

Roadblock grief

*...Policeman impounds, crashes civilian's car
...lawyers intervene as roadblock menace continues countrywide*

RUSAPE-A policeman who grabbed a motorist's vehicle, used it on a movie-style chase before crashing on a tree has cost the Zimbabwe Republic Police (ZRP) thousands of dollars.

For the motorist, Simba Chikaka - who is set to receive close to \$5 000 for the damages he suffered after a court ruled in his favour - the compensation ruling marks the end of 10 months of trauma.

Chikaka had diligently saved money for two years for the vehicle, which he planned to hire out to ease his family's financial problems.

Finally, on 6 October 2015 the car, a Nissan Bluebird Sylphy, arrived from Japan.

Three weeks later, before he could even register it properly before, Chikaka witnessed as a policeman crashed the vehicle onto a tree.

Titus Matava, a Constable based at Rusape police station, grabbed Chikaka's car keys and impounded the vehicle after stopping him at a roadblock between Nyazura and Rusape in Manicaland province on 1 November 2015.

He demanded a \$20 spot fine from Chikaka, whom he accused of not being in possession of temporary vehicle registration plates. Chikaka didn't have the money on him, giving the "felonious" junior policeman an excuse to abuse the vehicle.

After impounding Chikaka's vehicle and keys, Constable Matava ordered the owner to sit on the passenger seat while he took control of the wheel to chase after other vehicles. Chikaka's protest against the arrangement and offering to drive the vehicle fell on deaf ears.

Watch out: cops warned

MUTARE- A leading human rights lawyer has warned of robust action against rogue police officers manning the numerous roadblocks mounted on most of the country's roads.

Already, some police officers are paying the price for taking the law into their own hands. One of them is Titus Matava, a Constable at Rusape Police Station. He is now being forced to fork out thousands of dollars for abusing a vehicle he had impounded at a roadblock. He has also been charged under the Police Act for negligent driving.

Human rights lawyer Peggy Tavagadza of Zimbabwe Lawyers for Human Rights said other cops at roadblocks could be next if they continued violating motorists' rights.

Human rights lawyers, she said, were determined to ensure that roadblock cops do not get away with impunity.

Complaints against the rogue behaviour of police officers at roadblocks were worryingly on the increase, said Tavagadza, who handled the case against Constable Matava (*See Lead Story*).

Such behaviour includes inducement of bribes and illegally impounding and using vehicles of motorists who fail or refuse to pay spot fines.

"Residents continue to bemoan corrupt police officers who are manning the roadblocks. It appears the corrupt police details are a law unto themselves.

"No arrests have been made, leaving the general public with no remedy and confidence in the equal application of the law," said Tavagadza.

"It becomes our job as human rights lawyers to provide a remedy by pursuing such cases to ensure that impunity does not carry the day," she said.

In December, the High Court ruled that the police cannot force motorists to pay spot fines, asserting that it was illegal to impound vehicles belonging to motorists who fail or refuse to pay spot fines.

Instead, he was forced to cling for dear life as the police Constable drove negligently while chasing other motorists. Chikaka was lucky to be alive as Constable Matava veered off the road and rammed onto a tree, extensively damaging the vehicle.

Zimbabwe Lawyers for Human Rights (ZLHR) immediately intervened as part of its anti-impunity drive.

"The conduct of the Constable Matava gives an impression that police officers are above the law and they can decide to use civilians' private property anyhow with impunity," said ZLHR's Peggy Tavagadza, who approached the courts on Chikaka's behalf.

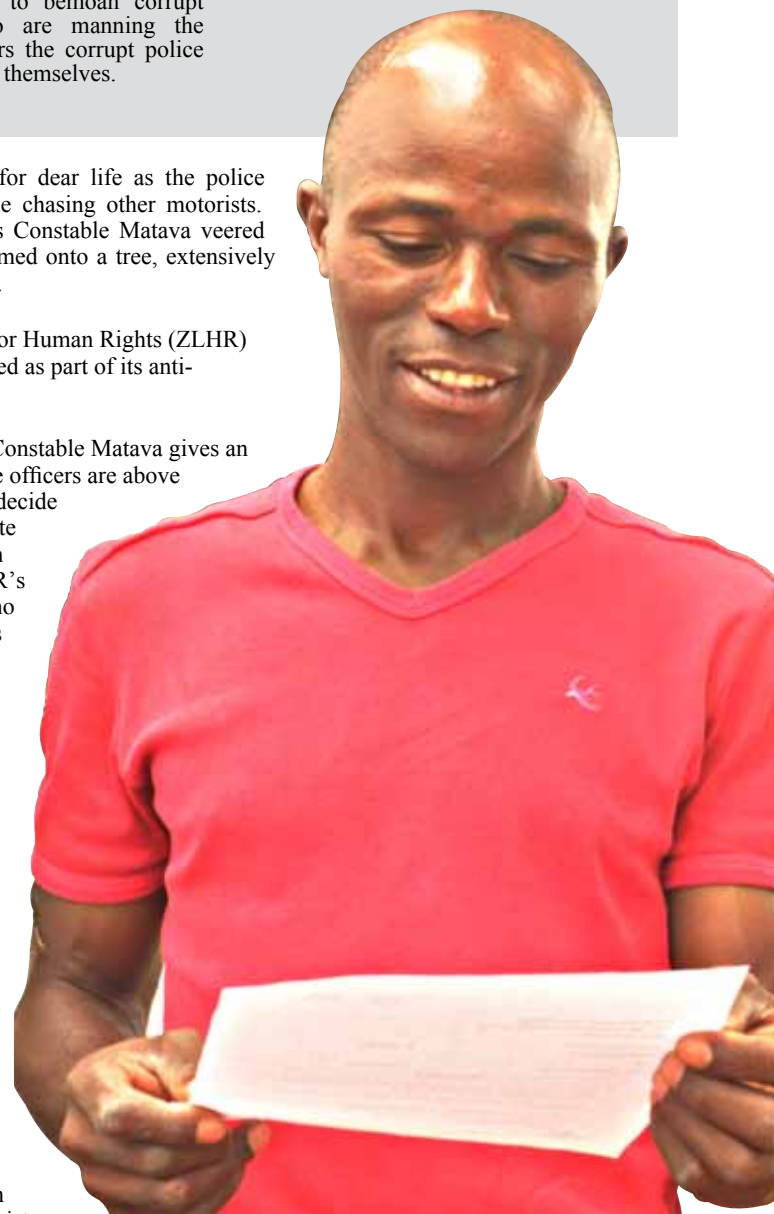
She cited Constable Matava as first defendant, Police Commissioner-General Augustine Chihuri as second defendant and Home Affairs Minister Ignatius Chombo as third defendant.

"As a result of the accident, Chikaka sustained injuries on his head, neck and on the hip," said Tavagadza in court, where she was seeking compensation on behalf of the motorist. Continued on Page 4

Water woes...



HARARE-From dry river beds to unprotected wells and streams, sourcing drinking water in rural areas is always a hazardous affair for many villagers. During last year's drought, families in areas such as Chivi in Masvingo province resorted to digging into river beds in hopes of some water. Now, as the rains pour across the country, water has become plentiful, yet still hazardous. Boreholes in many rural areas have broken down or are non-existent, forcing some villagers in areas such as Dora in Manicaland to rely on an unsafe, polluted river. In urban areas such as Harare and Mutare, an outbreak of typhoid has exposed the omnipresent health risks that residents face due to poor water and sanitation infrastructure. United Nations agency, UNICEF, states that apart from rural areas, urban water services have deteriorated and, as a result, diarrhoea has become much more prevalent than before and is now one of the five main childhood killers in Zimbabwe. See Pages 2, 3 and 4 for more



Fighting impunity...motorist Simba Chikaka has won compensation after a policeman wrecked his vehicle

Stop IT

Water and sanitation as a human right

HARARE-The outbreak of several cases of typhoid in Harare and Mutare has jolted authorities to scramble for solutions to the poor water and sanitation situation in urban areas. However, it has emerged that the situation is much direr, with more than 500 people having died from water-borne diseases such as diarrhoea, cholera and dysentery in both urban and rural areas last year, according to figures released by the Ministry of Health and Child Care.

Human rights lawyers say the situation is a result of the failure by government and its various agencies to respect people's rights to water and sanitation.

The United Nations General Assembly 2010 Resolution 64/292, affirmed water and sanitation rights as "essential for the full enjoyment of life and all human rights".

The resolution urges states and organisations to commit adequate resources and efforts to eradicate widespread deprivation of water and sanitation rights.

Yet, in Zimbabwe, investment into water and sanitation infrastructure has been pitiful despite once suffering a cholera outbreak that killed more than 4 000 people in 2008.

At a time when the country is failing to rehabilitate and expand water and sanitation infrastructure, top government leaders and security sector commanders continue to enjoy expensive trips out of the country, new cars and other perks.

Meanwhile, poor people residing in crowded and neglected suburbs such as Mbare, Mabvuku, Budiriro and Hopley risk typhoid and other diseases daily due to water shortages, sewer pipe bursts and uncollected refuse.

Below, *The Legal Monitor* reproduces part of the UN Resolution 64/292.

The human right to water and sanitation

...Deeply concerned that approximately 884 million people lack access to safe drinking water and that more than 2.6 billion do not have access to basic sanitation, and alarmed that approximately 1.5 million children under 5 years of age die and 443 million school days are lost each year as a result of water- and sanitation-related diseases,

Acknowledging the importance of equitable access to safe and clean drinking water and sanitation as an integral component of the realization of all human rights,

Reaffirming the responsibility of States for the promotion and protection of all human rights, which are universal, indivisible, interdependent and interrelated, and must be treated globally, in

a fair and equal manner, on the same footing and with the same emphasis,

Bearing in mind the commitment made by the international community to fully achieve the Millennium Development Goals, and stressing, in that context, the resolve of Heads of State and Government, as expressed in the United Nations Millennium Declaration, to halve, by 2015, the proportion of people who are unable to reach or afford safe drinking water and, as agreed in the Plan of Implementation of the World Summit on Sustainable Development ("Johannesburg Plan of Implementation"), to halve the proportion of people without access to basic sanitation,



Braving dangerous forests for water...More than three decades after independence, many Zimbabweans still find access to safe drinking water a challenge. In both rural and urban areas people travel long distances to get this precious commodity. In the picture above, women in Kariba's Siakobvu area walk through thick bush to fetch water from rivers where they sometimes compete with wild animals. This is despite that when they were displaced to make way for the construction of Lake Kariba, they were promised safe drinking water on their doorsteps

- Recognizes the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights;

- Calls upon States and international organizations to provide financial resources, capacity-building and technology transfer, through international assistance and cooperation, in particular to developing countries, in order to scale up efforts to provide safe, clean, accessible and affordable drinking water and sanitation for all;

- Welcomes the decision by the Human Rights Council to request that the independent expert on human rights obligations related to access to safe drinking water and sanitation submit an annual report to the General Assembly, and encourages her to continue working on all aspects of her mandate and, in consultation with all relevant United Nations agencies, funds and programmes, to include in her report to the Assembly, at its sixty-sixth session, the principal challenges related to the realization of the human right to safe and clean drinking water and sanitation and their impact on the achievement of the Millennium Development Goals.

108th plenary meeting 28 July 2010



Residents in Harare's Mabvuku suburb wake up before dawn daily to queue for borehole water. Some people here said they have resorted to open defecation due to persistent water shortages

Right to water basic facts

What is...?

• Sufficient:

The water supply for each person must be sufficient and continuous for personal and domestic uses. These uses ordinarily include drinking, personal sanitation, washing of clothes, food preparation, personal and household hygiene. According to the World Health Organization (WHO), between 50 and 100 litres of water per person per day are needed to ensure that most basic needs are met and few health concerns arise.

• Safe:

The water required for each personal or domestic use must be safe, therefore free from micro-organisms, chemical substances and radiological hazards that constitute a threat to a person's health. Measures of drinking-water safety are usually defined by national and/or local standards for drinking-water quality. The World Health Organization (WHO) Guidelines for drinking-water quality provide a basis for the development of national standards that, if properly implemented, will ensure the safety of drinking-water.

• Acceptable:

Water should be of an acceptable colour, odour and taste for each personal or domestic use. [...] All water facilities and services must be culturally

appropriate and sensitive to gender, lifecycle and privacy requirements.

• Physically accessible:

Everyone has the right to a water and sanitation service that is physically accessible within, or in the immediate vicinity of the household, educational institution, workplace or health institution. According to WHO, the water source has to be within 1,000 metres of the home and collection time should not exceed 30 minutes.

• Affordable:

Water, and water facilities and services, must be affordable for all. The United Nations Development Programme (UNDP) suggests that water costs should not exceed 3 per cent of household income.

Sources:

- Human Development Report 2006. *Beyond scarcity: Power, poverty and the global water crisis*. UNDP, 2006
- (The) Right to Water, Fact Sheet No. 35. United Nations, OHCHR, UN-HABITAT, WHO, 2010

Typhoid

River water and open defecation... the life of the rural poor

CHIVI/DORA-As the typhoid outbreak haunts urban areas, few people are sparing a thought for the rural folk, who have been condemned to decades of unsafe drinking water and grave sanitary conditions.

Forgotten by authorities, many rural areas have few or no boreholes. In some areas, the boreholes stopped working ages ago, forcing people to resort to unsafe sources for drinking water and exposing them to water borne diseases.

From dry river beds to unprotected wells and streams, sourcing drinking water in rural areas is always a hazardous affair for many villagers.

During last year's drought, families in areas such as Chivi in Masvingo province resorted to digging into river beds in hopes of some water.

As the drought ravaged, children at Chisenga Primary School in Chivi district, about 350km south of Harare, had to rely on water from Chomushamwa River, thus exposing them to water-borne diseases.

"We have no option but to ask children to drink from the river or there will be problems of dehydration given that it is hot here," a teacher at the school told *The Legal Monitor* during a visit to the area in mid-December last year.

She was waiting for her pupils, who were digging some small pits to get water along the dry



Right to safe water a pipe dream... Children at Chisenga Primary School in Chivi District fetch water along Chomushamwa river

river bed. Because of the biting scarcity of water at the time, many other people in the area were also getting water from the same river bed for domestic use as well as for their livestock.

Now, as the rains pour across the country, water has become plentiful, yet still hazardous. Boreholes in many rural areas have broken down or are non-existent, forcing some villagers in areas such as Dora in Manicaland province to rely



on unsafe, polluted rivers and other sources.

The right to safe, clean and portable water is enshrined under Section 77 of the Constitution of Zimbabwe, as it is in many other international statutes and resolutions.

Human rights lawyers say the right to water contains freedoms and entitlements, which include protection against arbitrary, prohibition of unlawful pollution of water resources and non-interference with access to existing water supplies.

Water should, therefore, be available in good quality and be readily accessible.

However, this is not the case in Dora village.

In this poverty stricken village located about 20 km south of Mutare, villagers have few boreholes. Many have to rely on water from Sakubva River, which is heavily polluted upstream by the city council, private companies and city residents.

At several mobile legal clinics held in the area by Zimbabwe Lawyers for Human Rights, villagers have been complaining about having to endure polluted water for years despite numerous protests to authorities.

They accused Mutare City Council of depositing raw sewage into Sakubva River, their main source of water.

Various studies conducted in the area have shown that villagers here are at constant risk of several diseases due to the polluted water, citing reports of cases of diseases such as bilharzia, malaria, skin sores and



Same story down the river... This unidentified woman gets water from Chomushamwa river for her daily chores

stomach aches. Livestock has not been spared. Experts have condemned the water from Sakubva River as unfit for humans, livestock, recreational use and fishing.

Still, villagers have no choice but to resort to such unprotected sources despite the dangers due to government's lack of investment in water and sanitation infrastructure.

The plight of people in Chivi and Dora mirrors the situation in rural areas across the country.

In some cases, it has taken organisations such as United Nations agency, UNICEF, to assist in water and sanitation infrastructure development, although the situation remains dire.

As always, it is the poor who suffer the most.

According to UNICEF, more than 60 per cent of the rural water supply infrastructure in Zimbabwe is in disrepair while 40 percent of Zimbabweans in rural areas practise open defecation. As a result, diseases such as diarrhoea have become widespread and fatal.

"The poor are also less likely to have access to water and have a toilet," said UNICEF.

Know Your Rights

Section 77 of the Constitution: Right to water and food

Every person has the right to (a) safe, clean and portable water and, (b) sufficient food; and the State must take reasonable legislative and other measures, within the limits of the resources available to it, to achieve the progressive realisation of the right.

Termites for survival



Struggling to put food on the table...Tsindika Manhema, who said she does not know her real age, painstakingly traps termites using a stick outside the Chivi District Administrator's offices in Masvingo province. She said she sells the termites to raise money to take care of her grandchildren

New year, old troubles

KADOMA-An opposition member has entered the New Year fighting charges of insulting President Robert Mugabe in 2016.

Justin Matarirano allegedly accused President Mugabe of caring only for his family, while treating everyone else as “his condoms”.

Matarirano is accused of uttering the following words: “*Mugabe haana kana munhu waanoda muZimbabwe, anoda iye Grace mukadzi wake naChatunga, vamwe vese muri makondomu ake, anokuda kana achikushandisa, kana apedza nokurasira uko, kana muri semi maBorder Gezi makabhureinwashwa naMugabe.*”

The State translated this to mean: “Mugabe does not love anyone in Zimbabwe except himself, his wife Grace and Chatunga, the rest you are his condoms, he only loves you when he wants to use you after using you he dumps you, as for you Border-Gezis you were brainwashed by Mugabe.”

The alleged utterances did not go down well with law enforcement agents, who arrested the 48-year-old.

He was subsequently charged with insulting the President in terms of Section 33 (2) (b) of the Criminal Law (Codification and Reform) Act, and alternatively Criminal Insult in terms of Section 95 of the Criminal Law (Codification and Reform) Act.

As he celebrated the New Year, Matarirano was slapped with summons to appear at Kadoma Magistrates Court on 5 January to answer to the charges.

However, he is still a free man, at least for now.

His lawyer, David Hofisi, of Zimbabwe Lawyers for Human Rights (ZLHR), engaged with prosecutors who conceded that there were problems with the charge sheet.



Defending free speech...David Hofisi

The prosecutors said they would resummons Matarirano if they wished to pursue the matter.

Matarirano is one of hundreds of Zimbabweans dragged to court for allegedly insulting President Mugabe under a discredited provision of the law.

provision in the Constitutional Court, arguing that it violates the right to freedom of speech, among other rights infringements.

The organisation has represented close to 200 people charged under the insult provisions since 2010.

ZLHR is challenging the insult

None of its clients has been convicted.

Roadblock grief

Continued from Page 1

Tavagadza said Chikaka had planned to turn the car into a family business.

“His wife and children were suffering as victims of the misfortune...there were no efforts whatsoever to compensate him for a period in excess of 10 months. The plaintiff (Chikaka) went through untold suffering at the hands of the defendants who are constitutionally bound to protect citizens of this country,” she said.

What worsened Chikaka’s pain was the fact that, on a daily basis, he was forced by circumstances to view the wreckage of his vehicle because his work place is adjacent to the Rusape Police Station yard where the car was kept.

In its defence, the ZRP went for a spin of the events in a bid to escape responsibility.

After failing to pay the spot fine, Chikaka lied to officers that he did not have a driver’s licence, thereby forcing Constable Matava to drive the car to the police station “for safekeeping”, argued the Civil Division of the Attorney-General (AG)’s office on behalf of the police and the Home Affairs Minister.

“He could not continue to drive while unlicensed. Otherwise the plaintiff contributed to the mishap by misleading the defendants that he was not a holder of a driver’s licence,” argued the AG’s office in a defendant’s plea tendered in court, admitting however, that

Constable Matava was indeed negligent when he drove the car.

Rusape Provincial Magistrate Shingi Mutiro ruled in Chikaka’s favour, ordering Constable Matava, Chihuri and Chombo to compensate the motorist.

Chikaka, through Tavagadza, had demanded \$6 260 from Constable Matava, Chihuri and Chombo for damages he suffered as a result of Constable Matava’s reckless and illegal actions.

He wanted \$4 960 for the value of the car, \$300 as special damages for medical expenses and \$1 000 being general damages for pain and suffering.

However, Magistrate Mutiro, on 3 January 2017, awarded the motorist \$4 960 as compensation for the damages he suffered.

Magistrate Mutiro ordered Matava and his bosses to pay interest on the total amount of \$4 960 from the date when summons were filed to the date of final payment.

In addition, Constable Matava was charged under the Police Act for driving without due care and attention.

Police, who have become notorious for mounting numerous roadblocks in search of money, have continued forcing motorists to pay spot fines despite court rulings against the practice.

Statement on the failure to stem the spread of typhoid in Harare

The Zimbabwe Association of Doctors for Human Rights (ZADHR) continues to be worried and appalled by the failure by the City of Harare and the Government of Zimbabwe to stem the continued spread of typhoid and failure to prioritize safe, clean water and environment as key tenets of a strong primary healthcare system.

While acknowledging the efforts by the authorities to date in responding to the outbreak we remain unsatisfied with level of intervention which, though important at curative stage fail to acknowledge and introspect into the actual causes of the outbreak.

Harare continues to reel under conditions suitable for the growth and spread of waterborne diseases such as typhoid. With 2 deaths and 132 cases reported to date the situation remains dire and in need of a responsive coordinated multi-sectoral approach to attend to both the current and long terms demands of the situation.

We note that while emergency interventions are ongoing the City of Harare and the government should come up with sustainable solutions related to the improvement of water, sanitation and hygiene in the city. Burst sewerages, unsafe water and poor sanitation are an affront to the enjoyment of the right to health by residents. ZADHR further contends that the typhoid outbreak must allow residents to take stock of their local authorities and also the negligence of supervision by central government. In so doing, call upon the residents and rate payers to continue being engaged and demand responsiveness, transparency and accountability from the council. This action must include but not limited to class actions.

In the interest of good community and personal health ZADHR encourages residents to exercise good personal hygiene through hand washing and avoid open air and unsanctioned food outlets.

By and large we call upon members of the medical profession to get engaged and assist both in the response to the outbreak and in the consummation of sustainable solutions to the dire public health situation in the city.

ENFORCED DISAPPEARANCE = CRIME AGAINST HUMANITY

HRDs

WITNESS AGAINST VIOLENCE

WHERE ARE THEY?

HELP IN THEIR SAFE RETURN

Call Hotline: 0779 204 102



Itai Dzamara
Missing since 2015



Paul Chizuze
Missing since 2012