

## Zimbabwean Delegation Visits the Center

In July 2011, James Madison's Montpelier organized and funded a six-day program entitled "Reflections on Zimbabwe's Future Constitution: A Comparative Perspective" for the eight-member Leadership group from the Law Society of Zimbabwe (LSZ). Arranged by Montpelier's Center for the Constitution in partnership with the Institute for Democracy in Africa (IDASA), the program combined an immersion in American constitutional history with three days of vibrant discussion on constitutional alternatives for Zimbabwe and processes. It was launched to respond to the critical juncture of the constitution-drafting process in Zimbabwe, and to serve as a pilot to test the potential role of Montpelier's Center in fostering effective constitutions in emerging democracies.

The Zimbabwean delegation included Law Society of Zimbabwe President, Ti noziva Bere; two past Presidents, Josephat Tshuma and Beatrice Mtetwa; and five other prominent lawyers, Ms. Anesu Chirisa, Ms. Roselyn Hanzi, Mr. Selby Hwacha, Mr. Wilbert Mandinde, and Ms. Nokuthula Moyo.



Discussions were moderated by Professors A. E. Dick Howard (University of Virginia School of Law), Christina Murray (University of Cape Town), Muna Ndulo (Cornell Law School), H. Kwasi Prempeh (Seton Hall Law School), and Paul Williams (Public International Law Policy Group - PILPG and American University), and by Phil Knight (attorney and drafter, Vancouver), Meghan Stewart (PILPG), and Karin Alexander (Institute for Democracy in Africa - IDASA). This diverse group brought together a deep understanding of the Zimbabwean situation, experience in diverse jurisprudence both in Africa and elsewhere, skills in comparative law, and experience in constitutional negotiation and drafting. Their sensitivity to the history of constitutionalism in Africa ensured that ideas were tested against multiple contexts and with a level of realism that is missing from many academic exchanges.

The Zimbabwean participants were particularly aware of the tension in their country's present constitution-making process. The future constitution, in their eyes, should be a means of escaping the current practices of government, and in its

ideal form, it should establish a just order, based on the rule of law and principles of constitutionalism. On a practical level, a deal between the major parties in Zimbabwe, accompanied by many compromises (likely including positions earmarked for particular individuals), is needed to achieve this. Thus, a theme that informed all the discussions was how to balance the requirements of pragmatism and idealism, and how the special non-partisan position of the Law Society could be used to promote the latter.



Discussions were centered around the "Model Constitution," a remarkable and ambitious document issued by members of the Law Society in October 2010 in response to concerns of a compromised constitution. The program of discussions had three components: (1) sessions on substantive constitutional issues, such as the idea of a constitution, the principles of limited government, an independent judiciary, and a bill of rights; (2) sessions on drafting constitutions; and (3) a workshop on negotiation skills.

LSZ President Tinoziva Bere said that the visit helped strengthen the process of writing a new constitution that aims to ultimately stabilize his politically fragmented country, and to this end, the Zimbabwean participants left Montpelier with a constitutional agenda that they will propose to their colleagues at home. Upon reflecting on the success of the program, LSZ Member Nokuthula Moyo admitted that she had once feared that the group would find themselves repeating the constitution-drafting process. "Now," she said, "I am convinced that it is possible to come up with a Constitution which will stand the test of time." Former LSZ President Beatrice Mteywa continued the sentiment by saying, "If we do indeed get the kind of constitution Zimbabweans deserve, the footprints of Montpelier will be in it and this can only mean an enduring Constitution."

