

The LEGAL MONITOR

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09 May 2011

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

COST-FREE

Edition 92

Workers to rise

HARARE-Government and private sector employers should brace for paralysing strikes next month if they continue ignoring calls for higher salaries and quick labour law reforms, the country's largest labour body has said.

In an interview with *The Legal Monitor*, Zimbabwe Congress of Trade Unions president Lovemore Matombo said consultations were underway between labour organisations across the sector to mount strong action against employers.

"We have no pro-poor coalition government. In this government most politicians would want to capture votes from poor people. But they will never be committed to the poor"

Patience among workers, many who anticipated huge changes after the Movement for Democratic Change (MDC)'s entry into government, had worn thin, Matombo said.

Matombo said they had targeted June because that is when civil servants are expecting government to significantly increase salaries. Most trade unions are also negotiating to have salaries increased in June.

"What we have said is that let's have a collective approach to this whole thing. We are no longer going to see a civil servants strike alone. Every labour movement, every trade union in this country has a problem with its employer and what we are saying is let's galvanise support so that as we approach June, all of us are geared to go on a strike but it has to be collective. We will have to do that. We have no option," said Matombo.

He said confrontation was most likely to take place because government and most employers were resisting calls to match salaries to the poverty datum line that currently stands at just over \$500.

Most workers in the public and private sector earn between \$100 and \$300.

Workers' conditions in Zimbabwe have failed to improve despite lofty promises made at the formation of the coalition government in February 2009.

"Immediately after this coalition government there was a feeling that there was no need to go on strike as to do so would be to torpedo the efforts of the MDC and MDC was quite aggressive in terms of public relations saying we want to see that every worker has a decent salary. But two years down the line, I think people are now aware that it was just a mock exercise. And I think we can succeed in our strike action," said Matombo.

He accused the coalition government of abandoning workers and the poor.

"I can clearly tell you in this country that 99.9 percent of our ministers are right-wing elements. They believe in capital. Pro-poor is purely political rhetoric," said Matombo.



ZLHR member, and prominent human rights lawyer Alec Muchadehama delivers ZLHR's solidarity statement to workers at Gwanzura Stadium on 1 May

He added: "We have no pro-poor coalition government. In this government most politicians would want to capture votes from poor people. But they will never be committed to the poor.

"For example the IMF prescription being put across to the government is capitalist yet it appears to find favour. According to the IMF civil servants

should be reduced. But how can you reduce civil servants who have been reduced over the years to the level of poverty. Only about seven percent of workers are formally employed in Zimbabwe and of these the government employs the bulk. So what will it mean if government agrees to reduce the pay bill by reducing the number of its workers? Yet Finance Minister Tendai Biti appears to support

that, never mind he is from the MDC that claims to be pro-workers."

Civil servants have on several times embarked on industrial actions to press for better salaries and working conditions. On all occasions, they have returned to work after government ignored their action.



Know your rights...

ZLHR lawyers and staff entertain visitors to the organisation's stand at the Zimbabwe International Trade Fair which ended in Bulawayo at the weekend.

Violence blights election talks

CHIMANIMANI—As Zimbabwe power-sharing negotiators met with President Jacob Zuma's facilitation team in Cape Town, a 70-year-old was one of several villagers smarting from fresh violence in Chimanimani.

The meeting in Cape Town, which was supposed to end at the weekend, is key because negotiators there are discussing an election roadmap whose outcome should be an end to the violence that affected the 2008 elections.

But even as the Cape Town roundtable was underway, the Zimbabwe Peace Project (ZPP) was reporting how suspected ZANU PF supporters burnt down houses in Nyambeya Village in Cashel Valley, which is in Chimanimani District.

The 70-year-old Mbuya Chizikani lost two huts, while her son Admire's two family huts were reduced to ashes in an early morning attack May 3, according to the ZPP, a respect local peace group with ground monitors across the country.

According to ZPP, about seven houses belonging to three families aligned to Prime Minister Morgan Tsvangirai's Movement for Democratic Change (MDC-T) party were set on fire during the assault.

Another family lost three huts as a result of the attack, the ZPP reported.

The victims, according to a ZPP monitor based in the community, strongly believed that Zanu PF supporters only identified as "Musere" and "Majoka" led the attacks.

This, the victims said, was a follow up attack as they were previously targeted in March this year by the same perpetrators after they had attended an MDC-T district meeting.

After the alleged attacks in March, the victims fled their homes and

sought refuge in Mutare where they spent three weeks in hiding.

They only returned to their homes early last month after the direct intervention of Joint Monitoring and Implementation Committee officials.

According to one of the victims identified by ZPP as "Moses Chemwanyisa", the perpetrators came at around 3am Sunday last week and woke up his wife and demanded to see him.

"Unfortunately I was not at home after I had gone to Mutare on personal business the previous day. The perpetrators who numbered about 10 then dragged my wife out and tied her with a rope. They

proceeded to set the houses on fire and left for Admire Chizikani's homestead where they set two huts on fire after no one had responded," Chemwanyisa is quoted by the ZPP as saying.

He said Chizikani was in Bulawayo attending the MDC-T congress while his family was visiting relatives.

"They then proceeded to Mbuya Chizikani's homestead (Admire's mother) set her two huts alight as punishment for allowing her son to join and participate in MDC-T activities," he said.

The ZPP said the families lost everything in the attack and were now appealing for assistance especially for shelter.



Lizwe Jamela (in spectacles) explains ZLHR operations and interventions to visitors at the just ended Zimbabwe International Trade Fair held in Bulawayo.

The ZLHR stand was one of the most popular with visitors enquiring about legal matters.

Workers bleed as chefs feast

HARARE—Workers - grappling with grinding poverty and deprivation of rights - this year absented themselves from May Day commemorations countrywide, a sign of how organised labour has been battered by State repression and a stagnating economy.

A few hundred people attended May Day commemorations in Harare and Bulawayo, while even fewer people attended public functions staged by the Zimbabwe Congress of Trade Unions (ZCTU) in smaller parts of the country.

The controversial and smaller Zimbabwe Federation of Trade Unions failed to organise events.

Most people in Zimbabwe are still in informal employment as the formal industry struggles to recover from a debilitating decade-long recession.

Industry's recovery is being hampered by policy inconsistencies and squabbles within the transitional government that are pushing away hesitant investors.

May Day, also known as the International Workers Day, is commemorated worldwide to celebrate the economic and social achievements of workers.

But in Zimbabwe, where the population has been ravaged by years of poverty and unemployment, May Day has just become another day.

"I can't attend the May Day events because at least I get a chance to work without too much harassment today. Most council police officers are taking a day off," said Rosemary, a mother of twin two-year toddlers in Harare.

She says she has been a street vendor since losing her formal job at a food manufacturing firm in 2003. She is one of the numerous Zimbabweans making a living in the informal sector, which experts say consumes more than 60 percent of Zimbabwe's adult population.

On May Day she was at her usual spot, an illegal street corner in downtown Harare where, on a normal day she plays cat and mouse with vicious municipal police officers.

Those in formal employment are not faring any better.

Many have taken to illegally vend various wares, from cheap Chinese products to *sadza* to co-workers in their offices to make up for poor salaries.

The government, which in the absence of a vibrant industry is the biggest formal employer, pays its workers an average of under \$200 a month against a poverty datum line of just over \$500.

This year's ZCTU Workers' Day theme was "Respect our Rights, Save the Economy, Save our Jobs".

The day, according to pro-worker organisations such as the Zimbabwe Lawyers for Human Rights (ZLHR), should have been an opportunity to celebrate workers' milestones.

"Sadly, however, for thousands of Zimbabwean workers, this year's May Day commemorations will be another miserable day on which they continue to grapple with grinding poverty and have to make ends meet with the slave wages that are being paid by employers both in the private sector and the public service," said ZLHR.

Ironically, the coalition government built its strength on promises to better civil servants' salaries and working conditions, as well as unlock millions of potential jobs by stabilising the economy to attract elusive investors.

"ZLHR is disheartened that both private and public sector workers continue to receive slave wages two years after the formation of the inclusive government and despite endless promises by politicians to review and improve their torrid working conditions," ZLHR said, while taking a rap at coalition government leaders fleecing public funds through foreign trips.

"It is truly regrettable that, while workers who have been condemned to paltry wages ranging between \$150 and \$300 per month struggle with these slave wages, some privileged people in the government, who are living luxurious lives have elected to be blind to the workers' plight because they are covered by the inequitable salary structures and the allowances they amass from sometimes superfluous foreign jaunts and other questionable activities," said ZLHR, which joined the ZCTU commemorations on 1 May.

Labour leaders trying to organise the commemorations had to endure State interference, including malicious actions of unrepentant and overzealous members of the Zimbabwe Republic Police (ZRP) that imposed a ban on processions to mark this year's in some parts of the country. The High Court unbanned the commemorations an on the eleventh hour after the intervention of ZLHR lawyers. In February, the same police

suppressed a democracy lecture attended by some labour activists in Harare. Six of them, including well-known activist and academic Munyaradzi Gwisai were tortured and charged with treason.

"ZLHR remains perturbed by the inclusive government's reluctance to implement the

recommendations of the International Labour Organisation (ILO) report on violations of trade union rights and torture which was released after a commission of enquiry approved by the ILO recommended that it should address cases of trade union rights abuses committed by President Robert Mugabe's previous administration."

Quote of the week



Ambassador Dell Ariccia

"Some journalists were included on the sanctions list because of the role they played presenting news in a specific period that was considered as inciting hate and violence. I can tell you that there is a permanent revision of that list. Frankly speaking I have been here for the past eight months and we have started working seriously to see that indeed some of the people who are on the list should they continue to be there or not and it's a continuous process.

"So in short I take your point that including journalists on the list of people who are on EU restrictions could be considered as a violation of the freedom of the press but the reason was not that because they are journalists but because of what they were publishing or saying in their work," EU Ambassador to Zimbabwe, Adol Dell Ariccia responding to ZBC reporter Judith Makwanya who had asked why the EU had put her on a travel ban yet Brussels bragged about the freedom of the press.

Workers deserve better

The 1st of May is dedicated to workers worldwide. Below is an interview The Legal Monitor had with Lovemore Matombo, the Zimbabwe Congress of Trade Unions (ZCTU) president.

Q: This year it took you a court application to successfully hold the May Day celebrations in Zimbabwe. Was it really necessary?

A: The ZCTU would not be wrong to assume that we are dealing with an authoritarian State. Under a normal democracy you need not go through a rigorous process that we went through as we prepared for the May Day.

Q: It appears the attendance at May Day celebrations is getting lower. Even the carnival atmosphere has vanished. What is the problem?

A: There are various strategies that authoritarian states usually use. They try to disorient the society. They try to weaken the society. But this is not going to be a permanent environment. What you see is what we call the intrinsic properties that contradict each other so that as those contradictions sharpen, ultimately workers will rise up. There is no doubt about that. I strongly believe in dialectical analysis myself this is why I still have hope that the workers as the makers of history will rise up towards a democratic society.

Q: It is two years after the coalition government was formed, what is your assessment?

A: There were a lot of expectations at the inauguration of this political arrangement. Expectations were quite high. From the workers' side, I would give the GNU credit for a bit of economic stability that we have observed. But overall, in terms of the labour regime nothing has changed. For example, there was a discussion on the need for labour law reform. The human rights aspect remains the same. The ZCTU has tried to push through a poverty datum line related wage. But unfortunately, nothing has happened.

Q: Mr Matombo, labour fathered one of the parties to this government...

A: Exactly.

Q: Why then is that party not pushing the workers' agenda?

A: This is a marriage of convenience. We have an animal that has existed over a 30-year period and this animal has developed a particular governance culture. It will be difficult for such a culture to disappear within one or two years. Surely it would have been difficult and it still remains difficult for MDC to change that type of culture. Yes we fathered the MDC. But it has its own political problems. It appears it lacks vision, it lacks direction as far as political dispensation is concerned. It has no clear defined strategies as how to dislodge an authoritarian system. That is very unfortunate.



Working for better times... ZCTU president Lovemore Matombo during the interview with The Legal Monitor

Q: To what extent are you working with the government to implement International Labour Organisation recommendations on Zimbabwe?

A: The recommendations were put before government last year in March. Government accepted that they were going to implement in totality the recommendations. But up until today not a single recommendation has been implemented. One would want to believe that the ZANU PF side of government does not want to see change in the *status quo*.

Q: What has been the progress of the Tripartite Negotiating Forum (TNF) involving business, government and yourselves as labour?

A: We have had only one TNF meeting since the formation of this coalition government.

Q: Why?

A: The MDC are younger brothers in the political system and obviously ZANU PF doesn't want to see a successful TNF because it could give credit to the MDC. Secondly, we have our own opinion about the minister of labour (Paurina Mpariwa). The minister herself is not powerful enough to convince the rest of government. This is maybe because she is herself a Young Turk in the MDC structures

with no power to convince MDC colleagues in government.

Q: Back to labour law reforms, what exactly do you want changed?

A: Our labour law is not in tandem with the constitution or vice versa. For example, it is almost impossible to strike legally. You are required to show cause why you want to go on strike and it takes 14 days. Within those 14 days, the employer would normally approach the minister of labour to determine whether there are any real causes for a strike. And you are not allowed to go on strike if the reason for the strike is an issue related to rights. But most of the issues that create disputes at the workplace are basically issues of rights. So if you deny a labour movement the go ahead to strike on rights issues you are virtually saying there should not be any strike.

Q: How come we witnessed big strikes by labour in the 90s?

A: You are talking about the stayaways during the Morgan Tsvangirai, Gibson Sibanda era. You have to understand that during those days even the public media were sympathetic to workers and the State was not as brutal as it is now. But from 2002 onwards after they proscribed POSA it became difficult. The state security agents even became more active.

Arrests that are ongoing have instilled a lot of fear in workers.

Q: In your view why are labour law reforms taking long?

A: The majority of Cabinet ministers from both ZANU PF and the MDC are business people. If they are not businesspeople then they are business minded to the extent that it will be very difficult for those ministers to push laws that tends to disturb profits. It will be naive for us to think that we will have a favourable reform of the law unless we exert more pressure.

Q: What came of your meeting with EMCOZ on Wednesday?

A: Nothing. Literally nothing. They were nowhere to be seen. We didn't even see them. That is the way they behave. But of course what they are doing now could prove to be catastrophic. I think this is high time employers take ZCTU seriously. If they continue behaving the way they are we are going to take serious actions. One of them is to mention the salaries of individual chief executives and compare that to the lowest paid worker.

Q: Explain this award named after Morgan Tsvangirai?

A: The Tsvangirai Workers' Award was initially given to the ZCTU secretary-general. In his wisdom he

then decided to respect one of our former secretary-generals who is Morgan Tsvangirai. I am sure people will be able to differentiate between Morgan Tsvangirai, MDC president and Morgan Tsvangirai the ZCTU secretary general at the time. It is on this basis that the ZCTU said the only fitting tribute to one of ours is that award.

Q: Suppose you are elected president of the Republic of Zimbabwe today, what are the issues that you would immediately address for workers?

A: The immediate things that one can do for the workers are simple and straight forward. Stabilise the economy. Put legal framework in regard to the shareholding of our resources. Zimbabwe is endowed with a lot of wealth. What is lacking there is a legal framework that should structure the shareholding of a company – mining company for example. What has happened in Botswana should be copied in Zimbabwe. If Botswana is saying to a shareholder you get 50 percent and we get 50 percent, that is fine. That money does not go to an individual. It goes from the whole value chain – from extraction to the fiscus, it has to be monitored because it has come to light that in some countries they might decide to call for a 50-50 percent, yet in reality they will end up owning five percent because they do not monitor this whole chain.

Govt tries to pacify ACHPR

BANJUL-The government has attempted to pacify the African Commission on Human and People's Rights (ACHPR) by claiming to have registered tremendous progress in implementing democratic reforms in the country.

A government delegation led by Justice and Legal Affairs permanent secretary David Mangota told delegates attending the 49th session of the ACHPR here that the coalition government had accomplished a lot including opening up the media sector to new players and maintaining peace and tranquillity in the country even in the face of rising political violence.

"The inclusive government which we formed some two years ago is still in place and it remains ticking for the betterment of our entire nation... In terms of freedom of expression, another newspaper, *The Daily News* is now in circulation, adding on to the independent newspapers in the country. Our people are enjoying peace and tranquillity which is in line with our inclusivity in government," reads part of a statement issued by the government delegation here.

However, there was no mention of the stalled progress in implementing all the outstanding issues of the Global Political Agreement (GPA) which were agreed to by President Robert Mugabe and Prime Minister Morgan Tsvangirai.

The government delegation also appeared oblivious of the increasing incidences of politically motivated violence targeted at human rights defenders and Movement for Democratic Change (MDC) supporters.

The delegation sought to exploit political mileage from the presence of Prime Minister Tsvangirai at this year's independence celebrations where he joined President Mugabe, who delivered a speech to mark the country's 31st independence anniversary.

The Mangota led delegation took a swipe at the United States and Britain for maintaining a travel ban on President Robert Mugabe and his lieutenants.

"Our erstwhile friends-the British, the Americans and the European Union-continue to impose illegal sanctions against our country and its people. It is with this fact in mind that the government launched the anti-sanctions campaign in February this year as these illegal sanctions



The government delegation comprising of Ministry of Justice and Legal Affairs officials at the ongoing ACHPR session in The Gambia

are hurting our people in a very large measure," the delegation said.

On the economic front, the delegation alleged that the economy was on the mend and country's once record beating inflation rate had plunged to 2.7 percent.

The 49th session of the ACHPR commenced on 28 April and will end on Thursday.

It is being attended by several African State delegates and non governmental organisations working in the field of human rights and other related sectors who all reported on the human rights situation in their countries.

It was officially opened by a representative of The Gambia's Attorney General and Minister of Justice Edward Gomez.

Louder calls to free media

HARARE-The call for government to open up the airwaves to private broadcasters that could compete with state-owned Zimbabwe Broadcasting Corporation (ZBC) dominated this year's World Press Freedom Day debate.

While easing of restrictions in the print media has resulted in several newspapers hitting the streets, broadcasting remains the exclusive domain of the State.

As discussions at various platforms around the country focussed on how State owned television and radio could be transformed into genuine public broadcasters, media lawyer Beatrice Mtetwa said the solution lay in licensing more players.

"I doubt that ZBC in its current state and in our current political environment can in fact be transformed. The route we ought to be taking is not the transformation of ZBC but providing serious competition to ZBC," she told participants to a World Press Freedom day function in Harare.

The Media Institute of Southern Africa Zimbabwe (MISA-Zim) commemorated the Day under the theme "*Broadcasting Reforms on the Agenda – Free the Airwaves Now*".

The Youth Forum said ZBC's abuse of its monopoly to parrot propaganda had turned Zimbabweans to foreign stations.

"More citizens are now turning to external broadcasters and prefer watching free-to-air channels. ZBC has become a mouthpiece for a much-despised political party whose name has now become synonymous with everything malicious and obnoxious. The radio stations operated by the same broadcaster have become monotonous and boring especially with the repetitive playing of Mugabe-praising jingles with a frequency that even beats that of the now deposed Zaire strongman Mobutu Sese Seko," the group said.

The militant National Constitutional Assembly accused ZBC of churning out hate speech.

"The NCA is worried about the propagation of hate speech being churned by the state media which does not in any way resemble that of a national broadcaster. ZBC is used in Zimbabwe to propagate parochial interests of ZANU PF whilst attacking other political players in the country," said NCA spokesperson Madock Chivasa.

Zimbabwe Lawyers for Human

Rights, which has consistently fought for media plurality, welcomed new players in the print media but remained cautious of the operating environment.

"Zimbabwean media continues to reel under the continued refusal of relics within the Ministry of Information and Publicity and the broadcasting sector to free the airwaves to private and community-based radio and television stations. This is a priority – particularly in light of the sorry state of the state-controlled public broadcaster, which continues to be a mouthpiece for one political party and propagates hate speech and incitement on a daily basis. For this reason, ZLHR has joined hands with friends in the media to challenge this anomaly through the courts. The airwaves must be freed, and freed now," said ZLHR.

The organisation added that it would continue fighting harsh media laws used to arrest journalists, close down media houses and muzzle free speech.

"Attempts to challenge the constitutionality of many barbaric provisions of repressive and archaic laws in the Supreme Court have been met with long delays. Such delays have, in turn,

allowed for continued arbitrary action to be taken by renegade state agents - further undermining media freedoms and other fundamental rights. ZLHR urges the Supreme Court of Zimbabwe to prioritise the finalisation of constitutional challenges of laws which continue to have a negative impact on fundamental rights and freedoms, particularly freedom of expression," the human rights organisation.

State agents have relied on draconian media laws to harass journalists. In recent months journalists such as Nqobani Ndlovu of *The Standard* were arrested using such harsh laws.

Standard Editor Nevanji Madanhire, Alfa Media Holdings Editor-in-Chief Vincent Kahiya and the Zimbabwe Independent Editor Constantine Chimakure have recently been arrested and detained using such laws as the Access to Information and Protection of Privacy Act.

Recently, military officials summoned and quizzed *NewsDay* senior reporter, Veneranda Langa at the Defence House in Harare over a story she wrote stating that Army Chief Constantine Chiwenga had been airlifted to China for treatment.

Civil society keeps spotlight on constitution process

HARARE-A coalition of civil society groups have asked the Constitution Select Committee (COPAC) to allow continued independent monitoring of the constitution making process.

The constitution making process is at a critical stage, where thematic committees are analysing and organising data collected from more than 4 500 public meetings countrywide.

The committees would make recommendations to a team of drafters-who are supposed to be independent experts agreed to by coalition government partners.

The Zimbabwe Independent Constitution Monitoring Project (ZZZICOMP), comprising Zimbabwe Lawyers for Human Rights, Zimbabwe Election Support Network and Zimbabwe Peace Project, have been monitoring the process since it started last year with COPAC's support.

"We write to hereby formally advise that ZZZICOMP wishes to continue with its mandate by monitoring the work of the Thematic Committees," read a ZZZICOMP letter jointly signed by ZESN director Rindai Chipfunde-Vava, ZLHR executive director Irene Petras and ZPP director Jestina Mukoko. "In this regard, we would be grateful if you could consider facilitating our request and ensuring that our monitors are permitted to access the 17 thematic committees venues. Our representatives will observe their work and will not contribute and/ or interfere in any manner in the work of the Committees."

ZZZICOMP asked for permission to access copies of relevant documentation on the methodology of the thematic committees and their terms of reference