

Prosecution as Persecution: Exploring the Enduring Legacy of Judicial Harassment of Human Rights Defenders and Political Opponents in Zimbabwe, Cases from 2013-2016

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Abstract : As part of a wider strategy to stifle civil society, Governments routinely resort to judicial harassment through the use of civil and criminal to impugn the integrity of human rights defenders and that of perceived political opponents. This phenomenon is rife in militarised or autocratic regimes where there is no tolerance for dissenting voices. Zimbabwe, ostensibly a presidential republic founded on the values of transparency, equality, freedom, is characterised by brutal suppression of perceived political opponents and those who assert their basic human rights. This is done through a wide range of tactics including unlawful arrests and detention, torture and other cruel, inhuman degrading treatment and enforced disappearances. Professionals including, journalists and doctors are similarly not spared from state attack. For human rights defenders, the most widely used tool of repression is that of judicial harassment where the judicial system is used to persecute them. This can include the levying of criminal charges, civil lawsuits and unnecessary administrative proceedings. Charges preferred against range from petty offences such as criminal nuisance to more serious charges of terrorism and subverting a constitutional government. Additionally, government sponsored individuals and organisations file strategic lawsuits with pecuniary implications order to intimidate and silence critics and engender self-censorship. Some HRDs are convicted and sentenced to prison terms, despite not being criminals in a true sense. While others are acquitted judicial harassment diverts energy and resources away from their human rights work. Through a consideration of statistical data reported by human rights organisations and face to face interviews with a cross section of human rights defenders, the article will map the incidence of judicial harassment in Zimbabwe. The article will consider the multi-level sociological and contextual factors which influence the Government of Zimbabwe to have easy recourse to criminal law and the debilitating effect of these actions on HRDs. These factors include the breakdown of the rule of law resulting in state capture of the judiciary, the proven efficacy of judicial harassment from colonial times to date, and the lack of an adequate redress mechanism at international level. By mapping the use of the judiciary as a tool of repression, from the inception of modern day Zimbabwe to date, it is hoped that HRDs will realise that they are part of a greater community of activists throughout the ages and should emboldened in the realisation that it is an age old tactic used by fallen regimes which should not deter them from calling for accountability.

Keywords : autocratic regime, colonial legacy, judicial harassment, human rights defenders

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