

The LEGAL MONITOR

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Mugabe goblin case at Supreme Court

MUTARE-A controversial law that police and prosecutors have relied on to silence political activists and ordinary Zimbabweans from criticising the President comes under scrutiny at the Supreme Court this week.

Hundreds of Zimbabweans-from legislators to villagers-are facing charges under Section 33 of the Criminal Law (Codification and Reform) Act for allegedly undermining the authority of or insulting President Robert Mugabe.

They are now pinning their hopes on a case that is before the Supreme Court, sitting as a Constitutional Court on Thursday.

MP for Nyanga North Hon. Douglas Mwonozora, who is being charged under the insult law for allegedly likening President Mugabe to a goblin, is challenging the constitutionality of the law.

The Supreme Court Registrar has written to Hon. Mwonozora's lawyers and the Attorney General's Office advising that the case has been set down for this Thursday.

In his application set to be heard on Thursday, Hon. Mwonozora argues that the insult law is unconstitutional as it infringes on freedom of expression while giving undue protection to an elected President who should be subjected to public scrutiny.

In the case leading to the Supreme Court challenge, Hon. Mwonozora is accused of likening President Mugabe to a goblin at a rally he addressed at Ruwangwe Growth Point in Nyanga North constituency in March 2009.

The State alleges that Hon. Mwonozora 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 chinotsunga vanhu vasina mhosva chichitora zvinhu zvavo."

Police took this to mean: "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)."

Hon. Mwonozora argues that the law used to charge him gives President Mugabe an unfair advantage as a political opponent.

Reads his Supreme Court application:

"Applicant (Hon. Mwonozora) contends that his political rights as read together with his freedoms of association and assembly are being violated by subjecting him to criminal prosecution over alleged political utterances made in relation to a political opponent. In the present matter, Section 33 of the Criminal Law (Codification and Reform) Act is being used to gag Applicant in the exercise of his political rights and freedoms of association and assembly. Applicant, being a member of the MDC, in advancing his political interests, is entitled to utter political statements which best serves his cause. The President is entitled to an equal.

"Applicant contends that in enacting Section 33 of the Criminal Law (Codification and Reform) Act, the legislature never intended to suppress such freedoms, which are in any event non-derogable and Section 33 of the Criminal Law (Codification and Reform) Act is not enacted for any of the purposes that would place a limitation on Applicant's rights aforementioned. It is designed to protect a President, in the exercise of his functions as such. It does not extend to protection of a political functionary of certain political party. Allowing the protection extended to Section 33 of the Criminal Law (Codification and Reform) Act to extend to political functionaries in their capacity as such tilts the playing field in favour of one political party. No citizen will ever be safe in criticising Zanu PF and what it stands for if such criticisms cannot be extended to the epitome of that political party simply because he is a president.

"It is particularly inappropriate to invoke Section 33 of the Criminal Law (Codification and Reform) Act to govern political issues because then no one would be able to stand for the office of President for so long as there is a sitting President, because any criticism of that President will be construed as seeking to undermine his authority or insult him.

"It is also difficult for any citizen, and in this case Applicant, to hold any thought or opinion about the President (freedom of conscience) and express that



Pushing the limits...Hon. Douglas Mwonozora

thought (freedom of expression) about or concerning the President as any such thoughts and expressions may be deemed to be insulting or undermining the authority of the President.

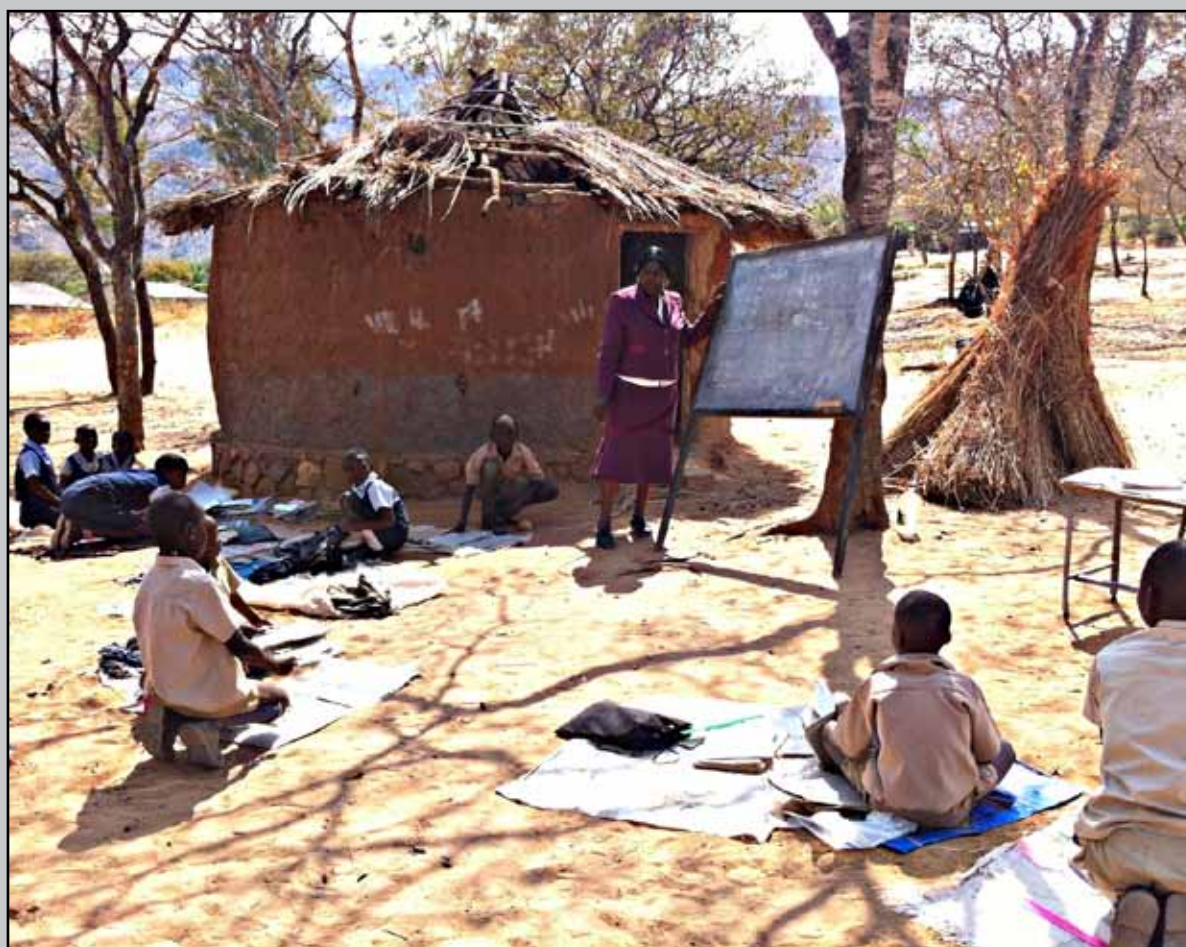
"It is submitted that the import of Section 33 of the Criminal Law (Codification and Reform) Act is too broad, wide and vague so as to make the law uncertain. It imposes an undue limitation on Applicant's

protection of the law as it is not possible for Applicant to regulate his political conduct in so far as it relates to the First Secretary of Zanu PF for so long as he also wears the jacket of the President of Zimbabwe. This law must therefore be struck down as being unconstitutional. "It is submitted that Section 33 of the Criminal Law (Codification and Reform) Act is not reasonably

necessary in any democratic society. This is because of the undue limitations it places on a cross section of related rights and freedoms enshrined in the Constitution of Zimbabwe and also guaranteed in other international human rights instruments."

The Supreme Court is on Thursday expected to determine the following:

- Whether or not Hon.Mwonozora's freedom of expression, as guaranteed by Section 20 (1) of the Constitution has been violated
- Whether or not Hon.Mwonozora's freedom of thought as guaranteed by Section 19 of the Constitution has been violated
- Whether or not Hon.Mwonozora's political rights enshrined in the Declaration of Rights has been violated
- Whether or not Section 33 of the Criminal Law (Codification and Reform) Act is too wide, broad and vague so as to render the law uncertain and thereby infringing on Hon. Mwonozora's protection of the law as set out in Section 18 of the Constitution and whether or not the Section should be struck down for want of constitutionality. **See page 2 and 3 for more reports on insult cases.**



Education for all? Read Page 4 for a report on how a forgotten and forsaken generation is suffering government neglect

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

Zimbabwe Lawyers For Human Rights (ZLHR)
INSULT CASES SCHEDULE
Use of Section 33 of the Criminal Law (Codification and Reform) Act [Chapter 9:23]
As at 28 September 2012
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Since 2010, there has been a dramatic increase in the arbitrary application of Section 33 of the Criminal Law (Codification and Reform) Act (“the Criminal Code”), where individuals have been charged with allegedly “insulting or undermining the authority of the President”. ZLHR has attended to 38 cases where clients have fallen foul of this law. Fourteen (14) cases were handled in Mashonaland Central province, eight (8) in Manicaland province, two (2) in Matabeleland North, four (4) in Bulawayo, four (4) in Masvingo province, one (1) in Mashonaland East, one (1) in Harare, two (2) in Matabeleland South, and one (1) in Midlands province. Due to continued delays in the justice delivery system, most of the cases are pending although two have since been finalised, with the beneficiaries being acquitted.

In other instances, clients have been removed from remand due to failure by the State to prosecute timeously. The constitutionality of this provision has been challenged on several occasions, on the basis that it infringes on freedom of expression, particularly of a public figure, and one who must be subject to scrutiny as a political candidate. The Supreme Court, sitting as a Constitutional Court, is however yet to make a determination on these cases by delaying in setting the matters down. Some cases were filed as far back as early 2010, and still remain unresolved for unknown reasons. In the meantime, the delay has allowed cases to escalate.

No.	Province	Name	Charge	Status	Prosecutor
1.	Mash Central	Washington Kaziso	Arrested on 5 May 2012 after commenting that as long as company authorities were not ruling the country they were not going to be successful in their cases filed in the courts. Accused of breaching Section 33(1)(a) and (b) of the Criminal Code.	Remanded to 12 June	C. Danga
2.	Mat South	Benias Gwenhamo	Arrested at Beitbridge Border Post on 29 April 2012 and appeared in court on 30 April. He was taking pictures on the border and was initially arrested for contravening the Prohibited Areas Act. He was subsequently found with a picture of the President in his phone and was charged with contravening Section 33 of the Criminal Code.	Pending - to appear in court on 23 May 2012 on routine remand	Abeki
3.	Masvingo	Moses Tarume	Convicted of violating Section 33(1)(a) and (b) of the Criminal Code, after commenting that he was going to be able to buy a BMW car after Mugabe dies.	Appeal against conviction filed after intervention by ZLHR	
4.	Manicaland	Richmore Mashinga Jazi	On 27 February 2012, this self-employed carpenter was arrested and charged with violating section 33(2)(a)(ii) of the Criminal Code. On 25 February 2012 at Chigomba shopping centre in Sakubva, Mutare, he is alleged to have asked who helped the President to blow up his birthday balloons, and whether he still had the power to do it alone	Remanded to the 12 March 2012	
5.	Manicaland	Maxwell Mutsetse	He is alleged to have uttered the following words: “President Mugabe vakatemwa, handina basa nemusangano we ZANU PF ndinosapota MDC uyezve President wangu ndi Morgan Tsvangirai”. This was interpreted to mean that President Robert Mugabe was not his President as he was castrated, and that his president was Morgan Tsvangirai. He was arrested on 8 February 2012 and charged with contravening Section 33 of the Criminal Code	Pending - trial	Fletcher Karombe
6.	Mat South	Andrew Moyse	This media practitioner was called by police to present himself at Gwanda police station, Law and Order section on 28 December 2011. This followed the arrest of 3 of his Media Monitoring Project Zimbabwe (MMPZ) officers in November 2011 and a subsequent raid and search at his offices. He was charged with contravention of Section 33 of the Criminal Code for a video on responsible journalism, which was shown by his officers during community outreach activities.	Charged and released, with the State to proceed by way of summons	
7.	Mat North	Sinikiwe Matore	Arrested in December 2011 for selling copies of the autobiography of the Prime Minister. She was charged with violating section 33(1)(b) of the Criminal Code	Pending - trial	
8.	Manicaland	Hon. Lynette Karenzi M.P.	Hon. Karenzi, the MDC-T Member of the House of Assembly for Chipinge was arrested on Monday 19 December 2011 and was charged with contravening Section 33(2)(b) of the Criminal Code for undermining the authority of, or insulting, President Mugabe during a political rally.	Hon. Karenzi was released from remand prison after the State failed to file their appeal after invoking section 121 of the Criminal Procedure and Evidence Act to suspend Magistrate Noah Gwatidzo’s bail order, which had been granted on 20 December 2011.	Truman Joma
9.	Mash Ernest		Jena On 14 December 2011 Ernest Jena, a member of ZLHR and lawyer practicing in Bindura, was arrested and accused of undermining the authority of, or insulting President Robert Mugabe as defined in section 33 of the Criminal Law Codification and Reform Act. He is alleged to have insulted Mugabe by telling colleagues about one of his cases, and restating an MDC slogan that had led to a number of MDC people being arrested in that area, and whom he had represented in court.	The matter was withdrawn as the Attorney General (AG) did not issue an authority to prosecute	
10.	Manicaland	Victor Matili	Matili was arrested on 1 December 2011 and charged with contravening Section 33 of the Criminal Code after he had an altercation with ZANU PF supporters and insisted on distributing plots in his area to everyone.	The matter was withdrawn as there was no authority to prosecute from the AG	
11.	Mat South	Fadzai December, Molly Chimhanda, Gilbert Mabusa (MMPZ)	On 25 November 2011, three MMPZ officials were arrested and charged with contravening Section 33 of the Criminal Code. This was after they had distributed a DVD on responsible journalism at a workshop in Gwanda.	Removed from remand	Blessing Gundani
12.	Masvingo	Fortune Makonzo	Arrested on 15 November 2011 and charged with insulting the office of the President as defined in section 33 of the Criminal Code. He was alleged to have passed a comment that the President was too old whilst he was watching television at a local social club in Mwenezi.	Referred to the Supreme Court for challenge of constitutionality of Section 33	L. Masuku
13.	Mat North	Kenny Kayen Mpofo	On 2 November 2011 this MDC-T councillor was arrested and accused of insulting the President as defined in section 33 of the Criminal Code. When ZLHR lawyers intervened, the police did not disclose the facts that had led him to being accused of insulting the President. The police released him into the custody of the lawyers and indicated that they were going to call him once they had finalised their investigations and would possibly charge him with violating section 186 of the Criminal Code, as he was alleged to have issued threats of public violence.	Released – State to proceed by way of summons	
14.	Mash Central	Clarkson Mukwara (37)	On 24 October 2011 this MDC-T councillor for ward 17, Mazoe South constituency, is alleged to have uttered a slogan that was tantamount to insulting or undermining the office of the President as defined in section 33(2)(b) of the Criminal Code. It is alleged that he addressed a youth forum at Tsungubvi Hall in Glendale, where he made an introductory slogan saying, “Mugabe mudenga, kakandei pasi...” - literally translated to mean “Mugabe - up, throw him down”.	Pending - trial Kuwanda	
15.	Manicaland	Hon. Douglas Mwonzora M.P.	Hon. Mwonzora, the MP for Nyanga North, is facing two cases of contravening Section 33(2)(b) of the Criminal Code. The first was allegedly committed in 2009, while the second offence was committed in 2011. He was arrested on 23 October 2011 on allegations of insulting or undermining the authority of the President.	The 2009 case was referred to the Supreme Court for challenge of the constitutionality of Section 33, and remains pending The 2011 case – he was released and the State will proceed by way of summons	Mutuasira
16.	Mash East	Arnold Nhete	Initially charged with contravening section 33 of the Criminal Code after being arrested in 2005. He was said to have undermined the authority of the President by making abusive comments. He was re-summoned to court on this charge 6 years later, in July 2011.	The matter was eventually withdrawn before plea in October 2011 after lawyers filed an application for referral to the Supreme Court to challenge the constitutionality of Section 33.	Chingwisa
17.	Mat North	Oliver Chikumba	On 30 June 2011 he was arrested for contravening section 33(2)(a)(ii) of the Criminal Code, for allegedly undermining the authority of the President during the antisancctions campaign by refusing to sign the petition papers and stating that it was “ZANU PF rubbish” and he would rather see Mugabe in person to tell him the same thing.	Pending - trial	
18.	Mash Central	Wisdom Mugwagwa	On 4 June 2011 he is alleged to have attended an MDC-T gathering and chanted a slogan saying, “Mugabe mudenga, Grace mudenga, ngatavaroverei pasi” translated to mean “Mugabe up, Grace up, lets put them together and strike them down”. He was accused of violating Section 33 of the Criminal Code	Pending - trial	
19.	Mash Central	Fireson Pfebeve	On 3 May 2011 he attended an MDC-T meeting and a slogan was chanted. He was arrested and charged with contravening Section 33(2)(b) of the Criminal Code	Discharged at the close of the State’s case for lack of evidence to put him to his defence	
20.	Harare	Gift Nyandoro	Gift Nyandoro, a lawyer, appeared in court charged with insulting and/or undermining the authority of President Robert Mugabe as defined in Section 33 of the Criminal Code. This followed a procedural misunderstanding he had with a prosecutor on 15 December 2010 at the Harare Magistrates’ Courts where he was representing a client The State claimed that Nyandoro said, “Hazvisi zvejunta, hazvisi zvaMugabe izvi (this is not for the military junta, this is not for Mugabe) during an argument, and he was reported by the prosecutor.	Pending - trial	
21.	Masvingo	Joel Mugari	Mugari, the librarian at Masvingo Teachers’ College, allegedly used unprintable words during an exchange with Jeepy Jabunu - a top ZANU PF official - in Masvingo at a nightclub on 27 March 2011. He was arrested and charged for contravening Section 33 of the Criminal Code	Remanded to 28 March by Magistrate Thomas Mandityira	Frank Chirairo
22.	Masvingo	Monalisa Katsaruware, Nyasha Chambinuka and Desire Chikwanda	They were arrested on 7 March 2011 for flouting Section 33 of the Criminal Code after they were allegedly caught watching a video titled “Strike back Zimbabwe” which allegedly reflects a parody of an attempted assassination of President Mugabe		
23.	Mash Central	Jonathan Gwara and Elton Zvorwadza	The two MDC supporters were arrested on 14 February 2011 and accused of undermining the authority or Insulting the President as defined in Section 33(2)(a) of the Criminal Code.	Discharged at the close of the State’s case on 10 October 2011	
24.	Bulawayo	Tendai Danga	Arrested in February 2011 and charged with contravening Section 33(2)(a)(ii) of the Criminal Code for allegedly making reference to the President in an altercation with someone	Awaiting Magistrate’s decision on lawyers’ application for referral to Supreme Court to challenge the constitutionality of Section 33	J. Mutsindikwa
25.	Mash Central	Chakanetsa Murenga	He was charged with contravening Section 33 (2)(b) on 4 February 2011. It is alleged that he shouted the following words: “Mugabe ngaabve pachigaro uye hatitongwe nekamunhu kachembera, imbwa yemunhu” - translated to mean, Mugabe must step down from power; we cannot be ruled by an old person; he is a dog.	On remand	
26.	Mash Central	Mary Sango	On 12 January 2011 she was arrested and charged with contravening Section 33(2)(a) of the Criminal Code. Allegations are that she uttered an MDC-T slogan at a rally: “Mugabe mudenga, Chen Chimutengwende mudenga, Grace mudenga, vabatanidzei, varoreverei pasi” translated to mean (by the police) “Mugabe up, Chen Chimutengwende up, Grace up, put them together and throw them down.”	Constitutional challenge pending in the Supreme Court	Kuwanda (Bindura)

Continued on Page 3

Mugabe insult cases continue mushrooming

BINDURA-A 47 year-old man has joined dozens of Zimbabweans facing charges of insulting President Robert Mugabe.

Human rights groups now fear the cases might escalate as the country heads towards a general election, which the ZANU PF leader wants to call in March next year.

Christopher Mandeya, who is employed as a data capture clerk, is accused of undermining the authority of or insulting Mugabe as defined in Section 33 (1) (a) (b) of the Criminal Law (Codification and Reform) Act.

Charges against him emanate from an incident in May this year when he was allegedly drunk at Chipadze Business Centre, where he reportedly said: “*Kwavane unity government, Zanu PF haichatonga pfutseke naMugabe venyu, pfutseke nababa Chatunga.*” The State interpreted this to mean: “There is now a unity government, Zanu PF is no longer in power, forsake your Mugabe, forsake father Chatunga.”

According to State papers, Martin Mavhangira from Chipadze Township heard Mandeya saying these words on 3 May 2012. The 59-year-old man says he saw Mandeya being surrounded by a group of people and moved closer.

“The informant (Mavhangira) discovered that it was the accused person (Mandeya) who was drawing the attention of the people

since he was very drunk and making some political utterances,” says the State.

Mavhangira then made a report to the police resulting in the arrest of Mandeya, who is now being represented by Zimbabwe Lawyers for Human Rights (ZLHR) member lawyer, Denford Halimani of Wintertons Legal Practitioners.

Halimani successfully challenged the validity of a letter of authority to prosecute obtained by prosecutors from Attorney General Johannes Tomana, which was defective resulting in the postponement of the matter to 18 October.

ZLHR has represented dozens of Zimbabweans in all of the country’s 10 provinces facing charges of contravening Section 33 of the Criminal Law (Codification and Reform) Act. Some of the accused persons have since approached the Supreme Court seeking a determination on the constitutionality of the insult law. They argue that the law violates their constitutionally guaranteed right to freely express their views concerning a political foe.

They argue that charges of undermining or insulting the President violate constitutionally guaranteed rights to freedom of expression and protection of the law. Police and prosecutors have routinely used this law to hit citizens with charges of undermining or insulting the authority of the President.

Those challenging the constitutionality of the insult law include Nyanga North MP Hon. Douglas Mwonzora and Makoni South MP Hon. Pishai Muchauraya. He was accused of telling supporters in 2006 that Mugabe was too old, suffering from diarrhoea and dying.

In papers filed by his lawyer, Tawanda Zhuwarara of ZLHR, Hon. Muchauraya says the law is too vague and open to abuse.

“The provision in terms of which I am being charged makes serious inroads into the freedom of expression to the extent that it allows the State to gag me in expressing my political sentiments and concerns relating to a political figure, the President,” argues Hon. Muchauraya.

“The President is a politician who operates in the same political landscape of his opponents. The current provision gives the President undue protection that immunises him from legitimate political attacks on his competency to remain in office.

“As a politician I have the freedom to freely express myself and use such language that may drive my political point home and resonate with my audience. The provision in question offends such freedom. Further no such restriction could be reasonably justifiable in society which has attained our level of democracy,” argues Hon. Muchauraya.

Continued from Page 2

27.	Mash Central	Shareef Mohammed & Brian Pongweni	On 17 January 2011 these Mount Darwin men were accused of uttering the slogan (as translated by police): “Mugabe mudenga, rovera pasi” – meaning “Lift Mugabe. Smash him to the ground)” at Pfura grounds while watching a soccer match.	Constitutional challenge pending in the Supreme Court	Patrick Danga (Police Prosecutor – Bindura)
28.	Harare	David Chipunza and 8 Others	On 4 December 2010, MDC youths from Chitungwiza who were cleaning up the shopping centre in Unit D, Makoni were attacked by ZANU PF youths and arrested. Initially charged with violating section 33 of the Criminal Code for chanting slogans against the President, Vice President and members of ZANU PF. On 5 December the charges were changed to criminal nuisance	Youths insisted that they were prepared to pay fines for this new charge, as they were now tired of being detained in custody (despite lawyer’s advice against this charge)	
29.	Harare	Tendai Manyonga	Manyonga was summoned to appear in court. He is an MDC activist who was arrested on 28 October 2010 in the Mbare suburb of Harare. He was charged under Section 33 of the Criminal Code. It was alleged that he said to two ZANU PF supporters they could no longer beat up people as they did in June of 2008 because their President, Mugabe, will be dead by the time of the next elections.	Summons was challenged at Mbare Court. He is free, pending being served with proper summons	Madanhire
30.	Harare	Zebediah Mpofu	Arrested and accused of contravening section 33(1)(a) of the Criminal Code, as read with Section 33(2)(a) of the same Act. Allegations are that Mr. Mpofu told his workmate that the Cascade (orange drink) and biscuits he was having for lunch came courtesy of the inclusive government led by Morgan Tsvangirai after Robert Mugabe’s regime had run down the economy.	Removed from remand	S Chinzete
31.	Harare	Ellen Chademana and Ignatius Mhambi	On 1 July 2010 these two employees of Gays and Lesbians of Zimbabwe (GALZ) were summoned to appear in court on allegations of violating section 33(2)(a)(iii) of the Criminal Code. They are alleged to have displayed a plaque in the GALZ boardroom featuring the former Mayor of San Francisco speaking against the President’s homophobia against LGBTIs and expressed his (the Mayor’s) support for LGBTI rights.	Released – State to proceed by way of summons	Memory Mukapa (Rotten Row)
32.	Mash Central	Hon. Eliah Jembere M.P.	On 5 June 2010 the MDC-T MP for Epworth was arrested on allegations of insulting or undermining the authority of the President (contravening Section 33(2)(a)(i) of the Criminal Code). He is said to have chanted the following words, “Mugabe mudenga, Grace mudenga, vabatanidzei, roverai pasi.” The police translated this to mean, “Mugabe up, Grace up, put them together, throw them down”	Magistrate Kadye dismissed an application for referral of the matter to the Supreme Court for a constitutional challenge. ZLHR made a direct Application in terms of Section 24(1) of the Constitution to approach the SC. The matter is now pending there. In the meantime, Area Public Prosecutor Emmanuel Muchenga is insisting on continuing with the trial.	Gobvu (Police Prosecutor – Bindura) and Area PP Muchenga
33.	Bulawayo	Pilate Tshuma	A Kezi man was convicted on 14 October 2010 for contravening section 33 of the Criminal Code for insulting or undermining the authority of the President. He was sentenced to a fine of \$50 or 10 days’ imprisonment. He was wearing a ZANU PF tshirt with Mugabe’s picture removed. He is said to have said he hates Mugabe.	Following ZLHR’s intervention, an application for review was granted and the court ruled that the trial had to commence de novo	
34.	Mash Central	Gilbert Kagodora (MDC-T Treasurer for Mash Central province)	On 5 June 2010, Kagodora, the MDC-T treasurer for the province is alleged to have undermined the authority of or insulted the President as defined in Section 33(2)(a)(i) of the Criminal Code. On 11 March 2010 and 5 June 2010 he is said to have uttered MDC–T slogans at rallies on the two occasions. Pending in the Supreme Court, where he wants the insult law to be declared unconstitutional		Tafadzwa Mutandwa (Police Prosecutor – Bindura)
35.	Manicaland	Hon. Pishai Muchauraya M.P.	On 4 June 2010, the MDC-T MP for Makoni South constituency was summoned to appear at Murambinda Magistrates’ Court for trial for contravening section 33(2) of the Criminal Code almost 4 years earlier, in December 2006. He is alleged to have said, ‘Robert Mugabe is now 82 and is sick and can die because of his illness, therefore it is unacceptable for him to extend his term of office.’	Pending in the Supreme Court where lawyers are challenging the refusal by a Murambinda Magistrate to refer the case to the Supreme Court.	
36.	Manicaland	Councilor Teddy Chipere	The MDC-T councilor for Mabvazuva Ward 8 was arrested on 8 June 2010 and accused of undermining the authority of the President thereby contravening section 33(2)(b) of the Criminal Code.	Referred to Supreme Court for challenge on constitutionality of section 33	
37.	Bulawayo	Owen Maseko	On 26 March 2010, this artist was arrested while exhibiting his paintings of the Gukuruhundi massacres at a two-day exhibition at the Bulawayo National Art Gallery. He was charged with contravening section 33 of the Criminal Code.	Constitutional challenge pending in the Supreme Court	
38.	Bulawayo	Calvin Ncube, Mpumelolo Donga and Gift Mlala	Charged with contravening Section 33 of the Criminal Code for allegedly possessing postcards that carried insulting and undesirable statements about President Mugabe, Gideon Gono and Grace Mugabe.	Acquitted on 12 January 2012 T.	Dzipe - trial prosecutor
39	Masvingo	Danmore Chuma, Japhinos Musara, Blessing Mushava, Johannes Muzenda, Tasunungurwa Zumba	The five community members were arrested on 5 July 2012 and charged with contravening Section 33 of the Criminal Law (Codification and Reform) Act for allegedly undermining the authority of the President.	The five were granted bail in the sum of \$50 each on 9 July 2012 at Masvingo Magistrates court.	
40	Harare	Zebedia Mpofu	Contravening Section 33 of the Criminal Law (Codification and Reform) Act for allegedly undermining the authority of the President. Prosecutors charge that he accused Mugabe of ruining the country and nearing death.	Mpofu, who was removed from remand last year in October after State witnesses failed to turn up in court was summonsed in July 2012 to stand trial at Mbare Magistrates Court. In September, he was once again removed from remand.	
41	Mash East	Tichafa Mayora	Mayora, an MDC provincial leader was arrested on 12 June 2012 and charged with Contravening Section 33 of the Criminal Law (Codification and Reform) Act for allegedly undermining the authority of the President.	Freed on bail	
42	Harare	Vimbai Kamoyo	Kamoyo aged 35 years was arrested on 11 July 2012 and charged with contravening Section 33 (2) (a) of the Criminal Law (Codification and Reform) Act for allegedly uttering some obscene words criticizing Mugabe.	Freed on \$50 bail	
43	Midlands	Maxwell Manatsa Gokwe	Gokwe was arrested in March 2012 for contravening Section 33 (2) (a) (ii) of the Criminal Law (Codification and Reform) Act.		
44	Mash Central	Rodney Mawaya	Contravening Section 33 (2) (b) of the Criminal Law (Codification and Reform) Act for allegedly suggesting that Bindura Mayor Ivory Matanhire was sleeping with a “wrinkled” Mugabe.	Freed on bail	
45	Mash Central	Christopher Mandeya	Contravening Section 33 (1) (a) (b) of the Criminal Law (Codification and Reform) Act for allegedly suggesting that President Mugabe’s powers are now limited owing to a power sharing agreement he entered into with Prime Minister Morgan Tsvangirai.	Freed on bail	

Zimunya's forsaken children

ZIMUNYA, MUTARE-It cannot be happening in a country that boasts of having prioritised education since attaining independence in 1980.

Just 15 kilometres south of Mutare, Zimunya Primary School portrays the worst of government's neglect of children in "poor" areas.

The school sits at the heart of a mineral rich province and is a few kilometers from the famed Marange diamond fields.

Marange diamond fields are estimated to be the size of Wales of the United Kingdom.

Yet students as young as six here are forced to learn in an environment that depicts medieval times.

Picture three teachers leading three different classes of children and conducting lessons within ear shot of each other.

It is an open setting and there are no walls separating "classes", creating a noisy affair that passes for learning.

Students in grade 2B, grade 3A and Grade 4C at Zimunya Primary School are getting used to it though. Like their senior classes learning under a similar environment, they have no choice.

More than 70 percent of the school's estimated 1 000 children learn in the open with no furniture and that is just a fraction of what they have to go through in a country that has signed and ratified several regional and international treaties recognising quality education as a fundamental right.

School children sit on tattered sacks. Those who bring cardboard boxes along enjoy a bit

more comfort. Water, which is the responsibility of government firm, the Zimbabwe National Water Authority, is accessed once in seven days and that

will be a lucky week. Teachers do what they can to cheer up the children but they admit it is tough keeping them in "class" under such conditions.

"I try to motivate them but I can only do so much given the circumstances," a teacher tells *The Legal Monitor* during a recent visit.

"A few of them abscond classes. But the energy to ask why that happens is very little," says the teacher, refusing to be named.

School officials smell a disaster in the near future, as if the obtaining situation is not disastrous enough.

"With the rainy season fast approaching, I am hoping that some donations come our way and we roof one of the buildings which is supposed to be an office for the staff and we house the ECD (Early Childhood Development) class there," says

acting school development committee chairperson Edward Senzekwa.

Senzekwa's carpentry skills seem to come handy at Zimunya Primary School. He now offers his services for free to his school.

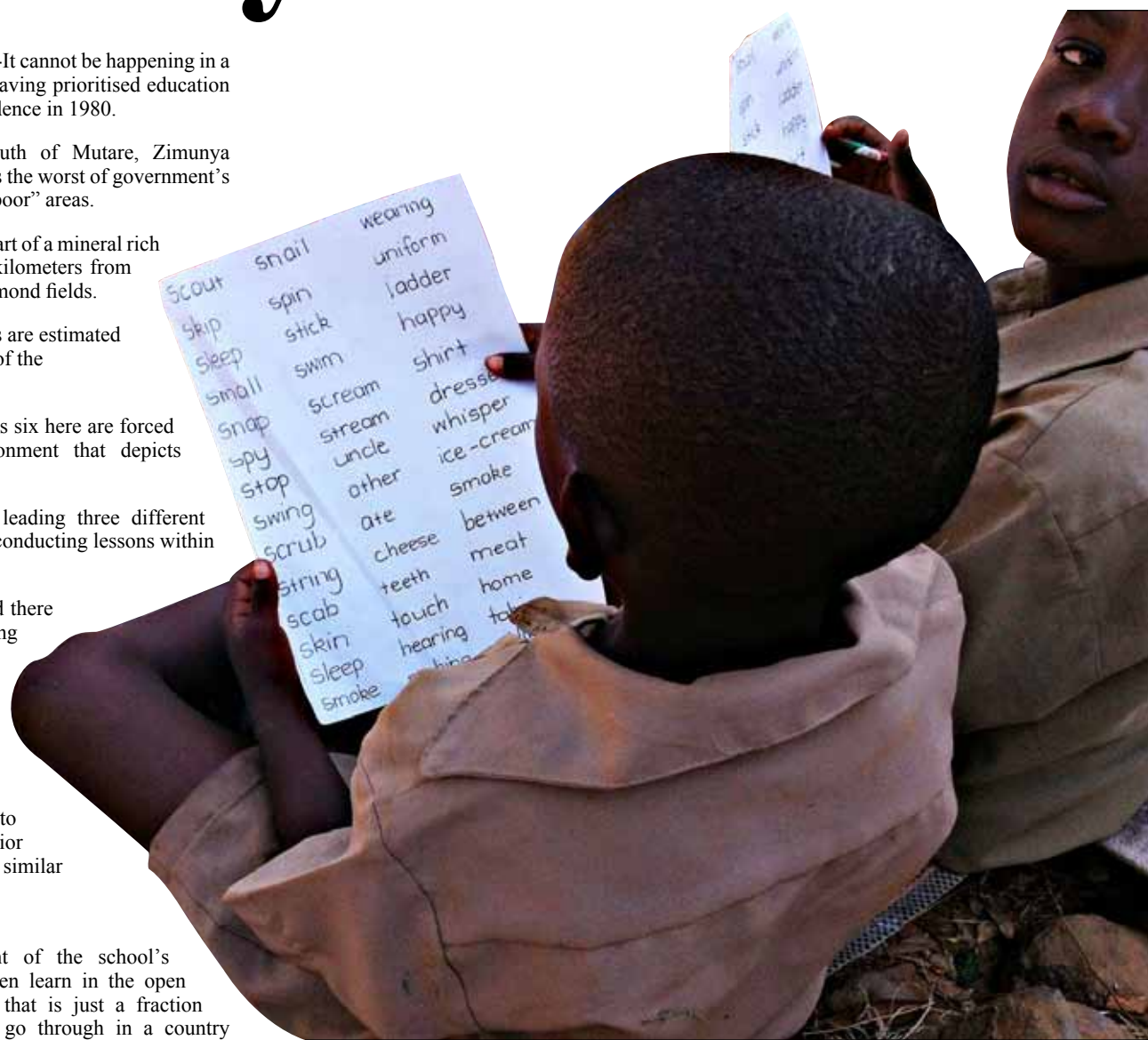
"We accept any donation. Anything. Anything that can make life for our children better is most welcome. They are our future, we cannot destroy their lives so I will soldier on," he says.

Acting school head Mildred Mutedzi says passion by teachers, students and parents such as Senzekwa keeps the school going.

"Our pass rates are improving and that is encouraging. Children from neighbouring schools come looking for learning places here," says Mutedzi, adding: "The parents work very well with the staff and that is encouraging."

Zimunya, as a peri-urban settlement, is supposed to have running tap water, but that is not the case. As a result, the school is still rooted in the blair toilet system.

"Even the neighbouring communities are benefiting from these toilets. Before the construction of the blair toilets, school grounds would be full of human waste," says Reverend Paul Damasane, a director in the Ministry of Education, Sport and Culture.



This picture combo says it all about the situation at Zimunya Primary School

