

Itai Dzamara, the seed...

HARARE-August 10, 2016, marked 17 months since pro-democracy campaigner Itai Dzamara's enforced disappearance.

Yet, he remains as much a strong force as he was before his abduction.

The ideals that Dzamara fought for so passionately as to risk life and limb have galvanised the nation.

He has become a symbol of protest, as Zimbabweans increasingly assert their right to demonstrate and petition.

Since Dzamara's abduction, Zimbabweans have become more emboldened.

The result has been a wave of peaceful protests by people inspired to ensure Dzamara's ideals do not suffer a natural death.

"They can never silence him. Look, the whole of Zimbabwe is now in the Dzamara spirit," said Dirk Frey, a member of the Occupy Africa Unity Square campaign.

Like Dzamara, Zimbabweans in their multitudes are now refusing to allow fear of State security agents to stop them from exercising their rights.

"He inscribed an indelible footprint on the sand of this great nation. He laid a foundation for the new Zimbabwe we are all yearning for," said his brother

Patson, an academic who has turned into one of the country's leading pro-democracy campaigners.

"The history of Zimbabwe will never be complete without Itai's name. Itai blazed a trail and ushered in a new dispensation of citizen activism and participation. We salute him for that. A quintessential hero, he is," said Patson.

It all started as a one-man sit-in protest.

Well before Zimbabwe exploded into an arena of near-daily protests, the 36-year-old former reporter took it upon himself to raise the alarm on the country's deteriorating human rights situation.

Alone, he sat in Africa Unity Square daily in a protest he called Occupy Africa Unity Square campaign.

With time, he had a few followers. Still, very few people took the group seriously.

Nonetheless, Dzamara and his colleagues remained steadfast.

Arrests, assaults and intimidation failed to silence him.

His enforced disappearance has only made his voice louder. ➤



Fearless... Dzamara leads a protest to demand democratic reforms before he was abducted by suspected State security agents while having a haircut near his home in Harare's Glen View suburb



Fighting for answers

...lawyers, family determined to expose truth

HARARE- In March 2015, Zimbabwe Lawyers for Human Rights (ZLHR) won a High Court order obliging State security agents to locate missing activist Itai Dzamara.

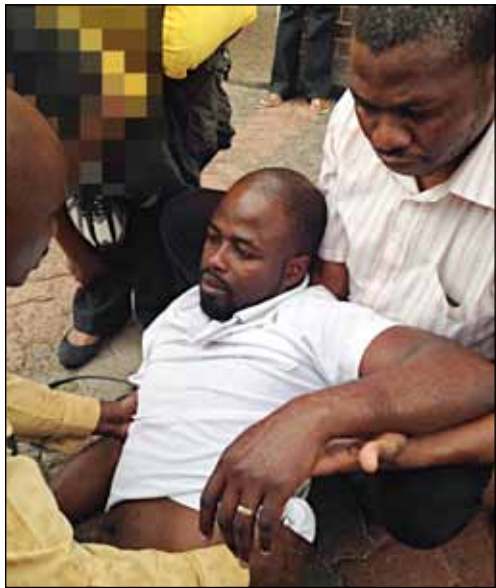
This was not the first ZLHR intervention in the Dzamara case. Before he was abducted, the frequent arrests, assaults and harassment by State security agents meant ZLHR had to intervene often to ensure the protection of his rights. But since his abduction, the human rights lawyers group has been forced to intervene quite frequently to protect the Dzamara family's rights, which are under constant threat from State authorities.

Despite Judge Justice David Mangota's court order in March 2015, State security agents appear to be doing little to locate Dzamara, forcing ZLHR's Kennedy Masiye, the Dzamara lawyer, to make frequent visits to Harare Central Police Station demanding answers. Moreover, he has had to approach the courts on several occasions to ensure that the family's commemorative events proceed without molestation by the police.

"Clearly, there seems to be no interest in locating Dzamara. It has been a frustrating road but our determination is unlimited so we will keep pushing for answers. The family has been very helpful," Masiye told The Legal Monitor as the country commemorated 17 months since Dzamara's abduction in August.

Masiye was hospitalised in November 2015 after anti-riot police assaulted him for daring to represent the activist.

"That incident in fact strengthened my resolve," he said.



Kennedy Masiye of ZLHR had to be admitted into hospital with serious injuries after he was assaulted by police for representing Dzamara

Since his abduction, the police have sought to block any events to remember Dzamara.

"It is absurd that we have to rush to the courts each time the family wants to hold an event to remember Itai. It shows a blatant lack of respect for the Constitution by law enforcers," said Masiye.

Human rights organisations accuse state security agents in Zimbabwe of routinely abducting political and civil society activists and holding them in secret locations amid severe torture. Some have never been found.

Others, such as Jestina Mukoko, were later released after pressure from Human Rights Defenders.

According to Amnesty International, enforced disappearances are now a pattern in Zimbabwe. According to a report by ZLHR, enforced disappearances are a lesson from the Nazi era.



Itai Dzamara's wife, Sheffra and Nokutenda, the missing activist's son, in Africa Unity Square during last week's commemorations

"It is generally believed that the practice of enforced disappearance began with the Nacht und Nebel Erlass (Night and Fog Decree) created by Adolf Hitler in 1941. Persons from the occupied territories were seized and taken to Germany where they were executed. In the meantime, the whereabouts of the missing persons remained unknown to their families as well as to the public," reads part of the ZLHR report on enforced disappearances.

According to ZLHR, Dzamara's case shows that state sanctioned enforced disappearances are still pervasive in Zimbabwe; hence the need for HRDs to take extra care. ➤

• See strategies below

Strategies to stay safe when at risk of enforced disappearance

Being on the look-out for surveillance

If you are not sure whether you are under surveillance from state agents or not, assume you are and be very aware of what you say and do in order to protect yourself and others

- Discuss with other HRDs what surveillance methods are used in your country, what is the purpose (to collect information? to intimidate? to prepare for an abduction?) - your tactics will change depending on the objective of the perpetrators
- Discuss with your colleagues how you should react if you discover surveillance. For example, if you find a tracking device on your car, should you leave it there or get rid of it? A general rule seems to be - if you spot surveillance, pretend you haven't. If they see you are aware they will at best move further away and be harder to identify, and at worst become violent.
- Have a plan - if an HRD finds a device in their home or car, what should they do? Ignoring it whilst being aware of the implications and behaving accordingly could be the safest option.

Physical Surveillance (Being Followed)

Always remember that very professional surveillance operators may work completely unnoticed, so you would need to be extra vigilant as well. Be aware of what is going on in your surroundings all the time (while resisting paranoia of course)



Jestina Mukoko and Nigel Mutemagawu (c), two of some of the people abducted and held incommunicado by State agents in 2008, stand in solidarity with Dzamara

- All surveillance will have a 'start point', which will most likely be your home or work. Always be on the look-out for strange vehicles (including their colours and registration numbers) or people loitering yet looking out of place around your home or work premises
- Do not have a fixed routine. Vary the times and routes you use to go to work, go home, go shopping or to any other places you visit regularly
- Always remember that a vehicle surveillance usually has at least two cars, with one in front, one behind and another likely

driving by your car's side. Speeding away from one might not always mean you have eluded those stalking or putting you under vehicle surveillance.

- Drive naturally - don't keep moving your head to look in your rear mirrors
- To check for surveillance, turn into a cul-de-sac or a petrol station to get fuel, but be careful that it looks natural
- To evade surveillance park somewhere and then, in a relaxed way, jump onto public transport if you believe the threat of being abducted is imminent

Avoid giving too much information on public platforms

Unfortunately, many people innocently reveal information about themselves and their whereabouts, through business cards, giving away numbers and email contacts indiscriminately. Personal profiles on social media platforms such as Facebook can reveal where you are, where you usually hang out, who you usually are with, among other forms of personal information that can make you more vulnerable. The key message here is to exercise discretion in terms of the amount of personal information and routines you put into the public domain, in case such information can be used to either trap you or facilitate abduction/ disappearance

Below are a few tips to ensure security as you use social media

- Think carefully about the information you share about yourself, your whereabouts, friends etc.
- Get consent if posting information, documents, pictures and the locations of others

Make sure your passwords are secure and changed regularly.

- Be careful when accessing your social network account in public internet spaces - only use them if you are sure they can be trusted.

Delete your password and browsing history after using a public browser or computer.

- Read and understand the End User License Agreement (EULA), Terms of Use and/or Privacy Guidelines documents. These documents may change in the future, so it is important to revisit them regularly.
- Make sure that you are familiar with the privacy settings of your social network account. Don't rely on the default settings - customise your settings and review them regularly as the service may make changes.

Use caution when installing applications suggested by social networking services. Use these applications only if you trust their source, understand what information they will expose, and are able to control the outflow of your information

Source: Enforced Disappearances - An Information Guide for Human Rights Defenders and CSOs; A ZLHR Publication

ENFORCED DISAPPEARANCE = CRIME AGAINST HUMANITY

HRDs

WITNESS AGAINST VIOLENCE

WHERE ARE THEY?

HELP IN THEIR SAFE RETURN

Itai Dzamara
Missing since 2015

Call **Hotline:** 0779 204 102

Paul Chizuze
Missing since 2012

WOZA members protest, released on free bail

BULAWAYO-What was supposed to be a day to celebrate Zimbabwe's liberation war heroes served to confirm that 36 years on, freedom is merely on paper after 10 Women of Zimbabwe Arise (WOZA) members were arrested at Queens Sports Club.

Their crime: Intention to demonstrate.

They were not alone.

They were part of 14 people who were arrested during the Zimbabwe and New Zealand cricket Test match last week.

The police who arrested them seemed clueless, according to lawyers.

"At the moment we are dealing with an unlawful detention. There is no charge. Even the police who are taking those who have been detained say they do not even know. They say those who arrested them simply came and handed over the arrested to them without telling them of the charge or any allegation," Lizwe Jamela of Zimbabwe Lawyers for Human Rights (ZLHR) told *The Legal Monitor* as he sought their release.

"The Constitution is clear; upon arrest, an accused person must be informed of his or her charges or allegations," said Jamela.

Court acquits Pumula teen

BULAWAYO- A teenager arrested for allegedly taking part in pro-democracy protests has been freed following the intervention of Zimbabwe Lawyers for Human Rights (ZLHR).

Pride Terrence Tshabangu from Pumula South high density suburb was facing charges of obstructing traffic and pavements.

He is now a free man after Western Commonage Magistrate Nyaradzo Ringisai found him not guilty. The 19 year-old teenager was represented by ZLHR members Lison Ncube and Tanaka Muganyi.

Tshabangu was arrested in the Zimbabwe Republic Police (ZRP)'s crackdown following protests that rocked the country in July 2016 under the hashtag campaign #SHUTDOWNZIM2016.

Tshabangu had been charged with obstructing traffic and pavements under Section 38 (c) of the Criminal Law (Codification and Reform) Act Chapter 9:23.

The State witnesses that the National Prosecuting Authority relied upon to prove the case against Tshabangu gave conflicting evidence.

Tshabangu's case becomes the third case in which Bulawayo residents who were arrested over #SHUTDOWNZIM2016 protests have been found not guilty.

Four Bulawayo residents who were arrested over a "Mugabe must go" rant during the same protest were found not guilty by Magistrate Tawanda Muchemwa on Tuesday 2 August 2016.

The four Mthokozisi Ncube (25), Alfred Dzirutwe, (35), Robson Tera, (39) and Thembelihle Sibanda (36), were arrested after taking part in protests that took place early July. The police then charged them with criminal nuisance in contravention of Section 46 of the Criminal Law (Codification and Reform) Act Chapter 9:23.

Prosecutors claimed that the four unemployed residents interfered with the ordinary comfort, convenience, peace or quiet of the public and created a nuisance or obstruction when they allegedly gathered in central Bulawayo on 6 July and wrote and displayed some "derogatory" placards inscribed with messages which read "Mugabe Must Go" and at the same time singing a song laden with the lyrics "Mugabe Must Go".

Then on August 4, another Bulawayo-based Magistrate found two residents who were facing public violence charges not guilty.

Meanwhile in Hwange, police have charged Praise Moyo with inciting public violence. The charges against the 28-year-old arose after he allegedly sent messages via WhatsApp groups querying why chiefs in Hwange were not persuading coal producer, Hwange Colliery Company to pay its employees. ➤

The 10 WOZA members namely Jenni Williams, Loveness Ndlovu, Violet Nxumalo, Emmaculate Sibanda, Elma Nyathi, Phephelaphi Aruchupetu, Violet Dube, Silibaziso Mpfu, Hlalani Ncube and Nokuthaba Ndlovu, were later charged with criminal nuisance.

The others - Samuel Meso, Kudzai Hove, Gift Ostallos Siziba and Rodwell Nyika, who had gone to watch the cricket match while wearing their graduation gowns, were later released without being charged. They were only "profiled" as in having their details noted down by police officers before being set free.

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Unrelenting...WOZA leader Jenni Williams and nine other WOZA members with their lawyers Mehuli Dube, Solomon Mguni and Lizwe Jamela of ZLHR after they were released on free bail on Heroes Day. They had spent two nights in police detention



Bar Human Rights Committee express concern over arrest, detention and prosecution of peaceful protesters in Zimbabwe

The Bar Human Rights Committee of England and Wales (BHRC) expresses its grave concern over the recent allegations of arrest, detention and prosecution of peaceful protesters, including those involved in the social media "#ThisFlag" movement in Zimbabwe, as well as the allegations of the use of torture and police brutality against those arrested and detained.

Protest Movement

Zimbabwe is currently experiencing a wave of popular protest. This has included a popular social media movement called "#ThisFlag", led by Pastor Evan Mawairire.

This has led to a number of "stay-away" protests throughout July, which have caused the shut down of most business, government offices, schools and hospitals in Zimbabwe. The Zimbabwean government, ZANU-PF regime has responded by arresting numerous protesters, including Pastor Evan Mawairire himself.

Video footage has emerged on social media appearing to show police inflicting torture on detained protesters, in the presence of children, by the practice of beating on the soles of the feet. At least 320 people are facing criminal prosecution for offences including "conspiracy to commit public violence", "disorderly conduct", "criminal nuisance" and "convening a public gathering without clearance". At least four children have been arrested and charged with "public violence".

Kirsty Brimelow QC, Chairwoman of the Bar Human Rights Committee of England and Wales said:

"The Zimbabwean government's actions of arresting, detaining and prosecuting peaceful protesters undermines Zimbabwe's own established constitutional protections for freedom of expression, assembly and peaceful demonstration. The arrest and prosecution of children for such offences is particularly concerning."

Reports of torture and police brutality are in breach of Zimbabwe's own constitution as well as international law. The BHRC calls on the Zimbabwean government to respect its own constitution and to investigate independently and thoroughly any allegations of torture and police brutality."

The BHRC are gravely concerned by reports that:

- The Zimbabwean police have sought to "ban" proposed peaceful protests and assemblies, resulting in the Courts having to be petitioned almost every time that a group wishes to peacefully protest;
- Threats have been issued by the Zimbabwean government to restrict access to social media platforms such as "Whatsapp", which has been used to share information and hold the government to account.

Legal Framework

Articles 58, 59, 60 and 61 of Zimbabwe's recently enacted 2013 Constitution protects the right to freedom of expression, assembly and to peaceful demonstration. Article 62 of the Constitution protects the specific right of access to information.

Article 49 contains the right not to be deprived of personal liberty without a just cause. Under Article 50, a person must be released from detention whilst awaiting trial unless there are compelling reasons justifying their continued detention.

Article 53 of the Constitution prohibits the use of torture and cruel, inhuman or degrading treatment. In addition, Article 81 of the Zimbabwean constitution specifically protects the right of children not to be detained except as a matter of last resort and to their adequate protection by the Courts.

Zimbabwe has acceded to the International Covenant on Civil and Political Rights, which protects the rights of freedom of expression and association as well as the prohibition on torture. Zimbabwe has also ratified the UN Convention on the Rights of the Child.

The BHRC observes that the arrest, detention and prosecution of peaceful protesters and the use of police brutality and torture offends against Zimbabwe's own constitution as well as international law.

ENDS.

NOTES FOR EDITORS

1. For an interview with our spokesperson, please contact Ed Gillett, Coordinator, on +44 (0)7854 197862
2. For more information on the Bar Human Rights Committee (BHRC), visit our website at <http://www.barhumanrights.org.uk>
3. The Bar Human Rights Committee of England and Wales (BHRC) is the international human rights arm of the Bar of England and Wales, working to protect the rights of advocates, judges and human rights defenders around the world. The BHRC is concerned with defending the rule of law and internationally recognised legal standards relating to human rights and the right to a fair trial. It is independent of the Bar Council.

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Bring Back Itai

• In solidarity with Dzamara, 17 months on



WOZA members protest, released on free bail

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The WOZA members were later charged with contravening Section 46 of the Criminal Law (Codification and Reform) Act Chapter 9:23 for allegedly interfering with the ordinary comfort, convenience, peace or quiet of the public.

At the Bulawayo Magistrates Court housed at Tredgold Building, Williams and the WOZA members, who are represented by Mehluli Dube, Solomon Mguni and Lizwe Jamela of ZLHR were released on free bail.

Police officers claimed that the WOZA members created a nuisance at Queens Sports Club, an accusation which they all deny in their warned and cautioned statements.

"We filed an application challenging placement on remand as the State's facts do not constitute an offence. The ruling is on 22 August," said Jamela. It all started with a national anthem and waving of Zimbabwe's

flag on the 36th over during the New Zealand - Zimbabwe cricket

match. Zimbabwe is in the midst of an unprecedented wave of protests against President Robert Mugabe and his administration. President Mugabe has been in power since 1980 when the country secured its independence from the United Kingdom.

The cricket match demonstration was organised by the #thisflag movement, which is led by Pastor Evan Mawarire, who fled to neighbouring South Africa last month after he was threatened by State authorities. ➤