



Radio Voice of the People

Beatrice Mtetwa

Media in the Line of Fire

Where is justice?

By Isabella **Matambanadzo**

A green police truck, whose colour has evaporated from years of operating under Zimbabwe's sunshine rolls past, sputtering in its wake a dusty mix of red earth and diesel fumes.

The driver's arms are strained taut as he struggles to balance his unwieldy load. He brings the vehicle to a growling halt on the slope of the gates leading to the holding cells of the Harare Magistrate's Court at Rotten Row, a ring of a building that squats on the fringes of the inner city business zone of Zimbabwe's capital.

Young armed guards in crisp uniforms spring over the back of the truck, their morning breath steaming into a fog against the winter chill. Their cargo emerges: barefoot prisoners walk like mismatched twins shackled together at the ankles, coming before the courts. It's June 15, 2006.

In Courtroom number 4, the Magistrate listens to arguments in the case of a car thief. Then the case of some men involved in a housebreaking matter comes to the fore. Finally the court calls for David Masunda, Chairperson of Radio Voice of the People (VOP).

The public prosecutor leaps from his rickety chair, "This matter has been postponed your Worship", he informs the court. Stumped, Masunda stops walking to the dock and stands suspended in the middle of the court room like a puppet controlled by powers pulling invisible strings.

He turns his eyes to VOP's lawyer Beatrice Mtetwa for directions. With a knowing gesture, she reaches for her face and gently nudges her black rimmed glasses back into place. "But as my learned friend knows your Worship, this matter was confirmed as proceeding as late as yesterday. I personally checked with my learned friend's office and it was agreed that we would be going ahead with the trial."

Mtetwa has been – for the last decade or so – defending the rights and freedoms of journalists in Zimbabwe. One of her most widely followed cases was that of Andrew Meldrum, an American journalist, who fell victim to obnoxious media regulation laws introduced by former information minister Jonathan Moyo. Meldrum was expelled from Zimbabwe in May 2003 after 23 years as a correspondent for the British *Guardian* newspaper.

In 2005, the New York-based media rights campaign group, the Committee to Protect Journalists (CPJ), awarded Mtetwa their 2005 Press Freedom Award, an honour very rarely bestowed upon non-journalists. And today it is easy to see why more than three years ago Meldrum said Mtetwa was a "fearless lawyer" defending "freedom of the press and the rule of law in Zimbabwe under the most difficult and dangerous of conditions." Hearing her voice defend you only makes his words ring that much more true.

"This matter cannot be further postponed your Worship. My clients have been on remand since January and this is quite prejudicial to them," asserts Mtetwa. But

the Magistrate is bewildered. Before her is a separate file for John Masuku, the Executive Director of VOP. She can't seem to understand why the same case has separate documentation. Not being able to make head or tail of whether there is a particular act in the VOP drama, she calls for a recess. The matter is redirected to Court Room number 1.

The lawyers grin at each other in a code of approval. Magistrate Billa who presides over Courtroom number 1 has a reputation for upholding the law and respecting judicial procedure. His courtroom sends out the same air of efficiency and seriousness of business. The audio recording equipment is in full function. A young man in headphones fusses over the voice recording levels, moving microphones and quickly labeling cassettes. The translator has a very professional demeanor about him and is confident of his words.

The VOP team walks into the middle of a case of two women caught in dispute over a foreign currency deal gone sour. Then their case is called. The wooden dock is too small to hold all ten of them: Maria Nyanyiwa-Mataruse, Takunda Chigwanda and Nyasha Bosha, staff members of Radio VOP are the latest additions to the accused list of John Masuku, and the members of the Board of Trustees, David Masunda, Arnold Tsunga, Lawrence Chibwe, Nhlanhla Ngwenya, Millie Phiri and myself.

Prosecutor Justin Uladi says the case cannot proceed to trial as programmed because the state's key witness, one Obert Muganyura, the Technical Director of the Broadcasting Authority of Zimbabwe (BAZ) who was due to give evidence had gone to Switzerland. There are groans and grunts of disapproval from the room. A hush of respect descends into the room when the Magistrate asks for a response from VOP's lawyer. "This is unacceptable," Mtetwa tells the court, her voice so assertive it seems to come from a public address system hooked up somewhere deep within her tiny frame. "Since January the prosecution has been telling us, and even yesterday, that they are ready for trial and we keep getting these postponements."

"How did it get like this?" I ask myself, taking my mind back to all the modules of media law we gobbled up ahead of final term exams at Rhodes University in the 1990s. I could not recall a case as absurd and frankly as irritating as this one. "Bella, this is persecution for sure", whispers Arnold Tsunga as if he could magically hear my inner voice. Tsunga is the Executive Director of Zimbabwe Lawyers for Human Rights (ZLHR), a profes-

sional association of lawyers interested in promoting a culture of human rights in Zimbabwe through various means. Litigation is one of their strategies. Their members have packed the courtroom and so sound is their standing across the region that they have managed to mobilise a network of highly regarded African and international trial observers.

In December 2005, when plainclothes police officers raided and ransacked the VOP offices, ZLHR were there in a flash. "The police had a warrant for the seizure of radio broadcasting communication equipment and its associated accessories to include: computer hardware, software and any documents

related to the activities of the radio station." When they could not find any equipment of that nature they went back to the station and rewrote the warrant to say any equipment and materials," says Otto Saki of ZLHR's litigation team who was on the scene at the time of the raid. "That's when they took the three female members of staff, held them in police cells for four days and released them without charge."

The VOP staff members were held as "bait" to entice VOP's Director John Masuku to present himself at the police station. When Masuku reported to the police station on 19 December 2005, he was detained for four days, and taken to court on 23 December 2005, to answer to charges of contravening Section 27 of the Broadcasting Services Act. Masuku made bail at Zimbabwe \$4 million.

The festive holidays were an uncertain time for VOP staff and Board members, who were unsure what the pre-Christmas arrests were leading to. Everything was revealed in January when a renewed spate of home raids and arrests

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began. It reads like a diary of well thought out intimidation. In the early hours of the morning of 18 January 2006, two police officers and one soldier visited the home of VOP Trustee, Arnold Tsunga, in Mutare the eastern border town connecting Zimbabwe to Beira, Mozambique's trading gateway. They ordered Tsunga's home staff to the police station, accusing them of hiding information about Tsunga's whereabouts. They were released without any charges being preferred against them, after the intervention of lawyers.

But that was not the end. The next raid took place on the weekend of 21 January 2006, when Harare police from the Law and Order Section arrested Anesu Kamba, a driver at ZLHR, and Charles Nyamufukudzwa, a caretaker at same organisation, for allegedly obstructing investigations. When the two said they knew nothing about the matter the police were referring to, the police began a spate of home raids. First, they searched Tsunga's home, taking with them a photograph displayed in the family room. They did not have a warrant to search the home or to remove Tsunga's belongings.

A different set of police officers in a pick up truck had visited the house of Nhanhla Ngwenya, another trustee of VOP and had threatened to take away some of his electronic appliances as ransom. More teams were hunting for the other VOP Trustees. A team went to my mother's home. On the advice of our lawyer we resolved to report to the police station collectively. During our arrest, we were told by the arresting officers that their case was at the direction of officials within a structure known as the Joint Operations Command (JOC) and that there were instructions for our incarceration.

Since January 2006, we have been reporting to police stations and court rooms. In our view, this is a way of intimidating us and criminalising the work we do quite lawfully. Even government ministers have made remarks in the state press about journalists and NGOs that they regard as quite threatening. The Minister of State Security, Didymus Mutasa, was reported by the *Manica Post* newspaper as saying that government "will not sit on its laurels and watch a 'crop of journalists' sell 'the country to the enemy by writing falsehoods' with the 'intention' of 'undermining national security' and 'agitating violence in the country.' He warned that although the journalists were using pseudonyms in reporting for "pirate radios, Websites and other media", government had "since identified them from their closets" and that the "net will soon

close in on all those who are involved in these illegal activities." In February, Zimbabwe's Justice Minister, Patrick Chinamasa, told security officers from the Southern African Development Community (SADC) region who were meeting in Harare that "enemies of the state" were using the private press against Zimbabwe's government. He said Zimbabwe's private press needed "urgent reform" because western-sponsored journalists are "distorting the true Zimbabwean story", the country's justice minister was reported as saying. "The current media set-up requires reforms as it permits enemies of the state to mislead the public to the detriment of the country's interests," state radio also reported.

Since the introduction of restrictive media laws in 2002, four independent newspapers have been shut down and in some instances, their equipment impounded. Scores of journalists, Zimbabwean, some from Botswana and others from overseas have been arrested. The VOP trial comes back to the courts in the last week of September in conditions where the judiciary is marginalised, human rights lawyers are treated with contempt and state witnesses do not show up in court. In addition, the conduct of the investigating and arresting police has been quite unprofessional. For a country that is a signatory to international and regional human rights instruments, such as Article 19 of the Universal Declaration of Human Rights, it is quite clear that the VOP team and other journalists are being deliberately persecuted for seeking to enjoy their rights to Freedom of Expression and freedom of the airwaves.

When considered against the history of a failure by the police in Zimbabwe to conclusively resolve the mysterious bombing on 29 August 2002 of VOP's former offices in the Milton Park suburb in Harare, it is safe to say that there are forces in Zimbabwe deliberately intent on silencing the voices and demands for free and fair airwaves.

Why are African governments so terrified of a free and plural media? Right across the continent stories are unfolding about journalists being murdered in mysterious circumstances, journalists being arrested, media organisations and freedom of information groups being harassed. What do we do when the odds seem so stacked up against us for wanting to enjoy quite responsibly our right to know and share knowledge? ■

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