

Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations

Zimbabwe: Attacks on lawyers 2006 to 2009

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Overview of attacks on Zimbabwean Lawyers 2006¹ to July 2009

Throughout this period, lawyers acting for clients seen as overtly or covertly (e.g. by advocating for human rights) opposing the Robert Mugabe government have frequently been the targets of intimidation and harassment of varying degrees of severity. Attacks on lawyers by Zimbabwe government agents during the 2006-2009 period frequently involved arbitrary arrests, interrogations, filing of unfounded charges, refusal by police to follow court orders for release and denial of access to clients. Government agents also threatened lawyers with arrest and prosecution. Mugabe supporters and unknown actors also threatened lawyers with abduction, death and execution. Attacks increased after the 2008 presidential election and although Robert Mugabe and Morgan Tsvangirai signed a power sharing agreement in late 2008, attacks on lawyers have continued.

Arnold Tsunga: In January 2006 Arnold Tsunga, was arrested in conjunction with his association with the radio station Voice of the People. Mr. Tsunga is a prominent lawyer, and was at the time Acting Secretary of the Law Society of Zimbabwe. He was also chairperson of the Zimbabwe Human Rights Association (ZimRights). He and five others who were trustees of Voice of the People were charged with broadcasting without a licence. Upon learning that the police were searching for him, on January 24 Mr. Tsunga and the others presented themselves at Harare Central Police Station, where they were arrested, charged and taken to court. They were released on bail and the case was remanded to February 10, 2006. On January 26, ZimRights was informed that the Military Intelligence Corps had been ordered to kill Mr. Tsunga.²

Mr. Tsunga was again the target of government attention approximately a year later when, on January 25, 2007, he returned from The World Social Forum in Kenya. As he passed through Harare International Airport Mr. Tsunga was detained and interrogated. One of the officials was a well-known member of the Central Intelligence Organisation, which is expected to have then spent a period of time monitoring Mr. Tsunga's actions and movements in Zimbabwe. Mr. Tsunga was released without charge.³

In late 2007 Mr. Tsunga was appointed the Director of the Africa Regional Programme for the International Commission of Jurists.⁴

¹ Prior to 2006 the position of Zimbabwean country monitor for Lawyers Rights Watch Canada was vacant.

² Amnesty International Urgent Action bulletin.

³ The Observatory Urgent Appeal dated February 7, 2007.

⁴ ICJ News Release dated December 19, 2007 (online version)

Tafadzwa Mugabe: In February, 2006 a number of persons from Women of Zimbabwe Arise (WOZA) were demonstrating in Harare when they were arrested by the police and taken to a police detachment. Mr. Tafadzwa Mugabe, a lawyer from ZLHR attended at the station and was harassed, insulted and then detained for several hours by the police. He was released without being charged.

Andrew Makoni and Alec Muchadehama and the Events of May 2007:⁵ Some of the most flagrant examples of police and government defiance of the courts took place in May, 2007 in relation to the arrests of Andrew Makoni and Alec Muchadehama.

In May, 2007, two well-known human rights lawyers, Andrew Makoni and Alec Muchadehama were the targets of a number of government actions. They were arrested on May 4, 2007 outside the High Court in Harare and taken to the Central Police Station for interrogation. They were given no reasons for their arrest and they were not permitted to contact their relatives and were denied food and medication. The same evening the High Court ordered the police to allow lawyers access to Makoni and Muchadehama; and to ensure they were fed, had access to medication and any necessary medical attention, and could visit their relatives. Despite this order, the police moved the detainees and refused to obey the Court's direction.

On May 5, 2007 the Court ordered the release of Makoni and Muchadehama, but the police still refused to comply and continued to hold both for interrogation. On May 6, 2007 a second application for release was filed and the Court ordered the production of both men before it. Still the police refused to comply. Finally, on May 7, 2007 the two lawyers were released on bail after they had been charged with obstruction of justice.

Police intimidation, persecution and harassment also took place in relation to lawyers who sought to intervene on behalf of Makoni and Muchadehama. Following their arrest on May 4, Mr. Dzimbabwe Chimnga, a lawyer with Zimbabwean Lawyers for Human Rights (ZLHR) attended at a police station in an effort to locate the other two. There, he was threatened with assault, and a number of other lawyers who had also come in an effort to locate and assist Makoni and Muchadehama were also threatened with arrest if they continued to try to find the detainees.

On May 6, 2007 the police went to the law offices of Makoni and Muchadehama where they executed a search warrant. Mr. Lawrence Chibwe of the Law Society of Zimbabwe and Mr. Otto Saki, of ZLHR, were both threatened with arrest when they asked to examine the search warrant.

Lawyers who sought to serve the court applications and court orders on the police were subjected to similar threats of arrest.

⁵ **The Observatory Urgent Appeal dated May 16, 2007; and report posted on website of International Commission of Jurists, June 11, 2007.**

On May 8, 2007 Mrs. Beatrice Mtetwa, President of the Law Society of Zimbabwe, convened a meeting of the Society, and a peaceful march was organized in order to present a petition to the government concerning the persecution aimed against lawyers in Zimbabwe. The police used violence to disband the march and the police beat Ms. Mtetwa and others.

The police actions were not exclusively aimed at legal counsel and lawyers acting for Makoni and Muchadehama. Legal counsel for the Attorney General consented to the various court orders for the release of these two men. The police also later assaulted this lawyer.

Requests to have the government investigate these various actions were refused by the Permanent Secretary to the Ministry of Justice, who maintained that the police had acted properly in arresting Makoni and Muchadehama.

Ultimately, the clients for whom Makoni and Muchadehama were acting at the time of their arrest were freed when a judge in Harare ruled that the evidence introduced against them had been falsified by the police.⁶

Kossam Ncube: On June 6, 2007 a number of members of Women of Zimbabwe Arise (WOZA) were arrested for taking part in an allegedly anti-government demonstration. Mr. Kossam Ncube, a lawyer and member of ZLHR, went to the police station to represent the detainees. He was verbally abused by a police officer, who accused him of being "unethical" and "irresponsible", before he forcibly removed Mr. Ncube from the station. The following day the police again refused to permit Mr. Ncube access to his clients.⁷ They were released a day or two later.

Kucaca Phulu: In August, 2007, Kucaca Phulu, a lawyer and chairperson of ZimRights and a member of ZLHR was threatened with death. A caller to his office identified himself as calling from the offices of the Zimbabwe African National Union - Patriotic Front (ZANU-PF), which is the ruling part of Robert Mugabe. The caller told Mr. Phulu's receptionist that if a certain client of Mr. Phulu could not be found for the purposes of arrest, Mr. Phulu would be killed in his place.⁸

Mr. Phulu was again the target of intimidation in early 2009, when he received threats that he would be abducted due to his representation of "criminals and bandits" from the Movement for Democratic Change, the main opposition group in Zimbabwe. At the time, Mr. Phulu was representing Ms. Jenni Williams and Ms. Magodonga Mahlangu, leaders of WOZA who were charged with disturbing the peace as a result of their involvement in demonstrations in October 2008. On January 19, 2009 an unidentified man entered the ZLHR offices in Bulawayo enquiring about Mr. Phulu, who was not present at the time. Later that day Mr. Phulu received a number of telephone calls at his home, threatening him and warning him to leave Bulawayo. The caller made

⁶ *US Today* "Judge: Zimbabwe Police Faked Evidence"; 2007-07-26

⁷ *The Observatory Urgent Appeals*, June 7, 2007, and June 11, 2007.

⁸ *The Observatory Urgent Appeal*, August 23, 2007

it clear that Mr. Phulu was being watched. The ZLHR offices in Bulawayo were later closed and their staffs were moved to a safer location.⁹

March 2008 to Present

Persecution and intimidation of perceived government opponents intensified in the period following the March 2008 presidential elections. The cases of Harrison Nkomo, Eric Taurai Matinenga, and Andrew Makoni - and others - provide examples of this conduct.

Harrison Nkomo: Harrison Nkomo is a well-known human rights lawyer whose office is in Harare. He was arrested at 2:30 p.m. on May 7, 2008 upon the charge of "insulting or undermining the authority of the head of state". Shortly before his arrest, Mr. Nkomo had been representing journalists detained in the aftermath of the March elections. He had obtained bail for two reporters, one of whom was associated with the MDC. While acting for these two journalists Mr. Nkomo had expressed to a member of the Attorney General's Office (who as also a nephew of Robert Mugabe) that his uncle should leave office. This comment was then relied upon to arrest and charge Mr. Nkomo.¹⁰

Eric Matinenga: In addition to being a well-known and widely respected human rights lawyer, Mr. Matinenga is also a former President of the Administrative Court of Zimbabwe, and is an elected Member of the House of Assembly. He successfully sued the Zimbabwe Defence Forces (ZDF) for its role in the persecution of MDC supporters in his constituency. On May 31, 2008 he travelled to Buhera to attempt to serve the court order upon the ZDF. He was denied access to his clients, and was instead detained and questioned. After the officer who questioned him conferred with a colleague, Mr. Matinenga was informed that he would now be arrested and charged with "public violence." The authorities provided no other details of the reasons for his arrest.

Despite repeated and on-going efforts to secure his release, Mr. Matinenga was held - with the exception of one day - until well into June 2008. A Regional Magistrate ordered his release on June 5 and he was released. He was arrested again on June 7, again without any reason being given by the police. On June 8 the authorities were ordered to release Mr. Matinenga or to produce him before the court to show cause why he ought not be released. They ignored this order and continued to hold him in custody without appearing in court. Further efforts to obtain his release were frustrated, partly due to the inability from June 11 onwards, to find a local Magistrate who was able or willing to consider the matter. On June 14 Mr. Matinenga was again charged with the same charges which had previously been dismissed, and he was granted bail. The state immediately appealed that order, and invoked legislative provisions to keep him in custody pending the determination of the appeal.¹¹

Andrew

Makoni: In late May 2008, Andrew Makoni fled Zimbabwe as a result of receiving credible information suggesting that he had been targeted for assassination by the government. After the March 2008 elections, at least five clients of Mr. Makoni who were associated with the

⁹ Front Line information sheet posted online January 22, 2009.

¹⁰ Human Rights Watch, "Zimbabwe: Lawyer's Arrest Raises Fear of Broader Crackdown", May 7, 2008.

¹¹ *The Zimbabwe Times*, "ZLHR on Treatment of Eric Matinenga", June 14, 2008.

Movement for Democratic Change were abducted. Their bodies were later found bearing various marks of injury and torture. Mr. Makoni was also asked to assist in investigating the disappearances of 38 other MDC activists who had gone missing since March 2008. Mr. Makoni left Zimbabwe for South Africa after being tipped off that a death squad associated with the state security apparatus had been assigned to kill him.¹²

Ms. Roselyn Hanzi and Mr. Tawanda Zhuwarara: On February 10, 2009 Ms. Roselyn Hanzi and Mr. Tawanda Zhuwarara these two lawyers and members of ZLHR were arrested, along with a number of other persons who had taken part in a demonstration organized by WOZA outside the Parliament Building in Harare. Lawyers were not permitted access to the detainees, who were held overnight without any reason for their arrest and detention being given. On February 11, all detainees, including the two lawyers, were interrogated about their life histories, political beliefs, arrest records and other personal information. Only after those interviews were they permitted access to legal counsel. The prisoners were released on bail on February 12.¹³

Alec Muchadehama: Mr. Muchadehama was again arrested in May 2009 in relation to his representation of a group of human rights and political prisoners. He was attempting to secure their release and was arrested, along with a Clerk of the High Court, and was charged in relation to those efforts.¹⁴

On May 19, 2009, Zimbabwe lawyers defied a police ban and marched in Harare to protest against the government's harassment and intimidation of their colleagues, and journalists in Zimbabwe. Riot police were present, but did not prevent three lawyers from gaining access to government offices to present a petition calling for an end to the persecution and harassment.¹⁵

Lawyers Rights Watch Canada (LRWC) is a committee of lawyers who promote human rights and the rule of law internationally by protecting advocacy rights. LRWC engages in research and education, campaigns for advocates in danger because of their human rights advocacy and works in cooperation with other human rights organizations. LRWC has Special Consultative status with the Economic and Social Council of the United Nations.

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¹² *The Scotsman*, "What Mugabe Doesn't Want the World to Know", June 5, 2008 (online version).

¹³ *The Observatory Urgent Appeal*, February 13, 2009

¹⁴ *Help Zimbabwe Magazine* (online version), "Zimbabwe Lawyers in Anti-Government March" May 19, 2009

¹⁵ *Help Zimbabwe Magazine* (online version), "Zimbabwe Lawyers in Anti-Government March" May 19, 2009