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Zimbabwe: Striking down of law allowing state to suspend bail a step in the right direction

Zimbabwe's Constitutional Court's ruling striking down Section 121(3) of the Criminal Procedure and Evidence Act (CPEA) on 23 September 2015 is a profoundly significant decision, and progressive step for the right to a fair trial, Amnesty International said today. The organisation has welcomed the ruling and urged the government to repeal or amend all repressive laws so that they are in line with the Constitution and its international human rights obligations and commitments.

Section 121(3) of the CPEA has been repeatedly abused by the prosecution to delay the release of those granted bail by the court by seven days. Human rights defenders and real or perceived political opponents of President Robert Mugabe's ruling ZANU-PF party are among those mainly affected by the arbitrary application of the law.

The organisation believes that the nullification of Section 121(3) of the CPEA will go a long way in removing legal provisions abused by the state to deny suspects freedom after being granted bail by the courts.

The court ruling follows an application by four political activists from the main opposition party Movement for Democratic Change led by former Prime Minister Morgan Tsvangirai (MDCT). The political activists, Fanuel Kamurendo, Tendai Kamurendo, Shelton Masamba and Wilbert Ndiweni, were arrested in February 2013 in Chitungwiza town for allegedly destroying posters of President Mugabe.

They were charged with disorderly conduct and malicious damage to property. When they were granted bail by the magistrate court the prosecution immediately invoked Section 121(3) of the CPEA thereby delaying the release of the activists on bail by seven days. They challenged the prosecution's decision to suspend their bail.

Section 121(3) allowed the prosecution to suspend release of a detainee who had been granted bail by the courts ostensibly to allow the state to appeal against releasing the suspect on bail. However, the law was maliciously or vindictively used to punish opponents of the government during a trial. In most instances prosecutors did not appeal and simply waited for the seven days to lapse.

Background

Amnesty International has in the past called on the government to repeal or amend all laws that restrict the rights of human rights defenders and political activists in Zimbabwe and to align the country's laws with the May 2013 Constitution.

Despite adopting a new constitution in May 2013, the government has been very slow in aligning the country's laws with the new constitution which is generally seen as progressive in protection of civil, political, economic, social and cultural rights.

Draconian laws that require immediate amendment or repealing include the Public Order and Security Act, sections of the Criminal (Codification and Reform) Act, and Access to Information and Protection of Privacy Act. Zimbabwean police continue to enforce the old laws even in instances where they contravene the Constitution and international standards.

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