

Don't talk to me, talk to my lawyer

MAZOWE-Human rights lawyers don't just get you out of jail. They get you paid for your trauma as well.

Zimbabwe Lawyers for Human Rights (ZLHR) did not just save Manzou villagers in Mazowe in Mashonaland Central province from eviction and jail, the organisation is helping the villagers demand tens of thousands of dollars for various human rights violations committed when the Zimbabwe Republic Police (ZRP) sought to remove them from their land to make way for former first lady Grace Mugabe.

And the Manzou villagers are not the only ones.

As part of an anti-impunity campaign that falls under the Public Interest Litigation project, ZLHR has gone further than just defending Human Rights Defenders (HRDs) from trumped up charges.

Under the anti-impunity campaign, ZLHR helps bring civil claims for damages against named perpetrators in their official and personal capacities. The aim is to reduce impunity and increase accountability of State and non-State actors for human rights violations against citizens.

"Over the years of litigating on behalf of human rights defenders, ZLHR has realised that a number of state and non-state actors often violate human rights of others under the guise of acting within the realm of the law or purportedly under some state authority," said Bellinda Chinowawa, ZLHR's Programme Manager for Public Interest Litigation.

"Cases of police brutality, heavy-handedness by security agents and other quasi-state actors continue to be recorded. To deter and discourage such violations, ZLHR adopts, as one of its strategies, a policy of bringing anti-impunity civil proceedings against perpetrators wherever possible. Claims for damages are usually filed against the defendants to deter acts of human rights violations," said Chinowawa.

Judging by the thousands of dollars paid to dozens of HRDs represented by ZLHR over the years, the anti-impunity campaign has successfully targeted rogue state and non-state actors involved in human rights violations, although significant work is still needed to inculcate a culture of accountability.

Over the course of 2017, ZLHR intervened to assist victims of rights violations file civil claims for incidents ranging from assaults, illegal arrests and detention to violations of socio-economic rights.

In many instances, the civil claims have been a follow up to cases that ZLHR has handled in defending HRDs arrested, detained and brought to court on trumped up charges as happened in Mazowe and Manicaland province's Chisumbanje area.

Mobile legal clinics that the organisation undertakes in communities have also opened vulnerable groups to the possibility of taking on state and non-state actors that used to violate rights with impunity, as happened in Chingwizi in Masvingo province.

Mobile legal clinics provide human rights literacy, free legal aid and legal counselling for the poor and the most marginalised populations and where appropriate, ZLHR takes up cases requiring human rights litigation.

Hospitals, local authorities such as town councils, schools, traditional leaders and state agencies such as the Zimbabwe National Water Authority have also been forced to account for human rights violations through ZLHR's Public Interest Litigation project.

Such cases, though taken on behalf of individual clients, are of significant importance because of the strategic impact they have on the wider community.

"These cases are meant to benefit the public good and advance the protection and enjoyment of human rights at a broader level. Strategic human rights litigation has an impact on the larger community and benefits more people beyond the primary litigant in a specific case," said Chinowawa.

"Some of the key issues targeted by the unit include reform of bad and repressive laws, influencing government economic and social policy, promoting social equality, fostering public accountability, promoting access to justice and generally promoting and protecting the rule of law and the enjoyment of human rights by all citizens," said Chinowawa.

See Page 3 to read about state and non-state actors that ZLHR has forced to account for human rights violations under this anti-impunity campaign.



When a Constitution is up in smoke... Several Mazowe villagers lost their belongings from menacing police officers, who evicted them from Arnold Farm, which they occupied with government support at the height of the land reform programme in 2000. Mashonaland Central Resident Minister Martin Dinha confirmed at the time that dozens of families were being evicted from the farm to make way for First Lady Grace Mugabe's game reserve. The families later secured a court order through the help of Zimbabwe Lawyers for Human Rights giving them reprieve to stay at the farm

Farmers harassed over Manzou farm seek compensation

MAZOWE-The first order of business for human rights lawyers when they arrived at Manzou Farm in Mazowe in Mashonaland Central province was to stop the eviction of villagers to protect their right to shelter.

Next, lawyers had to defend the villagers from criminal charges for refusing to vacate the farm to pave way for former First Lady Grace Mugabe, who wanted to expand her empire at the expense of the villagers' rights.

Tonderai Bhatasara and Gift Mtisi of Zimbabwe Lawyers for Human Rights (ZLHR) camped at Manzou Farm to defend the poor, small scale resettled farmers after police descended on the farm to destroy homes and crops to force the farmers off.

Following a High Court order stopping the evictions, government capitulated and granted alternative land to some of the affected farmers.

The lawyers also represented some of the farmers who were charged with "refusing to leave the land without lawful excuse when called upon to do so by the lawful occupier" as well as charged with assaulting or resisting a peace officer as defined in Section 176 of the Criminal Law (Codification and Reform) Act Chapter 9:23.

After successfully defending the villagers, lawyers launched a fight back against State actors that violated the villagers' rights, as they combined their defence of human rights defenders with an anti-impunity drive.

With help from ZLHR, the 51 villagers who were residents of Manzou farm in Mashonaland

Central province when police destroyed their property in a bid to arbitrarily evict them in 2015 are suing for tens of thousands of dollars

In summons filed at the Bindura Magistrates Court, the villagers accused police of illegally evicting them without a court order.

As a result of the arbitrary police action, dozens of school children risked missing on the right to education, while their parents' right to shelter and right from arbitrary eviction were also threatened.

"At all material times the (Commissioner-General of Police) CGP and his team were aware that their actions were unlawful and they were acting within the course and scope of their employment with the Minister of Home Affairs and the CGM, and as such the two are vicariously liable for their actions," said one of the farmers, Leonard Mukoore in submissions filed at Bindura Magistrates Court.

Mukoore is demanding \$7 570 for the illegal eviction and losses he suffered when the police destroyed his two-roomed cottage, kitchen hut, five tonnes of maize, 17 bags of ground nuts and household furniture.

Their lawyer, Noble Chinhanu said the villagers suffered emotional suffering and physical hardship after they were left destitute and at the mercy of the elements.

Another farmer, Samson Jekera's thatched house burnt down. He lost clothes, one and a half tonnes of maize and a chicken run. He is claiming damages for destruction/loss of property, nervous shock, pain and suffering and contumelia in the



Children at Manzou Farm in Mazowe seen with their parents' belongings after the destruction of homesteads by ZRP officers

sum of \$5 330. Livingston Musanhi watched as police destroyed property that included four brick houses, cattle, goats kraals and blankets. Two tonnes of maize went up in smoke while plates and pots, clothes, a radio and 12 iron sheets were not spared. He is claiming \$6 470 in damages for destruction and loss of property, nervous shock, pain and suffering and contumelia.

Like the other farmers, Yeukai Dube lost all

she had worked for after the police raid. Police destroyed property that included two thatched houses, three blankets, a bicycle, clothes, five bags of beans, a chicken run and three tonnes of maize. She is claiming \$10 000 in damages for the destruction and loss of property, nervous shock, pain and suffering and contumelia.

Lawyers took up the matter to ensure that police officers account for their wayward actions.



Section 74 of the Constitution

THE RIGHT TO FREEDOM FROM ARBITRARY EVICTION

What is arbitrary eviction?

Arbitrary eviction is when a person (or people) is/are evicted in a manner that is not right or fair. This usually happens when the eviction is done without following court procedures and allowing those affected to be heard.

The Constitution on freedom from arbitrary eviction

- Section 74 of the Constitution provides that no person may be evicted from their home or have their home demolished, without an order of court made after considering all the relevant circumstances
- Freedom from arbitrary eviction is therefore a right in the Constitution

The Constitution also has national objectives that guide the state and all institutions in making policies and laws to contribute to establishing, enhancing and promoting a sustainable, just, free, and democratic society.

- Section 28 of the Constitution is the national objective on Shelter
- It calls on all institutions and agencies of government at every level to take reasonable measures including putting in place laws within limits of available to enable every person to have access to adequate shelter

The Constitution does advance to a limited extent provisions of human rights instruments

that Zimbabwe has accepted such as the International Covenant on Economic Social and Cultural Rights which calls on the government to provide adequate housing

What must the government do to protect freedom from arbitrary eviction?

- The government must respect the right to housing by not arbitrarily evicting people from their homes
- The government must not lead forced evictions or leave forced evictions carried out by non-state actors against each other unattended
- The government must stop any forced evictions done without a court order issued after the court has considered all relevant circumstances

What are the responsibilities of councils and local authorities?

- The provincial and metropolitan councils and local authorities must be guided by section 28 of the constitution which takes all measures to enable every person access to shelter
- Ensure that all policies enable every person to access shelter

What should be done before a demolition?

- Demolition of properties are also covered in section 32 of the Regional, Town and



Country Planning Act. This law requires the authorities to issue an enforcement order giving all persons likely to be affected by such demolitions at least one month notice of the intended demolitions

- Where a local planning authority seeks to take any administrative action that affects the rights, interests or legitimate expectations of any person that authority must act lawfully, reasonably and in a fair manner

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What to do if house has been or is about to be demolished?

You must approach the courts of law!

In defence of vendors' rights

HARARE- In a bid to eke out a living in a country battling massive unemployment, vendors often endure beatings, illegal arrests and confiscation of their items by the Zimbabwe Republic Police and municipal police.

Zimbabwe Lawyers for Human Rights (ZLHR) has routinely intervened to help many of the vendors recover their wares and sue for the violation of their rights.

A group of vendors detained following a dragnet arrest by police in Harare before being released without charge are suing for damages for unlawful arrest and detention with the assistance of ZLHR.

In other cases, the municipal police were downright brutal.

Emma Eferemu and Phinos Karambwe were subjected to assaults by unidentified members of the Harare Metropolitan Police. Eferemu was dragged for a distance of over five metres, resulting in her sustaining injuries to her thighs, hips and knees.

"The assaults were not only physically debilitating, but resulted in grave embarrassment for our clients as they were perpetrated in full view of the public," said their lawyer Bellinda Chinowawa of ZLHR.

"In the premise, we are instructed to demand from you, as we hereby do, payment in the sum of \$5 000, each to our clients as damages for pain and suffering, and \$2 400 as special damages for medical expenses," argued Chinowawa in court papers.

In many instances, the municipal police never return the confiscated wares despite releasing the vendors without charge.

ZLHR has helped some vendors take the Harare City Council to court to force the local authority to pay for the wares.

These include Tawanda Maziya, Lovemore Chitongo and Taurai Dzambi who are demanding \$3 460 for their wares. Chitongo is seeking \$1 090, Maziya is demanding \$1 500 while Dzambi wants to be paid \$870.

Municipal police recorded the trio's wares at the municipal police headquarters before asking them to return to collect the items. The wares were unavailable for collection, forcing them to take legal action. Municipal police Chief Superintendent Mawoyo and City of Harare Municipality are cited as the first and second defendants.

Shoes and shirts are among the items confiscated by police.

"The continued failure by the defendants to release the plaintiff's confiscated goods violates Section 11 (2) of the Harare (Vendors) By-laws, 2014 which provides that confiscated goods be returned to their owners upon payment of the required fine; as well as his constitutional rights to equality and non-discrimination (section 56), right to privacy (section 57), right to administrative justice (section 68) and right to property (section 71). As a result of the defendant's wrongful conduct, the plaintiff suffered damages," submitted the vendors' lawyers.



In Chingwizi, villagers repay lawyers in unique way

MASVINGO-In Chingwizi in Masvingo province, villagers are putting thousands of dollars they received as compensation to good use, thanks to the intervention by Zimbabwe Lawyers for Human Rights (ZLHR).

The villagers succeeded in suing the Minister of Home Affairs and the Zimbabwe Republic Police for payment of compensation following the torture they endured as government sought to force them to relocate to an area with worse conditions than those at a transit camp they were staying.

Through Zimbabwe Lawyers for Human Rights (ZLHR)'s anti-impunity drive, Treasury has already begun releasing the money to the recipients.

So far, government has paid out more than \$10 000 following a ruling by the Chiredzi Magistrates Court to the effect that police violated the rights of the villagers.

After receiving their compensation, the villagers went on a property buying spree, and they are using their newly acquired possessions to repay human rights lawyers in a unique way.

They named goats, cattle and scotch carts after the ZLHR lawyers who helped them win the case. Some of the lawyers who have some livestock named after them include Jeremiah Bamu, while other villagers have also named their cattle "police" and "button stick" names which emanate from the harassment and assault they endured from some law enforcement agents.

Lawyers took up the matter to ensure that police officers account for their actions.



Informal traders often face harassment by municipal police and Zimbabwe Republic Police officers



Troubled in their own country...Chingwizi villagers

ZLHR helps man who lost body part seek compensation

MUTARE-On 26 February 2016, Fungai Ziduche was arrested by four Zimbabwe Republic Police (ZRP) officers stationed at Mbada Diamond Base in Marange, stripped naked and tortured until he lost part of his body part and rendered infertile.

Zimbabwe Lawyers for Human Rights (ZLHR) is now helping him fight for compensation as part of the organisation's anti-impunity campaign.

Ziduche is demanding \$500 000 compensation for the serious injuries he sustained during the attack in the diamond rich fields in Manicaland province.

A police officer identified as Ncube is cited as the first defendant and the officer-in-charge at Mbada Diamonds Police Station as the second defendant.

The Minister of Home Affairs and Commissioner-General of ZRP are cited as third and fourth respondents respectively.

In a notice of intention to sue, Peggy Tavagadza, the ZLHR lawyer representing Ziduche, said her client was at the local shops in the company of his uncle when police swooped on them at night.

"Four police officers who were using a police vehicle arrived at the shops, whereupon they ordered him to get into the police vehicle. Despite demand, the

police officers did not explain why they were acting in the manner they did. Police rounded other people at the shops," the notice read.

They were taken to a police base where they were subjected to torture.

"A police detail who bears the name Ncube, but whose further and better particulars are unknown to our client, ordered Ziduche to remove all his clothes and was only left with his underwear. Our client suffered extreme humiliation," said Tavagadza.

"Police officer Ncube proceeded to instruct our client to roll on the ground and in the process, assaulting him using a switch. During the process of rolling to the ground officer Ncube assaulted our client on his private parts, resulting in our client losing consciousness," said Tavagadza.

Ziduche suffered serious injuries on his body part and had to undergo surgery, resulting in doctors removing a part of it.

They informed him that he had become infertile due to the injuries.



Humiliated and tortured...Fungai Ziduche