

Corruption

Lives compromised as nurses sell drugs on black market

HARARE—People Living With HIV and AIDS (PLWHA) are being forced to pay bribes to access treatment that is supposed to be free, as corruption silently kills a large population unable to pay its way into the system, according to findings of a new research.

A report on the research findings by Zimbabwe Lawyers for Human Rights (ZLHR) paints a grave picture of how public healthcare workers are milking PLWHA who are already too poor to afford private treatment.

Nurses and hospital support workers such as nurse aides and administrative staff are the chief culprits, according to 88 percent of respondents who took part in the study, commissioned in March this year in Masvingo, Harare, Bulawayo and Manicaland.

“Most cases of corruption were reported at Government hospitals and Council clinics,” reads the executive summary of the study, titled: *Corruption burns universal access*. There were “no significant” cases recorded at hospitals run by churches, while direct evidence implicating doctors was “very thin and sporadic”.

The research noted four major types of corruption in the roll out of essential medicines and services for PLWHA: informal bribes, bribes for enrolment, bribes for services and conflict of interest/self referral.

“The research findings reinforced the view that corruption in health care discourages treatment, testing, and other health-seeking behaviour. In these circumstances, the general attitude has been observed to shift towards resentment and resignation by PLWHA who then give up on accessing essential medicines and diagnostic services,” reads the executive summary.

The report was done by ZLHR’s HIV/AIDS, Human Rights and Law Project, one of the organisation’s key projects which occupies critical space within the rights organisation’s scheme of community interventions around socio-economic rights.

Zimbabwe—one of the countries most affected by the HIV/AIDS pandemic—has been registering steady declines in the HIV/AIDS prevalence rate, meaning more could be achieved if corruption is eradicated. HIV prevalence has fallen from 16 percent in 2007 to the current 13 percent.

But those already living with HIV are having to tough it out in an environment where lowly



Tinashe Mundawarara (standing), the HIV/AIDS, Human Rights and Law Project manager, Professor Norman Nyazema, ZLHR executive director, Irene Petras, ZLHR board chairperson Andrew Makoni, Roy Dube and Joshua Mavundu at the launch of the report on Friday

paid health workers are resorting to corruption as a coping strategy. The research found that the majority of PLWHA lived in extreme poverty, with 89 percent of respondents surviving on a monthly family income of below \$100. This is against latest official Zimstats figures showing that a family of five needs \$477 for survival, \$146 for food and \$331 for other expenses monthly.

According to the ZLHR HIV/AIDS report, 45 percent of respondents have between two to five dependants, and 27 percent have more than five dependents.

The report stated that the strain of corruption on household economies should not be underestimated considering more than half of health care financing in Africa was out of pocket, Zimbabwe being no exception.

Accessing HIV drugs in public hospitals has become an everyday challenge to PLWHA, while drug stock-outs have become commonplace. At times, these stock-outs are engineered by health personnel in an attempt to source bribes or promote their own private enterprise by referring patients to buy from their own pharmacies, according to the findings.

Of the PLWHA who paid bribes, 57 percent paid kickbacks to access drugs, 24 percent needed diagnostic services, and 19 percent paid a bribe for initial enrolment. 63 percent of those who were asked to pay a bribe at one point were

declined access to drugs or services, resulting in PLWHA defaulting or outsourcing for drugs or the required services.

The research revealed that drug stock-outs had become commonplace because a “moribund health system underwritten by phony accountability mechanisms and a tired bureaucracy” allowed drugs to be diverted to the black market through covert fraud and dispensing to ghost patients. This particularly affected those on second-line treatment who were at times given prescriptions to buy over the counter at their own expense.

“Discussions with PLWHA indicate that absenteeism by senior doctors usually impairs monitoring of these (ethical) codes. As a result, junior staff and nurses are given enormous latitude to police themselves,” read the report.

In his keynote address at the launch of the report on Friday, ZLHR board chairperson Andrew Makoni said the findings of the research were worrying and called for urgent corrective action to stem out corruption.

“The findings of this research are tragic and grave. Corrective action should start yesterday. Treatment should not be conditional to corrupt practices,” said Makoni.

Dr Owen Mugurungi, the director, AIDS and Tuberculosis programmes in the Ministry of Health and Child Welfare welcomed the report

and called for concerted efforts to fight corruption in the health sector.

The research was based on a sample population of 1 024 PLWHA. Urban areas provided 83 percent of respondents, with the remaining 17 percent of respondents coming from rural areas. 77 percent of the respondents were female and 23 percent male.

Anne Lugon Moulin, Deputy Head of CIS Countries Division, Swiss Agency for Development, said in a foreword to the report that corruption in the health sector was most detrimental because life was at stake.

“If treatment is made conditional to corrupt practices, it could well that the lives of those who cannot afford to pay bribes will be endangered. In the case of HIV/AIDS, the danger is even higher, as there is no cure for the disease, despite the mitigation effect of anti-retroviral treatments,” said Lugon Moulin.

“The issue is even more pressing in a country like Zimbabwe—one of the countries affected the most by the pandemic.”

According to the report, 1 102 864 people out of a population of about 12 million are estimated to be HIV positive. The report states that 997 123 of these are adults above the age of 15, and 594 847 are females. At least 343 460 adults are in urgent need of anti-retroviral therapy. But only 150 000 people are currently receiving ARVs from the government programme.

Police block victims march

HARARE-Police brutality in Zimbabwe marked a week in which the world celebrated International Peace Day, one more symptom of the coalition government's failure to reform a security sector largely viewed by the public as partisan.

Survivors of election violence and women activists in Harare and ordinary residents in Bulawayo were the primary targets of police harassment in cases that showed a pattern of continued and systematic abuse of the Zimbabwe Republic Police by those in power. International Peace Day was on Tuesday, 21 September.

In Bulawayo, police avenging the shooting of a senior colleague by robbers reportedly imposed a de facto curfew in the usually lively city.

Residents caught outdoors after hours are being assaulted and harassed by police, who insist the public must only venture out during the day and keep indoors at night.

In Harare, a peaceful protest to highlight concerns around community safety and unprofessional police conduct by Women of Zimbabwe Arise (WOZA) and Men of Zimbabwe Arise (MEZA) members landed the activists two nights in police detention. The WOZA members were arrested last Monday after marching on Parliament.

Cruel police action however failed to deter over 400 survivors of political violence that has rocked successive elections, often with fatalities, to commemorate International Peace Day in Harare. Police stopped a planned march on the Justice and Legal Affairs ministry to petition for an end to political abuses as well justice for perpetrators of violence.

Most alleged perpetrators still roam free.

The survivors met at the Harare Gardens for an opportunity to interact and share experiences with fellow victims from across the country under the theme "Dance for Peace, Zimbabwe need to be healed".

The survivors had planned to peacefully march in Harare and submit petitions to Justice Minister Patrick Chinamasa and to the Organ on national healing and reconciliation before police denied them permission.

Pastors took turns to preach to the gathering on the need to instill peace and stability. They called upon Zimbabwe's political leaders to lead by



WOZA members protest outside Parliament in Harare



Chiedza Jack and eight months old son Collins spent two nights in police custody



WOZA members Koronia Mutsinze (75) and Lizzy Saungweme (50) of Glen View just after they were granted bail at the Rotten Row Magistrates Court. The two were part of the 83 WOZA members who spent two nights at Harare Central Police Station after their arrest on Monday

example and desist from inciting their supporters into violence. After the commemorations, two representatives managed to submit the petition.

The International Peace Day commemorations came days after ZANU PF supporters violently caused the abandonment of several public

hearings on the coalition government's chaotic constitutional reform process.

Victims accounts force Tsvangirai election climb down

HARARE-Prime Minister Morgan Tsvangirai was forced to climb down on his election rhetoric after coming face to face with victims of political violence, most who are still living the horrors of State sponsored attacks.

Tsvangirai, together with his coalition partner President Robert Mugabe, has been hyping the prospect of a fresh general election to settle the stalemate caused by a disputed presidential run-off poll in June 2008.

Civil society has persistently warned against a hurried 2011 election, citing high political tensions, as well as the failure to dismantle structures of violence as reasons why a June 2008 scenario is likely to repeat itself.

Last Monday, the Movement for Democratic Change leader toned down on the prospect of an early poll.

"I will not commit to an election if it is going to be a declaration of war because we are supposed to show Sadc, the EU and the AU that we are mature democrats," Tsvangirai said.

This was after listening to gruesome accounts by victims at a meeting organised by Heal Zimbabwe Trust, a community based national healing organisation that used last week's event to bring together politicians, government officials, victims, medical doctors who treated victims and civil society to discuss reconciliation and healing.

Some of the victims, whose testimonies left some delegates in tears, said conditions remained tense. ZANU PF activists were visibly organising and

threatening community members with worse violence, they said.

"Some ZANU PF supporters have opened a base at a place called Donoro in Epworth where they meet on Wednesday's and Saturdays. They sing songs like 'Ndikafunga bumbiro ndinorara ndigere' and shout slogans like 'Vakawirirana ndovari kumusuro varipasi hatina ('I will be vigilant when it comes to the constitution making process. It is only political leaders who agree, not us ordinary supporters')." said a woman from Epworth who suffered multiple attacks in 2008.

She queried the effectiveness of government organs such as the Joint Monitoring and Implementation Committee (Jomic) set up to monitor the implementation of the Inter-Party Political Agreement and diffuse political tensions

"What are you going to do about that as Jomic. We are being intimidated and we are afraid?"

Heal Zimbabwe Trust said it had grouped survivors into five clusters namely:

- Those with permanent injuries
- Those who lost their property during the violence period.
- Those who were sexually abused.
- Widows and widowers.
- Those who were arrested, tortured and released several times.
- Relatives of those who disappeared during the political violence period and are yet to be located.

Prioritising effective remedies for past human rights violations: A real outstanding issue for the coalition government

MUZARABANI-Muzarabani North presents a flat and low lying landscape in Zimbabwe's Mashonaland Central Province, whose lands have fallen victim to flooding following heavy rains. Yet memories of the forces of nature that left homes washed away are now eclipsed and shadowed by a man made tragedy that unleashed gross human rights violations, including murder, rape and torture during the 2008 presidential election of June 2008.

Today the survivors of such gross violations continue to be persistently tormented by their perpetrators who are emboldened by the inaction of the Zimbabwe Republic Police to bring such illegal conduct before the law. The lack of any political will by the coalition government of Prime Minister Morgan Tsvangirai, his deputy Arthur Mutambara and President Robert Mugabe to face perpetrators head on has been made more glaring by its list of outstanding issues to the Inter-Party Political Agreement (IPA), which lacks remedying past human rights violations in the top three items.

Indeed the recent utterance by the Minister of Justice and Legal Affairs Hon. Patrick Chinamasa to the effect that the Zimbabwe Human Rights Commission would not have the jurisdiction to preside over violations occurring during the 2008 raises serious concerns over any commitment to ensure effective remedies are provided for the people of Muzarabani.

Despite serving a petition, sometime in August 2010, outlining the failure of the police and State authorities to bring perpetrators of gross human rights violations to account, survivors of the 2008 political violence remain on the run from the threats of perpetrators who remain above the law in Zimbabwe.

With elections likely to occur in 2011 it remains difficult to perceive any free and fair electoral process when those that suffered violations in the last election, only three years ago are at the mercy of the same State and non-State perpetrators who subjected them to gross acts of human rights violations.

On 16 September 2010 Zimbabwe Lawyers for Human Rights (ZLHR) conducted a situational human rights training at Ute Business centre in Muzarabani North with at least 100 survivors of the 2008 political violence.

Having outlined that Zimbabwe was a State with an obligation to protect, promote and fulfill the human rights of its citizens ZLHR's Public Interest Litigation Manager Rangu Nyamurundira highlighted that survivors had the right to be guaranteed effective remedies for past human rights violations in Zimbabwe and at international law. He further highlighted that various provisions within the IPA do in fact mandate the coalition government to ensure non-repetition of human rights violations and to provide the remedy of prosecution of those found guilty of committing any violations during 2008, while empowering the National Organ of Healing and Reconciliation to recommend

other remedies, which can include reparations and truth telling.

Participants expressed their lack of faith in the police who had failed to protect them and bring perpetrators to account

despite several reports made at Muzarabani Police Station.

There was concern that despite such provisions in the IPA that required an end to violations, those perpetrating such violations and allowing them

to be perpetrated did not read the IPA and in fact victimised those seen reading the IPA.

Participants expressed the need for the whole community, especially perpetrators and the police to receive training on human rights and the IPA. One worrying statement by a participant was that she saw no reason for voting in any future election when she was still living in the same community as the people who had stolen her livestock (cattle and goats), who still had such livestock and were slaughtering them at will.

Indeed, it remains difficult to see how hundreds of survivors of rape, torture and murdered loved ones will participate in any new elections when their perpetrators have promised to "return and repeat their acts". The very threat in itself is enough to cause voter apathy, which psychological violence revisited upon traumatised electorate may go unnoticed by any election observers and monitors.

ZLHR calls upon the following:

- That the coalition government, through its Ministries of Home Affairs and Justice and Legal Affairs, take immediate action to investigate, arrest and prosecute any perpetrators of human rights violations committed during the 2008 elections;
- That the Officer in Charge at Muzarabani Police Station immediately take action to investigate and present for prosecution all identified perpetrators of human rights violations in Muzarabani;
- That the National Organ on Healing, Reconciliation and Integration present Zimbabweans with internationally recognised remedies for past human rights violations, so that survivors of such violations can make informed decision about what remedies to seek.

ZLHR encourages survivors of past human rights violations to seek and pursue internationally recognised and guaranteed remedies, including prosecutions, reparations and truth telling, against those perpetrators, whether State or non-State actors. As a signatory to various international human rights instruments Zimbabwe is obligated to ensure that such effective remedies are made available and enforceable.

Editor's Note: Please note that in last week's edition we omitted to indicate that lawyers from the NGO Human Rights Forum represented constitutional reform activist Bopoto Nyandoro in a case in which High Court Judge Justice Bharat Patel ordered the police to pay \$5 000 in damages for assault. The omission is regretted.



Nyamurundira points out the legal remedies to survivors of violence



A survivor narrates his testimony to ZLHR lawyer, Rangu Nyamurundira

Harvesting thorns

HARARE-The coalition government's performance is nose-diving. This month marks two years after the signing of the Inter-Party Political Agreement (IPA), a power sharing arrangement viewed by proponents as the only viable way out of Zimbabwe's decade-long political crisis.

But few gains made during the early days of the government are being eroded by political haggling between long-time rivals and now uncomfortable coalition partners President Robert Mugabe and Prime Minister Morgan Tsvangirai.

Two years after the two leaders agreed to their fractious union, many Zimbabweans are still in a dire situation-unemployed and unable to access basic needs in an insecure environment charged by political emotions that often turn violent.

Events that occurred as the month came to an end highlighted the failures of the coalition government.

Jenni Williams, leader of pressure group Women of Zimbabwe Arise (WOZA) and over 80 of her members were arrested and detained for peacefully marching on Parliament to demand police impartiality and an overhaul of harsh security laws.

Days before, ZANU PF militants had used violence, in one instance a gun, to silence people keen to offer views to teams conducting constitution-making outreach meetings in Harare and Chitungwiza.

The planned new constitution is a key process in laying the foundation for political stability and credible elections following the disputed June 2008 presidential election runoff.

"Nothing has changed in so far as human rights are concerned. Social injustices continue unabated," Williams, a multiple victim of police cruelty told *The Legal Monitor*.

She was speaking as members of her organisation were being released on bail.

"We spent a night in filthy cells. In fact, the conditions have worsened from the last time I was there. There was human waste everywhere," said one of the WOZA members who had just been released.

Unlike her compatriots, Williams freedom did not last.

Police hauled her as she addressed WOZA members on transport and medical treatment arrangements.

"You were chanting slogans. So come to my office," barked a police officer at the court, leaving a hapless Williams to follow.

Charles Kwaramba, a member of Zimbabwe for Lawyers for Human Rights, who represented Williams and who had secured the release of the WOZA members had to follow Williams to fight for her release again.

"These people were arrested for nothing," said Kwaramba. "Honestly, when 83 people move, you can't expect silence. Even if they are all quiet, there will be some feet movement. That alone makes noise but that is not an offence," he said.

Williams said the law was still being selectively applied in Zimbabwe.

"In the cells there were no ZANU PF militia which caused chaos in Harare resulting in the constitution making process being suspended," she said, in an apparent reference to violence which rocked Harare two weeks ago.



Jenni Williams, leader of pressure group Women of Zimbabwe Arise (WOZA)

ZANU PF supporters descended on centres where the Constitution Select Committee (COPAC) was

conducting outreach programmes in Harare. The chaos resulted in one death and several injuries.

During the very week marking the second anniversary of the IPA, police arrested a six-member medical team for allegedly distributing ARVs without registration and licencing. The State has since withdrawn the charges as if admitting it had acted emotionally.

The losers in all this are Zimbabweans. More than a million people still face hunger and starvation, according to the United Nations, while thousands of children can only dream of their right to basic education and health.

Analysts say coalition government partners are more concerned with consolidating their power than service delivery.

A 30-day deadline given by the Southern African Development Community summit in August for the coalition partners to fully implement outstanding issues expired two weeks ago with no movement.

Last week, Tsvangirai sounded as if he had given up and was looking to the end of the coalition.

He said: "I know for this crisis to end we need an election," he said, hinting at the same time that he would not agree to elections under the current conditions.

MDC constitutional reform problems self inflicted-NCA

HARARE-The National Constitutional Assembly (NCA) has said violence which forced the Constitution Select Committee (COPAC) to suspend public hearings in Harare vindicated its position against political parties leading the writing of a new constitution.

"We do not mean to condone violence and we sympathise that a life was lost but as NCA we had said political parties must not lead this process," NCA spokesperson Madock Chivasa told *The Legal Monitor*.

"We preferred an independent commission that reflects all our different backgrounds in Zimbabwe to lead the drafting a new constitution. The violence between MDC and ZANU PF is a true reflection of our fears. The whole process is a power contestation between ZANU PF and the MDC and offers nothing for Zimbabweans," said Chivasa.

The NCA, the Zimbabwe Congress of Trade Unions and the Zimbabwe National

Students Union are opposed to the process, which is led by a parliamentary body (COPAC) that is supervised by a team of inter-party power sharing negotiators.

COPAC outreach meeting centres in Harare turned into battlefields when organised militia unleashed violence against participants contributing views to be captured in a draft constitution.

Some participants said they felt short-changed.

"I think these people (militias) should just have told me that they did not want me to air my views. They think only their views matter in Zimbabwe," said Christine Kulua of Mbare as she recuperated from an attack by the militia.

Besides Mbare, violence broke out in areas such as Kuwadzana, Highfields, Hatcliffe, Mufakose and Glen Norah.

Another victim of the militia's violence, Peter Daniels, said a man popularly known as Jim from Mbare was coordinating the violence.

"It was not spur-of-the-moment. All this was well planned. Jim was the one who asked people to start attacking me after I finished contributing. I had said presidential terms and powers must be reduced," said Daniels.

After the violence Prime Minister Morgan Tsvangirai's MDC leadership held an urgent meeting and tasked him to meet President Robert Mugabe over the issue.

"We have noted with concern the militarisation of the process, interfering with a purely civilian process. Reports from all over the country show the heavy involvement of the military in the process. This process fails to pass the test of legitimacy, credibility and people-driven-ness. Having carefully considered our position, I am going to meet with other principals (in the unity government) to map the way forward," said the visibly subdued MDC leader.

Besides revamping a collapsed economy, the fragile coalition government was supposed to come up with a new constitution to replace the one drawn up in 1979 on the eve of Zimbabwe's independence from Britain.

The NCA says it does not sympathise with Tsvangirai.

"The MDC is actually the one which put us where we are now because they agreed with ZANU PF to lead this flawed process. As NCA we are going to mobilise people to reject a document which comes out of this defective process," said Chivasa.

The NCA successfully led a campaign against a government-drafted constitution in 2000 when Tsvangirai was still an ally.



Peter Daniels



Christine Kulua