

Protecting the Basic Rights of the Most Vulnerable Accused

IBJ Gains Release of More Juveniles Pending Trial

“Ending an age-long practice like torture does not happen overnight. It takes time and resources to convince governments and the police that they can effectively investigate cases without resorting to torture. IBJ has started this process.” Innocent Maja, Country Fellow, Zimbabwe

JUSTICE FACTS:

Zimbabwe

Rule of Law (Percentile Rank): 2

2013 Prison Population:
16,902
129 per 100,000

Operating out of a Defender Resource Center in the capital city of Harare, IBJ has continued to champion legal aid for the indigent accused as an essential element of a functioning criminal justice system in Zimbabwe. IBJ Country Fellow Innocent Maja is harnessing the enthusiasm of a team of volunteer lawyers who have committed themselves to providing legal aid to those most vulnerable to rights abuses. Through their pro bono work, these lawyers gain valuable practical experience and trial advocacy skills.

In 2011 and 2012, IBJ lawyers represented more than 150 indigent accused who otherwise would have had no access to counsel. IBJ accords priority to the cases of pretrial detainees who are most at risk

of mistreatment at the hands of police and prison authorities, including female and juvenile inmate populations. In periodic visits, IBJ’s staff monitors prisons for cases that demand intervention. In 2011, IBJ launched a partnership with the juvenile-focused nonprofit Care at the Core of Humanity (CATCH) Trust, enabling us to assist more juvenile detainees in securing release pending trial.

The ability of IBJ lawyers to effectively carry out their work for indigent clients has continued to improve, with lawyers reporting that they are still able to find success in both their bail applications and in gaining access to their clients held in prisons while awaiting trial. Thanks to IBJ’s constant efforts to cultivate

strong working relationships among different justice sector stakeholders, Zimbabwean magistrates continue to grant “free bail” to IBJ’s poorest clients, and police and prison officials have grown more accepting of lawyers’ interventions for the accused.

In May 2011, IBJ organized two legal skills trainings for criminal defense lawyers, one in Harare and the other in Bulawayo, Zimbabwe’s second largest city. The trainings, featuring the active participation of the Law Society of Zimbabwe, drew 30 and 20 participants respectively and focused on enhancing the ability of Zimbabwean lawyers to protect the fundamental rights of their clients. Weaved throughout skill-building training sessions, exercises aimed at



A participant at a 2011 lawyer training in Harare discussing a point of law with IBJ Program Officer James Vincente

Photo courtesy of Adam Schwarz



Photo courtesy of Adam Schwarz

Participants in IBJ's first lawyer training in Bulawayo, Zimbabwe's 2nd largest city, in May 2011

“Time will defeat this torture giant. We are witnessing this reality in Zimbabwe.”
Innocent Maja,
Country Fellow,
Zimbabwe

encouraging lawyers to explore their motivations, values, and goals in the profession stimulated the community of defenders to coalesce around a common vision for improving criminal justice in Zimbabwe.

Lawyers report that they come away from IBJ's trainings armed with both the courage of their convictions and the practical know-how needed to systematically address police misconduct with their clients and challenge the admissibility of illegally-obtained evidence and involuntary confessions in court. As a result, IBJ lawyers have seen a number of cases dismissed upon credible allegations of police torture.

In early December 2011,

two training workshops were held in Masvingo and Mutare. These events reached out to the much smaller communities of lawyers in these remote rural provinces and were combined with roundtable meetings to discuss strategies to decongest the local prisons.

IBJ held two other roundtable discussions in late 2011. One focused on the problem of corruption in Zimbabwe's criminal justice system. The other, convened in partnership with the Zimbabwe Association for Crime Prevention and Rehabilitation of the Offender (ZACRO) and the Legal Resources Foundation, discussed the need for system-wide reforms.

IBJ's team also continues to provide thought leadership for Zimbabwe's justice sector. Maja was featured as a facilitator of a January 2011 panel discussion on the abolition of the death penalty in Zimbabwe. In November 2011, IBJ Legal Fellows John Tawanda Burombo and Pamela Yeukai Chiwara were interviewed on the Zimbabwe Broadcasting Corporation's SFM "Wheels of Justice" radio program, which is estimated to reach a half-million listeners. The two lawyers outlined the rights guaranteed by Zimbabwe's Constitution and laws to every person accused of a crime.



Photo courtesy of Adam Schwarz



Photo courtesy of Adam Schwarz

Harare lawyers engaging in an interactive session at the 2011 training

Freed from Living under a Cloud of Injustice

Early in 2012, four young men finally saw their harrowing, two-year ordeal come to its long-awaited end. The case against these four youths, aged 18 to 21 at the time, began with incredible and shocking allegations in September 2009. They were accused of having carried out a fantastically elaborate sexual crime involving the drugging and raping of two girls with whom they had been living in a foster home.

The allegations began with one boy facing an accusation of consensual sex with one of the girls. While the situation was still contained within the confines of the household, the number of alleged victims grew to two, and the perpetrator was additionally alleged to have drugged his victims and forced them to watch pornography. Throughout the ordeal, the accused denied the allegations. The woman who was supposed to be acting as the legal guardian of all the children responded to his denials with punishing beatings. With assistance from his friends, the boy fled the home to try to find help.

After returning, the boy continued to maintain his innocence. Meanwhile, the accusations expanded to include the other boys who were supporting their friend. It was, in fact, the boys who finally decided to bring the matter to the police. Upon hearing the disturbing allegations, however, the police threw the boys into jail. After nine days spent suffering constant mistreatment and abuse at the hands of the police, the boys were ordered to be held in remand prison to await trial. They learned that they each could be sentenced to up to life imprisonment for the depraved crimes with which they had been charged.

It was not until a month in pretrial detention had passed that their case was referred to IBJ by one of its partner organizations, the Legal Resources Foundation. IBJ assigned one of its most enthusiastic volunteer lawyers, Everson Chatambudza, to represent the boys.

Chatambudza scheduled a rehearing of the boys' bail applications in November 2009. By exposing the incredible nature of the fabricated allegations, he managed to free them from pretrial detention. But the case against the boys dragged on for more than two years, and the possibility of life sentences continued to hang over their heads.

Finally, after chronic delays saddling the prosecution's case – lack of reliable evidence to back the charges chief among its weaknesses – Chatambudza made a decisive motion. The boys' lawyer applied for a refusal of further remand. In light of the circumstances, the court considered the allegations thoroughly discredited and dismissed the case. At last, after two long years of struggle, the four young men were exonerated and freed from living under a cloud of injustice.

At the Forefront of Global Legal Instruction, IBJ Expands Its Online Legal Resources

In just three years, IBJ's extensive eLearning and Criminal Defense Wiki platforms have enabled the distribution of legal knowledge and resources to overcome physical barriers. Under the supervision of IBJ staff and through the dedication of many legal volunteers worldwide, these interrelated web-based programs have provided vital assistance to defense lawyers from all corners of the globe.

These programs harness the power of the Internet to deliver country-specific and topic-based materials around the world. Since launching these online resources in 2010, IBJ has focused its attention on developing content, building and supporting a global legal community, and increasing international awareness of defenders.

Legal Training Resource Center

www.elearning.ibj.org

The Legal Training Resource Center offers multimedia eLearning training courses for practicing defenders seeking both general and advanced instruction. Several new advocacy skills modules added in 2012 instruct lawyers on how best to collect, analyze, and present evidence in court.

Criminal Defense Wiki

www.defensewiki.ibj.org

The Criminal Defense Wiki, offering nearly 900 pages in five languages, uses a moderated platform to harness the power of legal volunteers who continuously update and add to the extensive library of information about criminal defense. As an example of the platform's responsive capabilities, the Defense Wiki India page was recently expanded, in response to requests from the country's legal community, to include case law supporting defense strategies. The Criminal Defense Wiki now boasts more than 870 registered users and offers more than 400 hours of training. Going forward, IBJ is actively expanding and enhancing the pages in Arabic.



IBJ's China eLearning page

By providing relevant training on domestic laws and issues, IBJ is creating educational opportunities for legal professionals in target countries. Additionally, we continue to form new partnerships aimed specifically at developing and implementing substantive and technological improvements to our online legal resources. By meeting precise and evolving needs, these unique collaborative platforms will continue to see an increase in worldwide usage.