ZIMBABWE LAWYERS FOR HUMAN RIGHTS
Fostering a culture of human rights

The Legal Monitor

For feedback please email ZLHR on: info@zlhr.org.zw or visit: www.zlhr.org.zw Zimbabwe Lawyers for Human Rights @ZLHRLawyers

16 September 2022

A newsletter published by Zimbabwe Lawyers for Human Rights for members & human rights defenders

COST: FREE

Special Edition

Distributed without any inserts

INSIDE

Courts acquits "assault" accused resident after ZLHR's intervention

PAGE 3

Bindura: Duo on trial for conducting voter education

PAGE 3

"I am being punished for my political affiliation" - Madzibaba VeShanduko

PAGE 4

Braving attacks: ZLHR responds to rights violations



Zimbabwe Republic Police has banned demonstrations and gatherings of civil society organisations and opposition political parties

HARARE-Non-governmental organisations (NGOs) are facing renewed threats, including risks of being closed down.

Their meetings are disrupted or banned. Human rights defenders (HRDs) are being arrested, detained or harassed in various forms while even church leaders and their followers perceived to be critical of government are not spared. The use of law fare has become more pronounced and for many Zimbabweans, a sense of déjà vu is creeping back as the country inches into familiar territory ahead of elections scheduled for 2023.

Human rights lawyers have not only been fighting against a Private Voluntary Organisations Amendment Bill, which will inhibit their operations, but they have been overwhelmed as they handle cases in defence of Human Rights Defenders (HRDs) and ordinary citizens under attack as the nation heads for polls.

Continued on Page 2

Zim makes first arrest under Data protection law



Targeted...Emmanuel Magunda and his lawyer Douglas Chikwangwani of ZLHR

KADOMA-Zimbabwean police have arrested a 41 year-old man for posting an image deemed derogatory of President Emmerson Mnangagwa, marking the first time that authorities invoked the loathed Cyber and Data Protection Act to apprehend a citizen.

The Cyber and Data Protection Act became law late last year when President Mnangagwa assented to it on 3 December, ignoring protests from human rights defenders (HRDs) who argued that the legislation would be used to target opposition activists and people perceived to be critical of government.

Their concerns came to true following the arrest of Chegutu resident, Emmanuel Magunda, who has been charged with cyber bullying and harassment under section 164B of the Act.

Section 164B of the Act states that; "Any person who unlawfully and intentionally by means of a computer or information system generates and sends any data message to another person, or posts on any material whatsoever on any electronic medium accessible by any person, with the intent to coerce, intimidate, harass, threaten, bully or cause substantial emotional distress, or to degrade, humiliate or demean the person of another or to encourage a person to harm himself or herself, shall be guilty of an offence."

If convicted, Magunda faces up to 10 years in jail, a fine or both jail time and a fine. The 41-year old man is interim secretary for the Citizens Coalition for Change opposition party for Kadoma district in Mashonaland West province.

According to his lawyer Douglas Chikwangwani of Zimbabwe Lawyers for Human Rights, Magunda received a call from the Central Investigations

Continued on Page 2

The publication of this newsletter has been supported by the Federal Republic of Germany

Embassy of the Federal Republic of Germany Harare

ZIMBABWE LAWYERS FOR HUMAN RIGHTS
Fostering a culture of human rights

The Legal Monitor

For feedback please email ZLHR on: info@zlhr.org.zw or visit: www.zlhr.org.zw

Follow us on Twitter @ZLHRLawyers

A newsletter published by Zimbabwe Lawyers for Human Rights for members & human rights defenders

Braving attacks: ZLHR responds to rights violations



ZLHR Executive Director Roselyn Hanzi is among leaders of civil society organisations calling for respect for human rights and freedoms in Zimbabwe



Evans Moyo of ZLHR is representing Kanyanzura Parere and 34 of his church members

Continued from Page 1

ZLHR together with its partners namely Zimbabwe Human Rights Association, Zimbabwe Coalition on Debt and Development, Crisis in Zimbabwe Coalition, Women's Academy for Leadership and Political Excellence and Zimbabwe Human Rights NGO Forum noted an increase in human rights violations.

"Firstly, there has been an increase in judicial harassment and arrests of Human Rights Defenders (HRDs), of lawyers, trade unionists, journalists, political activists, student leaders, and opposition political actors. This points to the Government of Zimbabwe intentionally seeking to silence dissenting voices," reads part of a statement jointly issued by the six influential civil society organisations.

"Instead of law enforcement and security officials discharging their mandate to protect citizens, they have resorted to using brutality against citizens. Political activists who have been arrested have been exposed to violence and brutality whilst in custody, such as the torture in custody of a political activist for dressing in the colour of his political party," said the CSOs.

Attacks on freedom of expression and freedom of the media have been normalised, with ZLHR representing journalists targeted while executing their professional duties including ordinary citizens arrested for publicly questioning President Emmerson Mnangagwa's leadership capacities.

Recently, ZLHR secured freedom for Chipinge resident Tawanda Muzanya, who had been arrested for saying President Mnangagwa was responsible for the country's underdevelopment.

ZLHR is also intensifying efforts to get a clergyman and 34 of his church members released from Harare Central Remand Prison, where they have spent close to two months.

52 year-old Kanyenzura Parere, who is a Bishop of Mirirai Jehovha Apostolic Church and is also the leader of Zimbabwe Transformative Party (ZTP), an opposition political party has been detained at Harare Central Remand Prison since he was arrested by ZRP officers on 9 July 2022. Parare was apprehended as he marched along Robert Mugabe Way towards Simon Muzenda Street in Harare together with 34 members of his church while singing a gospel song with the lyrics "Emmanuel tisunungureiwo tanzwa ne nhamo" loosely translated to "Emmanuel save us from bondage".

He was charged with contravening section 7(1)(5) of the Maintenance of Peace and Order (MOPO) Act after he allegedly convened a gathering and led a procession of his church members without notifying the regulating authority, which is ZRP.

In court, prosecutors claimed that Parere and his followers, who are represented by Evans Moyo of ZLHR, gathered at Copacabana bus terminus and marched in Harare's central business district while singing and were intercepted by some ZRP officers as they had not notified law enforcement agents about their protest.

34 of Parere's political party supporters were charged with criminal nuisance as defined in section 46 of the Criminal Law (Codification and Reform) Act. Prosecutors alleged that the 34 church members unlawfully acted in a manner which is likely to create a nuisance by walking on the roads and pavements while singing a gospel song with the lyrics "Emmanuel tisunungureiwo tanzwa ne nhamo" and thereby obstructed the free passage and movement of people and vehicles.

The 34 include Simon Goshomi, who is ZTP's Vice-President, Richard Mhurushoma, the opposition party's Chairperson, Fortune Chapeyama, who is ZTP's Secretary-General, Prince Mukozho, Solomon Duwa, Shongai Mushinje, Noah Dabvu, Jasper Muringanidza, Honoured Mutangadura, Sherperd Mutsonhi, Edson Shonhiwa, Chaora Rovesai, Tafadzwa Musere, Tsverukai Harava, Shamiso Majecha, Runia Musere, Margret Chibwana, Sakile Nkomo, Helen Kuudzewe, Liah Munakandafa, Victoria Changadzo, Restar Kunyenzura, Emmanuel Musere, Godfrey Mashava, Givemore Bandera, Pangai Kurehwatira, Edward Mhindu, Leon Mukopfa, Pride Charedzera, Irvin Musenze, Jefta Takaedza, Thomas Zengeya and Felix Zengeya.

Know Your Rights

Section 67 of the Constitution: Political rights

1. Every Zimbabwean citizen has the right--
   a. to free, fair and regular elections for any elective public office established in terms of this Constitution or any other law; and
   b. to make political choices freely.
2. Subject to this Constitution, every Zimbabwean citizen has the right--
   a. to form, to join and to participate in the activities of a political party or organisation of their choice;
   b. to campaign freely and peacefully for a political party or cause
   c. to participate in peaceful political activity; and
   d. to participate, individually or collectively, in gatherings or groups or in any other manner, in peaceful activities to influence, challenge or support the policies of the Government or any political or whatever cause.
3. Subject to this Constitution, every Zimbabwean citizen who is of or over eighteen years of age has the right--
   a. to vote in all elections and referendums to which this Constitution or any other law applies, and to do so in secret; and
   b. to stand for election for public office and, if elected, to hold such office.
4. For the purpose of promoting multi-party democracy, an Act of Parliament must provide for the funding of political parties.

Section 155: Principles of electoral system

1. Elections, which must be held regularly, and referendums, to which this Constitution applies must be--
   a. peaceful, free and fair;
   b. conducted by secret ballot;
   c. based on universal adult suffrage and equality of votes; and
   d. free from violence and other electoral malpractices.
2. The State must take all appropriate measures, including legislative measures, to ensure that effect is given to the principles set out in subsection (1) and, in particular, must--
   a. ensure that all eligible citizens, that is to say the citizens qualified under the Fourth Schedule, are registered as voters;
   b. ensure that every citizen who is eligible to vote in an election or referendum has an opportunity to cast a vote, and must facilitate voting by persons with disabilities or special needs;
   c. ensure that all political parties and candidates contesting an election or participating in a referendum have reasonable access to all material and information necessary for them to participate effectively;
   d. provide all political parties and candidates contesting an election or participating in a referendum with fair and equal access to electronic and print media, both public and private; and
   e. ensure the timely resolution of electoral disputes.

Section 156: Conduct of elections and referendums

At every election and referendum, the Zimbabwe Electoral Commission must ensure that--
   a. whatever voting method is used, it is simple, accurate, verifiable, secure and transparent;
   b. the results of the election or referendum are announced as soon as possible after the close of the polls; and
   c. appropriate systems and mechanisms are put in place--
      i. to eliminate electoral violence and other electoral malpractices; and
      ii. to ensure the safekeeping of electoral materials.

Section 158: Timing of elections

1. A general election must be held so that polling takes place not more than--
   a. thirty days before the expiry of the five-year period specified in section 143;
   b. where Parliament has passed resolutions to dissolve in terms of section 143(2), ninety days after the passing of the last such resolution; or
   c. where Parliament is dissolved in terms of section 109(4) or (5) following a vote of no confidence, ninety days after the dissolution.
2. General elections to local authorities must take place concurrently with presidential and parliamentary general elections.
3. Polling in by-elections to Parliament and local authorities must take place within ninety days after the vacancies occurred unless the vacancies occur within nine months before a general election is due to be held, in which event the vacancies may remain unfilled until the general election.

Section 159: Filling of electoral vacancies

Whenever a vacancy occurs in any elective public office established in terms of this Constitution, other than an office to which section 158 applies, the authority charged with organising elections to that body must cause an election to be held within ninety days to fill the vacancy.

Zim makes first arrest under Data protection law

Continued from Page 1

Department's Law and Order section in Kadoma on 30 May 2022 to answer charges levelled against him. His lawyer advised him of the rights entitled to him, before accompanying him to the police station.

At Kadoma Police Station, Magunda was advised that he was being charged for contravening section 164B of the Cyber and Data Protection Act for cyber bullying and harassment, said Chikwangwani.

The charges emanate from an allegation that Magunda sent an image on a Whatsapp group titled Berina News, which has members, who are residents of Kadoma. The image is of a cockroach bearing the head of the president. The image is believed to be derogatory of the president hence the charges, Chikwangwani told The Legal Monitor.

Chikwangwani said the Officer-In-Charge at Kadoma Police Station agreed to release Magunda pending being served with summons as his docket was incomplete. He is yet to be summoned to court.

During the formulation of Cyber and Data Protection Act, HRDs mounted a strong opposition the law. They argued that it would give excessive powers to authorities such as police and the Ministry of Information Communication Technology and Postal and Courier Services by allowing them to conduct surveillance of private electronic communications, in breach of the Constitution.

They also described the law as dangerous, and cautioned that it could be used as a weapon to target HRDs and other people considered as critical of government.

ZIMBABWE LAWYERS FOR HUMAN RIGHTS
Fostering a culture of human rights

The Legal Monitor

For feedback please email ZLHR on: info@zlhr.org.zw or visit: www.zlhr.org.zw

Like us on Facebook
facebook.com/ZimbabweLawyersforHumanRights

A newsletter published by Zimbabwe Lawyers for Human Rights for members & human rights defenders

Courts acquits "assault" accused resident after ZLHR's intervention



Mikias Gwamanda of ZLHR rescued Jaka

CHIPINGE-Zimbabwe Lawyers for Human Rights (ZLHR) has secured freedom for a Chipinge resident, who had been arrested on assault charges which he argued were fabrications.

Clarence Mapiye Jaka was arrested and detained early this year after he was alleged to have slapped and tackled a ruling ZANU PF party supporter at Tafara Business Centre in Chipinge under some unclear circumstances.

He was only released from police custody after his lawyer Mikias Gwamanda of ZLHR intervened and secured free bail for him.

During trial, prosecutors claimed that Jaka, who is the Chipinge East constituency Coordinator for Citizens Coalition for Change (CCC) political party, accused a ZANU PF party supporter of prohibiting villagers from attending a meeting organised by his political party at Tafara Business Centre.

Jaka denied the allegations and stated that the charges against him were fabricated by the ruling party supporters so that he can be arrested and stopped from canvassing support for his CCC party in Chipinge East constituency. In the end, Chipinge Magistrate Alfred Chinembiri found Jaka not guilty and acquitted him after ruling that prosecutors failed to prove beyond any reasonable doubt that Jaka was guilty.

ZLHR assists students to access withheld results



Defending the right to education...Kossam Ncube of ZLHR

HARARE-A swift and decisive intervention by Zimbabwe Lawyers for Human Rights (ZLHR) has resulted in the release of examination results for three students from Harare Institute of Technology (HIT).

The students, namely Nesbert Munyuki, Tanatswa Nigel Chikokwa and Tapiwa Shawn Chikuku, had been blocked from accessing their examination results which had been released to other students recently.

According to the trio's lawyer, Kossam Ncube of ZLHR, the three students had a dispute with HIT authorities over outstanding tuition fees balances.

Authorities at HIT were adamant that the three students were still owing the disputed balances and therefore they could not access their results.

The HIT authorities demanded that the students pay tuition fees in excess of what was approved by government.

In defence of the students, Ncube demanded that HIT authorities should allow the students to access their examination results without any prejudice and gave them a deadline to do so.

However, the deadline passed without HIT complying with Ncube's request and this led him to file an urgent application at High Court seeking an order to compel the learning institution to release the students' examination results.

In response to the institution of legal action by Ncube, HIT authorities then engaged the human rights lawyer by holding meetings to resolve the issue and eventually allowed Munyuki, Chikokwa and Chikuku to access their examination results.

Duo on trial for conducting voter education

… threatened with torture while being interrogated



BINDURA-Two men are on trial on charges of contravening Zimbabwe's electoral laws after they were arrested by law enforcement agents for allegedly conducting voter education, in a clear indication that authorities are continuing with their penchant of violating citizens' rights.

24 year-old Master Master, who resides in Chipadze suburb in Bindura and is employed by the National Association of Youth Organisations (NAYO) as Mashonaland Central Province Coordinator, and 43 year-old Absoleme Mandizvidza of Harare, who is employed by NAYO as a Finance Director, were arrested recently by Zimbabwe Republic Police (ZRP) and charged with providing voter education without the permission to assist Zimbabwe Electoral Commission (ZEC) as defined in Section 40 (C)(1)(b) and as read with Section 40(C)(3)(a) of the Electoral Act.

Prosecutors alleged that the NAYO officials, who were represented by Ernest Jena of Zimbabwe Lawyers for Human Rights, were unlawfully and intentionally providing voter education to some residents of Bindura at Bindura Showground without obtaining permission from ZEC.

Jena said after being arrested, Master and Mandizvidza were subjected to unnecessary vigorous interrogation bordering on a violation of their constitutional right to privacy, where they were bombarded with questions such as which political parties they belonged to, whether they were engaged in military training and asked about the identity of the person or persons who sent them to conduct voter education in Bindura.

"The police details demanded a thorough search of the accused persons' cellphones and they were subjected to possible torture should they fail to disclose the requested information which we contend is privileged information," said Jena.

ZIMBABWE LAWYERS FOR HUMAN RIGHTS
Fostering a culture of human rights

The Legal Monitor

For feedback please email ZLHR on: info@zlhr.org.zw or visit: www.zlhr.org.zw

16 September 2022

A newsletter published by Zimbabwe Lawyers for Human Rights for members & human rights defenders

"I am being punished for my political affiliation" - Madzibaba VeShanduko

… Tortured, whipped while in police custody by men wearing sacks



Madzibaba ve Shanduko and his lawyer Doug Coltart of ZLHR

HARARE-Popular Citizen Coalition for Change (CCC) activist, Godfrey Karembera has been put on trial to answer charges of undermining police authority in a shocking case in which four Zimbabwe Republic Police (ZRP) officers who went on to brutalise him alleged that he ridiculed them.

The four ZRP officers - Constables Innocent Name, Douglas Majoni, Tafara Pasipanodya and Purity Meke - alleged that Karembera, popularly known as Madzibaba VeShanduko in the opposition CCC political party circles, told them that they were political tools used by Vice-President Constantino Chiwenga and other members of the ruling ZANU PF party to oppress citizens.

Prosecutors allege that the 52 year-old Karembera made a patently false statement, resulting in him being arrested by four ZRP officers and charged with undermining police authority as defined in Section 177(a)(i) of the Criminal Law (Codification and Reform) Act.

Karembera was arrested while wearing a yellow garment and police officers claimed that he was chanting CCC political party slogans and in the process attracting a crowd to the "annoyance of other people" who alerted the police.

The ZRP officers alleged that Karembera uttered the following words; "You police officers, you are used to be used by Chiwengwa, you are dogs, you behave as if you are being paid in gold bullions."

Prosecutors charged that the statement had the adverse intention or risk or possibility of engendering the feelings of hostility towards police officers or exposing them to contempt and ridicule.
But in his defence, Karembera pleaded not guilty to the charge and denied committing any offence as alleged by ZRP officers, maintaining that he did not say anything to the law enforcement agents prior to his arrest and after his arrest.

In a shocking exposure of police brutality, Karembera revealed how he was brutalised inside the dark dungeons at Harare Central Police Station by ZRP officers and other people wearing "sacks from the top of their heads to the bottom."
He said while he was being taken to a "partial dark room which appeared to be a locker room", a police officer believed to be Assistant Inspector Kamizora said to him; "If you are beaten thoroughly you will never wear these political garments again."

In the locker room, Karembera was stripped naked and was severely assaulted by four men who took turns to beat him on the soles of his feet and legs with truncheons.