



Making  
Human Rights  
a Reality

## TOGETHER WE CAN SAVE THE SADC TRIBUNAL

The 2010 decision of the political leaders of the SADC member states to suspend the functioning of their sub-regional Court, the SADC Tribunal, in response to the Tribunal's ruling in *Campbell vs. Zimbabwe* constitutes a blow in the face of justice. Anyone who values the rule of law must frown when politicians set aside fundamental rights and take the bold step of freezing an independent Court that is not ruling in accordance with their wishes.



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### Background

It all started in November 2008, when the SADC Tribunal of 1992, in one of its first human rights cases ruled against Zimbabwe in *Campbell vs. Zimbabwe* and a series of similar cases. The Tribunal ruled that Zimbabwe had breached the

SADC Treaty by compulsorily acquiring farms from white landowners without offering them proper compensation and denying them access to Court. As President Mugabe put it, the judgments were “nonsense” and of “no consequence”. Land issues would be Zimbabwean, not SADC affairs.



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### **How SADC’s Leaders Responded**

The SADC Summit did not push Zimbabwe to comply with its treaty obligations. Rather, in August 2010, it ordered a review of the Tribunal’s role, functions, and terms of reference. The review, initially conducted by the World Trade Institute Advisors (WTIA), was completed in the early part of 2011 and resulted in a series of recommendations, all aimed at strengthening the Tribunal and the enforcement of its decisions. This is not what SADC’s leaders had hoped for. At its Extraordinary Summit held in Namibia in May, 2011, the SADC leaders appeared still unwilling to take a stance against Zimbabwe. They decided not to endorse the recommendations of WTIA. Instead, they assigned their own Ministers of Justice and Attorneys General to undertake yet another review to be completed by August 2012. The SADC leaders further decided that until completion of the review process there will be no reappointment or replacement of judges. In addition, they prohibited the Tribunal from holding hearings and receiving new

cases. The suspension of the SADC Tribunal might imply the death of this judicial organ if no further action is taken.



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### **What we can do to revive the Tribunal**

It goes without saying that only the SADC leaders hold the formal power to revive the Tribunal. But with concerted effort, we can increase the pressure on them.

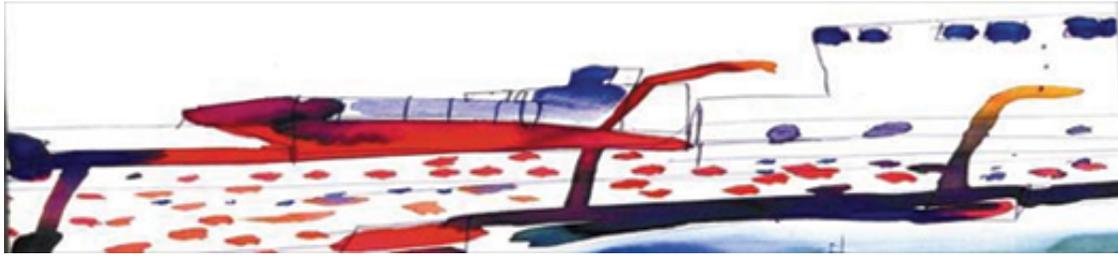
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