

The LEGAL MONITOR

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



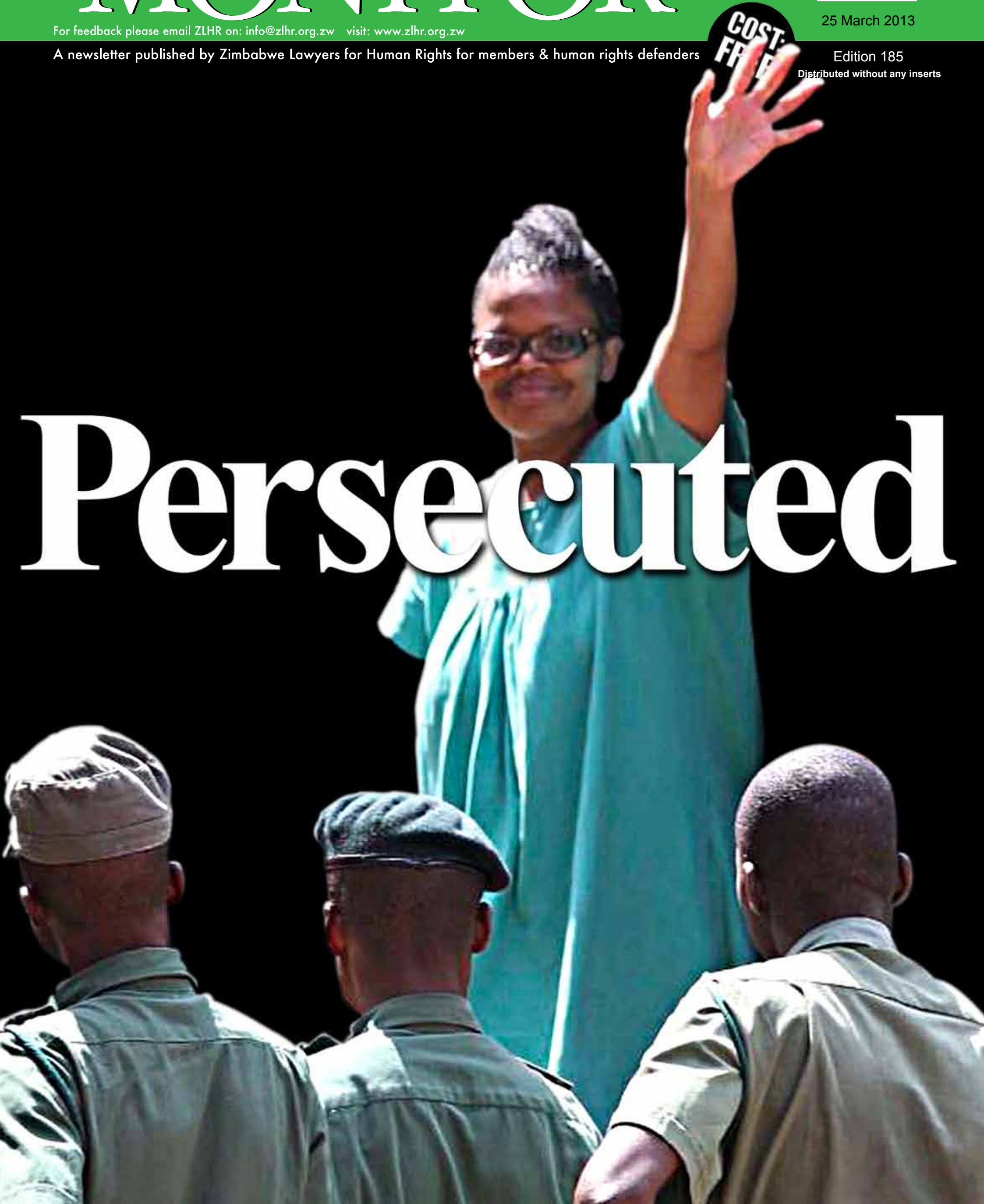
25 March 2013

Edition 185

Distributed without any inserts

COST-FREE

Persecuted



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



THE LAW SOCIETY OF ZIMBABWE

Statement condemning arbitrary arrest of a senior lawyer by the Police

The Law Society of Zimbabwe (LSZ) is utterly shocked to learn about the arrest of lawyer Ms Beatrice Mtetwa on allegations of obstructing the course of justice. The facts at hand suggest that Ms Mtetwa was arrested for merely exercising her right as a lawyer to represent her client who had called her as a search was being conducted allegedly without a search warrant. Ms Mtetwa challenged the legality of the search and was therefore arrested and detained.

Any arrest of a lawyer for representing their client is deplored in the strongest terms. It is repugnant to a normal civilised and democratic society. It cannot be denied that the actions of the police are meant to intimidate Ms Mtetwa and stop her from exercising her legitimate professional duties. The police action is uncalled for and speaks to a broader scheme to harass those lawyers who stand resolutely in defense of their clients. It is evident that the police could have easily recorded a statement from Ms Mtetwa if they so wished. The police were content to keep Ms Mtetwa in custody for a whole day for a simple charge and further chose to detain her in condemned police cells at Rhodesville Police Station.

This conduct of the police is in clear defiance of an existing High Court order in favour of LSZ against the police that binds them against hindering, obstructing, or taking any action which hinders any legal practitioner from gaining access to his client and carrying out his duties as a legal practitioner. *The Law Society and 8 ORS vs The Commissioner Of Police and Anor HC3960/2007*. The order clearly stipulates the rights of lawyers during the course of their duties and the same should be observed by the Police. The police are clearly acting in contempt of this order. Such impunity is a clear unmitigated assault on the rule of law and should not be allowed to continue unchecked.

A High Court order for the release of Beatrice Mtetwa is also being contemptuously ignored by the police. Such actions are a serious and unwarranted attack on the rule of law.

Lawyers are as of right entitled to work without any intimidation from state agents or otherwise and have unimpeded access and privacy to their clients. Threatening a legal practitioner for doing his/her work of providing legal representation to the clients who have exercised their choice, regardless of the charges the client faces or however politically unpopular the client may be, is an impingement on the rule of law, democracy and undermining the prominence of the bill of rights as enshrined in the constitution particularly Sections 17 and 18.

The LSZ therefore calls upon

- Commissioner General to order his subordinates to immediately comply with the High Court order and cause the immediate release of Ms Mtetwa,
- the police to stop the impingement of the rule of law through the harassment and ill treatment of lawyers and to observe the independence of the legal profession as expounded clearly in *HC3960/07*.

The LSZ further demands the Inclusive government of the Republic of Zimbabwe particularly the Co-Ministers of Home Affairs to ensure that:

- a) due respect and protection is accorded to lawyers, as detailed in the United Nations Basic Principles on the Role of lawyers (adopted in 1990) and the United Nations Declaration on Human Rights Defenders (adopted in 1998) and to ensure that lawyers are able to access their clients without hindrance and freely discharge their duties in the interest of effective administration of justice;
- b) harassment, victimisation of lawyers merely for representing their clients be stopped;
- c) improper interference with lawyers' work which interference curtails the freedom of the lawyers to effectively represent the clients who choose them to do so, is stopped;
- d) demands of privileged information, attempts or threats to seize gadgets or other such accessories containing such privileged information is stopped and importantly
- e) trumping up spurious charges and subpoenaing lawyers unnecessarily which amount to harassment and victimisation aimed at inducing fear and dissuading lawyers from representing certain clients be forth with stopped.

Committed to justice and the rule of law

GENERAL COUNCIL OF THE BAR OF SOUTH AFRICA

*Admitted at The Hague on 21 August 1948
as a full member of the International Bar Association*

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[for immediate release]

MEDIA RELEASE

The General Council of the Bar of South Africa (GCB) wishes to express its grave concern at the arrest on Sunday of renowned Zimbabwean human rights lawyer Ms Beatrice Mtetwa following the referendum on proposed amendments to the Zimbabwean Constitution and raids on opposition party officials by police. Ms Mtetwa's arrest has occurred amidst grave concerns expressed in the media regarding an alleged police clampdown on opposition parties before, during and after the referendum.

The GCB calls for the immediate and unconditional release of Ms Mtetwa pending any police investigation into her alleged conduct leading to her arrest.

IAM SEMENYA SC
CHAIRMAN
GENERAL COUNCIL OF THE BAR OF S.A.

18 March 2013

National Executive: Ishmael Semanya SC (chairman); McCaps Motimele SC (vice chairman); Anthea Platt (honorary secretary); Johanni Barnardt (assistant honorary secretary); Tayob Aboobaker SC; Andrea Gabriel SC; Jeremy Muller SC (treasurer); Kgomoetso Moroka SC; Craig Watt-Pringle SC. Ex officio: Archie Findlay SC (convenor: NBEB); Gerrit Pretorius SC (Past Chair)



Pan African
Lawyers Union

SOUTHERN AFRICA
LITIGATION CENTRE



African Legal Bodies Express Outrage at Continued Detention of Beatrice Mtetwa,

Says Joint Statement

Johannesburg – The International Commission of Jurists (ICJ), the Pan African Lawyers Union (PALU), SADC Lawyers Association (SADC LA) and Southern Africa Litigation Centre (SALC) have expressed their outrage at the continued detention of Zimbabwean lawyer and human rights activist, Beatrice Mtetwa, after she was denied bail by Harare Magistrate, Marehwanazvo Gofa on the 20th of March 2013. This was despite the fact that Mtetwa was improperly before the court after the police had refused to comply with a High Court order to release her.

It is perturbing that the Police would use a lower Court, to undermine a standing decision of a higher Court, and that the lower Court would allow itself to be so used. Moreover, it is absurd that Mtetwa, a lawyer of 30 years' standing in Zimbabwe, could be denied bail on the basis that she would interfere with police investigations.

While the ICJ, PALU, SADC LA and SALC have learnt with disappointment of the postponement of Mtetwa's bail appeal hearing from the 22nd of March 2013 to the 25th of March 2013, they have faith that Mtetwa will be vindicated and will be released by the High Court.

The concerted efforts to keep Mtetwa behind bars represent a calculated attempt by sections of the Zimbabwean Government to break her spirit and deter her from representing the many Zimbabweans who daily face harassment and intimidation from the state's security services. Over the years, Mtetwa has stood by these victims of government and police repression and is regarded as a hindrance by the police and security sector to their illegal activities.

The action against Mtetwa is a threat to the legal profession in Zimbabwe – intended to alarm lawyers and intimidate them from providing independent representation. As the country edges towards elections, the persecution of lawyers and other actors can only be expected to escalate, judging from the number of civil society representatives and human rights defenders who have fallen victim to police harassment in the past few weeks.

The police's actions stand in marked contrast to calls by the most senior political authorities in Zimbabwe for peace and tolerance as the country moves towards elections. That no heed is paid to these calls by the police force is indicative of the widespread and endemic impunity enjoyed by the security sector. It is the clearest indication that, as matters stand, there exists little prospect for free and fair elections.

The ICJ, PALU, SADC LA and SALC urge the Southern African Development Community (SADC) as the Guarantor of Zimbabwe's Global Political Agreement and President Jacob Zuma as the mediator in Zimbabwe's political crisis to take action and urge the Government of Zimbabwe to release Mtetwa from prison and end the politically-motivated persecution of her.

We also urge the African Union and the international community to prevail upon the Zimbabwean Government to release Mtetwa.

Last but not least, we call on the police and the judiciary in Zimbabwe to discharge their duties in an independent and impartial manner if the people of Zimbabwe are to have confidence in the judicial system as the country moves towards elections.

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FREETOWN-18.03.2013: The African Lawyers for the Defense of Civil Society Network calls for the immediate release of Beatrice Mtetwa who was unlawfully arrested and detained on the 17th March 2013 in Harare, a few hours after the constitutional referendum. She is currently still in police custody at Rhodesville police station despite a High Court order served on the police early this morning ordering for her release.

Beatrice Mtetwa was unlawfully arrested at the scene of a police raid on her client's home after requesting for a valid search warrant and inventory list for materials that had already been removed by the police.

"We've observed a catalogue of failings by the state to protect human rights and the flagrant impunity of state agents continues to thrive in Zimbabwe. Human rights lawyers and defenders have sustained many attempts to curtail their rights to freedom of expression and association. It is time for the Government to reverse this retrogressive trend and make a strong commitment to respect and protect fundamental human rights, said Stephanie Muchai the Co-Chairperson of the African Lawyers for the Defense of Civil Society Network"

Mtetwa is charged with defeating and/or obstructing the course of justice under the Criminal Law (Codification and Reform) Act. Police handcuffed Mtetwa for protesting and proceeded to unlawfully confiscate her mobile phone containing privileged lawyer-client communication. She was held in an unmarked police vehicle whilst searches proceeded at her client's home and office in the absence of legal representation. She was consequently detained at Rhodesville police station at 5.30pm yesterday. Police have further refused to comply with a High Court Order for her release despite being advised that their actions are in contempt of court.

The African Lawyers for the Defense of Civil Society Network stands in solidarity with Beatrice Mtetwa, her lawyers, and others calling for a stand against the intimidation and harassment of human rights lawyers and underscores the right of these lawyers to carry out their professional duties without hindrance, vilification and degradation.

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Mtetwa's horror week

HARARE-She has worked as a lawyer for 31 years without breaking the law. But such an impeccable record counts for nothing in Zimbabwe, where Beatrice Mtetwa is rotting in jail for a week now for conducting her professional duties as a lawyer.

What was supposed to be routine work for Mtetwa turned into horror last week on Sunday, with the prominent human rights advocate suffering abuse at the hands of State security agents.

Pictures of an indefatigable Mtetwa dressed in green prison garb and heavily guarded by armed jail guards shocked the world as she appeared at the Harare Magistrates Court. But more importantly, the photos underpinned State security agents' determination to crack the whip on human rights defenders.

Lawyers and human rights defenders and organisations are in utter shock that such a senior lawyer has ended up in jail for carrying out her professional duties.

Mtetwa, an internationally recognised human rights lawyer, was assisting Thabani Mpofu, an official in Prime Minister Morgan Tsvangirai's office, who was under attack from the police.

Instead of getting Mpofu off the hook, she ended being in the same, if not worse off situation than her client in a bout of harassment her lawyer said had left the legal fraternity in the country in fear.



Trophy pick ...

And what is her crime? Asking about the legality of the police search on Mpofu's residence and the inventory of the material which was being taken away by the police.

Police responded by handcuffing Mtetwa and bundled her into the back of a police truck as the horror began.

Her lawyer, Advocate Thabani Mpofu (not to be confused with Mtetwa's client), told the court that the police had treated her "very badly".

"Some police officers at Rhodesville Police Station could not allow her access to relatives, friends and legal practitioners," said Mpofu.

An order issued by High Court Judge Justice Charles Hungwe ordering police to free Mtetwa went unheeded despite lawyers serving the police with the order in the early hours of Monday.

Instead, police were having a time of their life harassing the celebrated human rights advocate.

As if she were a trophy, police paraded Mtetwa in Harare on Monday and Tuesday, where they moved her from one police station to another in an open pick-up truck where she was bundled at the back.

This was just the start. More abuse was to follow. On Monday, during the dead of the night, two

male police officers "visited" Mtetwa in a cell at Rhodesville Police Station. They attempted to remove some blankets that covered her, Advocate Mpofu told the court leaving the public gallery in disbelief.

In the morning, the officers barred Mtetwa from taking a bath. They blocked her access to relatives, friends and lawyers, Advocate Mpofu said.

Her crime: Telling police officers that their actions were "unconstitutional, undemocratic and illegal."

Now facing charges of obstructing the course of justice, Mtetwa, a recipient of multiple local and international professional awards, is paying for facing up to a repressive regime, in a case which has sparked global outrage. Demanding Mtetwa's release, Amnesty International said she was an "unfortunate victim of arbitrary arrest and unlawful detention".

"It's staggering that while Zimbabwe is in the process of adopting a new constitution which provides a stronger bill of human rights, lawyers in the course of their lawful duty are being so blatantly harassed and intimidated," said Noel Kututwa, Amnesty International's Southern Africa director.

He said Mtetwa's situation was "an attack on the legal profession in Zimbabwe and in particular on lawyers who have fearlessly defended human rights defenders and political activists".

Technology outpaces regime

...as world protests Mtetwa detention

HARARE-In a country where the government is trying hard to stifle information, the speed with which news of Beatrice Mtetwa's debacle hit the globe should have unsettled authorities.

Banning radios which enable villagers to listen to foreign news channels and keeping a tight grip on the broadcasting sector, the government has gone to full lengths to control the flow of information.

Yet, down in the rural areas and elsewhere in the world, people didn't need radios to know about the police heavy handedness going on in Harare.

In real time, they had the news as technology outpaced a regime whose actions have long been described as repressive.

With mobile phone usage increasing at lightning speed – regulatory authorities say cellphone penetration stood at 74 percent of the population by the end of 2012 – people in remote places are getting hooked to social media to connect with the world.

From *Whats app* to *Twitter* and *facebook*; activists and lawyers fed the world with up to the minute detail on how Mtetwa's case was developing – and as a result drew the attentions of millions across the globe. So instant was the word that outrage started pouring in on *facebook*, *Twitter* and other platforms moments after Mtetwa's arrest.

Throughout her ordeal, thousands of people signed up to protest against the Zimbabwean authorities, with prominent human rights campaigners and lawyers making their disgust known on *facebook*.

Other *facebook* pages such as "freebeatricemtetwa.com" and "Freedom For Beatrice Mtetwa" were running live updates and showing solidarity.

Twitterites were equally busy, showing solidarity with a lawyer who is known for dedicating her life to defending human rights for women and the downtrodden for more than 30 years now. Aposton "FreeBeatriceMtetwa" reads: "Imprisoning Beatrice is a mobilising force for change. If the

regime thinks this is going to stop her from doing her work, they are wrong. Her incarceration is inspiring millions of people around the world and thousands of other lawyers in Zimbabwe to support her.

"Knowing she is behind bars is creating a groundswell of support FOR her and AGAINST the malicious, corrupt regime running and ruining Zimbabwe. Beatrice behind bars is a wake-up call like no other. Citizens will vote with their hearts and they will vote for change to end this madness. Enough is enough." An update on the *Facebook* page, "Freedom For Beatrice Mtetwa" gave a lasting image of the lawyer's never-die spirit.

A picture of Mtetwa climbing into the back of a Zimbabwe Prison Services truck under the watchful eye of prison guards after appearing in court is accompanied by the caption:

"Surrounded like a security risk to the State, Beatrice shouts, 'Hezvoko! Bwaaaa!' as she climbs a prisons van on the way to prison." Elsewhere across the globe, activists were going online to mobilise support for Mtetwa.

AVAAZ, described as the world's largest and most effective online campaigning community for change mounted an online petition to be dispatched to the Southern African Development Community (SADC), South African President Jacob Zuma and the Zimbabwean government.

SADC, the "guarantors" of Harare's shaky power sharing pact, are heavily involved in Zimbabwe's politics after being mandated by the African Union to ensure a fresh and credible election following the violent and disputed June 2008 presidential election runoff.

In turn, SADC has appointed Zuma to facilitate talks between warring Zimbabwean parties to create conditions for a free and fair poll. But groups such as AVAAZ, which has a massive 20 million membership globally, says Mtetwa's harassment runs contrary to SADC's objectives on

Zimbabwe. As the country remains unsure of its future stability, one thing certain is that no matter how hard governments try, they can never again

suppress the free flow of information. Thanks to digital democracy.

Timeline

Sunday 17 March

Police arrest and detain Mtetwa while attending to her client Thabani Mpofu, whose home was being raided by police. Arrested for arguing that police had not produced a valid search warrant. Police did not have an inventory list for materials that had already been removed from Mpofu's home. Police details confiscate her mobile phone containing privileged lawyer-client communication after handcuffing her.

Monday 18 March

High Court Judge Justice Charles Hungwe orders Mtetwa's immediate release after Zimbabwe Lawyers for Human Rights (ZLHR) members file an Urgent Chamber Application in the High Court. Officers at Rhodesville Police Station, where she is detained, refuse to comply with the High Court Order at around 02:30 hours.

Mtetwa is taken to Law and Order Section at Harare Central Police Station around 09:30 hours. At around 11:00 hours, she is driven back to Rhodesville Police Station, where she is denied access to her relatives who have travelled from outside the country.

Tuesday 19 March

Mtetwa endures third night in detention after Harare Provincial Magistrate Marehwanazvo Gofa remands her in custody to Wednesday to allow the State, represented by Michael Reza, to file responses to the bail application filed by her lawyers.

Mtetwa's lawyers Advocate Thabani Mpofu (no relation to Mtetwa's client), Harrison Nkomo and Dzimbabwe Chimnga say on Monday two male police officers entered her detention cell at Rhodesville Police Station in the dead of the night and attempted to remove some blankets that covered her. They protest that police had not allowed Mtetwa to bath since Sunday.

Wednesday 20 March

Magistrate Gofa dismisses Mtetwa's bail application and remands her in custody to 3 April. Says the human rights lawyer would interfere with police investigations if freed on bail.

Thursday 21 March

Lawyers launch a fresh bid for freedom for Mtetwa by appealing against Magistrate Gofa's ruling. The High Court sets Friday, 22 March as the bail hearing date before Justice Joseph Musakwa.

Friday 22 March

Justice Musakwa postpones the bail hearing to Monday 25 March.



Source: facebook

The iron lady



...standing up for other lawyers in December 2012



...a friend of the media, Mpetwa entertains journalists during the trial of Roy Bennett in 2010



...engaging fellow ZLHR board members Saru Njerere and Precious Chakasi at the 2011 AGM



Her prominence cuts across the world... after winning the Inamori Ethics Prize in 2011 bestowed by an American university for her efforts in fighting injustice in Zimbabwe



...things are tough and only the strong can afford a smile



...after she fought for the release of ZimRights director Okay Machisa from Harare Remand Prison early this year



The demand is clear...aggrieved activists at Rotten Row Magistrates Court on Friday