

#FreeLindaNow



Brutal Mazowe evictions lands police officers in court

BINDURA-The Magistrates' Court will this month re-set a day to hear a case in which 42 displaced former farm workers are suing six police officers based at Mazowe Police Station for damages they incurred while being brutally evicted from their homes to make way for a game park.

Kennedy Masiye of Zimbabwe Lawyers for Human Rights (ZLHR), who is representing the 42 who were displaced from Arnold farm – better known as Manzou farm, said the case could not commence last week as Magistrate Elisha Singano was not feeling well.

The 42 want police officers who destroyed their belongings pay for the losses.

“Our client is suing for compensation of his property that was destroyed by members of the Zimbabwe Republic Police. He is also suing for pain and suffering and nervous shock,” said Masiye in a letter to then Minister of Home Affairs Kembo Mohadi on behalf of Jona Zomba – one of the displaced farmers.

In the letter, Masiye named Mazowe Police Station officer in charge Inspector Munetsi as the leader of the mission that left more than 150 farmers vagrants in their own country last year and shocked the world.

Other officers mentioned are: Constables Simbanegavi, Mataruse, Nginda, Mapuranga and Machekecha – all of them now part of the court proceedings.

The farmers say their goods worth thousands of dollars was lost during their brutal evictions.

Other farmers include: King Makosa, Eshuwini Nyembe, Enock Chikuno, Collen Mhlanga, Jason Zimonte, Samson Kadungure, Tarwirei Nyagondo, John Katiyo, Hellen Mashambanhaka, Ivy Mlambo, Laston Gumbeto, Jerina Tope, Livingstone Musanhi, Ranganai Chibundu, Yanayi Matema, Ester Mushukuti, Media Kapumba, Leonard Makoore, Godfrey Chihowa, Elizabeth Mutsau, Chenjerai Murambiza, Stella Muchireva, Getrude Kaveru, Dorcase Chirimba and Yeukai Dube.

“It is important to note that our client had not committed an offence which warranted such wanton use of excess force. It is trite that in terms of the Constitution, no person maybe subjected to physical or psychological torture or to cruel, inhuman or degrading treatment or punishment,” said Masiye in the letter copied to Advocate Prince Machaya, the Attorney General and Police Commissioner-General Augustine Chihuri. The three are cited in the court papers.

Masiye argued that the police did not have a court order to evict his clients as required by Section 74 of the Constitution. He said the police did not carry out its mandate of protecting the country's citizens in terms of Section 219 of the Constitution.

Court papers reveal that thousands of tonnes of grain was damaged when police set on fire some of the farmers' property.

Others lost their household goods such as television sets, kitchen utensils and clothing.

Some of the farmers were living in the open since the January 2015 incident which the High Court later declared illegal. That was after the farmers sought ZLHR's assistance to challenge their evictions.

Last year ZLHR wrote to Mazowe District Administrator asking the government to urgently address the “inhumane and squalid conditions” Mazowe farmers were living under after police demolished their homes to make way for a game park.

“The destruction of their properties and crops by the police left them exposed to elements of the weather as they were left without shelter. Women, the elderly, disabled and children were and are still exposed to hazardous diseases like cholera and influenza. Many have been treated of various diseases which are being caused by the inhumane state of affairs at this farm,” wrote Masiye.

He added that prospective donors were finding it difficult or rather impossible to offer humanitarian aid to the farmers as the government ignored or refused to grant them authority to assist the community in dire need of help.

For a long time now Arnold farm resembles close to a refugee camp which has been abandoned by authorities: forget about shelter and food, even clean water and descent ablution facilities as these were all destroyed during the police demolitions.

All the farmers at Arnold Farm had been there for more than a decade – thanks to the country's resettlement programme – and had built homes and were conducting farming activities to sustain their families.

Masiye reminded the government that in terms of the Constitution of Zimbabwe, the State has an obligation to ensure that all its citizens have shelter.

“Our clients are in dreadful need of help and as such

the District Administrator being an agent of the government should take reasonable steps to ensure that the residents of Arnold farm who are all citizens of Zimbabwe are not treated in an inhumane and degrading manner and subjected to psychological torture as is in this case,” added the lawyer, in a letter copied to Minister of Local Government and Urban Development Ignatius Chombo, Minister of Health and Child Welfare David Parirenyatwa and Commissioner Elasto Mugwadi who chairs the Zimbabwe Human Rights Commission. ➤

SADC help us!

...Matabeleland Civil Society organisations pleads

BULAWAYO-Faced with several cases that confirm deteriorating human rights in their region, eight Matabeleland Civil Society Organisations (MCSOs) have now appealed to the Southern African Development Community (SADC) to come to rescue the situation in Zimbabwe.

The appeal to SADC by MCSOs follows what they called “the unredeemable police brutal action” against protestors who took part in demonstrations in Beitbridge, Victoria Falls and Bulawayo, last month.

The civic organisations released a statement urging President Robert Mugabe's government to immediately engage its citizens and listen to their grievances as regards the state of the nation and its socio economic meltdown.

“Failure to do so may result in serious civil strife and unrest as has periodically been witnessed in the past few weeks,” said the MCSOs in a statement which was endorsed by Bulawayo Vendors and Traders Association, Habakkuk Trust, National Youth Development Trust, Public Policy Research Institute of Zimbabwe, Radio Dialogue, Women of Zimbabwe Arise (WOZA), Zimbabwe Christian Alliance and Zimbabwe Lawyers for Human Rights (ZLHR).

The organisations said they had noted with concern that, while citizens were acting well within their constitutional rights as enshrined in the Bill of Rights and other sections of the Constitution, police officers in Beitbridge, Victoria Falls and Bulawayo took “extreme measures” to crush protests.

They said this led to violent clashes, beating of protesters, arrests and thereafter extremely inhumane treatment of detained demonstrators while in police custody.

“Of further concern is the vicious retributive action taken by the police in following up after demonstrators, which led to the death of an infant and assaults on innocent civilians residing in and around Burombo flats in Bulawayo. Police heavy handedness during and after the protests is condemned in the strongest terms as many people were left suffering injuries caused by the use of force and tear gas,” added the civic groups.

“As Matabeleland civil society organisations, we would like to unequivocally state the following:

- We condemn the brutal beatings, torture, indiscriminate and careless use of tear gas and arbitrary arrests of minors and adults for exercising and enjoying their fundamental rights. We therefore appeal to all officers of the Zimbabwe Republic Police to honour and respect their Police charter and the Bill of Rights in the constitution of Zimbabwe to protect human life, human

dignity and human rights and in particular children's safety and peace of mind.

- We call on the Government to;
 - Genuinely and urgently engage citizens and listen to their grievances as regards the state of the nation, as failure to address the socio economic meltdown may result in continued serious civil strife.
 - Investigate and prosecute all human rights violations detailed in the attached report.
 - Immediately repeal statutory instrument 64/2016 and review all laws that hinder citizen's right to trade and earn a living.
 - To respect, protect and fulfil fundamental rights as outlined in the Bill of Rights.
- We call on the Zimbabwe Human Rights Commission to take its mandate and investigate, document and make recommendation on the human rights violations in this report.
- We call on citizens to peacefully continue to demand their fundamental rights as enshrined in the Constitution.
- We call on the regional and international community to ensure the plight of Zimbabwean citizens remain on the agenda
- We call on the SADC, in particular the Heads of States summit to be held in Mbabane, Swaziland as from the 15th to the 17th of August 2016 to prioritise the plight of Zimbabwean citizens and directly address the issues raised in this report.”

The police reacted with heavy brutality to protestors against the deteriorating human rights and economic situation last month in most parts of the country.

Some from Epworth in Harare came to court with fresh wounds from police dogs bites.

That led to ZLHR which is representing them to raise complaints against the police. The Harare Magistrates' Court has since asked for a report from the State regarding the assault of the Epworth protestors.

Over the years, ZLHR has on several occasions complained in courts regarding the manner in which police handles suspects who would be in their custody. In some instances some citizens have successfully sued for damages and got compensation from the State. But the behaviour has not stopped despite the country's Constitution guaranteeing its citizens from degrading and inhumane treatment. ➤



Itai Dzamara
Missing since 2015

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In solidarity

...dozens throng court to support jailed activist
...diverse crowd as activists forge a new kind of unity

HARARE-Mbare Magistrates Court was packed last week on Tuesday as dozens of people rallied behind incarcerated human rights defender, Linda Masarira.

In a massive show of solidarity, people from across the political divide and civil society activists gathered at the court to support Masarira.

There was hardly room to move in the courtroom. Outside, people were singing and chanting slogans demanding Masarira's release from remand prison.

"We are here for Linda. It is important to show the system that we are united. Let's make sure we maintain this spirit," said Patson Dzamara, brother of missing activist Itai, while addressing the crowd.

Some carried placards in support of Masarira and denouncing the sharply deteriorating human rights conditions in Zimbabwe.

"Free Linda now," read one placard.

"No to dictatorship," read another.

Others wore the Zimbabwean flag, although those who made it into the crowded courtroom were forced to tuck the flags in their pockets by police officers.

"This is a watershed moment for Zimbabwe. We have reclaimed the flag. It is now a symbol of freedom. Look at how the authorities become unsettled each time they see someone wearing the flag," said Dirk Frey, a member of the Occupy Africa Unity Square movement, which was started and popularised by Itai Dzamara before he was abducted in March last year.

Police watched as numbers swelled at the courthouse, which is located within the police compound.

Masarira was among hundreds of people arrested for participating in the shutdown protest on 6 July. Many of the activists have been granted bail, but Masarira has now endured more than three weeks in remand prison.

Her bail hearing was postponed to next week Thursday on 11 August.

The huge and diverse crowd at Masarira's court appearance, as well as the hundreds who showed up at Pastor Evan Mawarire's court hearing last month, highlight a new kind of solidarity among political and civil activists who are increasingly becoming a target of harassment by State security organs.

Many of the people at the court have themselves been victims of police harassment before, and are facing various charges.

Several unemployed graduates wore their university graduation gowns at the court.

Samuel Meso, one of the youths who wore a graduation gown on the day, said Masarira and other activists were fighting for a better life for people like him, hence his decision to attend in solidarity.

"This gown has become a symbol of poverty. Yet the government's answer is to arrest people such as Linda who are fighting for better conditions. They might as well arrest all of us," said the 25-year-old.

He said he studied industrial and manufacturing engineering at the National University of Science



Pro-democracy campaigners protesting at Mbare Magistrates Court

and Technology in Bulawayo. Frustrations over the country's deteriorating economic conditions and worsening human rights abuses have resulted in protests that are now occurring almost on a daily basis.

The government has responded by ordering mass arrests, resulting in over 300 people being arrested in the past month alone.

"I am here to show support for a progressive activist. These arrests have to stop," said Meso.

Meso, whose parents sold the family's livestock to fund his education, said he has been surviving through selling flags on the streets. The popularity of the #ThisFlag campaign, initiated by Pastor Mawarire and now a viral phenomenon,

means he can earn a few dollars for food as a vendor.

"My parents were hopeful that we would all escape poverty by sending me to school. I can't even afford to take care of myself, let alone by parents," he said, before joining hordes of people gathered at the court in song and pro-democracy slogans. ➤



Activist Masarira fights on

HARARE-Linda Masarira, an activist with the Occupy Africa Unity Square Movement, is still battling for bail.

Last week on Tuesday, Mbare Magistrate Sternford Mambanje, dismissed an application by Masarira's lawyer to refer the matter to the Constitutional Court to determine the violation of her rights.

Masarira is facing public violence charges after she was arrested on 6 July for participating in the shutdown protest.

Kudzayi Kadzere, a Zimbabwe Lawyers for Human Rights member, had argued that Masarira had been detained for 52 hours before being brought to court, which is beyond the 48 hours prescribed in the Constitution.

Kadzere then applied for Masarira to be temporarily transferred to Mutare Remand Prison for cancellation of a warrant of arrest that was issued against her by the Mutare Magistrates' Court.

"The State has a laughable case and is failing to furnish us with a trial date. Linda remains in custody due to a technicality," said Kadzere after the case was pushed to next week on Thursday 11 August.

He said he plans to apply for refusal of further remand when the case resumes if the State fails to furnish a trial date. ➤

Know Your Rights

Constitution of Zimbabwe:

Fundamental Human Rights and Freedoms

Section 50

Rights of arrested and detained persons

- (3) Any person who is not brought to court within the 48-hour period referred to in subsection (2) must be released immediately unless their detention has earlier been extended by a competent court.



Unemployed graduate Samuel Meso at Masarira's court appearance

Police struggle to prove case

BULAWAYO - Lawyers representing four youths who were arrested for allegedly shouting “Mugabe must go” during the recent stay-away have applied for discharge after the witnesses failed to prove the case.

The accused, Alfred Dzirutwe, Mthokozisi Ncube, Robson Tera and Thembelihle Sibanda yesterday appeared before magistrate Tawanda Muchemwa facing criminal nuisance charges.

Zimbabwe Lawyers for Human Rights (ZLHR) legal representatives, Lison Ncube and Tamuka Muganyi, gave three police officers, who are witnesses in the case, a hard time in proving the case.

During cross-examination, the officers — an assistant inspector Admire Dona, Edmore Zingwe and Albina Tendai Mukashuri — were seemingly

confused as they failed to substantiate the charges against the four.

Dona, the first State witness, told the court that he and other police details had arrested the four in the city centre after they found them allegedly writing placards inscribed “Mugabe must go”.

He said the four were part of a group of six that was reportedly also shouting “Mugabe must go” but two others escaped, and they had arrested them for staging an illegal demonstration.

Asked by Ncube whether he was aware that the Constitution under section 67 (1b) allowed people to demonstrate, Dona said he was not aware.

After being further quizzed which Mugabe the accused were referring to, Dona said he did not know.

When asked how the alleged shouting by the accused persons amounted to criminal nuisance, Dona said the shouting was disturbing the business community.

The second witness, Zingwe, said they were only four protesters whom the police arrested. He later contradicted himself and Dona when he said the police had found five protesters at the scene with one escaping.

Asked about the contradiction in the number of protesters whom they had found at the scene, Zingwe left the court in stitches when he stated that the two cops might have seen different figures.

Asked if he and his colleagues had any reasonable suspicion to arrest the accused persons, Zingwe surprisingly said they did not have any.

He also described criminal nuisance as shouting at the top of one’s voice and obstructing the public.

Quizzed on how the public was obstructed by the shouting, Zingwe said the public stopped and began listening to the shouting.

Zingwe also contradicted Dona who had earlier on stated that the protesters stopped shouting “Mugabe must go” at the intersection of Leopold Takawira Avenue and Fife Street when he said the protesters had continued to shout all the way to the Central Police Station.

Muchemwa is expected to make a ruling on the discharge application on July 29.

Source: The Daily News

Uhuru for last batch of jailed Beitbridge residents

BEITBRIDGE- Four residents who had been languishing in remand prison for close to a month after being arrested and charged for allegedly participating in a protest action have been freed.

The release of Tawanda Mukamwe, Donald Mukupe, Mike Nyamhanga and Alois Jinga -

facing charges of committing public violence in contravention of Section 36 (1) (a) of the Criminal Law (Codification and Reform) Act [Chapter 9:23] – followed the intervention by Zimbabwe Lawyers for Human Rights (ZLHR). Beitbridge Magistrate Gloria Takundwa freed them on bail last week on Monday.

Prosecutors claim that the four were part of a group of people who staged a protest at Beitbridge border post in early July.

They alleged that the four border town residents barricaded roads, vandalised traffic control lights, looted clothes, blankets, television sets and set ablaze a Zimbabwe Revenue Authority warehouse.

Magistrate Takundwa had initially denied the four residents bail on the basis they could abscond because they were facing a serious offence and that investigations were still pending among other reasons.

However, on Monday, Magistrate Takundwa granted the four residents \$50 bail each and ordered them to report to Zimbabwe Republic Police once a week and not to interfere with witnesses.

Reason Mutimba and Patrick Tererai, both ZLHR members, represented the four residents.

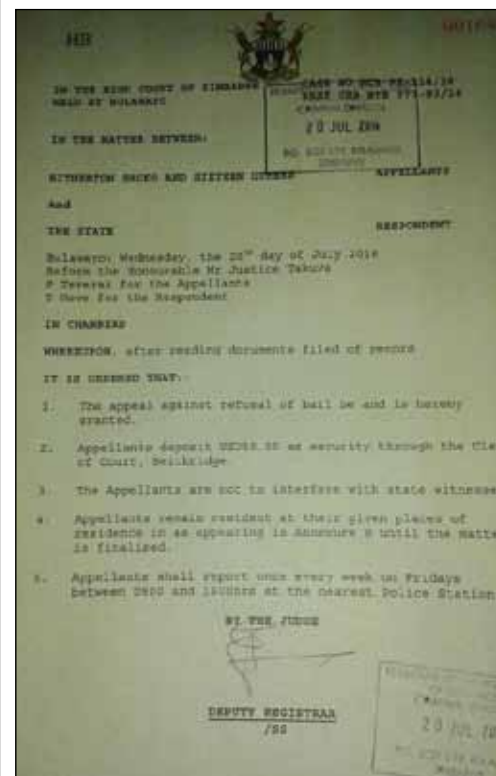
They are the last batch of Beitbridge residents to be freed on bail following the protests.

Recently, High Court Judge Justice Maxwell Takuva granted \$50 bail each to 25 other residents of Beitbridge who had languished in remand prison after Magistrate Takundwa had initially ruled against their freedom bid. ➡



Protestors from Epworth and Mabyuku in Harare – facing public violence charges seen here with their lawyers among them Trust Maanda, Gift Mtisi and Jeremiah Bamu of Zimbabwe Lawyers for Human Rights (ZLHR) at Harare Magistrates Court last week. They were arrested for protesting against police brutality and the general deteriorating conditions in Zimbabwe

ZLHR, whose lawyers are representing them notified the court that at their next remand date on 30 August, they would screen a video footage that shows police brutality and torture at the time of their arrest. When they first appeared in court last month, the group complained that police officers set dogs on them



Two weeks ago, a Bulawayo High Court overruled the decision by Beitbridge magistrate Gloria Takundwa to deny bail to 17 residents accused of participating in protests that rocked the border town this month.

Above, The Legal Monitor publishes the bail order in full