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Zimbabwean authorities must stop abusing the law to curtail the work of human rights activists

Amnesty International calls on the Zimbabwean government to end harassment and intimidation of human rights activists and opponents of the government through abuse of the law. Amnesty International's call follows a ruling on Tuesday by a Gwanda magistrate to place three activists from the Media Monitoring Project Zimbabwe (MMPZ) on further remand on charges of "undermining the authority of or insulting the President" under sections 31 and 33 of the Criminal Law (Codification and Reform) Act.

The MMPZ advocacy officers Fadzai December and Molly Chimhanda, and the organization's Public Information Rights Forum committee chairman for Gwanda, Gilbert Mabusa appeared before Gwanda magistrate Sheila Nazombe on 24 January facing three charges of "knowingly failing to give notice of a gathering" in terms of section 25 of the Public Order and Security Act (POSA); "participating in a gathering with intent to promote public violence, breaches of the peace, or bigotry"; and, alternatively, "undermining the authority of or insulting the President" under sections 37 and 33 of Criminal Law (Codification and Reform) Act, respectively. Through their lawyer, the activists applied for refusal of further remand. They argued that there was no reasonable suspicion that any crimes had been committed. The court ruled in their favour with regard to the first two charges, but placed them on further remand on the charges of insulting the President. The activists will appear at Gwanda Magistrates Court for routine remand on 7 February.

Sections 37 and 33 of the Criminal Law (Codification and Reform) Act have been used to silence legitimate criticism of President Robert Mugabe's rule and violate the right to freedom of expression guaranteed in Zimbabwe's own constitution and under international law.

The charges against the trio arose after they facilitated a civic education workshop aimed at promoting public information rights in Gwanda on 24 November 2011. They were arrested on 5 December 2011 at Gwanda police station, Matabeleland South Province. Police had requested them to report at the station to "answer questions" in relation to the November meeting. They were accompanied by their lawyers when they reported at the police station and were immediately arrested and charged. When they appeared in court on 9 December they were granted bail of \$50 each, with no reporting conditions. However the state prosecutor invoked Section 121 of the Criminal Procedure and Evidence Act (CPEA) to suspend the bail order.

Section 121 of the CPEA permits a further seven-day detention, allowing the state to lodge an appeal against bail with a higher court. In almost all the politically motivated prosecutions documented by Amnesty International the state either failed to lodge its appeal or had its appeal dismissed by the courts.

Amnesty International's call also follows another case this week in Masvingo where another Magistrate court acquitted Mr Joel Hita, the Zimbabwe Human Rights Association's (ZimRights) Masvingo regional chairperson and his organization who were facing charges under POSA for organizing a photo exhibition in April 2010 which was stopped by police. The photographs depicted organized violence and torture that followed the March 2008 elections. Mr Hita and ZimRights were acquitted by a magistrate court in Masvingo on Monday.

In Bulawayo, two other human rights activists, Jenni Williams and Magodonga Mahlangu of the Women of Zimbabwe Arise (WOZA) are facing spurious charges of kidnapping and theft. The WOZA activists' case was postponed to 3 February.

Amnesty International is concerned about the systematic abuse of POSA and politically motivated arrests and prosecutions in Zimbabwe. These violations appear to be calculated to frustrate the work of civil society organizations and former opposition parties now part of the Government of National Unity (GNU).

Amnesty International is also concerned about the failure by the prosecution authorities in Zimbabwe to respect the right to a fair trial for suspects in politically motivated prosecutions. In particular, the organization is concerned about the unjustified invocation of Section 121 of the Criminal Procedure and Evidence Act to prolong the detention of activists who have been granted bail by the courts.

Although no activist has been convicted, the charges create uncertainty within civil society and directly impact on the operations of the affected individuals and their organizations. Activists spend a lot of time in courts diverting them from exercising their internationally recognized right to promote and protect human rights under the UN Declaration on Human Rights Defenders.

The continuation of human rights violations against critics of President Robert Mugabe's ZANU-PF party cast doubt on whether the country will be able to hold an election free from violence and human rights abuses similar to the 2008 second round of the presidential election.

Amnesty International calls on President Mugabe to rein in elements in the security forces who seek to undermine the GNU by ordering arbitrary arrests and unlawful detention of his perceived opponents. The government should unconditionally drop all the charges against people arrested solely for their work as human rights defenders or for their association with political parties of their choice. The authorities must also guarantee the right to a fair trial for those facing criminal charges, including by respecting their right to be bailed.

While the GNU to an extent facilitated some economic recovery, impunity for violations of civil and political rights by Zimbabwe's security forces and supporters of ZANU-PF persists partly because the Southern Africa Development Community mediation process failed to provide adequate oversight for the implementation of the Global Political Agreement signed between ZANU-PF and the two Movement for Democratic Change formations.

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