

The LEGAL MONITOR

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



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COST-FREE

Court victory for lawyers

HARARE-A High Court Judge has ordered police chief Augustine Chihuri to investigate criminal conduct of members of the Zimbabwe Republic Police (ZRP), particularly allegations of contempt of court and assault of arrested persons.

Justice Alfas Chitakunye delivered the landmark ruling in an application by the Law Society of Zimbabwe, Zimbabwe Lawyers for Human Rights and six other individual legal practitioners seeking a declaratory order to prohibit members of the ZRP from hindering, obstructing or taking any action which impedes lawyers from gaining access to their clients and carrying out their lawful duties.

Numerous legal practitioners, have, over the past decade, been denied access to clients in police custody in contravention of constitutional protective provisions relating to detained persons.

They have also been verbally abused and intimidated, physically assaulted by police and even arrested and detained whilst trying to carry out their professional duties.

Lawyers have also been prohibited from establishing the welfare of their clients and not permitted to provide food, medical assistance and treatment to detained clients. Most of the time legal practitioners are told of "directives" issued by senior police officers barring the lawyers access to clients.

In most cases the majority of the detainees would have been subject of High Court orders which enjoin the police Commissioner-General, Chihuri, and his subordinates, to take all necessary steps to release the lawyers' clients. Nevertheless, police continue to defy such court orders and directives.

In his judgment released recently Justice Chitakunye ordered Chihuri to probe complaints of contempt of court and hindrance of lawyers in accessing their detained clients by the police. The police chief was ordered to take all necessary action to ensure the prosecution of the offending police officers.

"That the first respondent (Chihuri) causes an investigation to be conducted into the criminal conduct of members of the Zimbabwe

Republic Police complained of in this application, particularly the assaults and contempt of court," read part of Justice Chitakunye's judgment.

Justice Chitakunye further ordered Chihuri and his officers to refrain from hindering legal practitioners from exercising their rights and said that those who disrespect the order shall be guilty of being in contempt of court.

Despite this landmark ruling, the conduct of the police has not changed and lawyers continue to face challenges when attending police stations to assist their clients. Neither has it been revealed whether the investigation has commenced.

Yet another lawsuit for Tomana

HARARE-So early in the year, Attorney General (AG) Johannes Tomana faces yet another lawsuit linked to rights abuses, casting further questions over his suitability to continue as the chief prosecutorial officer.

A notice by prominent Harare lawyer, Mordecai Mahlangu of his intention, to sue Tomana over unlawful arrest and detention puts on the spotlight the AG's persecution of lawyers who represent human rights defenders. This is further to his continued confrontation with other sectors such as farmers, journalists and political and rights activists since his controversial and unprocedural appointment in December 2008.

The latest lawsuit from Mahlangu follows one by human rights activist, Jestina Mukoko who is demanding damages from Tomana for his role in her abduction, torture and prosecution over a year ago, another one by the Zimbabwe Congress of Trade Unions (ZCTU) president Lovemore Matombo, and workers' leaders, all for unlawful detention.

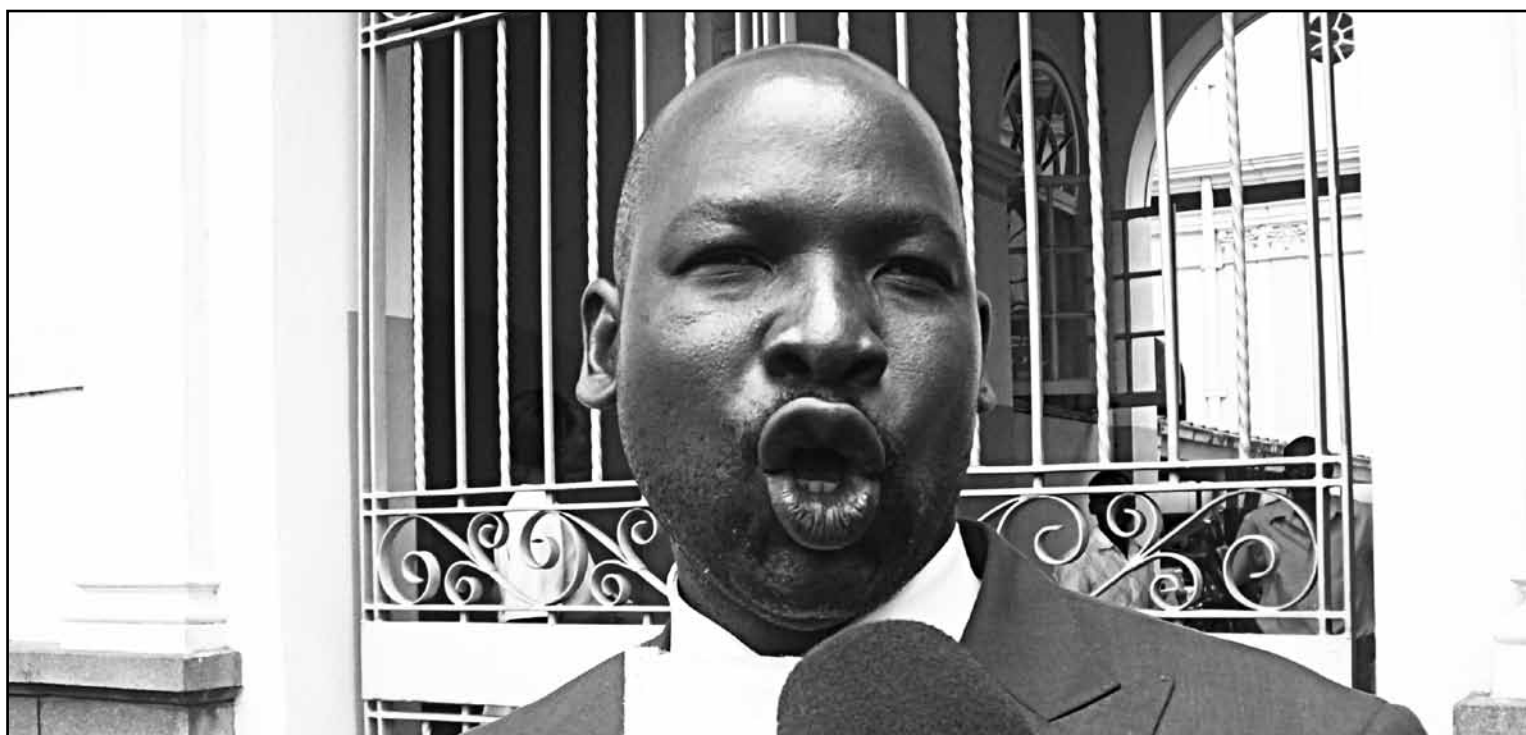
Mahlangu, who was approached by a key State witness in the terrorism trial of Roy Bennett, the Deputy Agriculture Minister-designate spent a night in police cells following his arrest last November.

The lawyer intends to sue Tomana for acting "irresponsibly" in ordering his arrest.

Mahlangu was later charged with trying to obstruct the course of justice after he wrote a letter on State witness, Michael Peter Hitschmann's instructions to Tomana protesting against a subpoena directing the Mutare-based arms dealer to testify in Bennett's trial.

Hitschmann has consistently stated that he only implicated Bennett after being tortured by unknown State agents in 2006. The statements were later thrown out by the High Court in Hitschmann's own trial in the same year because they were obtained through torture.

The State accused Mahlangu of having written the affidavit on Hitschmann's behalf and causing him to sign it when approached for advice.



Under pressure: Attorney General (AG) Johannes Tomana

The charges against Mahlangu were quashed two weeks ago by Harare Magistrate Archie Wochiunga who removed the senior lawyer from remand.

In a letter served at the AG's office last week, Mahlangu's lawyer, Raymond Moyo said: "It is the intention of our client to institute civil proceedings for the damages sustained by him arising from his wrongful arrest and unlawful detention both under the common law and under the Constitution of Zimbabwe."

Moyo notified co-Home Affairs Ministers Giles Mutsekwa and Kembo Mohadi, the arresting police officers Clever Ntini and Henry Dowa, and police chief, Augustine Chihuri, that he would sue them too.

In terms of the State Liabilities Act, an aggrieved party must give 60 days' notice before instituting civil proceedings against State institutions and actors.

In an interview last week, Mahlangu – a Zimbabwe Lawyers for Human Rights (ZLHR) member and senior partner at Gill, Godlonton and Gerrans Legal Practitioners – said that Tomana should personally pay for the lawsuit.

"It would send wrong signals if taxpayers foot his legal bill. He acted irresponsibly and in bad faith. He is a senior lawyer and he knows the law," said Mahlangu.

Tomana, a self-proclaimed ZANU PF member, has been accused of being among hardliners

in President Robert Mugabe's ZANU PF party working hard to derail the coalition government.

The MDC says Tomana's appointment as the AG is unconstitutional as he was appointed by President Mugabe without consulting his coalition partner, Prime Minister Tsvangirai.

Under the Inter Party Agreement (IPA) that gave birth to the 11-month-old transitional government President Mugabe must consult his coalition partners before making senior government appointments. This was agreed in the Memorandum of Understanding signed by President Mugabe before IPA came into effect. Nevertheless, Tomana was subsequently unilaterally appointed by President Mugabe.

UK concerned with rights situation

HARARE-The United Kingdom has said that Zimbabwe's human rights situation is still a cause for "concern" but noted progress on the economic front.

Secretary of State for Foreign and Commonwealth Affairs, David Miliband told the House of Commons during a question and answer session that Britain welcomed the recent agreement of the Inter Party Political Agreement (IPA) signatories to establish key constitutional commissions.

"Yes, I agree that numerous aspects of the situation in Zimbabwe are of deep concern," said Miliband.

The human rights situation is still precarious in Zimbabwe, about 11 months after the consummation of the transitional government. Arbitrary arrests of lawyers, journalists and other human rights defenders continue. Several

lawyers have in the past year been dragged before the courts which have acquitted them for lack of evidence linking them to the alleged crimes. The legal practitioners have called on the Attorney General Johannes Tomana to "self-evaluate" following a sustained campaign of harassment on lawyers.

The three principals to the IPA, also known as the Global Political Agreement (GPA), President Robert Mugabe, Prime Minister Morgan Tsvangirai and his deputy Arthur Mutambara, agreed on commissioners to serve on the Zimbabwe Media Commission, the Zimbabwe Human Rights Commission and the Zimbabwe Electoral Commission although confusion still surrounds the appointments.

The commissioners have still not started work with reports that they have not been served appointment papers.

The British Secretary of State urged the political leaders to implement the IPA which, some 16 months after it was signed has still not been fully executed.

"The UK and the (European Union) EU are strong supporters of the global political agreement—the GPA—and we will continue to press for progress. We welcome the recent agreement of the GPA signatories to establish key commissions, and we urge implementation of that agreement," said Miliband.

Sticking differences to the IPA still exist and talks between the three political parties, Mugabe's ZANU PF, Tsvangirai's Movement for Democratic Change (MDC) and Mutambara's party have flopped after several attempts to resolve the differences.

Miliband said South African President Jacob Zuma, the mediator in the dialogue, was "playing

a careful hand" in an attempt to resolve the outstanding issues that have threatened to tear the transitional government apart.

Said Miliband: "President Zuma is playing a careful hand, and he is playing it rather skilfully. The Prime Minister (Gordon Brown) was able to discuss Zimbabwe, among other things, with him (Zuma) at the Commonwealth conference in November. President Zuma will be making a State visit to the UK in early March, and I have had discussions with my South African opposite number. The position of the South Africans has certainly been to urge adherence to the global political agreement, which requires compromise on all sides, and I do not think that they have been less than even-handed in the way in which they have done that."

House of Commons members expressed concern at the continued rights abuses in the Chiadzwa diamond mining fields and called for pressure on the government to stop the abuses.

Trouble over Mugabe goblin remarks

MUTARE-The arrival of law officer, Michael Mugabe in Manicaland looks likely to lead to increased persecution of human rights defenders and legitimate political activists. This is already apparent from the resuscitation of old charges against such individuals. The most high profile case thus far is that of Constitutional Parliamentary Committee (Copac) co-chairman and Nyanga North MP Hon. Douglas Mwonzora. He was last week summoned to stand trial on allegations that he called President Robert Mugabe a "goblin".

Mwonzora has been hauled to court by President Robert Mugabe's nephew over the allegations, as well as charges of undermining police authority almost a year after committing the alleged offence.

Mwonzora was supposed to appear in court last week but the case was postponed after prosecutor, Mugabe indicated he would summon the lawyer again once he was ready to proceed.

On the first count, Mwonzora is accused of undermining the authority of, or insulting President Mugabe as defined in Section 33 (2) of the Criminal Law (Codification and Reform) Act, a draconian law that the State has relied on for years to persecute perceived opponents. Mwonzora allegedly likened President Mugabe to a goblin at a rally at Ruwangwe Growth Point in Nyanga North constituency on 21 March 2009.

The State alleges that Mwonzora's statements were intended to engender feelings of hostility towards or cause hatred, contempt or ridicule of the President.

The summons calls on Mwonzora to respond to allegations that he uttered the

following words: "President Robert Mugabe *chikwambo uye achamhanya. Ndaona Mugabe achigeza, tauro muchiuno, sipo muhapwa uye ndebvu hwapepe. Pamberi neMDC, pasi nechihurumende chembavha chinotsungwa vanhu vasina mhosva chichitora zvinhu zvavo*, literally meaning President Mugabe is a goblin and will run... I saw Mugabe bathing, towel on his waist, soap under his armpits and big beard... forward with MDC down with bad government of thieves which arrest innocent people and taking away their property (sic)."

On the second count, Mwonzora is accused of undermining police authority after he allegedly "publicly, unlawfully and intentionally" made statements realising that there was a real risk or possibility of engendering feelings of hostility towards members of the Zimbabwe Republic Police or contempt, ridicule and low morale.

Mwonzora has denied the charges.

However, prosecutor Mugabe later postponed the trial and advised Mwonzora that he will issue him with fresh summons at a later date.

Mwonzora's lawyer ZLHR member Tinoziva Bere slammed Mugabe for refusing to accept a letter he had written to the prosecutor asking to be furnished with a new trial date and requesting State papers.

"His (Mugabe) attitude showed total contempt for the legal profession," said Bere.

The summoning of Mwonzora follows the recent transfer to Mutare of Mugabe, who is infamous for persecuting human rights defenders during his tenure in Harare.

In 2009, former presidential candidate Simba Makoni, 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 arraigned at different times before the courts after the State revived charges of addressing a political meeting without police approval convened in 2008 and assault allegedly committed in 2006 respectively.

Several Zimbabweans have been acquitted after being charged with insulting President Mugabe.

The prosecutor has also summoned numerous individuals to appear in court shortly to face allegations of 'public violence' arising from the 2008 election period.



Tinoziva Bere

Ruling on Hitschmann today

HARARE-High Court Judge Chinembiri Bhunu is today expected to rule on an application by the State to impeach a key witness in the trial of Movement for Democratic Change (MDC) treasurer-general Roy Bennett.

Justice Bhunu postponed his ruling last Thursday after one of the assessors could not attend court.

The judge will decide whether the State, led by Attorney General (AG) Johannes Tomana, can impeach its star witness Michael Peter Hitschmann for becoming "hostile" and disowning his earlier statements.

Hitschmann told reporters after court that he had been told that "one of the assessors was involved in a car accident". It could not be immediately established which of the two assessors had been affected.

Prosecutors allege Hitschmann was paid US\$5000 by Bennett to buy weapons to assassinate President Robert Mugabe. They say Hitschmann implicated Bennett in 2006 when he was arrested after being found in possession of firearms.

Hitschmann was cleared of a charge of being in possession of weapons for the purpose of terrorism, insurrection, banditry and sabotage, the same charge which Bennett is now facing. He was however convicted of a lesser charge of being in possession of weapons without a licence, which he has since appealed.

If Justice Bhunu allows the State to impeach Hitschmann, this would pave way for the prosecution to cross-examine the Mutare-based arms dealer on the key statement incriminating Bennett that Hitschmann has sought to render irrelevant.

Bennett, who faces a possible death sentence if convicted in a case that has heightened tensions in Zimbabwe's fragile coalition government - formed last February by MDC leader Morgan Tsvangirai and President Mugabe after a violent election in 2008 - has pleaded not guilty to the treason charges.

The MDC says the case against Bennett is politically motivated and aimed at keeping him out of the transitional government. Bennett is the Deputy Agriculture Minister appointee of Prime Minister Tsvangirai, but he is yet to be sworn-in by President Mugabe since February last year.

Hitschmann has maintained that he was not being hostile to the State, arguing that the AG's office was not being sincere in its case because he had notified it through an affidavit last November that he was unable to testify against Bennett.

"In fact what Mr Tomana has done is to deceive this honourable court and has wasted valuable time and resources and caused additional and unnecessary stress to me," Hitschmann told the court as he opposed the impeachment



Michael Hitschmann

application, describing it as "obscure, to say the very least, for it makes no sense to me. He (Tomana) knew from the onset that I had nothing to contribute as far as the State case against the accused (Bennett) is concerned".

He added: "I would have been delighted if the firearms had been in possession of the accused, but regrettably, they were in my possession, and he (Bennett) had nothing to do with them being in my possession," said Hitschmann.



ZJHR condemns harassment of journalists

The Zimbabwe Journalists for Human Rights (ZJHR) condemns in the strongest possible terms the arrest of photo-journalist, Andrison Manyere, and the death threats against freelance journalist, Stanley Kwenda, by a senior police officer.

We find such conduct deplorable and totally unacceptable in a civilized and democratic society. Police should desist from acting as agents of repression but remain a professional service which serves to protect the public and impartially maintain law and order in the country.

Arresting journalists and issuing death threats against them for merely doing their work does not at all advance the professional mandate of the police and their own Service Charter which they are supposed to respect.

ZJHR is extremely worried about the continued arrest, harassment and persecution of journalists

carrying out their professional duties. We urge government to immediately act to stop this persistent crackdown on the media and allow journalists to work without undue interference and intimidation.

We call upon the Co-Ministers of Home Affairs, Mr Giles Mutsekwa and Mr Kembo Mohadi, and the Minister of Media, Information and Publicity, Mr Webster Shamu, to protect journalists from being hounded by arms of the government like the police. We call upon the three ministers to fully investigate the illegal arrest of Manyere and the threat on Kwenda's life.

Despite the existence of the Global Political Agreement, which acknowledges the need for media reform and greater media freedom, journalists in Zimbabwe sadly continue to live in fear and in the process, the people are being denied their fundamental right to information about human rights abuses and corruption which is rampant in government.

This idea of creating a climate of fear among journalists and indeed the rest of the population is pure Stone Age politics which can never work in modern society.

As ZJHR, we would like to use the current opportunity offered by the constitutional reform process to ensure that press freedom, among other fundamental rights is enshrined in the new constitution.

As journalists, we will stand and fight for our rights and ensure that the current media repression is stopped once and for all.

Government and all agents of repression are reminded that journalists should enjoy the rights associated with a civilized State as promulgated in international as well as regional treaties such as the United Nations Declaration of Human Rights and the African Charter on Human and Peoples' Rights.

Media repression cannot be allowed to continue in Zimbabwe especially against the background that we are now in an inclusive government where we believe oppression should be thrown into the dustbin.

ZJHR would also want to make it clear that no matter the amount of intimidation, death threats, arrests and persecution, the fight for media freedom will continue unabated.



ZLHR in support of media freedom in Zimbabwe

Not yet Uhuru for journalists

HARARE-Zimbabwe has again cast itself as one of the most dangerous places to work for journalists following the arrest of a photo-journalist and alleged death threats against a reporter.

Local and international media watchdog groups such as Reporters Without Borders have consistently categorised Zimbabwe as one of the worst countries for professional journalists to operate from because of State harassment. While many had hoped the transitional government would ease the State stranglehold on media freedom, events of the past week have ignited fears of a renewed onslaught on the media.

Stanley Kwenda, a freelance journalist is in South Africa, after fleeing last Saturday what he said were death threats from a senior police officer with a reputation for leading the harassment of human rights defenders.

Kwenda says the threats were linked to stories he wrote and deemed by State authorities to be offensive.

Andrison Manyere, a photo-journalist was arrested last week in the course of his professional duties-filming a march by members of the Women of Zimbabwe Arise (WOZA) and their male counterparts, Men of Zimbabwe Arise (MOZA).

Manyere is no stranger to State harassment. He was part of over a dozen political and rights activists abducted and tortured while in secret detention over allegations of plotting to topple President Robert Mugabe's previous government. He is currently on bail in that matter, after being charged under Section 23(1)(ii) of the Criminal Law (Codification and Reform) Act which criminalises acts of insurgency, banditry, sabotage or terrorism for the alleged offence.

Although he was released without charge on this latest episode of police harassment on 18 January, influential rights groups say the arrest of journalists for reasons other than doing their work undermined the democratic credentials of the police and the transitional government.

"Police should desist from acting as agents of repression but remain a professional service which serves to protect the public and impartially maintain law and order in the country.

Arresting journalists and issuing death threats against them for merely doing their work does not at all advance the professional mandate of the police and their own Service Charter which they are supposed to respect," the Zimbabwe Journalists for Human Rights said in a statement.

The Media Institute of Southern Africa-Zimbabwe (MISA) said the transitional government should ensure that State institutions such as the Zimbabwe Republic Police were freed from political manipulation.

"MISA-Zimbabwe urges the inclusive government and the Police Commissioner General to unequivocally guarantee the safety of journalists and to assure Kwenda of his security pending full investigations into the alleged threats," the group said in a statement.

The Zimbabwe Congress of Trade Unions (ZCTU) said it is worried about the deafening silence of the Principals of the Inter Party Political Agreement on the continued rights violations, which suggests that nothing has changed in relation to media freedom since the inception of the inclusive government.

"There is nothing sinister in the work of these journalists and as such they need to be treated as professionals in their own right. The ZCTU believes journalists should be allowed to do their work with no interference from State security agencies."

"The harassments go against the tenets of the inclusive government, and as such incidents continue, the ZCTU is now more inclined to believe that the inclusive government has no will-power to stop the rights abuses. The people of Zimbabwe no longer want lip service from politicians on rights issues but demand action," said Japhet Moyo the militant labour union's acting Secretary General.

On Manyere's arrest, rights groups queried the police action, noting that the police wanted to charge the journalist for practising without accreditation, yet the government has so far failed to constitute a functioning accrediting authority, the Zimbabwe Media Commission, as stipulated under the law.

Invasions an international crime

HARARE-Commercial farmers in Zimbabwe have warned that ongoing violent farm takeovers make a case for crimes against humanity, while the main farm workers' union said it was incensed by government collusion in the invasions.

The Commercial Farmers Union (CFU), which represents mainly white farmers targeted under the land reform programme, and the General Agricultural and Plantation Workers Union of Zimbabwe (GAPWUZ) last Friday separately noted that ongoing invasions were causing a humanitarian catastrophe.

"We reiterate: what commercial farmers and their workers are being subjected to constitutes crimes against humanity," said CFU president, Deon Theron.

GAPWUZ secretary general Getrude Hambira said farm workers had been "brutalised, maimed, tortured, kidnapped and raped in the recent farm invasions". The CFU said attacks on farm workers, as well as the government's refusal to respect a SADC Tribunal ruling violated international law.

"The SADC Tribunal based in Windhoek, Namibia, has ruled that the 17th Amendment to the Zimbabwean Constitution not only violates the principles of the rule of law but is racist. Racism is recognised universally as being a crime against humanity, for very good reasons. It should never be tolerated by any State or government, whether it is white-on-black, black-on-white, or any other variation. Racism is an evil, and Zimbabwe should now implement the commitments it has made by the signing of numerous treaties against any State-sanctioned racism. Violations of this will only invite new international action against Zimbabwe," said Theron.

According to Theron, attacks on farms owned by South African nationals have continued despite a Bilateral Investment Promotion and Protection Agreement in which Zimbabwe agreed to stop the takeover of such properties.

Cases of violent, illegal invasions of the few remaining white-owned farms by top military and government officials have continued into the New Year. The government has also targeted white farmers who have struck joint farming ventures with new owners, a move Theron said signified the racist nature of the land reform programme.

"In view of the untenable situation and adverse publicity, we (CFU) pose the following questions to the Government of National Unity:

- Should Zimbabwe, a voluntary signatory to the Convention for the Elimination of Racial Discrimination (CERD), be forced to appear before the UN Committee established by the CERD Treaty [a committee which reports directly to the Security Council] to explain the continuing invasions?
- Can the members of the GNU afford to embarrass themselves and their country, as well as SADC and the AU, by becoming a Security Council agenda item at this stage?
- Can the GNU confirm that it is now government policy to take land back from black farmers because they have chosen to rent it to white farmers?
- Is the GNU committed to ensuring that 2010 will be a period of recovery for all Zimbabweans, or will the nation continue to suffer under the lawlessness of a few?"

Speaking for farm workers, Hambira said labourers represented the hardest hit group and were being left vulnerable to inhuman conditions as a result of the invasions.

"GAPWUZ neither condones nor encourages the current attempts to deliberately take over farms by way of murdering, attacking and intimidating workers and their employers. What further incenses us is the silence of government officials whom we feel should be there to put a stop to such heinous acts which have left thousands of farm workers homeless and in dire need of food, education, water and sanitation," she said.



Deon Theron

Constitutional darkness

MUTARE-The suspension of the outreach programme to gather the public's views on the new constitution means nothing to Edward Mburu, a villager in Zongoro district, Manicaland.

Like most people in this decaying village, Mburu is unaware of how he is supposed to contribute to the country's new supreme law. He also does not know how this process will affect him as a citizen.

"We are in the dark about the constitutional process. No one briefs us even about how the new government is working," says Mburu when asked about the snail pace of the constitution making process, which was slowed further with the announcement of the suspension of the public consultation meetings last week.

So rampant is the ignorance over the constitution making process, and the Inter Party Agreement (IPA) that gave rise to the transitional government that the majority of people interviewed by *The Legal Monitor* here are in the dark about the mandate and tenure of the provisional authority.

According to Article VI of the IPA, the transitional government should create conditions "for our people to write a constitution for themselves".

The Constitutional Parliamentary Committee (Copac), which is driving the process, has so far held the first All Stakeholders Conference and has purportedly set up thematic committees to conduct the postponed outreach programme as stipulated by the IPA. In this process, Copac seems however, to have forgotten the key driver of this process - the people, judging by lack of public awareness of the programme.

"How can they talk of a truly people driven process when we, the people are kept in the dark about the whole programme?" asked Zimbaliyo Shumba, who stays in an adjacent village of Vumbunu.

Confusion caused by partisan political wrangling and underfunding of the process has not helped matters.

Last week, Copac suspended the outreach programme citing political party differences over outreach rapporteurs. This has caused concern among those following the process over the seriousness of political leaders to undertake the exercise impartially, which if successfully completed should lead to fresh, credible elections.

The cancellation of the outreach programme follows a raft of other missed deadlines, meaning that a referendum on a draft document that should have been held in July this year is sure to be missed.

However, missed deadlines not only appear irrelevant to the government and Copac, but also meaningless to a population that has no clue on what the process is about in the first place. Copac has over the past month been running radio, television and newspaper adverts to mobilise the public and promote widespread participation. With limited access to broadcast media by the public, coupled with audience flight from the State broadcaster ZBC, which enjoys a monopoly, the adverts appear ineffective to the extent that they do not reach people in cities and towns.

"The problem is that many people will be unable to know about it even if it's on the news. I don't watch local television or listen to ZBC radio stations. Everyone I know around here doesn't either," says Keith Musabayana, a resident of Sakubva suburb in Mutare. It is easier for residents in this eastern city to tune into Mozambican radio stations than ZBC stations because of poor frequency.

"As a result we know more about Mozambican issues than those affecting our own country," says 30-year-old Musabayana.

Still, he has views he wants heard: "I want a situation where the Prime Minister is head of government, fully accountable to us through constant feedback to Parliament. The President should be ceremonial, and should not be elected. Instead he should be chosen by Parliament. Excessive presidential powers are what killed this country," asserts Musabayana.

MDC parly majority wiped out

HARARE-Prime Minister Morgan Tsvangirai's Movement for Democratic Change (MDC) party has lost its majority in the House of Assembly. A combination of deaths, expulsions, suspensions and a moratorium on by elections has resulted in ZANU PF enjoying superior figures in Parliament, as detailed by the Veritas Bill Watch of 20 January below.

Changes in Party Strengths in Parliament

Changes in party strengths in both the House of Assembly and the Senate occurring between the Parliamentary elections of March 2008 take into account Constitution Amendment No. 19, which added a few seats to both Houses, the number of seats which had fallen vacant through deaths or the taking up of other positions and also the fact that four MPs had been suspended and lost their voting rights. Since the end of July last year, by-elections have still not been held, more vacancies have occurred through deaths, three nominated seats have not been filled, and three MDC-M members were expelled from their party, meaning that their seats had to be vacated. The lone Independent member of the House of Assembly (Jonathan Moyo) has rejoined ZANU-PF, but kept his seat.

Voting Strengths in the House of Assembly

Total number of seats:	214
Vacancies: deaths	6
Vacancies: expulsions	3
Vacancies: other	2
Suspended MPs	4
Sitting MPs	199

The breakdown by party of the 199 sitting MPs is:

ZANU-PF	96
MDC-T	95
MDC-M	8

After the 2008 Parliamentary Elections (and before 4 extra seats were added by Constitution Amendment No.19) the total number of seats in the House of Assembly was 210 (ZANU PF 99; MDC-T 100; MDC-M 10; Independent 1).

Voting Strengths in the Senate

Total number of seats:	100
Vacancies: deaths	4
Vacancies: other	5
Sitting Senators	91

The breakdown of the 91 sitting Senators is:

ZANU-PF	29 (25 elected and 4 appointed)
Provincial Governors	10 (all ZANU-PF)
Senator Chiefs	17 (Traditionally chiefs have voted with ZANU-PF)
Likely ZANU-PF voting strength	56
MDC-T	27 (23 elected and 4 appointed)
MDC-M	8 (6 elected and 2 appointed)

After the 2008 Elections [before 7 extra seats were added by Constitution Amendment

19] the total number of seats in the Senate was 93 [ZANU-PF likely voting strength 63 (30 elected + 5 appointed Senators + 10 Governors + 18 Chiefs); MDC-T 24 (all elected Senators); MDC-M 6 (all elected Senators)].

Potential Changes if Governorships are Redistributed

Changes in party representation in the Senate can be expected if the "supposedly" agreed to sharing of provincial governorships between the three parties is confirmed. Also, if, as previously announced, three of the MDC-T provincial governors are to be drawn from the House of Assembly, three more seats will be added to the number of by-elections to take place for the House.

16 By-Elections for Constituency Seats Long Overdue

All by-elections are long overdue [some outstanding since July and October 2008] in gross contravention of both the Constitution and the Electoral Act. The members of the new Zimbabwe Electoral Commission [ZEC] were announced on Monday 21st December. Once the appointment of the chairperson has been announced, the country will be one step closer to holding by-elections, although it has been suggested that ZEC has no funds for the holding of by-elections, so this excuse may cause further delays. Abednico Bhebhe, former MDC-M MP for Nkayi South, has already announced his intention to take legal action to compel the holding of by-elections. And all three former MDC-M MPs have stated their intentions to stand in their former constituencies as independent candidates, but they would be likely to vote with MDC-T if returned to Parliament. An additional factor in the five Matabeleland by-elections is that they are expected to be contested by candidates from the revived ZAPU.

Extension of By-Elections Moratorium for GPA Parties?

In Article 21 of the GPA the three GPA political parties agreed that for one year from the signing of the GPA [i.e. until 15th September 2009] they would not compete against each other in by-elections that might arise, and that of the three parties only the party holding a constituency seat before it became vacant would nominate a candidate to replace its previous representative. As yet unconfirmed reports on the inter-party negotiations suggest that the negotiators have agreed that this moratorium should be extended to cover all by-elections held before the next general elections. If so, that would not prevent other parties, or independent candidates, from contesting by-elections - because the extended moratorium agreement would bind only MDC-T, MDC-M and ZANU-PF.

Source: Veritas