zambian people. It is for the Respondent to conform. The adage is that when you are in Rome do as the Romans do and not that the Romans should do as you the alien to Rome does...

... this case is also a defining case because it will show posterity that Zambians are not ready to allow aliens to show disrespect to their cultural values and norms and disrupt their way of life.<sup>91</sup>

Here, we see how a newspaper satirical piece from a long-term resident of a country was interpreted and recast as a white foreigner attacking the whole nation. This points to how both the executive and the judiciary saw the President of Zambia in the mould of a Father of the Nation and symbol of the whole country, who accordingly should be guarded from criticism.

## **Conclusion**

Many African states tightened citizenship laws in the years following independence and tied membership of the new political community to notions of indigeneity.<sup>92</sup> The status of citizens or long-term residents who had no plausible connection to indigeneity was therefore provisional. This status often tied to wider political considerations and could be rescinded in moments when ruling political elites felt vulnerable. The politics of racial nationalism were part of this, especially because the presence of racial minorities in many African countries was linked to colonialism. Contemporary racial nationalism draws on this colonial history to affirm that some people and groups are not, or cannot, be part of the nation and can be deployed to delegitimise criticism and physically remove critics, or at least attempt to.

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<sup>91</sup> *Ibid.*, pp. 32-4.

<sup>92</sup> Samuel Fury Childs Daly, 'Ghana Must Go: Nativism and the politics of expulsion in West Africa, 1969–1985', *Past & Present*, (2022). Zoë Groves, '“Zimbabwe is my home”: Citizenship and belonging for ‘Malawians’ in Post-independence urban Zimbabwe', *Southern African Historical Journal* 72, 2 (2020), pp. 299-320. Money, '“Aliens’ on the Copperbelt’.

In this sense, the case of Roy Clarke in Zambia examined in this article reflects wider tensions about the position of racial minorities in African states since political independence. Attention to the question of racial minorities demonstrates an underlying construction of African nations as inherently racially homogenous. The Zambian government could draw on a ready repertoire to try to delegitimise Clarke's criticism and presence in the country by linking him to colonialism and apartheid. In so doing, they constructed him as an outsider against whom the nation should be defended.

This article also then tells us something about the role of race in political life in independent Zambia. Racial nationalism is a subject that has not received much attention in the existing Zambian scholarship, aside from work on race and organised labour and the case of Justice Skinner.<sup>93</sup> The events described in this article are a useful way to look into the broader issues of race, nationalism and citizenship and show how these remain salient even in a country like Zambia that is often imagined as racially homogenous.

Racial nationalism, however, is not a constant feature of political life in Zambia. As we have shown, its emergence is tied to particular moments and contexts, namely faction-fighting among the ruling party and the perceived weakness of an incumbent's position as president. The same is true of deportations and attempted deportations. These are common features of Zambian politics but not routine.<sup>94</sup> Further work could establish whether this explanation is valid more widely for other states. In situations of internal power struggles, individuals who

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<sup>93</sup> Sishuwa, 'A white man will never be a Zambian'.

<sup>94</sup> President Michael Sata, a supporter of Clarke in 2004 and opponent of politically-motivated deportations when in opposition, deported a Catholic priest who had been resident in Zambia for thirty years to Rwanda after he criticised the government. *Lusaka Times*, 'We deported Father Banyangandora to Rwanda to teach him a lesson – President Sata', 31 March 2013.



hail from racial minorities and are seen as siding with the one faction or taking the ‘wrong’ position can suddenly have their credentials as Zambians or residents called into question. Zambian politics in the 2000s was marked by often brutal insults and Mwanawasa was referred to as a ‘cabbage’ by many of his opponents, a reference to a car accident he had suffered in 1991. Clarke’s column was mild in comparison but elicited a swift and carefully orchestrated response. His presence in Zambia was acceptable for many years until his column threatened the position of Mwanawasa. The response to his column points to the uneasy position of racial minorities, be they citizens or permanent residents.

Defamation of the president too continues to be a consistent feature of Zambian politics, with people regularly prosecuted for the offence.<sup>95</sup> In cases involving citizens, the alleged offenders are usually arrested and prosecuted. In cases of non-citizens, these become a foreign body to be expelled for insulting the president and the nation. Here too the politics of racial nationalism play a role. There are comparative cases of protests and controversy over criticism or satire interpreted as racially motivated, both historical and contemporary. At independence in Uganda, for instance, an offensive party thrown by European residents of Kampala became embroiled in internal struggles in the ruling party and regarded as ‘a perceived assault on Uganda’s sovereignty’, with the organisers deported.<sup>96</sup> More recently, in 2012, South African artist Brett Murray exhibited a painting depicting then President Jacob Zuma with his genitals exposed, which he argued was a satirical commentary on Zuma’s morals. Public protests and court cases followed and the painting itself was defaced by supporters of Zuma. The arguments that such protests are often related to faction-fighting within the ruling party, aimed at

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<sup>95</sup> Phiri, ‘Defamation of the President’, p. 1.

<sup>96</sup> Edgar Taylor Curtis, ‘Affective registers of postcolonial crisis: the Kampala tank hill party’, *Africa* 89, 3 (2019), pp. 541–561.

bolstering support for political leaders in weakened positions and, in the case of the Clarke affair, orchestrated by the ruling party to give an appearance of public outrage may have wider relevance.