

The LEGAL MONITOR

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Censored

*Clampdown on freedom of expression...
Lawyers take on censorship board...*

Shooting
the
messenger

HARARE-The State has reinforced its resolve to silence voices viewed as questioning the status quo with the banning of a play aimed at promoting peace building and national healing.

The play “No Voice, No Choice” was expected to run at several Zimbabwean theatre halls as part of artists’ bid to spread the message of peace using theatre including at the forthcoming Intwasa Arts Festival scheduled for Bulawayo later this month.

But the Board of Censors of Zimbabwe last week banned

the play, alleging that its contents were “inciteful and against the spirit of national healing and reconciliation”.

Human rights lawyers are now fighting to overturn the ban, written and directed by celebrated playwright Tafadzwa Muzondo.

Zimbabwe Lawyers for Human Rights (ZLHR), whose lawyers are representing Muzondo, on Friday, filed an urgent chamber application in the High Court challenging the Board of Censors of Zimbabwe’s decision.

The lawyers Tawanda Zhuwarara and Bellinda Chinowawa of ZLHR want the High Court to issue an order interdicting the Board of Censors of Zimbabwe and its functionaries from preventing the staging of the performance at any venue in Zimbabwe and permit Muzondo and his Edzai Isu Theatre Arts Project to perform the play at the Intwasa Arts Festival.

Before its ban, the play had been to regional countries such as South Africa and Zambia, while locally it was staged in Harare, Manicaland and Masvingo provinces.

Masters of censorship

Below are some of the censored plays and cases handled by or involving ZLHR in recent years.

Banned Zimbabwean plays find a home abroad-15 August 2007

The first play to be banned in independent Zimbabwe, Super Patriots and Morons, which was produced by veteran theatre practitioner, Daves Guzha, resurfaced in the United Kingdom and caused a hype three years after it was banned. It was nominated for the Amnesty International 2007 freedom of expression award.

Herald newspaper censors civil society communiqué-February 2009

The Herald Editor refused to publish a communiqué drafted by civil society organisations announcing the establishment of a Civil Society Monitoring Mechanism (CISOMM) on the implementation of the Interparty Political Agreement (IPA) between ZANU PF and the two Movement for Democratic Change (MDC) formations in its Friday 27 February 2009 edition. ZLHR and 23 other civic bodies had crafted the communiqué. ZLHR on Thursday 26 February 2009 visited the Herald House to book space for the communiqué and was told by one of the advertising representatives that the communiqué would be taken to the newspaper’s Editor for vetting before placement in the newspaper. The advertising representative later informed ZLHR that the Editor had recommended the dropping of two paragraphs from the communiqué for it to be carried in the newspaper. The censored paragraphs’ part read as follows: “Deeply concerned at the continued assault on the fundamental rights and freedoms of the people of Zimbabwe, in particular human rights defenders and legitimate political activists. In solidarity with our colleagues and others who remain unjustly incarcerated at various prisons, remand facilities and hospitals around Zimbabwe.”

Gukurahundi pictures case-September 2010

Visual artist Owen Maseko was charged with unlawfully exhibiting Gukurahundi artistic images. The trial is on hold after a Magistrate granted an application by Maseko’s lawyers for the Supreme Court to determine whether criminalising creative arts infringes on freedom of expression and freedom of conscience. Magistrate Ntombizodwa Mazhandu, who heard the case, said it was a fact that Gukurahundi-military killings of over 20 000 civilians in Matabeleland and Midlands provinces did happen in the early 80s. Maseko’s lawyers stated that the artist’s fundamental rights, provided for in the Constitution of Zimbabwe and other international human rights instruments to which Zimbabwe is a State party, were being violated by censoring his work. The lawyers argued that Maseko’s freedoms of expression and thought as guaranteed by Sections 20 (1) and 19 (1) of the Constitution of Zimbabwe respectively were violated repeatedly at various stages when he was arrested after the police outlawed his art works and when the government invoked the Censorship and Entertainment Control Act to ban his paintings at the Bulawayo National Art Gallery. Government had invoked the Censorship and Entertainment Control Act to ban the exhibition of Maseko’s paintings at the Bulawayo National Art Gallery charging that they portrayed “the Gukurahundi era as a tribal biased event”.

Gays and Lesbians under fire-24 May 2010

Police on Monday 24 May 2010 pressed fresh charges against two employees of Gays and Lesbians of Zimbabwe (GALZ), who were arrested after the police raided their offices in the capital. The State charged Ellen Chademana and Ignatius Mhambi with contravening Section 33 of the Criminal Law (Codification and Reform) Act for allegedly undermining the authority of President Robert Mugabe. Chademana and Mhambi were also charged with being in possession of obscene, indecent or prohibited articles in breach of Section 26 (1) (b) of the Censorship and Entertainment Control Act Chapter 10:04.

Banned play back-February 3, 2011

Bulawayo Magistrate Rose Dube on 3 February 2011 overturned a decision by the police banning popular arts promotions company Rooftop from staging a play titled Rituals. Police wrote to the National Arts Council of Zimbabwe, which represents artists on behalf of Rooftop Promotions, that they could not sanction the staging of the play because the government was already attending to issues of national healing which the play was touching on such issues. However, the ban was overturned by Magistrate Dube.

When theatre and art need the court’s intervention-March 22, 2011

Mutare Magistrate Nixon Mangoti on Tuesday 22 March 2011 acquitted nine Rooftop artists and their driver, who were charged with criminal nuisance after staging a theatre performance entitled “Rituals” in Chimanimani, Manicaland Province. Magistrate Mangoti acquitted the nine Rooftop artists and their driver at the close of the State case after the artists’ lawyers Blessing Nyamaropa of Zimbabwe Lawyers for Human Rights (ZLHR) and Cosmas Chibaya of Chibaya and Associates applied for discharge at the close of the State case. The Rooftop artists namely, Sylvanos Mudzvova, Chipso Bizure, Joice Mpfu, Zenzo Nyathi, Mandla Moyo, Rutendo Chigudu, Amina Lloyd Ayamu, Joshua Mwase, Norman Kamema and the driver Shingirai Muto were arrested on 5 January 2011 at Nhedziwa Growth Point in Chimanimani, Manicaland Province and were detained at Cashel Valley Police station. They were charged with contravening Section 46 of the Criminal Law (Codification and Reform) Act as read with Section 2 (a) (ii) of the third schedule to Section 46 of the said Act that is criminal nuisance. The police accused them of unlawfully holding a public performance, where they performed a drama reminiscent of the political disturbances of June 2008 that incited the affected members of the public to revive their differences.

Church under attack-April 2011

Police in Lupane arrested a Catholic Priest, Father Marko Mabutho Mkandla for allegedly convening a meeting without notifying them. The police also charged Father Mkandla with contravening Section 31(a) (i) of Criminal Law (Codification and Reform) Act for allegedly communicating falsehoods prejudicial to the State and violating Section 42 (2) of Criminal Law (Codification and Reform) Act, that is causing offence to persons of a particular race or religion. Father Mkandla was also charged with contravening the Censorship and Entertainment Control Act for allegedly possessing pornographic material.

Magistrate quashes police ban on national healing play-September 14, 2011

Bulawayo Magistrate, Tancy Dube, on 14 September 2011 quashed a police ban on a national healing theatre play aimed at exhorting peace and reconciliation after years of conflict in Zimbabwe. The interdict came after Lizwe Jamela of Zimbabwe Lawyers for Human Rights (ZLHR) instituted urgent proceedings in the form of an ex-parte application challenging the police ban of the play entitled “1983, the years before and after, a play on the past disturbances seeking to establish true National Healing, true peace and true reconciliation,” scheduled for Friday 16 September 2011 at Bulawayo Theatre. The police had on 12 September 2011, four days before the scheduled drama performance banned the public performance of the national healing play by the Gwanda-based Jahunda Community Theatre group without giving any reasons for their actions. The Magistrate sanctioned Jahunda Community Theatre to proceed with the drama performance as scheduled so as to promote the organisation’s right to freedom of association and assembly as set out in Section 21 of the Constitution and the right to freedom of expression as guaranteed in Section 20 of the Constitution.

Police summon GALZ director over anti-Mugabe slur-3 July 2012

POLICE summoned Chesterfield Samba, the director of the Gays and Lesbians of Zimbabwe (GALZ) for allegedly undermining the authority of or insulting President Robert Mugabe in contravention of Section 33 of the Criminal Law (Codification and Reform) Act. Police officers interrogated Samba over the operations of GALZ and claimed that in 2010 GALZ displayed a plaque of former San Francisco Mayor Willie Lewis Brown, Jr in their office in which the African-American denounces President Robert Mugabe’s homophobia against gays and lesbians.

Masvingo Magistrate quashes police ban of theatre play-2 August 2012

Masvingo Magistrate Jabulani Zinyati on Thursday 2 August 2012 quashed a police ban on a national healing theatre play aimed at exhorting peace and reconciliation after years of conflict in Zimbabwe. The interdict came after Collin Maboke, a member lawyer of Zimbabwe Lawyers for Human Rights (ZLHR), instituted urgent proceedings in the form of an ex-parte application challenging the police ban of the play. The police through Chief Superintendent Nyapfuri, the Officer Commanding Zimbabwe Republic Police Masvingo Central District had banned the public performance of “No Voice No Choice”, a production by two community theatre groups, Edzai

Isu Theatre Arts Project and Zvido Zvevanhu Arts Ensemble. The play, which was nominated for the Outstanding Theatrical Production at the National Arts Merits Award held in February 2012, was scheduled to be staged in Masvingo Province during the Youth Cultural Arts Festival. In a letter dated 1 August 2012 and addressed to versatile theatre practitioner Tafadzwa Muzondo, the organiser of the event and the producer of the play, Nyapfuri stated that the police could not sanction the performance of the play “due to security reasons” which he did not disclose. Magistrate Zinyati granted the application which also sanctioned the two theatre groups to proceed with the staging of

the drama performance as scheduled so as to promote the organisation’s right to freedom of association, assembly and expression as set in the Constitution.

Board of Censors ban Muzondo’s play-21 August, 2012

The Board of Censors of Zimbabwe on 21 August 2012 banned a theatre play aimed at promoting national healing and building peace in the country. The Board of Censors claimed that the play “No Voice No choice” written and produced by theatre playwright and actor Tafadzwa Muzondo is inciteful and is against the spirit of national healing and reconciliation.

When politics call

...Board of Censors’ life of watching porn and banning political satire

HARARE-A group of elderly people sits in a room spending entire hours watching films explicit with hard porn and extreme violence-and then decides that the movies are too hardcore for public consumption. That is just the “light side” of the Zimbabwe Board of Censors, a “lucky lot” who get to choose what citizens can and cannot watch or read. They have a darker side. When politics calls, they spring into action and ban anything they deem “subversive” to the regime. Apart from the Board of Censors, which is peculiarly housed under the Ministry of Home Affairs, police have also often been used to ban exhibitions, theatre productions and statements by human rights defenders and organisations such as Zimbabwe Lawyers for Human Rights (ZLHR). And they have a plethora of laws to back them. As the debate over the legitimacy of actions taken by the Board of Censors or the police to ban material they deem undesirable for public consumption rages on, ZLHR’s programmes manager Dzimbabwe Chimbga last week presented a paper on the subject at the just-ended Zimbabwe International Book Fair 2012 Writers Workshop held at the National Gallery. Below we publish some of the talking points from Chimbga’s paper.

- What is Censorship
- To Censor: To officially inspect books, films, letters, newspapers, and other media or methods of communication in order to suppress them or to delete any portions thereof deemed offensive or objectionable for moral, political, religious, or other reasons.

Main legal basis of Censorship: Censorship and Entertainments Control Act Chapter 10: 04

An Act to regulate and control the public exhibition of films, the importation, production, dissemination and possession of undesirable or prohibited video and film material, publications, pictures, statues and records and the giving of public entertainments; to regulate theatres and like places of public entertainment in the interests of safety; and to provide for matters incidental to the foregoing.

Powers of Censorship Board:

- Section 10: films
- Section 13-14: Production of and dissemination of undesirable publications, Pictures, statues and records
- indecent or
- obscene or is offensive or harmful to public morals; or
- is likely to contrary to the interests of defence, public safety, public order, the economic interests of the State or public health; or
- depicts any matter in a manner that is indecent or obscene or is offensive or harmful to public morals.

Appeal Mechanisms

- Appeals Board, not satisfactory, set up by the Minister
- Supreme Court, on questions of law

2. What are the forms of Censorship an artist and/writer needs to know about? What is the State of Censorship in Zimbabwe?

- Constitution of Zimbabwe
- Official Secrets Act
- Censorship and Entertainments Act

- Criminal Law (Codification and Reform) Act
- Public Order and Security Act
- Access to Information and Protection of Privacy Act (AIPPA)
- Constitution of Zimbabwe Limitations under Section 22
- in the interests of defence, public safety, public order, the economic interests of the State, public morality or public health;
- Protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings;
- preventing the disclosure of information received in confidence;
- maintaining the authority and independence of the courts or tribunals or the Senate or the House of Assembly;

2. AIPPA

- SECTION 70- cabinet deliberations
- Section 16 Attorney-client privilege

3. Official Secrecy Acts

- 4. Criminal Law (Codification and Reform) Act
- Section 37(1) criminalises uttering any words or distributes or displays writings, performs an action (mime play- The Artist), visible representation that is obscene, threatening, abusive, or insulting, provoking the peace
- Section 33: Undermining authority of or insulting the President
- Section 31: Publishing or Communicating false statements prejudicial to the state
- Section 30 : Causing disaffection among Police Force or Defence forces
- Section 95: Criminal insult
- Section 96: Criminal Defamation

5. POSA

- Ordinarily should not be applicable to artists because of Part (e) of schedule to POSA
- Abused by police to ban legitimate artistic and theatrical presentations

6. Censorship and Entertainments Act

- Section 10
- Section 13
- Section 33

3. Is it Necessary in a democratic society?

- Justice John Marshall Harlan’s line, “one man’s vulgarity is another’s lyric,” sums up the impossibility of developing a definition of obscenity that isn’t hopelessly vague and subjective
- And Justice Potter Stewart’s famous assurance, “I know it when I see it,” is of small comfort to artists, writers, movie directors and lyricists who must navigate the murky waters of obscenity law trying to figure out what police, prosecutors, judges and juries will think.

4. What can a writer do when their work has been Censored?

- Approach ZLHR
- Challenge the decisions through Appeal mechanism within the Censorship And Entertainments Control Act
- Challenge Constitutionality of Censoring laws
- Seek an Interdict
- Advocacy, Advocacy, Advocacy

Rogue cops convicted

HONDE VALLEY-From policemen to convicts, disgraced cops Prince Chihwai and Munyaradzi Willard Matienga based at Ruda Police Station must be cursing the day they embraced brutality as a *modus operandi*.

They have been convicted for assaulting Kuziwa Samera, a villager whom they accused of harbouring Tendai Tafara, a suspect they were pursuing.

Mutare Magistrate Annia Ndiraya fined the two rogue cops \$50 each. They face a month in jail if they fail to pay the fine.

The notorious duo joins killer cop Joseph Chani on the rogue police list.

Chani was in July jailed for 19 years for brutally murdering a villager he suspected of illegally mining for diamonds in Marange.

Sentencing Chihwai and Matienga, Magistrate Ndiraya said the two had contravened Section 89 of the Criminal Law (Codification and Reform) Act after assaulting Samera.

The two policemen were close to getting away with the assault until the intervention of Zimbabwe Lawyers for Human Rights (ZLHR). Samera approached ZLHR in February resulting in lawyer Peggy Tavagadza writing a complaint to the officer-in-charge at Ruda Police Station.

Angry that Samera had approached ZLHR in his quest for justice, Ruda policemen in March descended on the 24-year-old and arrested him on accusations of reporting them to lawyers.

At the police station, officers told Samera that: "Your lawyers are not as educated as we are."

They detained him for three days without a charge and he was not informed of the offence he had allegedly committed.

That was not enough: police denied him access to his relatives and food for three days in detention until ZLHR came to Samera's rescue. To cover up their acts, police tried to rustle up assault charges but the move collapsed because there was no complainant and medical affidavit from any litigant.

Now it is Samera who is having the last laugh as Chihwai and Matienga get their share of justice.

Magistrate Ndiraya suspended three months for five years on condition the policemen are not convicted of an offence involving assault for which they will be sentenced to imprisonment without the option of a fine.

Chihwai and Matienga were part of a group of policemen who went to Samera's homestead in January looking for Tafara.

After failing to locate their suspect, the officers assaulted Samera with a log on his back. The officers proceeded to quiz Samera on whether he had prepared fish for lunch and left him in "total anguish" after realising that he had prepared green vegetables.

More abuse and assault was to follow for Samera, who suffered cruelty at the hands of Ruda police



Kuziwa Samera

officers in March after they accused him of reporting them to ZLHR.

Chihwai and Matienga are the latest policemen to be convicted for assault this year after Constables

Mary Zvapera, Virginia Matinde and Passmore Feremba, all based at Bulawayo's Criminal Investigations Department, were found guilty of assaulting Bulawayo residents Agnes Muponda and Thaba Mtetwa.

Zimbos fund police brutality

CHITUNGWIZA-The government could be forced to commit \$50 000 from taxpayers' money to pay damages to a Chitungwiza man who was brutalised by the police and forced to "swim" in a sewer drain.

The case is one of many where taxpayers are paying heavily for actions of the police, who often use torture against suspects, at a time when millions of Zimbabweans are expecting food handouts from the government.

Apart from compensation demanded by victims of police brutality, taxpayers foot the bill for defending police officers being sued by the victims.

Shorai George Tambure's case is one example of how police brutality and bungling is costing ordinary Zimbabweans.

Tambure is demanding \$50 000 from Ministers of Home Affairs and the police after he was brutalised by the law enforcements agents who had picked him just as he was about to reach his home on the night of 20 February this year.

From his home gate, Tambure was, within minutes swimming in a sewer drain, thanks to two Zimbabwe Republic Police (ZRP) constables Themba Mufuyana and Trymore Karungaire who commandeered him to do such a horrible workout.

Reinforcing the reputation that ZRP is a force rather than a service for the people of Zimbabwe, the two policemen took Tambure from the gate of his home and in a matter of minutes had him bleeding profusely.

To cover their tracks and as an "afterthought", police proceeded to charge Tambure under the harsh Criminal Law (Codification and Reform) Act for allegedly undermining police authority.

Magistrate Rumbidzai Mugwagwa freed Tambure early last month after lawyer Kennedy Masiye of Zimbabwe Lawyers for Human Rights (ZLHR) applied for discharge at the close of the State case during his trial at Chitungwiza Magistrates Court.

Magistrate Mugwagwa ruled that the State had failed to prove its case beyond reasonable doubt and furthermore there was likelihood from the evidence produced in court that police could have fabricated the charges against Tambure after having severely assaulted him.

The State had alleged that Tambure, in the presence of Mafuyana and Karungaire, uttered that: "*Mapurisa muri imbwa dzevanhu, majaira kutora mari dzavanhu muri mbavha hamuna kudzidza, vanhu vakapinda basa nekumhanya* (Police you are dogs, you always take money from people, you are thieves, you are not educated and your major job qualification is your ability to run)."

He is alleged to have further said that police officers were "sons of prostitutes".

After winning his case, Tambure, with the help of ZLHR, is fighting back and wants to be compensated.

He has approached the High Court suing for damages for unlawful arrest, detention, pain and suffering and shock.

According to papers filed by his lawyer, Tambure is claiming \$30 000 for pain, suffering and discomfort, trauma and emotional shock and contumelia.

He wants \$10 000 for the unlawful assault, wrongful arrest and detention he suffered, \$9 900 for malicious arrest and prosecution and \$100 for medical attention.

Co-Home Affairs Ministers Kembo Mohadi

and Theresa Makone are cited as the first defendants while police Commissioner-General Augustine Chihuri is the second defendant.

Mafuyana and Karungaire are third and fourth defendant respectively.

According to court papers, the police officers used extreme force when such force was not legally justified or warranted.

"The plaintiff (Tambure) was severely assaulted all over the body using booted feet, clenched fists before being thrown into human waste infested sewage drainages and forced to roll therein as the third and fourth defendants watched," reads papers filed by Tambure's lawyer at the High Court.

"The plaintiff was inhumanely tortured during his interrogation by being poured 40 litres of cold water on a rainy cold night and was made to wear a 20 litre container whilst the third and fourth defendants beat him on his head using button sticks.

"The Plaintiff was psychologically threatened and tormented during his apprehension and detention by being threatened with death and at the very least severe bodily injury if he did not admit to being guilty of loitering and undermining police authority.

"The third and fourth defendants after realising the injuries they had caused the plaintiff they maliciously charged him with the crime of undermining police authority as defined in Section 177 of the Criminal Law (Codification and Reform) Act Chapter 9:23 and attempted to force him to pay a \$20 fine but the plaintiff refused," reads the papers.

The Attorney-General, which is funded by the public, usually defends such cases on behalf of the public officers and ministers being sued.



The biscuit man... Zebediah Mpofu's trial for allegedly insulting President Robert Mugabe commences at Mbare Magistrates Court this week. He allegedly taunted a workmate who supports ZANU PF that he should thank Prime Minister Morgan Tsvangirai for easing Zimbabwe's problems.

15 months of hell

...Glen View residents rot in prison

HARARE-It has been 15 months since the detention of 29 Glen View residents charged with murdering a policeman and it appears it will be a long and bumpy walk to freedom.

Following the stoning to death of Inspector Petros Mutedza in a beerhall brawl in May last year, police swooped on the sprawling Harare suburb and rounded up residents known for their affiliation to the Movement for Democratic Change (MDC).

After suffering severe beatings at the hands of the police, they were charged with murder and thrown into remand prison.

Others, such as MDC national youth chairperson Solomon Madzore, were picked up later and charged with the murder of Mutedza.

All 29 are languishing in remand prisons around the city and for 15 months their families have had to do with seeing them from jail.

Their pleas of innocence and appeals to regional bodies such as the Southern African Development Community have yielded negative results. Some have tested freedom before they were committed to prison. Since then it has been hell for some of them.

The accused include: Madzore, Last Maengahama, Councillor Oddrey Sydney Chirombe of Ward 33, Councillor Tungamirai Madzokere of Ward 32, Cynthia Manjoro, Stanford Mangwiro, Tendai Chinyama, Jefias Moyo, Abina Rutsito, Gabriel Shumba, Stephen Takaedzwa, Linda Madyamhanje, Tafadzwa Billiard, Simon Mudimu, Dube Zwelibanzi, Simon Mapanzure, Augustine Tengeniyika, Nyamadzawo Gapara, Paul Rukanda, Lazarus and Stanford Maengahama, Kerina Dewa and Memory Ncube, Rebecca Mafukeni, Yvonne Musarurwa, Phineas Nhatarikwa and Stanford Mangwiro.

The arrest of the 29 attracted international condemnation after they came to court with cuts, bruises and swollen faces whilst others were limping, claiming that they had been assaulted in police custody.

Their lawyers argue that the suspects were arrested purely on political grounds as the arrests targeted mostly supporters and officials of the MDC-T party.

While in remand prison they have complained of being ill-treated by some members of the Zimbabwe Prison Service.

Earlier this year when they were briefly released, Musarurwa and Mafukeni told The Legal Monitor that they were confined in a dingy cell for more than 23 hours a day.

Councillor Madzokere complained about physical assaults on Boxing Day last year after he refused to hand over his prison garb to another inmate until he had been given a doctor's certification that a skin infection he had contracted in custody would not be spread to the next prisoner to receive the clothing.

Rights groups such as Zimbabwe Human Rights Association (ZimRights) say the long incarceration is uncalled for, especially after the State's case began crumbling as its witnesses contradicted each other during trial.

"It is now approximately 450 days with the matter pending before the courts, moving at a snail pace and accused persons in detention. No progress has occurred regarding the trial since July due to the court's indefinite postponement of the case because of the deteriorating health of one of the accused persons," said Zimrights in a statement marking the residents' 15 months of imprisonment.

ZimRightsaidwiththecoincidingcourtvacation,the trial could possibly resume sometime in September.

"Meanwhile, the State witnesses that have testified so far have failed to provide consistent information pointing to how the unfortunate incident ensued. Even the police have given contradicting statements to the extent that the court had to visit the crime scene on the 26th of June 2012 for an 'inspection in loco'.

"Zimbabwe Human Rights Association therefore demands finalisation of the matter to ensure restoration of liberties to those who are innocent. There is no justification for the incessant deprivation of their right to freedom.

"It is distressing and inhuman to keep a person for almost two years without defining his/her fate. This is a clear indication of lack of objectivity in the way Zimbabwean law, security and judiciary systems are run. Responsible authorities must define the fate for the 29 accused persons without further delay," the group said.

Below are some of the moments imprisoned Glen View were captured in the past 15 months.



Reprieve for Mugabe

HARARE-Judge President George Chiweshe has granted a consent order to allow an application by President Robert Mugabe for more time to fix dates for a "mini-general election".

The Supreme Court had given the 88-year-old leader until 30 August to gazette a notice fixing dates for by-elections in three Matabeleland constituencies.

But President Mugabe-through the Civil Division of the Attorney General's Office-approached the High Court early last week requesting a month's extension.

Prominent human rights lawyer and Zimbabwe Lawyers for Human Rights board member, Beatrice Mtetwa, represented three former MDC legislators Abednico Bhebhe, Njabuliso Mguni and Norman Mpofu, who consented to a request by Fortune Chimbaru from the Attorney General's Office, who represented President Mugabe, to allow the ZANU PF leader to gazette a notice fixing dates for by-elections in three Matabeleland constituencies and other vacant constituencies including local authorities seats 30 days later than ordered by the court.

President Mugabe pleaded with the High Court for more time to mobilise and ascertain the availability of financial resources to stage a "mini-general election" in all the vacant parliamentary and senatorial constituencies in the country including local authorities.

According to Mugabe, there are 28 parliamentary and 164 local authority seats which have fallen vacant since the last general election in March 2008.

Earlier this year, High Court Judge, Justice Nicholas Ndou ruled that by-elections for Nkayi South, Bulilima East and Lupane East-where Bhebhe, Mguni and Mpofu were expelled-must be held, as they were constitutionally long overdue.

President Mugabe appealed to the Supreme Court but this bid hit a brick wall when his petition was dismissed. Last week Justice and Legal Affairs Minister, Hon. Patrick Chinamasa, deposed an affidavit on behalf of President Mugabe at the High Court seeking an extension of time to enable the octogenarian leader to comply with the court's order.

President Mugabe argued that conducting "28 parliamentary and senatorial by-elections together with 164 local authority by-elections" in the vacant constituencies was tantamount to holding a mini-general election, which would require the mobilisation of huge financial resources and wide consultations of which he has not been able to do so in the given period due to "his busy schedule" and "circumstances beyond his control".

Hon. Chinamasa said President Mugabe was keen to comply with the Supreme Court order by 1 October.