

The LEGAL MONITOR

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COST-FREE

‘Release violence report’

Southern African human rights organisations have joined hands to pressure leaders attending this week’s regional summit to push the South African government to make public a report by the country’s army generals on Zimbabwe’s pre and post-election violence.

The 29th Southern African Development Community (SADC) Ordinary Summit of Heads of State and Government and its preceding meetings will be held in Kinshasa, Democratic Republic of Congo, from 2 - 8 September.

The Southern African Litigation Centre, the South African History Archive and the Southern African Centre for Survivors of Torture have said they want regional leaders to use the summit to force South Africa to release a report on the election violence that killed over 120 people before and after last June’s presidential election run-off.

Former South African President Thabo Mbeki in May last year commissioned six retired South African army generals to assess allegations of election violence in Zimbabwe and to present a report to him on such findings. Mbeki commissioned the generals in his role as the SADC-appointed facilitator of political dialogue in Zimbabwe.

That report has never been publicly released. In response to a request made earlier this year by the consortium of non-governmental organisations for the release of the report, in terms of South Africa’s Promotion of Access to Information Act (PAIA), the SA Presidency maintained that no written report had ever been produced, nor had any terms of reference been given the generals.

A statement released last week by the three regional human rights organisations said the non-disclosure of the generals’ report had implications for the South African executive’s constitutional obligations in respect of accountability for expenditure of State resources and the public’s right of access to information.

“These groups call on the 29th SADC Summit of Heads of State and Government to make public the report by South African Generals on election violence in Zimbabwe. Only by producing a written report could the obligations owed to SADC members be properly discharged,” the consortium of non-governmental organisations said.

“If the Zimbabwe Government has the report, it is our intention to demand that the report be made public”

The organisations said the non-disclosure of the report on violence had implications for the obligations of accountability and collegiality owed by members of SADC in respect of one another.

“In the absence of any written report compiled by the Generals or any written terms of reference for such report, it is hard to imagine how the mediator might have discharged, in good faith, his duty in respect of the Troika specifically and the Summit of Heads of State and Government, more generally,” the statement added.

The NGOs urged the 29th Ordinary SADC Summit of Heads of State and Government, in line with SADC’s commitment to the right of access to information as set out in its Protocol on Culture, Information and Sport,

to “produce the Generals report, if in possession of the Summit, the Troika, or any SADC institution, or, in the alternative, to clarify how it may discharge, in good faith, its several obligations in promoting peace and security when it has not considered so important a report on developments in Zimbabwe”.

Torture camps were allegedly set up in the wake of President Robert Mugabe’s shock defeat in the general election of 29 March last year. Movement for Democratic Change (MDC) leader, now Prime Minister, Morgan Tsvangirai, won 47.9 percent of the vote, but fell short of the 50 percent plus one ballot required for a first-round win of the presidency during the election. Mugabe got 43.2 percent of the vote, in a general election that saw ZANU PF lose control of parliament for the first time since independence from Britain in 1980.

High levels of political violence made Tsvangirai decide to withdraw from the presidential run-off, which Mugabe subsequently won as the sole candidate.

African leaders disputed the credibility of the poll, forcing SADC leaders to

broker the transitional government running the country today. Since the March 2008 elections senior army officials were deployed to rural districts, where they took charge of all operations previously handled by local government officials.

A statement by the Zimbabwe Lawyers for Human Rights (ZLHR) said it was disturbing to “note that the Office of the President of the Republic of South Africa is refusing to make public such an important document”.

“ZLHR is concerned about the potential for breeding impunity among perpetrators of violence whilst at the same time denying victims and their surviving families access to justice and truth, all essential ingredients for engaging in any meaningful national healing and reconciliation process,” the rights lawyers said.

“If the Zimbabwe Government has the report, it is our intention to demand that the report be made public, failing which we shall also approach the courts seeking the release of the report in terms of the Access to Information and Protection of Privacy Act (AIPPA).”

Army violence continues

Military-led violence deepened in the month of June amid signs of increased militarisation of State institutions despite the formation of a transitional government, the Zimbabwe Human Rights NGO Forum has reported.

According to a report on political violence released by the group, soldiers were still assaulting civilians, particularly supporters of Prime Minister Morgan Tsvangirai’s former opposition Movement for Democratic Change (MDC) party.

The report noted that the transitional government had failed to rein in the

military, which is accused of leading a violent election campaign that included killings and chopping off of body parts on behalf of President Robert Mugabe and his ZANU PF party last year.

Illegal diamond miners in Chiadzwa were a frequent target of violence by soldiers guarding and illegally mining gems in the vast diamond fields, according to the 25-page report released last week.

“It is alarming that some members of the Zimbabwe National Army (ZNA) appear to be a law unto themselves and continue to harass defenceless civilians,” reads part of the report.

To Page 2



Should children be (ab)used at State functions?

The children, (pictured above), were at Harare International Airport for more than four hours to welcome South African President Jacob Zuma who was expected to arrive at 15.00hrs but only landed at about 19.00hrs. Email your views to: info@zhr.org.zw

SADC Tribunal legal

... Lawyers differ with Chinamasa

Zimbabwe Lawyers for Human Rights (ZLHR) says it is increasingly concerned by the government's flagrant disregard of the Southern African Development Community (SADC) Tribunal.

Justice and Legal Affairs Minister Patrick Chinamasa recently told the State-run Herald newspaper that the SADC Tribunal had no legal force in Zimbabwe. Chinamasa said the Windhoek based SADC Tribunal had no jurisdiction over Zimbabwe because the government was not State party to the SADC Tribunal Protocol.

Chinamasa, the ZANU PF Secretary for Legal Affairs, said the SADC Tribunal that has so far passed four adverse judgments against the government backed wholesale land seizures was illegitimate because two-thirds of the regional body's membership had not ratified the Protocol that created the regional court. He said only Botswana,

Lesotho, Malawi, Mauritius and Namibia ratified the Protocol, hence the Tribunal remained in existence as a proposal only.

But ZLHR this week disagreed with Chinamasa's remarks, which it regards as a misleading and erroneous statement of the law and facts on the ground.

"How can 13 Member States purport to amend a Protocol that had not come into force as Hon. Chinamasa would have us believe?"

Investigations carried out by ZLHR show that the government minister's arguments about the legality or otherwise of the SADC Tribunal should be read in line with the SADC Treaty's amendments of 2001, in particular Article 16 (2) thereof which states that the Protocol on the SADC Tribunal had become an integral

part of the Treaty notwithstanding the provisions of Article 22 of the Treaty. Whilst the said Article 22 prescribed ratification for all other Protocols of the SADC, Article 16 specifically excluded such ratification with respect to Tribunal Protocols.

The lawyers group said that in any event and even if assuming but not conceding that Chinamasa was correct, the Protocol on the SADC Tribunal was amended in October 2002 by the SADC Agreement Amending Protocol on Tribunal resulting in the repeal of Article 38 of the original Protocol, which dispensed with ratification. This amendment was signed by then Foreign Affairs Minister, Stan Mudenge, together with 12 other SADC representatives, a fact Hon. Chinamasa neglected and or failed to mention.

"If all these Articles are taken into account, it is very clear that Member

States had made their intention very clear in 2001 that since the Protocol on the SADC Tribunal had become an integral part of the SADC Treaty, there was no need to ratify it as is done with these other Protocols hence the repeal of Article 38 of the Protocol on Tribunal," said Tafadzwa Mugabe, ZLHR programmes coordinator.

"It is noteworthy that Zimbabwe signed the SADC Agreement Amending the Protocol on Tribunal in Luanda on 3 October 2002. How can 13 Member States purport to amend a Protocol that had not come into force as Hon. Chinamasa would have us believe?" queried Mugabe.

The SADC Tribunal was created as the judicial organ of the SADC, aimed at ensuring enforcement of the objectives of SADC's founding treaty, including the upholding of human rights democracy and the rule of law.

State revives charges

Former presidential candidate Simba Makoni will next month stand trial for addressing a political meeting without police approval 17 months ago.

Police only resurrected the case in June this year, and summoned Makoni to appear at Bindura Magistrates' Court on 15 September. Human rights activists say the case shows how the transitional government has so far failed to stop state sanctioned harassment of President Robert Mugabe's political rivals.

Makoni is being charged under the Public Order and Security Act (POSA), a draconian law that the State has relied on for years to persecute perceived opponents.

The charges stem from an alleged meeting attended by 400 people and addressed by Makoni in Glendale on 5 March last year.

The State has lined up two ZANU PF members and councilors, Henry Magundani and Tendai Kuzvidza and four police officers stationed at Glendale

Police Station, Albert Chifamba, Johane Chimbari, Oddington Chonze and Jacob Pedzisai, to testify against Makoni.

Emmanuel Muchenga, who will prosecute, has handled several cases involving Movement for Democratic Change (MDC) activists and officials. Earlier this year, he travelled about 400 km to prosecute MDC Treasurer and Deputy Agriculture Minister-Designate Roy Bennett in Mutare.

Meanwhile, Abednico Bhebhe, the expelled MDC-M Member of the House of Assembly for Nkayi South constituency, and Alex Goosen, a former member of the party's national executive council, were last week arraigned before the courts after the State revived charges of assault allegedly committed in 2006.

The two allegedly assaulted members of the Zimbabwe Federation of Trade Unions (ZFTU) at Goosen's butchery when the labour union's officials intervened to solve a labour dispute between Goosen and one of his employees.

From Page 1

Violence continues

Human Rights NGO Forum is a coalition of 17 local organisations involved in human rights work and assisting victims of political violence.

The coalition publishes monthly reports on political violence.

Key findings of their latest report include:

- Levels of political intimidation were still prevalent. There were 125 cases of violence and rights violations recorded in June compared to 99 in May.
- Fear and intimidation continue gripping many parts of rural Zimbabwe, where groups of ZANU PF youths were still reported to be harassing members and suspected members of the MDC. The attacks on MDC supporters were happening mainly at night.
- Retributive attacks on those who sought legal assistance and want

redress for crimes committed during the 2008 electoral violence have been reported in some parts of the country.

- Farm invasions and looting of property continue despite numerous court rulings.
- Disregard for the rule of law, corruption, intimidation, abuse of political office and the militarisation of both public and private institutions continue to dog Zimbabwe and stifle any meaningful economic recovery.
- Civic activity remained under threat as the police violently broke-up peaceful protests and denied civic groups permission to take part in civic activities.
- The transitional government has failed to open up media space still dominated by tightly controlled State media.

US doctors offer free surgery

A group of American surgeons will soon visit the country to conduct free corrective surgery on children with facial deformities known as cleft lip and cleft palates.

The surgeons will evaluate potential cases on 4 October 2009 at St Anne's Hospital in the capital

before placing the selected cases on a surgery schedule that commences on 5 October 2009.

Operation of Hope travels to many developing countries that are resource constrained to offer free corrective surgery for cleft lip and palate conditions. "We are very excited to return to

Zimbabwe where we once again help those in need, offering hope and relief to the families of Zimbabwe needing this care," said Dr Joseph Clawson, the founder and director of Operation of Hope.

The October visit will be the sixth by Operation of Hope since October 2006

when volunteer surgeons from the non-profit making organisation first started offering free surgery to Zimbabweans. At least 450 Zimbabwean children ranging from newly born babies to victims of landmines have benefited from the facial reconstruction programme.

CHII CHINONZI KOMISHENI YEKODZERO DZEVANHU?

Komisheni yeKodzero dzeVanhu iboka riripo zvachose rine rusununguko rwuzere rinoubwa nehurumende nechinangwa chekusimudzira nekuchengeta kodzero dzevanhu. Kuumbwa kweKomisheni yeKodzero dzeVanhu kunofanirwa kufambirana negwara nemirawu zvakabvumiranwa muna 1993 apo nyika dzeSangano reUnited Nations rakanyorerana Chibvumirano che48/134, icho chinosisanganisira Mirawu iri Pamusoro peMapoka eNyika (*mirawu yakabvumiranwa kuParis*).

Basa reKomisheni yeKodzero dzeVanhu rinozadzikiswa nekuita mabasa akawanda akadai se: *kuferefeta nyaya dzekutyorwa kwekodzero dzevanhu nevakuru vehurumende, mapazi ehurumende, vanhu vakazvimirira kana nemakambani chaiwo*. Ongororo yekuferefetwa kwemhosva idzi inogona kuitwa kana pakaita vanomhan'ara, kana kuti inogona kungotangwa naiyo Komisheni yeKodzero dzeVanhu. Komisheni yeKodzero dzeVanhu iyi inogona kuvawo nemasimba akafanana needare redzimhosva; *inogona kugadzirisa nyaya kuburikidza nekuranga avo vanowanikwa vachityora kodzero dzevanhu. Vanowanikwa vachityora kodzero idzi vanogona kuripiswa, vachiitwa kuti varege tsika iyi, kana kuti vashandure hunhu hwavo nechinangwa chekudzivirira kuti vasarambe vachityora kodzero idzi*. Kuburikidza nebasa rayo, Komisheni yeKodzero dzeVanhu inorwira kuti pasarambe pachivanikwa kodzero dzevanhu dzinotyorwa. Komisheni yeKodzero dzeVanhu iyi inofanirwa kuvawo nezvikonzero zveamatanho ainotora kuti iconzi inoshanda nesimba. Komisheni yeKodzero dzeVanhu inofanirwa kunge iri *nyore kusvikwa nevanhu vose kuitira kuti izadzikise chinangwa chayo chinokosha* ichi.

Nhengo dzinomba Komisheni yeKodzero dzeVanhu

Komisheni yeKodzero dzeVanhu inofanirwa kuva nemaKomishina akasununguka nevamwe vashandi vakapinzwa basa kana kudomwa zvinofambirana nemutemo. Nzira yekudomwa nayo kwevashandi vezvinzvimbo zvakakosha muKomisheni iyi inofanirwa kunge

yakajeka kuitira kuti Komisheni iyi iwane kuremekedzwa nevanhu vainofanira kunge ichibatsira. MaKomishina acho haafanire kunge achidomwa nevakuru vehurumende vega vasina kutorawo zvinofungwa neruzhinji. Vanofanirwa kunge vachimirira zvikamu zvakanwanda zvevanhu vemunharaunda.

Mashandiro eKomisheni yeKodzero dzeVanhu

Komisheni yeKodzero dzeVanhu inokwanisa kuita mabasa akawanda. Kunze kwekuferefeta nyaya dzekutyorwa kwekodzero nekupa mafungiro ayo maererano nenyaya idzi, Komisheni yeKodzero dzeVanhu inokwanisa kusimudzira nekuchengetedza kodzero dzevanhu kuburikidza nekushanda pamwechete nemapazi ehurumende nemasangano ariri ehurumende. Mabasa aya anogona kusanganisira;

- Kuzivisa kunyika ino nedzepasi rose mamiriro akaita nyaya dzekodzero dzevanhu munyika.
- Kupa gwara kuHurumende kuburikidza nekupanga mazano kana kupa kurudziro yekusimudzira mamiriro ekodzero dzevanhu.
- Kupa kurudziro yemavandudzirwo angaitwe mitemo inotyora kodzero dzevanhu kuitira kuti iratidze hudzamu hwekodzero idzi sezvinotarisiswa mumitemo yekodzero dzevanhu pasi rose.
- Kuita zviringwa zvekuchenjedza nekudzidzisa ruzhinji pamusoro pekodzero dzevanhu.
- Kushanyira nzvimbo dzinochengeterwa vasungwa kana idzo dzine mukana wekusakosheswa kwekodzero dzevanhu.
- Kuita misangano neruzhinji nechinangwa chekutsvaga mashoko ari pamusoro pekutyorwa kodzero dzevanhu.

Komisheni yezveKodzero dzeVanhu iri kunzi dai Yavapo

Pfungwa yekuumba Komisheni yeKodzero dzeVanhu iri muzvikamu zvechiGumi neSere nechechiGumi nePfumbamwe cheKuvandudzwa kweBumbiro remutemo wenyika ino. Zvikamu izvi zvinonangana nekudomwa kwevashandi

vezvinzvimbo zvakanosha muKomisheni yeZimbabwe yezveKodzero dzeVanhu zvakadai sechinzvimbo chaSachigaro, nemaKomishina acho, uye zvinotsanangura zvimwe zvemabasa anotarisiswa kuti Komisheni iyi inge ichiita. Asi zvazvo, hapana zvikamu zvinotaura nezvekubviswa muhofisi kwemaKomishina aya, kureba kwenguva inobatwa hofisi nemunhu kana kutsiurwakunofanirwakuitwamaKomishinaacho. Bumbiro remutemo harivimbise rusununguko kuKomisheni yeKodzero dzeVanhu iyi kubva mukupindira mumashandiro ayo kwemamwe mapazi ehurumende, vashandi vehurumende kana vamwevo vanhu vakazvimirira. Haritsanangure kunobva mari yeKomisheni yeKodzero dzeVanhu iyi kana matanho angatorwe kuita kuti Komisheni iyi izadzikise basa rayo ichizvipindurira painenge yakanganisa.

Nemhaka yei tichida Komisheni yeKodzero dzeVanhu muZimbabwe?

Vanhu vemuZimbabwe vagara vachityorerwa kodzero dzavo nguva nenguva nekuda kwekukanganisa kwezvikamu zvehurumende kana zvisiri zvehurumende. Kukanganisirwa uku kunosanganisira kupwanyirwa midziyo, kusakosheswa kwekodzero yeupenyu, kodzero yekudzidza, kutadza kushandisa kodzero yavo yekuvhota, rusununguko rwekuratidza zvavanonzwa, kukanganiswa kwekodzero yekufamba munhu paanodira, kodzero yekuungana nevamwe, kunyangwe nekodzero yekushanda chaiyo. Vamwe vanhu vanongosungwa pamadiro, vachirwadziwa uye vamwe vanongonyagarika vachitadza kuonekwa zvachose. Mhirizhonga iyi yakambosanganikwa nayo kare uye mushure mekuwana kuzvitonga zvakare yagara inokura nguva yekuenda kusarudzo yega-yega.

- Tinoda Komisheni yeKodzero dzeVanhu nekuti matare edzimhosva haana kunyatsogona kugadzirisa nyaya dzekutyorwa kwekodzero dzevanhu.
- Matare edzimhosva haana nguva yekuntasoon nezvekutyorwa kwekodzero dzevanhu sezvo vaine mhosva zhinji dzavari kufanira kutunga; saka naizvozvo

avo vanotyora kodzero dzevanhu havana kumbosvika pakutongwa.

- Matare haana vashandi kana zvekushandisa zvakanwanda zvekuti vagone kunyatsoita basa ravo zvakanaka.
- Avo vanotyorerwa kodzero dzavo havana chivimbo nematare edzimhosva dzimwe nguva sezvo vamwe vashandi vakuru vekumatare uku nedzimwe nhengo dzavo vachionekwa sevasina kusununguka asi kuti vane kwavakarerekera mumashandiro avo.
- Mashandiro akanyatsonaka ematare edzimhosva anokanganiswa nekusateerwa kwemutemo nezvimwe zvikamu zvehurumende zvakadai semapurisa.

Zvishoma zvinotarisiswa pakusununguka kweKomisheni yeKodzero dzeVanhu muZimbabwe.

Komisheni yeKodzero dzeVanhu muZimbabwe inofanirwa

- Kuchengetedza rusununguko rwayo uye haifanirwe kukanganiswa mashandiro ayo, inofanirwa kuzvipindurira mumashandiro ayo ichinyatsoshanda nesimba mubasa rayo rekusimudzira nekuchengetedza kodzero dzevanhu.
- Kuva nemaKomishina naSachigaro vanodomwa kuburikidza nenzira iri pachena zvisina kuvanzika zvinotsidza kusununguka kwavo, uye vanofanirwa kunge vaine nhoroondo yakanaka yekurwira kodzero dzevanhu zvinogutsa irwo ruzhinji pacharwo kunyanya.
- Zvekushandisa zvakanwanda zvinofanirwa kupiwa kuKomisheni yeKodzero dzeVanhu muZimbabwe kuitira kuti izadzikise zvinangwa zvayo uye kudzivirira huwori.
- Kuita mabasa ayo (mamwe acho ataurwa muchinyorwa chino) pasina kutya kana kurerekera kudivi rimwechete.
- Inofanirwa kushanda zviku nekunyatsoita basa rayo muchinangwa chayo chekuva nhariri yezvekutyorwa kwekodzero dzevanhu.

ELIPHATHELANE LEKHOMISHINI EMELA AMALUNGELO ABANTU

Ikhomishini emela amalungelo abantu (Human Rights Commission) yinhlangano, ezimele yodwa engamelanga idilizwe. Lihlangano ibunjwa nguHulumende ukuze imele njalo ivikele ukuphazanyiswa kwamalungelo abantu. Ukubunjwa kwe khomishini emela amalungelo abantu kumele kwenziwe ngendlela elandela njalo ehlonipha izibopho ezithiwa phecelezi ‘ngamaPrinciples on the Status on National Institutions (the Paris Principles) ezavunyelwana ngamazwe kazwelonke ngaphansi kwesibopho seResolution 48/134 esenziwa ngamalunga eUnited Nations General Assembly ngomnyaka ka1983.

Umsebenzi weKhomishini ekhangela ngamalungelo abantu ugqwaliseka nxa leyokhomishini icwaninga ukungahlonitshwa kwamalungelo abantu okuyabe kusenziwa yiziphathamandla zikahulumende, uhulumende, inkampani ezizimele zodwa kunye labantu nje. Ikhomishini le ingamane yenze lokhu kucwaninga ngokufuna kwayo loba ngemva kokuthola izikhalazo ezivela ebantwini/emuntwini. Ikhomishini emela amalungelo abantu ingaba lamandla alingana lawezinkantolo njalo ingagwebha umuntu loba abantu abangahloniphi amalungelo abanye abantu. Abantu abaphazamisa amalungelo abantu bangaphoqelelwa ukubhadala inhlawulo, bayekeliswe lokho abakwenzayo kumbe njalo baphoqelelwe ukuba paziphathe ngendlela ethile ukuze bahambisane lomthetho onqabela ukungahlonitshwa kwamlungelo abantu. Indlela ikhomishini emela amalungelo abantu eenza ngayo kumele ibe yindlela ezakwenza kubelokuhlonitshwa kwamalungelo abantu ezweni njalo kumele yenqabele ukuphindakala kokuphazanyiswa kwalawomalungelo. Ikhomishini le kumele ivumele ucwaningo oluvela ebantwini loba ngaphandle ukuze isebenze kakuhle. Njalo ikhomishini emela amalungelo abantu imele yenziwe ngendlela ezayenza kube lula kubani lobani olesikhalazo ukuthi ayifinyelele ukuze isebenze kakuhle/ngendlela esuthisayo.

Ukubunjwa kweKhomishini emela amalungelo abantu.

Ikhomishini emela amalungelo abantu kumele ibunjwe ngokuqatsha oSikomitshi abazimele bodwa ezinye izisebenzi ezizaqatshwa kumele ziqhatshwe ngokusemthethweni. Indlela ezasetshenziswa ukuqhatsha abantu abaasebenzela ikhomishini yamalungelo abantu kumele ibesegeckeni njalo ingafihlakali ukwenzela ukuthi abantu babelethemba lokuthi

izikhalazo zabo zizakhangela ngendlela esuthisayo.oSikomtshi akumelanga baqhatshwe ngamalunga kahulumende wodwa ngendlela engalandelani lembono yabantu kodwa kumele baqhatshwe ngendlela ezahambisana labantu njalo kumele babengabantu abazamela imihlobo yabantu bonke elizweni.

Isebenzi yeKhomishini emela amalungelo abantu.

Ikhomishin ebona ngamalungelo abantu ingenz imisebenzi emineninengi etshiyeneyo. Ngaphandle kokucwaninga/ukuhlolisisa lokwahlula nxa kubelokuphazanyiswa kwamalunelo abantu, ikhomishini yamalungelo abantu ingaphakamisa njalo ivikele ukuphanjaniswa kwamalungelo abantu ngokusebenzisana lezinye ingatsha zikahuluende kanye lengatsha zamalunga azimele wodwa ngendlela ezingafana lalezi;

- Ngokubhala izindaba eziphathelele lesimo samalungelo abantu elizweni. Lezindaba ziyabe zizahanjiswa elizweni lonke kanye lakwamanye amazwe.
- Ukuqondisa uhulumende ngokumnika amacebo lembono ephathelele lamanyathela angenziwa emzameni wouphakamisa lokuthuthukisa amalugelo abantu.
- Ukupha imbono engatshintsha imthetho enyathezela amalungelo abantu ukuze imthetho yelizwe ibeyisibonelo/ ihambisane lemthetho kazwelokne eqakathekisa ukuhlonitshwa lokuphakanyiswa kwamalungelo abantu.
- Ukuqhuba inhlelo zokufundisa abantu ngamalungelo abo.
- Ukuvakatshele lokuhlolisisa amajele lezinye izindawo ezingasetshenziswa ukuncindezela amalungelo abantu/ ukuhlukumeza abantu.
- Ukunqhuba inhlelo ezivumela abantu ukuba bazikhulumele ukwenzela ukuthi ikhomishini ithole izibonelo ezivela ebantwini ngokuhlukunyezwa kwabo/ngokuncindezelwa wamalungelo abo.

Ikhomishini emela amalungelo abantu ekhangelelweyo eZimbabwe.

Ukubunjwa kweKhomishini yaalungelo abantu eZimbabwe kuvumelekile ngaphansi kweziqondiso zesisekelo sombuso zetshumi lasitshiyagalombili (18) letshumi lasitshiyagalolunye (19). Iziqondiso lezi ziphathelele lokugqatshwa kwabantu abalezikhundla eziphezulu, eziqakathekileyo abazaba ngamaluga eKhomishini yamalungelo

abantu eZimbabwe abanjengoMgcinisihlalo laboSikomishi njalo iminye yemisebenzi okumele yenziwe yilekhomishini ilotshiwe ngaphansi kwaleziziqondiso. Uhlupho yikuthi iziqondiso lezi azitsho indlela ezimele zisetshezeniswe ukukhipha oSikomishi umsebenzi, ayitsho ukuthi kumele basebenze isikhathi eside okungakanani kanye lendlela okumele zisetshezeniswe ekuajeziseni nxa bethe baphazamisa. Isisekelo sombuso asiqinisekisi ukuthi iKhomishini leyi izaba yinhlanganiso ezimele yodwa engasoze ivumele ukungenela kukahulumende, ingatsha zakhe labantu abazimele bodwa. Isisekelo sombuso njalo asitsho ukuba imali ezasetshenziswa ukubumba lokuqhuba umsebenzi wekhomishini yamalungelo abantu izavela ngaphi, izavikeleka njani ekusetshezenisweni ngendlela ezingaqondanga lokuthi kuzaqinisekiswa njani ukuthi imali isetshezeniswa ngendlela eqondileyo eyenza ikhomishini iqhube umsebenzi wayo ngendlela esuthisayo kanye lamanyathelo okumele enziwe nxa ikhomishini isithe yaphazamisa.

Kugani sidinga ukuthi sibumbe ikhomishini emela amalungelo abantu ?

Abantu baseZimbabwe sebejwayele ukuphila impilo yokuhlukunyezwa, elochuku lokuncindezelwa kwamalungelo abo ngenxa yezenzo zikahulumende labanye abantu lamaqembu azimele wodwa. Loluchuku luhlanganisa ukudilizelwa izindlu, ukungahlonitshwa kwamalungelo empilo lokufunda, ukwenqatshelwa ukuthi bakhethe abameli ababafunayo, ukwenqatshelwa ilungelo lokuhamba lapho abafuna khona ngesikhathi abafuna ngaso, ukwenqatshelwa ilungelo lokukhuluma sando, ukubuthana lokusebenza. Abanye abantu sebakhebabotshelwa into engekho, bahlukunyezwa ngokutshaywa langezinye indlela njalo abanye banyamalala lokuphela. Uchuku lolo alulutsha kodwa yinto eyajwayeleka kusukela ngesikhathi ilizwe lingakatholi uzibuse, lwaqhubeka ngemva kukazibuse njalo luya luqhubeka minyaka yonke, ikakhulu nxa isikhathi sokhetho sesisondela.

- Sidinga ukuba ikhomishini emela amalungelo abantu ibunjwe ngokuphangisa ngoba inkantolo ziyehluleka ukuthatha izinqumo eziqinileyo ezokuvikela amalungelo abantu.
- Inkantolo azilamandla labantu bokukhangelisisa amacala okuncindezelwa kwamalungelo abantu ngoba zikhangelane lamacala amanengi angakathethwa. Lokhu kutsho ukuthi abantu abanengi

abalamacala okuncindezela amalungelo abantu abakajeziswa.

- Inkantolo kazilazimo ezidingakalayo ezaneleyo, abantu, kanye lemali yokuqhuba umsebenzi wazo ngendlela esuthisayo.
- Abantu abahlukunyezwayo abalathemba lokuthi inkantolo zelizwe zizathatha izinqumo eziqinileyo zokujezisa abahlukumezi babo ngenxa yokuthi amanye amalunga enkantolo labakhangelane lezomthetho bengazimelanga bodwa kodwa bengamalunga amabandla ezombusazwe.
- Inkanolo zelizwe laseZimbabwe sezalulazwa yikungahlonitshwa kwezinquqmo zazo ngamanye amalunga asebenza ngaphansi kukahulumende afana lamapholisa.

Izinto ezidingakalayo ukuze kubunjwe iKhomishini yamalungelo abantu ezimele yodwa.

Ikhomishini yamalungelo abantu kumele

- Ihlale izimeleyodwa njalo ingavumeli ukuphazanyiswa ngezinye inhlanganiso. Kufanele ivumele ucwaningo oluvela ngaphandle njalo iqhube umsebenzi wayo wokuvikela lokuphakamisa amalungelo abantu ngendlela esuthisayo.
- Ibunjwe ngabosikomitshi lomgcinisihlalo okhethwe ngendlela esegeckeni njalo semthethweni etshengisela ukuthi bangabantabazimele bodwa hatshi abamele amaqembu athize. Kumele njalo babengabantu abalembali enhle yokulwela amalungelo abantu njalo umele babengabantu abathembakeleyo.
- Iphiwe isabelo semali lezinye izinto ezidingakalayo esaneleyo ukwenzela ukuthi iqhube umsebenzi wayo ngendlela eqondileyo, kuvikelwe ukungathembeki, ubusela lokuthengwa kwezisebenzi labosikomitshi.
- Iqhube imsebenzi yawo (eminye yalemisebenzi ilotshiwe ephephele leli) ngendlela engela kwesaba loba inketha.
- Iqhube umsebenzi wayo yokubangumvikeli wamalungelo abantu ngendlela eqinisekileyo langekhono

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New leadership for ZLHR

Prominent human rights lawyer, Andrew Makoni has been unanimously elected as the new Chairperson of Zimbabwe Lawyers for Human Rights (ZLHR).

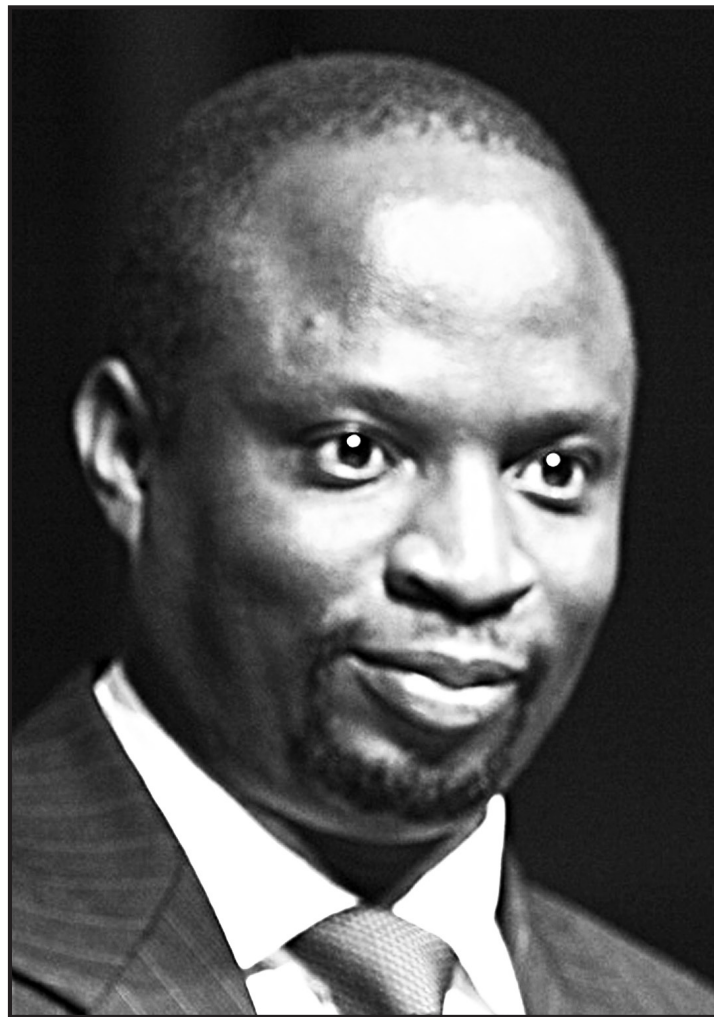
Makoni will be deputised by Sarudzayi Njerere whilst Selby Hwacha takes over as the chairperson of ZLHR's Finance and Administration Committee.

Prior to assuming his new position Makoni served as the chairperson of the Finance and Administration Committee.

Upon assuming the leadership of the organisation, Makoni immediately outlined the organisation's priorities which included pressing for significant institutional reforms and the crafting of a new people driven constitution.

"I follow in a line of remarkable and exemplary leaders who have guided this dynamic organisation since its formative stages in 1996 through to today. In particular, my predecessor Josephat Tshuma astutely guided this ship through very difficult and trying times. We have to confront many challenges if ZLHR is to remain relevant to our society," said Makoni.

He added: "We should continue our calls for reforms in the security sector and other key institutions. We should not stop our demand for a new people-driven constitution, an independent judiciary, and an independent prosecuting authority. We must demand democracy and good governance and the respect of human rights and human dignity. Our advantage is having a voice which



New ZLHR Chairperson Andrew Makoni

the society trusts and listens to. Let us take advantage of that opportunity."

Makoni, who holds an LL.B (Hons) degree from the University of Zimbabwe (UZ) and a Masters of Business Administration (MBA) from the same institution, was admitted to practice law in Zimbabwe and as a Conveyancer and Notary Public in January 1996.

"We look forward to continuing with tenacity our mandate to promote and protect human rights in Zimbabwe under the guidance of our new executive"

The human rights lawyer, who has been in private practice since then was admitted into partnership at Chihambakwe Mutizwa and Partners in 2000. He resigned from the partnership in 2001 to help set up Mbidzo, Muchadehama and Makoni Legal Practitioners, a Harare-based law firm that has taken the lead in offering legal services to human rights defenders and activists fighting

for the restoration of democracy and the rule of law in Zimbabwe, where he is currently practicing. Makoni has represented several Zimbabweans who have been persecuted by the State for their political views.

He was recently honoured with the prestigious International Human Rights Lawyer of the Year 2009 Award by the International Section of the American Bar Association (ABA), in recognition of his advocacy for human rights in Zimbabwe.

In 2007 Makoni was also recognized by the Open Society Initiative for Southern Africa (OSISA) in conjunction with ZLHR, on International Human Rights Day, for his dedication to human rights litigation, lobby and advocacy.

In a congratulatory message ZLHR said its board, staff and members look forward to working with the new leadership in advocating and fostering a culture of human rights in the country.

"ZLHR Board, Staff and Members wish to congratulate the incoming leadership, and acknowledge the sterling work done by the previous office-bearers and the entire Board. We look forward to continuing with tenacity our mandate to promote and protect human rights in Zimbabwe under the guidance of our new executive," read part of the congratulatory message.

Former ZLHR executive director Arnold Tsunga who wished Makoni and ZLHR "infinite success" said the human rights lawyer merits his new position.

Legal Update

Lawyer, Mayor acquitted in MP's case

A Gweru Magistrate has acquitted Kwekwe lawyer, Tapera Sengweni, and the town's Mayor, Shadreck Tobaiwa, who were on trial for obstructing the course of justice in Kwekwe Central MP, Blessing Chebundo's rape case.

Sengweni and Tobaiwa were arrested in May after police accused them of trying to influence the father of Chebundo's 13-year-old alleged victim to drop rape charges against the Movement for Democratic Change (MDC) MP.

Magistrate Neria Matura ruled that even if the two had asked the father of the alleged victim to withdraw charges, that would not have constituted an offence because they did not offer him a form of enticement or a bribe, which is a requirement for finding criminal conduct.

Magistrate Matura noted that the State had failed to come up with evidence against Sengweni and Tobaiwa despite being accorded considerable time to investigate.

Chebundo is expected to stand trial next Monday charged with raping a 13 year-old.

Magistrate to rule on students' application

Harare Magistrate Munamoto Mutevedzi will tomorrow rule on an application for refusal of remand by four students who are accused of participating in a gathering with intent to promote public violence, breach of peace and bigotry.

This follows an application by defence lawyer Jeremiah Bamu for the removal from remand of Clever Bere, and

Kudakwashe Chakabva from the Harare Polytechnic, Archieford Mudzengi from the Zimbabwe School of Mines, and Brian Rugondo from the University of Zimbabwe (UZ), who were arrested early this month.

In his application Bamu said there was no reasonable suspicion that the four committed any offence. Bamu said it was insufficient for the State to allege that some of the students tried to incite violence at the UZ campus. He said the aspect of inciting violence was not addressed in the Request for Remand Form before Magistrate Mutevedzi and that the State had fallen short of identifying whom amongst the four students incited people to be violent.

Bamu said the State had conceded that the T-Shirts inscribed "Take Charge to Complete the Change," which the four students were allegedly distributing

at the UZ campus did not contain anything unlawful.

Deputy Minister's cellphone theft trial kicks off

The trial of Deputy Youth Minister, Thamsanqa Mahlangu, who is accused of stealing a cellphone from Joseph Chinotimba, kicked off at the Harare Magistrates' Court with the war veterans' leader giving evidence.

Hon. Mahlangu, the Movement for Democratic Change (MDC) youth chairman, is being charged together with his aide, Malven Chadamoyo. The two are denying the charges.

Chinotimba alleges that Hon. Mahlangu and Chadamoyo stole his cellphone on 17 July in Harare, which he claimed was valued at an "exorbitant US\$40".