

**BRIEF OF THE COUNCIL OF BARS AND LAW SOCIETIES
OF EUROPE AS *AMICUS CURIAE* IN SUPPORT OF THE
THREATENED LAWYERS**

Case of Douglas Coltart and Tapiwa Muchineripi

For the Council of Bars and Law Societies of Europe Amicus Curiae Brief
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INTRODUCTION

The Council of Bars and Law Societies of Europe (CCBE) is a world non-governmental organization that represents the bars and law societies of 46 countries in the European Union, the European Economic Area, and wider Europe. As the collective voice of the European legal community, the CCBE represents over one million lawyers in Europe and plays a fundamental role in safeguarding the rule of law, human rights, and the independence of justice. Since its establishment in 1960, the CCBE has continued to stand for the defence of legal professionals and the preservation of democratic values.¹

Through this Amicus Curiae Brief, the CCBE seeks to provide its views on the case of Doug Coltart and Tapiwa Muchineripi, two Zimbabwean lawyers facing arbitrary arrest and judicial harassment while carrying out their professional duties. The judicial proceedings against them raise serious concerns about the independence of the legal profession, access to justice, and the fundamental principles of the rule of law in Zimbabwe. The outcome of this case has broad implications for legal professionals and human rights defenders globally, as it directly impacts the ability of lawyers to perform their duties without intimidation or undue interference.

The arrest and prosecution of lawyers for lawfully defending their clients constitutes a serious breach of international and regional human rights standards. As detailed in this brief, such actions violate binding obligations under the United Nations Basic Principles on the Role of Lawyers, the African Charter on Human and Peoples' Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and Zimbabwe's own Constitution. These violations are further underscored by non-binding yet authoritative guidance found in various Guidelines and Principles.

This submission is made in the spirit of international legal advocacy and in recognition of the vital role that amicus curiae briefs play in shaping judicial discourse on human rights and fundamental freedoms. The criminalization of legal professionals for defending their clients constitutes a grave violation of international legal norms, including those enshrined in the African Charter on Human and Peoples' Rights, the International Covenant on Civil and Political Rights (ICCPR), and the United Nations Basic Principles on the Role of Lawyers.

¹ Council of Bars and Law Societies of Europe. (n.d.). *CCBE – The voice of European lawyers*. <https://www.ccbe.eu>

STATEMENT OF FACTS AND CONTEXT

I. PROFILES OF THE THREATENED LAWYERS

A. Douglas Coltart

Douglas Coltart is a prominent human rights lawyer based in Zimbabwe, known for his unwavering commitment to justice and human rights advocacy. Doug Coltart has been a partner of Mtetwa & Nyambirai since 2022. He is a certified Legal Practitioner with the High Court of Zimbabwe and has a Bachelor of Arts and a Bachelor of Laws from the University of Cape Town. He has written extensively about Zimbabwean human rights and constitutional law, and the Constitutional Court of Zimbabwe has referenced his work. He began his private practice with Gill, Godlonton & Gerrans Legal Practitioners in Harare in 2014 before moving to the United States to focus on constitutionalism and human rights issues in Africa. He received his legal training at the University of Cape Town and is a member of key professional bodies including the Law Society of Zimbabwe, Zimbabwe Lawyers for Human Rights, and the Africa Network of Constitutional Lawyers.²

As a human rights lawyer, Douglas Coltart defends persons who risk imprisonment or punishment for merely exercising their constitutional rights, such as journalists, trade unionists, students, and ordinary residents. His work criticises the use of criminal law as a political tool, particularly when the state wants to silence criticism or civic involvement. Aside from criminal defence, Coltart also practices public interest litigation, which includes suing the state for abuses such as torture or extrajudicial murders, contesting unconstitutional legislation, and holding private firms accountable for human rights breaches. His passion extends to civic education, where he educates communities about their constitutional rights through seminars, demonstrating his conviction in both legal activism and popular empowerment as strategies for systemic change.

Previous Legal Harassment: On October 21, 2022, Coltart was detained at the Harare Magistrates' Court while attending on behalf of his client, journalist and activist Hopewell Chin'ono, whose trial was set for that day. Coltart was reportedly charged with fraud and sent to Harare Central Police Station, where he was freed a few hours later. According to the Council of Bars and Law Societies of Europe (CCBE), the detention appears to be directly

²Mtetwa & Nyambirai Legal Practitioners. (n.d.). *Doug Coltart – Attorney profile*. <http://mandn.co.zw/attorneys/doug-coltart.html>

related to Coltart's function as Chin'ono's defence attorney, implying an attempt to intimidate him and exert indirect pressure on his client. The CCBE emphasised that such actions undermine the legal profession's independence and violate the United Nations Basic Principles on the Role of Lawyers, particularly Principle 16, which guarantees that lawyers must be able to perform their professional duties without interference, and Principle 18, which states that lawyers must not be identified with their clients or causes. The arrest of a lawyer in the courtroom while performing professional responsibilities is a terrible insult to the rule of law and represents a troubling trend of criminalising legal representation in politically sensitive matters.³

In a 2022 interview, Douglas Coltart discussed the culture of human rights advocacy in Zimbabwe's legal profession, emphasising the significance of organisations such as Zimbabwe Lawyers for Human Rights, the Zimbabwe Human Rights NGO Forum, and the Young Lawyers Association of Zimbabwe. He explained that while the Law Society of Zimbabwe has historically defended the rule of law, it now operates under “intense pressure from the state, which is seeking to strip it of its regulatory powers.” Lawyers who engage in human rights defense face serious risks, including arrest, harassment, and physical assault. Coltart shared that he has been “arrested three times, assaulted by the police twice, and prosecuted twice in a trial.” He noted that the state often “fails to distinguish between [himself] as the lawyer and [his] client,” blurring the line between legal representation and political affiliation. Despite these challenges, Coltart remains committed to his profession, describing his role as one of “providing legal support to those who are truly on the forefront of fighting for human rights, such as activists, trade unionists, students, journalists and ordinary citizens.” He emphasized that “human rights are not primarily won in the courts... they are won on the streets through the hard work of community organizing, activism, nonviolent struggle, and democratic contestation.”⁴

³ Council of Bars and Law Societies of Europe. (2022, November 10). *Letter concerning the arrest and harassment of lawyer Douglas Coltart*. https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/HUMAN_RIGHTS_LETTERS/Zimbabwe - Zimbabwe/2022/EN_HRL_20221110_Zimbabwe_Arrest-and-harassment-of-lawyer-Douglas-Coltart.pdf

⁴ Friedrich Naumann Foundation for Freedom. (2022). *Douglas Coltart: Human rights are not primarily won in the courts*. <https://publikationen.freiheit.digital/en/human-rights-defenders/2022-en/douglas-coltart>

B. Tapiwa Muchineripi

Tapiwa Muchineripi is an experienced human rights lawyer who has continuously advocated for the rights of marginalised communities and political activists in Zimbabwe. He is also a member of ZLHR and has established a reputation for taking on cases that challenge state-sponsored abuses and violations of civil rights.

Tapiwa Muchineripi is a Zimbabwean human rights lawyer who manages his own law company. He is one of Zimbabwe's new generation of legal professionals who are actively involved in safeguarding civic space, the rule of law, and constitutional rights, frequently representing clients in politically sensitive situations. His areas of expertise include human rights law, corporate governance, labour law, criminal and civil litigation, and family law.

He has an LLB from the University of Zimbabwe, a Master of Commerce in Strategic Management and Corporate Governance, and a Postgraduate Diploma in Corporate Governance and Strategic Leadership. He is also pursuing a Master of Laws in Land and Natural Resources Law (2023-2025) at the University of Zimbabwe.⁵

In September 2023, Muchineripi and lawyer Douglas Coltart were arrested, bringing them to public attention.

II. PROFESSIONAL STRUGGLES AND EXPOSURE TO THREATS

Coltart and Muchineripi were detained at Parktown Hospital after informing police that their clients were not in a fit state to be interviewed, according to medical instructions. They also told the authorities that releasing their clients' sensitive medical records would require prior consent. On September 2, 2023, the two clients in question, Womberaishe Nhende and Sanele Mkhuhlangi of the opposition group Citizens Coalition for Change (CCC), a political party formed by former members of the Movement for Democratic Change Alliance, were purportedly abducted and tortured by suspected state agents. Coltart and Muchineripi were later prosecuted under Section 184(1)(e) of the Criminal Law (Codification and Reform) Act⁶ for allegedly obstructing or defeating the course of justice and were held in detention overnight. Following their court appearance on 5 September, they were granted bail of USD

⁵ Muchineripi, T. (n.d.). *LinkedIn profile*. <https://www.linkedin.com/in/tapiwa-muchineripi-550275145/>

⁶ Zimbabwe. (2006). *Criminal Law (Codification and Reform) Act [Chapter 9:23], Section 184(1)(e)*. Judicial Service Commission of Zimbabwe. <https://www.jsc.org.zw/upload/Acts/2017/0923updated.pdf>

100 each and ordered to report weekly to the Criminal Investigations Department's Law and Order section at Harare Central Police Station.

The legal teams defending the two lawyers protested the arrest's legality, seeing it as an affront to their legitimate professional duties. Speaking outside the Harare Magistrates' Court on September 5, legal representatives described the arrests as a direct attack on the independence of the legal profession, claiming that the allegations amounted to the criminalisation of legal advocacy.

International legal advocacy organisations such as Lawyers for Lawyers (L4L) and the International Bar Association's Human Rights Institute (IBAHRI) have regularly expressed concerns about the harassment and prosecution of Zimbabwean attorneys, including Mr Coltart and Muchineripi. While not legally enforceable, their combined comments and submissions to UN agencies demonstrate widespread international agreement that Zimbabwe's treatment of legal professionals breaches long-standing human rights standards. Their cooperation emphasises the urgency of taking steps to restore the legal profession's independence and maintain the rule of law in Zimbabwe.⁷

Therefore, Coltart and Muchineripi have been exposed to threats due to their defence of high-profile, politically sensitive clients and their vocal opposition to human rights violations in Zimbabwe.

a) Arrests and Detention

On September 4, 2023, Coltart and Muchineripi were arrested while representing two CCC members in the hospital. The lawyers were charged with obstructing justice after recommending police not to question their clients owing to their serious medical condition.

The police action against Coltart and Muchineripi was interpreted as an intentional attempt to impede their ability to offer legal counsel and intimidate them from taking on politically sensitive matters.

⁷ Lawyers for Lawyers & International Bar Association's Human Rights Institute. (2023, September 28). *Joint statement on the arrest of Zimbabwean human rights lawyers*. https://www.lawyersforlawyers.org/wp-content/uploads/2023/10/Final_28.09.2023-Statement-on-the-arrest-of-Zimbabwean-HR-lawyers.pdf

b) Pattern of Intimidation

This arrest continues a concerning trend of judicial harassment, particularly targeting Douglas Coltart, who was previously arrested in 2022 while representing journalist Hopewell Chin'ono. The charges in that instance were widely regarded as unfounded and appeared intended to limit Coltart's legal operations while applying pressure on his clients. Similarly, Tapiwa Muchineripi has faced threats and intimidation related to his litigation against state actors, pointing to a broader strategy by authorities to suppress lawyers who hold them accountable for abuses of power.

This pattern has been widely condemned by leading international legal and human rights organizations, including L4L, the International Bar Association's Human Rights Institute,⁸ the CCBE, Amnesty International,⁹ and the American Bar Association's Center for Human Rights.¹⁰ These organizations have denounced the repeated arrests and threats against Zimbabwean lawyers as a deliberate and systemic effort to intimidate the legal profession, undermine the right to a fair trial, and restrict access to independent legal representation in politically sensitive cases.

By imprisoning lawyers who sought to protect their clients from further harm, the state not only violated international legal norms, but also allowed inhumane treatment to continue, establishing a dangerous precedent in which the judicial system is weaponised to shield abuses rather than prevent them. This weakening of the legal profession's independence jeopardises Zimbabwe's rule of law, human rights protections, and constitutional democracy.

c) Violation of Lawyer-Client Privilege

During their recent arrest, the lawyers' advice to protect their clients' well-being was disregarded, indicating a breach of lawyer-client privilege and the fundamental rights of detainees to access legal counsel without interference.

⁸ Lawyers for Lawyers & International Bar Association's Human Rights Institute. (2023, September 28). *Joint statement on the arrest of Zimbabwean human rights lawyers Douglas Coltart and Tapiwa Muchineripi*. <https://www.lawyersforlawyers.org/joint-statement-on-the-arrest-of-zimbabwean-human-rights-lawyers-douglas-coltart-and-tapiwa-muchineripi/>

⁹ Amnesty International. (2023, September 4). *Zimbabwe: Arrest of two human rights lawyers a travesty of justice*. <https://www.amnesty.org/en/latest/news/2023/09/zimbabwe/>

¹⁰ American Bar Association Center for Human Rights. (2023). *Zimbabwean human rights lawyers arbitrarily arrested for representing clients allegedly tortured by state agents*. https://www.americanbar.org/groups/human_rights/reports/arrest-zimbabwean-human-rights-lawyers/

On 26 January 2024, the Zimbabwe National Prosecuting Authority (ZNPA) withdrew the charges against Mr. Coltart and Mr. Muchineripi, citing a lack of sufficient evidence to support the case. However, the withdrawal does not diminish broader concerns about the ongoing pressure and threats faced by members of the legal profession in Zimbabwe, particularly those involved in defending human rights and upholding the rule of law.

CLAIMS AGAINST THE LAWYERS

Mr. Coltart and Mr. Muchineripi face charges of obstructing or defeating the course of justice in terms of Section 184(1)(e) of the Criminal Law (Codification and Reform) Act, which states:

“Any person who –

(e) knowing that a police officer is investigating the commission of a crime, or realising that there is a real risk or possibility that a police officer may be investigating the commission or suspected commission of a crime, and who, by any act or omission, causes such investigation to be defeated or obstructed, intending to defeat or obstruct the investigation or realising that there is a real risk or possibility that the investigation may be defeated or obstructed; [...] shall be guilty of defeating or obstructing the course of justice.”

To justify the arrest and remand of Mr. Coltart and Mr. Muchineripi under this provision, the arresting officers and prosecution must demonstrate that there was reasonable doubt to lead a cautious and rational person to suspect that the two lawyers had committed the offence. To establish the offence, it must be shown that they were aware, or ought reasonably to have foreseen, that the police were investigating, or might initiate an investigation into, a criminal offence; that their conduct, whether by action or omission, interfered with or obstructed that investigation; and that they either intended to do so or recognised a real risk that their actions would have that effect.

Mr. Coltart and Mr. Muchineripi do not deny that they were aware the police intended to investigate a suspected offence. However, the facts as known do not demonstrate the required element of intent to obstruct justice, as there is no indication that either lawyer acted to interfere in the investigation. To satisfy this legal requirement, it must be shown that they *intended*, or at least foresaw the possibility, that their conduct would hinder the

administration of justice, and chose to proceed regardless.¹¹ Nothing in the available facts suggests such intent. On the contrary, their actions appear to have been motivated solely by a duty to protect their clients' legal and medical interests, following professional ethical obligations. Their advice to delay police interviews was based on medical guidance and aimed at ensuring that their clients were well enough to engage voluntarily and meaningfully.

Regarding whether Mr. Coltart and Mr. Muchineripi's actions obstructed or defeated the police investigation, the available facts must meet a high evidentiary threshold. The allegation appears to be that the lawyers *prevented* the police from interviewing their clients by stating that police intervention was unnecessary, allegedly prompting the officers to abandon the interviews. According to the lawyers, however, they merely *advised* the police, in line with medical guidance, that their clients were not in a suitable condition to be questioned at that time. Even if, for the sake of argument, their advice resulted in the postponement of the interviews, there is no indication that this caused a permanent obstruction of justice. The facts do not demonstrate that their actions defeated or prevented the investigation, as the police were still at liberty to return and interview Mr. Nhende and Mr. Mkhuhlani once they had recovered.

In *Chiseva v The State*,¹² the Zimbabwean High Court confirmed that defeating or obstructing justice requires a deliberate act intended to subvert the legal process. Unlike Chiseva, who orchestrated a deceptive plan to manipulate trial outcomes, Mr. Coltart and Mr. Muchineripi merely advised a temporary delay in police interviews based on medical concerns. Their actions were not calculated to impede justice but to uphold the rights of their clients and ensure due process. The facts do not support the mental or physical elements required under Section 184 of the Criminal Code.

Given the circumstances, it is difficult to see how the actions of Mr. Coltart and Mr. Muchineripi could have impeded the police from effectively investigating the assault and torture of their clients. On the contrary, their decision to prioritize their clients' immediate

¹¹ Dube v. Mungwari Esquire N.O. & Another, ZWHHC 101 (2018, February 28). <https://zimlil.org/akn/zw/judgment/zwhhc/2018/101/eng@2018-02-28>

¹² Chiseva v. The State, HB 185/18, HCA 112/15 (High Court of Zimbabwe, July 16, 2018). <https://www.veritaszim.net/node/3072>

The court emphasized that for a conviction, the prosecution must demonstrate beyond a reasonable doubt that the accused's actions intentionally and effectively hindered the administration of justice. "The offence of defeating or obstructing the course of justice is satisfied when a person causes judicial proceedings to be defeated or obstructed, intending to defeat or obstruct the proceedings, or realising that there is a real risk or possibility that they may be."

medical care likely facilitated a more accurate and reliable legal process by ensuring proper documentation of injuries and safeguarding their clients' psychological well-being. This approach not only aligns with ethical legal practice but also contributes to the integrity of future proceedings by supporting the collection of voluntary and accurate testimonies.

It is important to highlight that in recent years, numerous prominent individuals, including human rights defenders, lawyers, journalists, and opposition figures, have been prosecuted on charges of obstructing justice in what appears to be retaliation for their professional or political activities. These include journalist Hopewell Chin'ono (2020),¹³ and opposition member Job Sikhala (2022).¹⁴ Several lawyers have also been targeted under similar charges, such as Beatrice Mtetwa (2013),¹⁵ and Prosper Tiringindi (2016).¹⁶

Many of these individuals have been subjected to lengthy and burdensome legal proceedings, often held on extended remand while substantive hearings are repeatedly postponed. For instance, Job Sikhala was detained in June 2022, denied bail, and only convicted in May 2023, while Hopewell Chin'ono, arrested in November 2020 on obstruction charges, was acquitted nearly two and a half years later in May 2023. This pattern reflects the use of obstruction charges not as neutral legal tools, but as instruments of prolonged harassment and judicial intimidation.

LEGAL CONCERNS

I. THE ROLES OF LAWYERS AND ACCESS TO JUSTICE

Lawyers must be able to carry out their professional obligations without interference, harassment, or reprisal. This freedom is not only necessary for the proper administration of justice, but it is also protected by both domestic and international laws.

The Constitution of Zimbabwe¹⁷ affirms these protections. Section 50, which outlines the rights of arrested and detained persons, provides that “*any person who is arrested must be*

¹³ Reuters. (2020, November 20). *Zimbabwe court frees journalist charged with obstructing justice*. <https://www.reuters.com/article/zimbabwe-politics-idINKBN28017T>

¹⁴ VeritasZim. (2023, April 13). *Court Watch 02-23: Job Sikhala trial for obstruction of justice – Progress report*. <https://www.veritaszim.net/node/6258>

¹⁵ Walsh, K. (2014, January 1). *Zimbabwe human rights lawyer released*. The Borgen Project. <https://borgenproject.org/zimbabwe-human-rights-lawyer-released/>

¹⁶ Front Line Defenders. (n.d.). *Case history: Prosper Tiringindi*. <https://www.frontlinedefenders.org/en/case/case-history-prosper-tiringindi>

¹⁷ *Constitution of Zimbabwe Amendment (No. 20) Act, 2013*. (2013). Retrieved from <http://www.zhrc.org.zw/wp-content/uploads/2020/11/Constitution-of-Zimbabwe.pdf>

informed promptly of the reason for the arrest.” As discussed earlier about the application of Section 184(1)(e) of the Criminal Law (Codification and Reform) Act, the charges laid against the lawyers, seemingly for “obstructing or defeating the course of justice”, appear to lack clear factual or legal grounding. This reinforces the concern that the arrest was carried out not on legitimate legal grounds, but in retaliation for legal advice provided in the course of professional duty. Such arrests constitute a violation of Section 50 of the Constitution and directly impair lawyers’ ability to perform their essential role as officers of the court.

This issue is reinforced by Article 9 of the International Covenant on Civil and Political Rights (ICCPR),¹⁸ which protects the right to liberty and freedom from arbitrary arrest or imprisonment. Zimbabwe signed the ICCPR in 1991 and is consequently legally required to follow its rules. As a state party, it is responsible for ensuring that no one is detained unless on legally established grounds and processes. Arresting lawyers without a clear legal basis, especially where such action appears to be in reprisal for performing their professional obligations, constitutes a violation of this fundamental commitment.¹⁹

Principle 16 of the UN Basic Principles on the Role of Lawyers (Basic Principles) establishes that governments must ensure lawyers can carry out their professional duties without intimidation, hindrance, harassment, or improper interference. It further provides that lawyers must be able to consult freely with their clients and must not suffer, or be threatened with, prosecution or other sanctions for actions taken per recognized professional duties, standards, and ethics.

Doug Coltart and Tapiwa Muchineripi were detained for providing legal help to a client in jail, a clear violation of Principle 16. Their actions were entirely within the scope of their professional responsibilities, and charging them not only undermines the legal profession's independence but also creates an environment of fear that may deter other lawyers from representing clients in politically sensitive cases. The ability of lawyers to carry out their jobs without fear is crucial to the functioning of the legal system.

Although the UN Basic Principles are not legally binding, they are widely recognized as reflecting customary international law and are regularly cited by UN bodies as authoritative

¹⁸ United Nations (1966). *International Covenant on Civil and Political Rights*. Office of the High Commissioner for Human Rights. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

¹⁹

standards for protecting legal professionals. As a UN member and state party to the ICCPR, Zimbabwe is expected to uphold these principles in good faith. Principle 16 requires states not only to avoid harassing lawyers but also to actively protect them. By arresting Coltart and Muchineripi for actions carried out in line with their professional duties, Zimbabwe has failed in this responsibility, undermining both their individual rights and the broader right to a fair hearing.

Furthermore, Section 69 guarantees that “*every person has the right to a fair and public hearing before an independent and impartial court.*” This right cannot be meaningfully exercised without access to independent and fearless legal representation. When lawyers are intimidated, harassed, or arrested, it undermines the fairness of proceedings, not only for the lawyers themselves but also for the clients they represent. Protecting lawyers is essential to ensuring the right to a fair hearing. In this case, Doug Coltart and Tapiwa Muchineripi became accused persons, entitled to the same constitutional protections. Moreover, Section 69(2) underscores the importance of independent and impartial courts. Judicial independence cannot exist where lawyers are targeted for fulfilling their duties. Harassment of legal professionals corrupts the structural integrity of the justice system and undermines public trust. Undermining their independence threatens both individual justice and the rule of law.

Article 14(3)(b) and (d) of the ICCPR, while primarily outlining the rights of the accused, also underscore the essential role of lawyers in ensuring those rights are upheld. Subsection (b) provides that every person shall have the right “*to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing,*” thereby affirming the importance of unhindered communication between lawyer and client. Subsection (d) further guarantees the right “*to defend himself... through legal assistance of his own choosing.*” These protections are not meaningful unless lawyers are free to operate independently and without fear of arrest or retaliation. When lawyers are harassed or criminalized for providing legal assistance, it not only threatens their professional independence but also undermines the procedural fairness guaranteed to their clients.

This principle is further echoed in Article 7 of the African Charter on Human and Peoples’ Rights (ACHPR)²⁰, which guarantees “*the right to be heard,*” including “*the right to defense... by counsel of one’s choice.*” As a state party to the Charter, Zimbabwe is obliged to

²⁰ Organization of African Unity. (1981). *African Charter on Human and Peoples' Rights*. Retrieved from https://au.int/sites/default/files/treaties/36390-treaty-0011_-_african_charter_on_human_and_peoples_rights_e.pdf

ensure that this right is effective in practice. The arrest or intimidation of lawyers for defending their clients amounts to an obstruction of this fundamental right, stripping individuals of meaningful access to justice and weakening the very system designed to uphold it.

These protections are further clarified by the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa (2003),²¹ adopted by the African Commission on Human and Peoples' Rights. These Guidelines affirm that lawyers must be able to perform their professional duties free from any form of threat, interference, or reprisal, and that States have a responsibility to uphold and protect the independence of the legal profession. They interpret and give practical effect to the rights enshrined in Articles 7 and 26 of the ACHPR, particularly those concerning fair trial guarantees and the independence of the legal profession. The African Commission on Human and Peoples' Rights has consistently emphasized that the independence of the legal profession is essential to the effective administration of justice.²²

Principle 18 of the Basic Principles affirms that lawyers must not be identified with their clients or their clients' causes as a result of performing their professional duties. This principle provides critical protection for the independence of the legal profession and is especially important in politically sensitive or high-profile cases. It recognises that legal representation does not amount to endorsement and that lawyers must be free to defend any client, regardless of the public perception or political implications of the case.

The charges laid against Doug Coltart and Tapiwa Muchineripi appear to arise not from any unlawful conduct, but from the perceived political nature of their clients and the advice they provided during a legal consultation. Their arrest suggests a wrongful conflation between their professional role and the substance of their clients' circumstances, a direct violation of

²¹ African Commission on Human and Peoples' Rights. (2003). *Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa*. <https://achpr.au.int/en/node/879>

²² Shumba, G. (2012). *Gabriel Shumba v. Zimbabwe*, Communication No. 288/04, African Commission on Human and Peoples' Rights. Retrieved from https://www.chr.up.ac.za/images/publications/african_commission/cases/288_04_gabriel_shumba_v_zimbabwe.pdf

In *Shumba v. Zimbabwe*, the African Commission on Human and Peoples' Rights found that Zimbabwe violated multiple provisions of the African Charter after the arrest and torture of Gabriel Shumba, a human rights lawyer detained while consulting with a client. The Commission held that the State's actions violated Articles 5 (prohibition of torture), 6 (right to personal liberty), and 7 (right to a fair hearing), among others. This case establishes a precedent regarding the unlawful targeting of legal professionals in Zimbabwe and reinforces the principle that arresting or harassing lawyers for carrying out their professional duties constitutes a serious breach of regional human rights obligations.

Principle 18. By treating these lawyers as if they were obstructing justice merely for advising an injured client in a police setting, the State has blurred the essential distinction between legal representation and political involvement.

Such an approach not only misrepresents the nature of legal work but also establishes an unsafe precedent. If lawyers face prosecution solely for representing clients in politically sensitive cases, the legal profession's independence and function are jeopardised. This undermines the broader right to a fair trial, as protected by Section 69 of Zimbabwe's Constitution, Article 14 of the ICCPR, and Article 7 of the African Charter on Human and Peoples' Rights. The right to legal representation cannot be properly exercised if those who supply it are punished. The State's actions in this instance reflect a clear disregard for Principle 18 and a further loss of legal independence and the rule of law.

In addition, the United Nations Declaration on Human Rights Defenders (1998)²³ affirms in Article 1 that *“everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms.”* Lawyers who act on behalf of clients, especially in politically sensitive or high-risk cases, do precisely that. By defending individuals' legal rights and upholding constitutional protections, they serve as a critical link between the individual and the justice system, and in doing so, become human rights defenders in their own right.

This status carries with it specific protections. Article 12(2) of the Declaration obliges states to take all necessary measures to ensure the protection of human rights defenders against *“any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action”* as a consequence of their legitimate activities. The arrest of Doug Coltart and Tapiwa Muchineripi, for conduct clearly within the scope of legal assistance, constitutes a breach of this obligation. This position is echoed regionally in the African Commission on Human and Peoples' Rights' 2004 Resolution on the Protection of Human Rights Defenders in Africa.²⁴ The Commission reaffirmed that lawyers and legal professionals, particularly those who act in defense of vulnerable or politically targeted

²³ United Nations. (1998). *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*. <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-right-and-responsibility-individuals-groups-and>

²⁴ African Commission on Human and Peoples' Rights. (2024). *Declaration on the Promotion of the Role of Human Rights Defenders and Their Protection in Africa*. <https://achpr.au.int/en/documents/2024-01-25/declaration-promotion-role-human-rights-defenders-and-their-pro>

individuals, are entitled to state protection. The Resolution urges member states to “*protect human rights defenders in Africa and to guarantee their rights and freedoms, including freedom of association, expression, and movement.*”

II. JUDICIAL HARASSMENT AS A TOOL OF REPRESSION

The repeated arrest and charges against lawyers serve to intimidate the legal profession and chill human rights work.

The ICCPR provides binding protections against the misuse of state authority. Article 9(1) states that “*everyone has the right to liberty and security of person*” and that “*no one shall be subjected to arbitrary arrest or detention.*” The repeated targeting of lawyers like Doug Coltart and Tapiwa Muchineripi, in apparent retaliation for lawful professional activity, constitutes arbitrary detention under this standard.

Article 14, previously discussed, guarantees fair trial rights and is still relevant here: judicial harassment of legal professionals corrupts the independence of proceedings and undermines due process guarantees for all. As Article 14(1) affirms, “*everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.*”

In addition, Article 19(2) protects freedom of expression, stating that “*everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds.*” Lawyers and human rights defenders frequently exercise this right in legal forums, public advocacy, and representation of politically sensitive clients. When legal professionals are prosecuted for such expression, it chills both their work and broader civil society engagement.

Taken together, these provisions establish that the arrest and repeated charging of lawyers in retaliation for their legal work constitutes a serious violation of Zimbabwe’s obligations under international human rights law. It not only intimidates the legal profession, but also obstructs access to justice and silences lawful human rights advocacy.

The African Union Convention on Preventing and Combating Corruption (2003)²⁵ reinforces the obligation of states to uphold integrity and accountability in public institutions, including

²⁵ African Union. (2003). *African Union Convention on Preventing and Combating Corruption*. Retrieved from https://au.int/sites/default/files/treaties/36382-treaty-0028_-_african_union_convention_on_preventing_and_combating_corruption_e.pdf

the judiciary. In the context of this case, the misuse of criminal charges against lawyers engaged in legitimate professional duties undermines those principles. When legal professionals are targeted as a form of retaliation for representing victims of potential state abuse, it reflects not only an abuse of prosecutorial authority but also a broader pattern of shielding misconduct from scrutiny. The Convention, which is legally binding to Zimbabwe, strengthens the argument that such judicial harassment is not merely a violation of individual rights, but part of a systemic failure to prevent corruption, promote transparency, and ensure that justice institutions serve the public interest rather than political power.

The Basic Principles condemn the misuse of legal and judicial processes to target legal professionals for their work. Principle 16(c) states that lawyers “*shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.*” The arrest and prosecution of Doug Coltart and Tapiwa Muchineripi, solely for offering legal counsel to an injured client in police custody, stands in direct violation of this standard. These actions not only punish lawful professional conduct but also serve to intimidate other lawyers from undertaking similar human rights work. Furthermore, Principle 17 affirms that “*where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.*” In this case, the State did not act to protect the lawyers from harassment, but instead became the source of it. This judicial harassment operates as a deliberate form of repression, aiming to deter legal professionals from holding state actors accountable, contradicting both the letter and spirit of the UN Basic Principles.

Zimbabwe’s actions in arresting and prosecuting lawyers for carrying out their professional duties are also incompatible with its obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR)²⁶, to which it is a state party. Article 2(1) requires states to take steps “*to the maximum of [their] available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.*” These rights include Article 6, the right to work under conditions of freedom and dignity, and Article 7, which guarantees fair and safe working conditions. For lawyers, this means being able to perform their functions without intimidation or criminal reprisal. By punishing legal

²⁶ United Nations. (1966). *International Covenant on Economic, Social and Cultural Rights*. <https://www.ohchr.org/sites/default/files/cescr.pdf>

professionals for providing legal assistance, especially in politically sensitive cases, the State directly interferes with their right to work in conditions of independence and safety.

Moreover, Article 8(1)(c) affirms the right of professional associations, including legal associations and trade unions, *“to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society.”* When lawyers are harassed or criminalized for their participation in human rights advocacy or for defending politically targeted clients, it not only violates their personal rights under the ICESCR but also threatens the broader functioning of the legal profession and undermines public access to justice.

The judicial harassment of Doug Coltart and Tapiwa Muchineripi also violates international and regional commitments to protect human rights defenders. The United Nations Declaration on Human Rights Defenders (1998) recognizes that individuals, including lawyers, who act to promote and protect the rights of others are entitled to carry out their work free from threats, retaliation, or arbitrary interference. By criminalizing the legitimate professional activities of these lawyers, the State is not only targeting them personally, but also undermining the broader role of human rights advocacy within the justice system.

III. FREEDOM OF EXPRESSION AND ASSOCIATION FOR LAWYERS

Lawyers must be able to speak out on justice-related issues and organize collectively without interference.

The ability of lawyers to speak out on justice-related issues and organize collectively is essential to the defense of human rights and the integrity of the legal profession. The ICCPR enshrines these protections in Article 19 and Article 22. Article 19(2) affirms that *“everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds”*. For lawyers, this means being able to comment publicly on matters affecting justice, legal systems, and human rights without fear of prosecution or professional sanction. When legal professionals are punished for speaking out, it sends a chilling message and suppresses the critical role lawyers play in holding authorities accountable.

Similarly, Article 22(1) provides that *“everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his*

interests.” This applies directly to lawyers' rights to organize within bar associations, human rights groups, or other legal networks. Collective organization is not only a means of professional support, but also a way to protect against institutional threats and defend the independence of the legal profession. By interfering with these rights through arrests or criminal charges, the State violates its obligations under the ICCPR and undermines the broader democratic function of legal advocacy.

Zimbabwe's own Constitution protects the rights to freedom of expression, association, and assembly, core freedoms necessary for lawyers to carry out their professional and civic roles. Section 58(1) guarantees that “*every person has the right to freedom of assembly and association,*” which includes the right to form or join professional and advocacy groups, such as bar associations and legal networks. For lawyers, these associations are essential not only for collective protection but also for advancing justice and the rule of law. Efforts to intimidate or punish legal professionals for their affiliations violate this constitutional guarantee.

Further, Section 59 protects the right to “*peaceful assembly,*” while Section 60(1) guarantees “*freedom of conscience,*” including thought and belief. Most critically, Section 61(1) enshrines the “*freedom of expression, which includes— (a) freedom to seek, receive and communicate ideas and other information.*” These protections ensure that lawyers, like all citizens, can speak out on matters of public interest, including justice reform, human rights, and government accountability. When the State targets lawyers for expressing views or offering legal commentary, it not only undermines constitutional rights but also disrupts the open dialogue essential in a democratic society governed by the rule of law.

The ACHPR reinforces Zimbabwe's obligation to respect and protect the rights to freedom of expression, association, and assembly. Article 9 of the Charter provides that “*every individual shall have the right to receive information*” and “*the right to express and disseminate his opinions within the law.*” Lawyers must be free to speak out on matters affecting justice, human rights, and the rule of law without fear of criminal retaliation. Suppressing their expression not only silences individual voices but also deprives society of essential legal insight and accountability.

Article 10 affirms the right of every individual to “*free association, provided that he abides by the law,*” a protection directly relevant to legal professionals who belong to bar

associations, civil society groups, or legal collectives. Likewise, Article 11 protects “*the right to assemble freely with others*,” provided the assembly is peaceful.

These protections are further reinforced by Principle 23 of the Basic Principles, which recognizes that “*lawyers like other citizens are entitled to freedom of expression, belief, association and assembly*.” The Principle goes on to affirm that lawyers have the right to participate in “*public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights*,” and may join or form professional and advocacy organizations without suffering professional consequences. In the case of Doug Coltart and Tapiwa Muchineripi, their involvement in public legal advocacy and human rights work falls squarely within these protections. Punishing lawyers for their participation in lawful public discourse or organizational activity violates not only their individual rights but also the essential role that the legal profession plays in advancing transparency, accountability, and access to justice. Targeting lawyers for their speech or affiliations is a direct assault on these foundational protections and undermines the international standards Zimbabwe, as a UN member state, is expected to uphold.

The Guidelines on Freedom of Association and Assembly in Africa (2017),²⁷ developed by the African Commission on Human and Peoples’ Rights, affirm that states must enable individuals, including lawyers and human rights defenders, to organize, associate, and assemble without interference. This is echoed in the UN Declaration on Human Rights Defenders, which recognizes that defenders have the right to form associations and to communicate their views freely in the pursuit of justice and accountability. Efforts to penalize lawyers for their lawful participation in public discourse or professional networks violate both regional and international standards protecting freedom of association and expression.

IV. PROTECTION OF LAWYER-CLIENT CONFIDENTIALITY

Any pressure or surveillance on lawyers representing clients (especially in sensitive cases) undermines the right to a defense.

The Constitution of Zimbabwe firmly protects the rights of accused persons, including the right to legal representation and confidential communication with counsel. Section 50(5)(c)

²⁷ African Commission on Human and Peoples’ Rights. (2017). *Guidelines on Freedom of Association and Assembly in Africa*.
<https://achpr.au.int/index.php/en/soft-law/guidelines-freedom-association-and-assembly-africa>

states that “*any person who is arrested must be permitted without delay to choose and consult in private with a legal practitioner.*” This provision affirms that from the moment of arrest, individuals are entitled to private legal counsel, which necessarily includes confidential communication, free from state interference, intimidation, or surveillance.

In addition, Section 70(1)(d) provides that “*every person who has been charged with a criminal offence has the right to be represented, at their own expense, by a legal practitioner of their own choice, and to communicate with them in confidence.*” This constitutional guarantee is essential to the integrity of the defence process. When legal professionals are arrested while providing advice to a client, as was the case with Doug Coltart and Tapiwa Muchineripi, this right is directly infringed upon. It not only obstructs the lawyer’s ability to carry out their duty but also violates the client’s right to a fair trial and private consultation.

The ICCPR reinforces the importance of lawyer–client confidentiality as a fundamental component of the right to a fair trial. Article 14(3)(b) guarantees that every individual facing criminal charges has the right “*to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing.*” The term “facilities” has consistently been interpreted in international human rights jurisprudence to include the right to private and confidential communication between a lawyer and their client.

When Doug Coltart and Tapiwa Muchineripi were arrested at a hospital while assisting clients who had been seriously injured and were under police custody, the charges against them appeared to stem directly from their legal advice. The lawyers had reportedly advised their clients not to provide statements until they were medically stable and had received proper legal counsel. In arresting the lawyers for this, the State not only interfered with their professional duties, but also undermined the client’s protected right under Article 14 of the ICCPR to consult freely and confidentially with counsel. These consultations are not a procedural formality, they are a core safeguard against wrongful prosecution and abuse of state power.

This is also reflected in Article 7 of the ACHPR. Article 7 guarantees “*the right to have one’s cause heard,*” which includes the right to defense by counsel of one’s choice. This right is meaningless if lawyers cannot consult with their clients privately and without fear of arrest or intimidation. When the State criminalizes interactions between lawyers and their clients, especially in moments where legal advice is urgently needed, such as during medical care or

detention, it obstructs the ability of the accused to mount an effective defense. The arrest of Doug Coltart and Tapiwa Muchineripi, while assisting individuals in police custody at a hospital, directly undermines this fundamental right and sets a dangerous precedent for legal access in politically sensitive cases.

This protection is repeated in Principle 22 of the Basic Principles, which affirms that *“Governments shall recognize and respect that all communications and consultations between lawyers and their clients within their professional relationship are confidential.”* Confidentiality is not merely a professional norm, it is a core element of the right to a fair trial and the rule of law. When lawyers are punished for maintaining this confidentiality, as seen in the arrest of Doug Coltart and Tapiwa Muchineripi, the State violates not only the lawyers’ independence but also the client’s right to an effective and protected legal defense.

Finally, this obligation is further supported by the Luanda Guidelines on the Conditions of Arrest, Police Custody, and Pretrial Detention in Africa,²⁸ which emphasize that individuals deprived of liberty must have confidential access to legal counsel from the outset. The arrest of lawyers during the provision of such legal assistance directly contradicts these standards and highlights the erosion of due process protections in politically sensitive contexts.

V. IMPACT ON THE RULE OF LAW

Targeting lawyers undermines the justice system and public trust, eroding the foundations of constitutional democracy.

The prosecution of Doug Coltart and Tapiwa Muchineripi does not simply affect two individual lawyers, it strikes at the heart of the legal profession and undermines the foundational principle of the rule of law. A legal system cannot function with integrity when those tasked with upholding justice are criminalized for performing their duties. The arrests in this case reflect a broader pattern of judicial harassment and political repression, in which the tools of justice are weaponized to punish legal advocacy and human rights work.

The Constitution of Zimbabwe explicitly enshrines the rule of law as a founding value in its Preamble and Section 3, which affirms the supremacy of constitutional rights, legal equality,

²⁸ African Commission on Human and Peoples’ Rights. (2014). *Guidelines on the Conditions of Arrest, Police Custody, and Pretrial Detention in Africa*. <https://achpr.au.int/en/special-mechanisms-reports/guidelines-conditions-arrest-police-custody-and-pre-trial-detention-i>

and the independence of the judiciary and legal profession. These principles are not abstract ideals, they are essential safeguards for democratic accountability. Targeting lawyers through prosecution and intimidation undermines these protections and corrodes public confidence in legal institutions.

This concern is echoed at the regional level. Article 26 of the ACHPR imposes a clear obligation on states to “*guarantee the independence of the courts and allow the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by the present Charter.*” By allowing, and indeed participating in, the prosecution of lawyers for carrying out their professional obligations, the State has failed to meet this duty.

The African Charter on Democracy, Elections and Governance (2007) further affirms state responsibilities to “*promote the rule of law and the independence of the judiciary.*” Zimbabwe’s actions in this case undermine both of these obligations. The judiciary cannot be truly independent when lawyers are threatened or punished for defending politically sensitive clients or speaking out against injustice. The rule of law cannot survive when legal defense itself becomes criminalized.

The UN Basic Principles on the Role of Lawyers emphasize this relationship clearly. The Preamble states that “*adequate protection of the human rights and fundamental freedoms to which all persons are entitled... requires that all persons have effective access to legal services provided by an independent legal profession.*” Principle 16 specifically mandates that lawyers “*shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.*” The arrests of Coltart and Muchineripi directly contradict these standards and contribute to a broader climate of fear that chills legal advocacy and silences human rights defense.

This deterioration of the rule of law has been further recognized in regional soft law, such as the Kigali Declaration (2003), which calls on African states to protect the independence of judicial institutions and promote the fair administration of justice. Zimbabwe’s actions in this case demonstrate a systemic failure to uphold these commitments. When lawyers are prevented from defending clients freely and independently, justice becomes selective, political accountability is weakened, and the public's trust in legal institutions erodes.

Lawyers do not become political actors by virtue of representing controversial or opposition-linked clients. Rather, their work, grounded in constitutional protections and international norms, is a necessary expression of the right to legal representation and the broader administration of justice. By targeting Coltart and Muchineripi, the State not only violated their individual rights, but also contravened the legal standards intended to preserve the integrity of those who defend the rights of others. The result is a chilling effect that deters legal professionals from taking on politically sensitive cases, weakening access to justice and hollowing out the democratic order.

Ultimately, the rule of law is not upheld by courts alone, it relies on the fearless participation of lawyers who defend the rights of the accused, uphold constitutional protections, and speak truth to power. Undermining the independence of the legal profession places the entire justice system at risk and signals a broader democratic backsliding. The international and regional standards cited throughout this brief exist precisely to prevent such erosion. They must be upheld, not only for the sake of the lawyers involved, but for the preservation of justice, accountability, and the rule of law in Zimbabwe.

CONCLUSION

For the reasons set out above, it is submitted that the charges against Mr. Doug Coltart and Mr. Tapiwa Muchineripi are unsubstantiated and appear to stem from their lawful and constitutionally protected work as legal professionals. Their arrest and prosecution, carried out in the context of legal assistance to victims of state violence, reflect a broader pattern of intimidation targeting the legal profession in Zimbabwe, particularly those involved in human rights and politically sensitive cases.

As demonstrated throughout this brief, such actions not only violate Zimbabwe's domestic constitutional guarantees but also contravene binding obligations under international and regional human rights law, including the ICCPR, the African Charter on Human and Peoples' Rights, and the UN Basic Principles on the Role of Lawyers. The independence of the legal profession is an essential pillar of the rule of law and must be protected from all forms of interference, intimidation, and reprisal.

It is therefore respectfully urged that the relevant authorities in Zimbabwe cease all judicial harassment against Mr. Coltart and Mr. Muchineripi, ensure that all charges are dropped, and take meaningful steps to safeguard the independence and security of all legal professionals in the country. The protection of lawyers is not a matter of professional privilege, but a condition for the effective enjoyment of human rights and access to justice for all.

This amicus curiae brief is submitted with the hope of contributing to the preservation of an independent, fearless, and ethical legal profession in Zimbabwe, and to the protection of the fundamental rights that such a profession is entrusted to uphold.