

The LEGAL MONITOR

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27 February 2012

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

COST-FREE

Edition 132

Inside hell

...female inmates talk about prison misery

HARARE-The two women in the picture (right) have just spent close to nine months in solitary confinement at Chikurubi Maximum Prison.

Prison authorities allowed Rebecca Mafikeni and Yvonne Musarurwa only 20 minutes a day out of the confined cell.

In these 20 minutes, the women were expected to complete all chores human beings are expected of in a day-from laundry and bathing to exercising and just "enjoy" a bit of sunlight out of their dingy prison holes.

Raw sewer would flow inside the prison cell, and according to Rebecca and Yvonne, the officer-in-charge at Chikurubi identified as Emelda Chifodya would force them to clean the sewer using their bare hands.

The two women's story paints a disgusting picture of the grave situation of Zimbabwe's inmates, especially those arrested on political grounds.

Made to suffer the worst of prison's inhumane conditions, political prisoners such as Rebecca and Yvonne epitomise how universally guaranteed human rights are stripped off political prisoners.

"We had been touching the (raw) sewer with our bare hands because at one time they ran out of gloves. When we asked her about the situation she (Chifodya) said 'It is not my health. It is your health and I don't care'. She pointed out that even prison officers were living under similar conditions and we insisted that this was because the officers didn't know their rights. We knew our rights," says Yvonne.

Yvonne and Rebecca are part of Glen View residents rounded up by police last year as suspects in the murder of Petros Mutedza, a police inspector, who was allegedly stoned to death in May last year.

Police proceeded to round up, mostly supporters and officials of Prime Minister Morgan Tsvangirai's

Movement for Democratic Change (MDC) party. MDC youth assembly president Solomon Madzore, arrested on similar charges, is still in remand prison. Defence lawyers argue that the suspects were arrested purely on political grounds.

Confined in a mucky cell for more than 23 hours a day, Rebecca and Yvonne say they only survived death through sheer determination to live to see a democratic Zimbabwe.

"It was a hell," Yvonne told *The Legal Monitor* in an interview after the duo was released on bail last week following months of living in grave conditions.

"You will be in hell because being alone, physiologically it torments you. You will be thinking a lot. I don't even have enough words to explain it but it was painful. It was so hard that if we had not dedicated ourselves to the MDC and the struggle for change we could have died there.

"We might have committed suicide but the fact is we dedicated ourselves to achieving democracy. We want to change the nature of politics in Zimbabwe. That is why we survived. It is life threatening torture to be forced to spend more than 23 hours confined to a prison cell, locked up and all alone. The cell was a tiny little room with no space to manoeuvre," Yvonne says.

For Rebecca, the treatment inside remand prison is just a tip of the iceberg.

Many more inmates, she says, are suffering in silence because they are unaware of their rights under Zimbabwean laws and regional and international statutes.

• **Please turn to page 3 to read Rebecca and Yvonne's full account of their prison horror, including how they lost on their love lives.**



Numero Uno...

The Zimbabwe Human Rights Association (ZimRights) last week honoured the Zimbabwe Lawyers for Human Rights (ZLHR) for lending outstanding organisational support to the grassroots-based human rights organisation. Dzimbabwe Chimnga (centre) of ZLHR receives the award during ZimRights 20th anniversary celebrations held in Gweru last Saturday.

ZimRights honoured outstanding personalities, who have assisted the human rights organisation over the past two decades with awards as appreciation to their contributions to the survival and success of the organisation.

Among those honoured were former ZLHR executive director, Arnold Tsunga, Reginald Matchaba-Hove, Nick Ndebele, Clemence Dumisani Moyo and Kucaca Phulu. Tsunga received an extra award for having served ZimRights as an outstanding chairperson. ZimRights also honoured the five directors who headed the secretariat since the formation of the organisation and some members of the secretariat, who served the organisation for at least five years.

Payback time

...torture officers face the music

BULAWAYO-Police have begun investigating its officers for allegedly torturing a woman until she suffered life threatening injuries.

Agnes Muponda, a 37-year old Bulawayo woman, suffered “potential damage to life” after police tortured her at the Criminal Investigations Department housed at CABS Building in Bulawayo on Saturday 14 January, according to reports by doctors who attended to her after the ordeal.

After years of being accused of promoting impunity among force members who regularly use torture on suspects locked in cells, police have been jolted into action after Zimbabwe Lawyers for Human Rights (ZLHR), representing Muponda, served them with a notice of intention to sue.

“I acknowledge receipt of the above complaint. Please be advised that the matter is being looked into. Outcome of investigations will be communicated to you,” reads part of a letter signed by Assistant Commissioner Mofolo, from the office of the police Officer Commanding Bulawayo Province.

The police officers, who were led by Detective Constable Zvavera and three unidentified officers are accused of severely torturing Muponda to force her to confess to theft charges.

So severe was the torture that doctors stated that Muponda’s life could be in danger as a result of the torture.

A government doctor at United Bulawayo Hospitals (UBH) who

attended to Muponda after her ordeal stated in a medical report that she suffered “extensive bruises over the entire trunk (and) limited movement over the ankle joints.”

The doctor noted after examining Muponda that there was “potential danger of life” following the attack.

The government doctor described the injuries as “very serious”, most probably caused by a “blunt” instrument. The degree of force used to inflict the injuries was “severe”, according to the doctor’s report.

The report stated that Muponda’s life was left vulnerable because of “extensive tissue injury”.

Permanent disability was likely to occur at the ankle joint, the doctor said in an affidavit signed on 17 January.

In its notice of intention to sue, ZLHR stated that Muponda was severely assaulted and detained for two days while in pain with no medical attention being given to her. This forced her to seek medical attention at UBH, lawyers said.

“From the report it is clearly indicated that the assault was so severe that injuries were severe, with potential danger to life and permanent disability likely to occur.

“Such torture we consider to be inhumane and degrading treatment and we are thus instructed to notify your offices that we shall be bringing a legal suit against your office, that of your parent Ministry as well as the individual police officers namely Detective Constable Zvavera and three others who participated in this orgy of violence upon Mrs. Agnes Muponda,” wrote ZLHR’s Lizwe Jamela.

It has been a season of torture since the year opened with increasing reports of police torturing civilians in custody to induce confessions, at times on petty crimes.

One such victim was Noel Zino, a Mutare bus loader, who was allegedly tortured at Chisamba Police Station on 9 January this year to force him to admit to assaulting a passenger. Charges were later thrown out for lack of evidence. But that was not before police had tortured Zino so severely that he discharged human waste.

“The client was tortured at the police station, being forced to admit that he had assaulted a passenger at a commuter omnibus rank to which he refused. It is the client’s story that he was in a room which he strongly believes to be a torture room as there were torture apparatus like the one used to turn him upside down before experiencing brutality at the hands of the police officers. He was beaten till he discharged human waste and was almost subconscious,” said Peggy Tavagadza, the lawyer from ZLHR, who represented Zino.

“The mother of our client witnessed her child in a pool of human waste as she was forced to run into the torture room as she could not bear to hear her child scream in police cells,” said Tavagadza.

Kunonga juggernaut...



Shelton Mpfu, a caretaker at St Andrews Anglican Church in Arcadia ponders his next move after the church was served with a warrant of ejectment at the instance of breakaway and ex-communicated bishop Nolbert Kunonga. The Deputy Sheriff, only identified as M Chakawanika acting on a writ obtained by Kunonga in the drawn out dispute over the control of Anglican church property last Monday served the Bishop Chad Gandiya-led CPCA church with a seven day notice to vacate the church premises.

Residents’ last laugh over Mugabe song

MUTARE-Three Penhalonga residents, who have been on trial since last year for allegedly singing a modified version of Mbare Chimurenga Choir’s Nyatsoterera song, have emerged victorious in court after they were acquitted by Magistrate Sharon Chipanga.

The three, Patrick Chikoti, Faith Mudiwa and Phillip Dowera were arrested early last year and charged with contravening Section 41 of the Criminal Law (Codification and Reform) Act Chapter 9:23 for conduct likely to provoke the breach of peace.

Prosecutors alleged that the three residents craftily turned Nyatsoterera-a song that heaps praise on President Robert Mugabe into a “defamatory” funeral hymn.

The trio, who were represented by Peggy Tavagadza-Mapfumo of Zimbabwe Lawyers for Human Rights, were accused of slurring the ZANU PF leader at Tsvingwe cemetery in Penhalonga after they uttered the following lyrics; ‘Nyatsoterera unzwe kupenga muhofisi mune mboko nyatsoterera unzwe kupenga’ and ‘Ngatishandei nesimba takabatana tibvise kamudhara aka muoffice mupinde president wenyika Morgan Tsvangirai.’

The prosecutors said the alleged adulteration of the Mbare Chimurenga song was intended to provoke a breach of peace.

However, Magistrate Chipanga on Thursday acquitted the trio after a full trial which commenced last year. In acquitting the trio,

Magistrate Chipanga ruled that after considering the totality of evidence submitted during the trial, the State failed to prove a *prima facie* case against the Penhalonga residents whose bail orders were at one time vetoed by State prosecutor Fletcher Karombe.

Nyatsoterera and other pro-President Mugabe

songs are enjoying massive airplay on all radio stations as well as on television as ZANU PF heightens its campaign ahead of elections whose date is yet to be announced.

In an interview with *The Legal Monitor*, one of the three residents, Patrick Chikoti a human rights defender paid tribute to ZLHR for

successfully contesting the charges laid against him and his colleagues. “Many innocent people are languishing in prison because they don’t have legal representation and they go through a lot of suffering because of that. ZLHR’s work is tangible and I have tasted the good fruit as a beneficiary of their assistance,” said Chikoti.



The trio having the last laugh after acquittal

Surviving Chikurubi horror

HARARE-Rebecca Mafikeni (RM) and Yvonne Musarurwa (YM) spent nine months in Chikurubi Prison on charges of killing a policeman in May last year. Below they tell *The Legal Monitor* (LM) about their misery in prison:

LM: You were first locked up in the Chikurubi prison female section and then transferred to the maximum prison. Were you told why you were transferred?

RM: We were told “you are Movement for Democratic Change (MDC) activists so you cannot stay here because we have some ZANU PF activists serving their sentences so if you stay here there will be fights.” So we were taken to the maximum prison and kept in solitary confinement.

LM: Was there any difference in terms of living conditions?

RM: The conditions at the female prison were a bit better because of it being an open prison. At the maximum prison we were isolated. We were being isolated from things like exercising, socialising, laundry and even bathing. We were kept away from essentials to life such as sunlight. Anything a normal human needs to survive was kept away from us. We were being treated like caged animals. We were only allowed 20 minutes out of 24 hours to do our laundry, socialise and bask in the sunlight, exercise and bath.

YM: It was terrible. We were not allowed to see each other as co-accused persons. We were confined and the chief prison officer there was a woman who told us in no uncertain terms that she would give us 20 minutes outside of our solitary confinement per day to do everything.

LM: What was it like confinement?

YM: It was hell. Even yourself, if you are alone, your head will be spinning. You will be in hell because being alone, psychologically it torments you. You will be thinking a lot. I don't even have enough words to explain it but it was painful. It was so hard that if we had not dedicated ourselves to the MDC and the struggle for change we could have died there. We might have committed suicide but the fact is we dedicated ourselves to achieving democracy. We want to change the nature of politics in Zimbabwe. That is why we survived. It is life threatening torture to be forced to spend more than 23 hours confined to a prison cell, locked up and all alone. The cell was a tiny little room with no space to manoeuvre.

LM: What was the food situation like?

YM: We were receiving our food from relatives and friends from outside. But Zimbabwe Prison Service (ZPS) provided inmates with food like porridge and sadza and beans donated by organisations such as Red Cross.

RM: Before we left Chikurubi Maximum Prison we heard that some donors had pulled out. There is no sugar right now, there is no cooking oil. Things are so bad. We heard this from other inmates who were bringing us some water because we were not allowed to go out and fetch water. We were only given 40 litres a day for everything like flushing and bathing. You can imagine the situation for a lady. So the other prisoners who were bringing us water were the ones who told us that they had run out of these rations and were only eating vegetables.

LM: What kind of treatment were you getting from prison officers?

YM: The Officer-in-Charge politicised the matter and was hard on us because she knew we were in the MDC. The other junior officers were professional.



RM: Imagine she would give us only 20 minutes to leave our cells and did not allow us to interact with each other. There were people there sentenced for murder and other crimes and they were allowed a lot of time to be in

the exercising yard or to do their laundry. But she treated us, people who had not been convicted, as if we were the country's biggest threat.

YM: We were not supposed to stay at the maximum prison. Some people sentenced for serious crimes were living better lives yet we were innocent. For example, inmates in the male section who had been convicted had all the time to exercise, socialise and even read. They were enjoying yet we were being treated like dirt. She (officer-in-charge) told us she was in charge and she would do what she wanted. She was so harsh that at one time she didn't want us to go out and meet our visitors. It is not a privilege. It is a right yet she denied us that right.

RM: We couldn't stand it any longer. Imagine sewer flowing in the cell. The plumbing system is old and she told us it was from Ian Smith's time and ZPS had no plumbers to fix it as it was beyond repair. Yet when we told Zimbabwe Lawyers for Human Rights' Irene Petras about it, she engaged senior people at the regional office. Within hours, the plumbing system had been fixed...after seven months and we had been touching the sewer with our bare hands because at one time they ran out of gloves. When we asked her (officer-in-charge) about the situation she said “It is not my health. It is your health and I don't care”. She pointed out that even prison officers were living under similar conditions and we insisted that this was because the officers didn't know their rights. We knew our rights.

LM: How did you manage to put up with all this?

RM: At first we were behaving as people who believed in discipline and resolving issues through talking. We sought audience with her on 27 January and told her enough was enough. According to the law and prison regulations she was supposed to visit us once a week but she visited us four times only during the time we were in remand. So we started a mini-resistance. Water was brought in at 9 am and that was the time we were given our 20 minutes out of solitary confinement. So from 27 January to 3 February (2012) we would refuse to return into the cell.

YM: We would get our water and tell the junior prison officers that “we want your bosses here”. The officer-in-charge later agreed to increase the amount of time and we were allowed an hour for our chores but on condition that we would not meet as co-accused.

LM: How does it feel being outside?

RM: I don't feel free at all. I can only be free after I am acquitted. What I for now want is a trial. This matter has to be concluded so that I can be truly free.

YM: It is not easy for the pain to just vanish just because we have been released on bail. The damage done is irreparable. I lost a boyfriend in the process. He is not that into politics and when he heard about the case, he just shunned me. He didn't even want to see me and now I am single, desperate and searching.

LM: Any last words

YM: The support we received from different groups, churches, civil society groups and ordinary people who were praying for us and giving much needed support was tremendous.

RM: I wish human rights groups could do more in prisons. They need to run programmes for prisoners. When we were inside, most prisoners who are not charged on political grounds were unaware of their rights. They are abandoned and need information about their rights.

Testing freedom again...

HARARE-It was all smiles last week at Chikurubi Maximum Prison and at Harare Remand Prison when seven Glenview residents who had been released on bail last week met their relatives, friends and lawyers.

The seven: Rebecca Mafikeni, Phenias Nhatarikwa, Lazarus

Maengahama, Stanford Maengahama, Yvonne Musarurwa, Stanford Mangwiro and Glenview Ward 32 councillor Tungamirai Madzokere had been in remand prison since May for allegedly murdering a police officer, Inspector Petros Mutedzi. Their release followed a bail order granted upon appeal by Deputy

Chief Justice Luke Malaba on 17 February after High Court Judge, Justice Tendai Uchena threw out the residents' bail application after ruling that they could flee from the country. That ruling was followed by several applications and eventually the seven were released from prison last week.

