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"Rotten Row is Rotten to the Core": The Material and Sensory Politics of Harare's Magistrates' Courts After 2000

In this article, I ask how state power and authority were established and critiqued through the performative, material and sensory characteristics of Harare's Criminal Magistrates' Courts in Zimbabwe. Drawing on courtroom observations and interviews conducted with human rights lawyers and their clients between 2010 and 2018, I show how Zimbabwe's deteriorating political and economic situation after 2000 caused a decline of the material conditions in court. Lawyers and their clients played on this decline to emphasize how the state failed to display its authority. Simultaneously, these material conditions highlighted the ruling party, ZANU-PF's, preoccupation with law's coercive rather than legitimating utility. In order to examine the ways in which court proceedings impose and challenge the authority of the law, and of the state, however, a focus on material attributes does not suffice. The sensory dimensions of courtrooms also require attention. By engaging with not only the visual and auditory, but also, and importantly, the olfactory, reminders of the horrific conditions in police detention and prison within the courtroom, lawyers and their clients reasserted and questioned not the authority of law, but the control certain state actors exerted on and over the bodies and emotions of Zimbabwean citizens within legal spaces.

[court architecture, senses, atmosphere, authority, Zimbabwe]

On 18 August 2010, I spotted Charity[i] walking through the security control at the entrance of Harare's Criminal Magistrates' Courts at Rotten Row as I waited in the corridors for the trial we were both observing to start. I waved just as she was stopped by a police officer, and watched as she shook her head, gesticulated and engaged in what appeared to be a tense exchange. After approximately 5 minutes, Charity was let through. She joined me in the hallway, sighing loudly before explaining that the police officer had almost denied her entry as her jeans did not meet the court's "smart" dress code. Pointing out the dust and grime on the floor, wall, and benches, the broken down fountain in the central courtyard, and the stench of urine in the halls, she recounted how she had argued with the police officer, asking why she was not allowed to wear jeans when "ZANU-PF [Zimbabwe's ruling political party, the Zimbabwe African National Union – Patriotic Front] can't even keep their courts clean".

In this paper, I start with Charity's description of the conditions in Harare's Magistrates' Courts to ask how the Zimbabwean state's power and authority were established and critiqued through these material conditions, and crucially, their sensory affects. Charity and I met just over a month prior to her confrontation with the police officer, at the trial of one of her friends, a member of the civil society group Gays and Lesbians in Zimbabwe (GALZ) who was charged under the Criminal Law (Codification and Reform) Act for

unlawful possession of indecent or obscene material. During the hearings, we often sat together, discussing the case and the weather, or sharing little anecdotes about our lives. While we had not touched on the material state of the courts before, I noticed how run down the courthouse was, particularly as compared to the High Court, the University of Zimbabwe's campus, and to the lawyers' offices I visited in the center of town. In many parts of Harare, the economic decline and hyper-inflation that struck Zimbabwe in 2007 had left remarkably little imprint on the city's infrastructure,[ii] although the reliance on the US dollar or South African rand rather than the Zimbabwean dollar, and the occasional power outages and water shortages, served as inconvenient reminders that the country's economic woes were far from resolved.

I was in Harare to research how and why the law remained an important site of political contestation in Zimbabwe after 2000, a time when many argued that ZANU-PF had replaced the rule *of* law with rule *by* law (Sokwanele 2012; also see Morreira 2016). Historically, law has constituted an important arena of contestation in Rhodesia and Zimbabwe (Alexander 2010, 2011; Karekwaivanane 2017; Verheul 2020), working at once as a language of legitimation, a tool for state repression, coercion, and discrimination, and as a mechanism through which civil servants and citizens alike could perform politics, articulate expectations, and challenge various regimes' (ab)uses of legal institutions. Despite law's checkered history, war veteran leader and ZANU-PF ally Joseph Chinotimba's dramatic invasion of the Supreme Court

on 24 November 2000, which precipitated Chief Justice Antony Gubbay's "retirement", was often identified as a watershed moment for independent Zimbabwe's judiciary (de Bourbon 2002; Gubbay 2001). Alongside staging such public attacks, ZANU-PF mobilized the judiciary against individuals with suspected ties to the growing political opposition. This included students, civic activists, and members of the main opposition party, the Movement for Democratic Change (MDC), who were arrested, detained in horrific conditions, and taken through the motions of a lengthy trial intended as punishment (BHRC 2008; HRW 2008, 2009; IBA 2001; IBAHRI 2011). For many Zimbabweans, law nevertheless remained an important marker of their identity in relation to the state, and worked as a guide for their engagement with that state. Harare's Magistrates' Courts, in turn, was regarded as one of the few remaining settings in which justice could be "seen to be done" (Verheul 2016). To some degree, this view of the Magistrates' Courts has shifted since 2019, when human rights lawyers marched against the Magistrates' Courts' "choreographed" denial of bail of individuals arrested for taking part in protests against increased fuel prices (Laiton 2019). The Courts nevertheless remain central sites of political contestation in Zimbabwe to date.

During my observations of politically motivated trials in Harare's Magistrates' Courts between 2010 and 2012, and again in 2018,[iii] Charity's exchange with the police officer continued to resonate with me. It prompted my initial consideration of the ways in which responses to the dilapidation of the courts

could illuminate understandings of the law and the state in Zimbabwe. In my fieldnotes, I reflected that her comment went beyond the inconvenience that the dust, dirt, and grime in the courts caused. While she chose to wear jeans to avoid getting her "smart" clothes "dirty", she also turned the court's dress code against the police officer who challenged her, laying the responsibility for maintaining a "proper court" squarely on the ZANU-PF as the ruling party – the very party using the judicial system to oppress her GALZ activist friend.

Charity's response revealed two important imaginations of the Zimbabwean state, and the place of law within it. First, as the party in power since independence in 1980, ZANU-PF had become almost synonymous with "the state". At independence, ZANU-PF inherited a set of strong, technocratic and bureaucratic state institutions, institutions which the party retained control over despite, for example, the fact that following the excessive violence that marred the outcomes of the 2008 parliamentary and presidential elections ZANU-PF formed a Government of National Unity with the two main MDC factions between 2009 and 2013 (SPT 2008, 2009). Given the party's strong hold over many of government's bureaucratic institutions, when speaking of "the state" in Zimbabwe, many people also meant "ZANU-PF", and vice versa.[iv]

Secondly, she hinted at Zimbabweans' ability to hold complex, at times competing, understandings of the relationship between law's authority and

state power. Despite ZANU-PF's repressive actions through the legal system, law had historically been, and continues to be, debated through broader notions of professionalism, justice, morality, and human dignity that tied law to wider claims for citizenship and conceptualizations of state authority (Alexander 2010; Karekwaivanane 2017; Verheul 2013, 2016, 2020). While her fashion choice allowed Charity a subtle critique of ZANU-PF, she was simultaneously concerned with the consequences of showing the law a certain lack of respect. After expressing her frustration with the police officer to me, she raised the question of how the magistrate could be tasked with passing judgment on her friend when "they worked in an environment that did not enable members of the public to dress smart". Her demand that the ruling party maintain a "proper" court was tied not to cleanliness alone, but to the state's ability to create and sustain the conditions that encouraged "professional conduct", and ultimately, provided "justice". In questioning the power of ZANU-PF to police her clothing choice when they were unable to maintain a clean court, Charity worried her jeans might undermine the authority she wanted to accord the law.

Legal anthropologists have long grappled with dynamics that shape and sustain the relationships between the state, law, and society across the globe (Clarke and Goodale 2010; Cooper 2018; Goodale 2017; Merry 1990), and in postcolonial contexts particularly (Comaroff and Comaroff 2006, 2016; Sundar 2011). Some scholars specifically emphasize how these dynamics are

constructed and reinforced through the actual and symbolic orderings of courtrooms. In the context of Caribbean courts, for example, Lee Cabantingan (2018) demonstrates how the choice of courtroom attire can shed light on the history of law, and construct the courts' present popular legitimacy. She highlights how both fashion and law have the ability not only to reflect, but to shape and transform, societies. State imaginaries and ideas about citizenship may further be created and transformed through the performances that take place in courtrooms.

Scholars have long turned to the metaphor of theatre to highlight how courtroom actors can use their scripts, demeanor, and props to assert and affirm different notions of justice (e.g., Ball 1999; Coutin 1993; Gillespie 1980; Harbinger 1971; Milstein and Bernstein 1997; Peterson 2006; Rogers 2007; Sarat et al. 2018; Stone Peters 2006; Zoettl 2016). In recent years, the focus on performances within the courtroom has been extended to include, on the one hand, the study of the architectural and material dimensions of this theatre and its stages, and on the other, the courts' "atmospheres" (Backman 2017; Bens 2018). In terms of architecture, scholars draw attention to how court buildings and courtrooms impose law's authority on various publics, who are directed to move through courts in paths that facilitate the processes of segregation and separation used to construct the "criminal" and the "validating public" (Brooks 2014; Eltringham 2012; Hanson 1996; Mulcahy 2011). For scholars such as Jonas Bens (2018), however, the material and

infrastructural are just one of three dimensions along which the courtrooms "atmosphere" emerges, with the visual a second, and sound a third dimension that warrants ethnographic inquiry.

In this paper I add a fourth dimension, that of smell, to our discussion of the court's "atmosphere". In addition, rather than focusing on one of these dimensions at a time, such as James Parker's focus on the "soundscape of justice" in the context of the ICTR (2011, 964), I examine the performative, material, and sensory dimensions of the courtroom, and of the courthouse in which the courtroom is located, as mutually reinforcing elements which shaped courtroom experiences. I argue that the debates so central to the authority of law in Zimbabwe played out not just in verbal exchanges between the multiple actors within the courts, but in the way courtroom performances engaged with, or ignored, dilapidated material conditions and sensory reminders of repression and decay.

To demonstrate this, I first take you on a brief tour of Harare's Magistrates' Courts at Rotten Row, illustrating how these courts worked to separate the actors present within it in order to create a "validating public" and put the defendant in his or her place as the subject of judgment. The dilapidated material condition of the courts, however, blurred these processes of separation, and generated a perception among lawyers and the public that the professionalism and independence of the judiciary was slipping away.

Conditions in the court also assaulted the senses. Confronted with the sight of police officers, the sounds of rattling chains and "booming voices", and badly treated defendants who "smelt of decay", the visual, auditory, and olfactory experiences of the courtroom were intimidating, reminding defendants and their lawyers of the manner in which ZANU-PF coercively asserted its authority over people's bodies and minds prior to their appearance in the courtroom by "bringing the prison within the space of the court" (Tawanda Zhuwarara, personal communication). Lawyers, and occasionally the defendants, in turn used the run-down conditions of the courtroom and the defendants' battered bodies as opportunities to challenge the manner in which the Zimbabwean state treated perceived opponents. In these performances, it was not the authority of law, but the control certain state actors exerted on and over the bodies and emotions of Zimbabwean citizens that was called into question.

Stepping into Harare's Magistrates' Court at Rotten Row

Linda Mulcahy's observation that "when we imagine a courthouse we tend to think of a public building which uses massing, shape and style to convey a sense of importance or foreboding" (2011, 7–8), rang true when I looked at Harare's Criminal Magistrates' Courts (see Figure 1).

[Insert Figure 1]

The Courts, which were opened in 1963 when Zimbabwe was still a British colony, are located on the southwest outskirts of Harare's busy central business district, just south of ZANU-PF's headquarters on the busy Rotten Row road. Following the road further south past the Court brings you to Mbare, the first and largest of Harare's high-density suburbs. Like the Courts, Rotten Row road is a relic of Harare's colonial history. Named after an unpaved avenue in London's Hyde Park, Rotten Row is "a street redolent with remembrance" (Gappah 2016, ix), that for Harare's residents particularly calls to mind the Criminal Magistrates' Courts. This is due both to the deep-seated connection between life and law in Zimbabwe, and to the name's poetic potentiality, with lawyers and opposition activists alike arguing that it is "not called Rotten Row for nothing. The place it is rotten to the core".

Standing in front of the courts the bustling places along Rotten Row road felt far removed. The large and impressive circular building, adorned with symbols of justice and the Zimbabwean nation, housed the pre-trial detention cells, magistrates' and clerks' offices, and the ordinary and regional courtrooms. It stood on a spacious plot, back from the road, surrounded by parking spaces and trees.

Spread over two floors, twenty courtrooms branched off the hallway that encircled the central courtyard. With a design that resembles Jeremy

Bentham's disciplinary surveillance model, the panopticon, the court's layout symbolized the power relations between the different actors operating within it. On the top floor sat the courts with the highest sentencing jurisdiction, the Regional Magistrates' Courts, while the Ordinary Magistrates' courtrooms were located on the ground floor (see Figure 2).

[Insert Figure 2]

While conducting observations at Harare's Magistrates Courts, I would often arrive at the courthouse between nine and nine-thirty in the morning. As I approached the building, I could hear police officers instructing people to hurry up the stairs the court. Larger groups were dispersed with a menacing look, discouraged from gathering in front of the courts. As a result, groups of people assembled under the trees in the parking lot to the right of the steps, chatting animatedly or purchasing a soft drink or snack from one of the vendors in the parking lot and relaxing in the sun. Others purposefully climbed up the stairs, walking through the double doors to pass through the first set of security controls that ran from the entrance way to the courtroom.

Reflecting on his experience with the International Criminal Tribunal for Rwanda (ICTR) in Arusha, Tanzania, Nigel Eltringham argues that controls of his entry into, and his presence and actions within, were central to his transformation from a mere visitor to a member of the "validating, silent

public" that lent legitimacy to the trial (2012, 429). At Rotten Row, these controls began once you were standing in front of a small white guardhouse. As I came to the top of the stairs, a security officer would search my bag, check my identification, and enquire why I was coming to court that day. After about a month, one of the female security officers who was often on duty when I arrived had heard my response of "just observing a few cases today" so many times, she simply waved me through with a smile and shrug, allowing me to cross the entrance hall to go up some more stairs and pass through one of three double doors to step into the bustling hallway of the circular courthouse. Although I first thought people were mixing more freely in the halls, I soon became aware of the police officers walking along the halls, watching as they would break up larger groups of visitors with a glance, approach and ask people to find a seat, enquire which case they were waiting for, or admonish people who did not abide by the court's dress code. I experienced this first-hand when, in one of my first weeks at the courts, I made an ill-judged decision to wear a skirt above the knee. Like Charity, the officers stopped me with a comment that my clothing was not appropriate, and "offered" to remove me from the courthouse. In that moment, David Hofisi, one of the ZLHR lawyers I was shadowing, appeared by my side. Perhaps the police officer assumed I, as a young white woman who was greeted by a human rights lawyer, was one of several members of the donor community who occasionally came to observe high-profile politically motivated trials, as he let me go with a stern look and a word of caution. Feeling relieved, I

followed David Hofisi to one of the benches in the hall outside of Courtroom 7, where we waited for the first case of the day to be heard.

After waiting in the halls, at times for substantial periods only to be informed that the case would not proceed that day because the magistrate or prosecutor had not turned up to court, it felt both satisfying and slightly intimidating when the doors to the courtroom opened, allowing me to sit down as a member of the "validating public" in the gallery benches of the courtroom. I was joined on the benches by defendants on remand, their friends or family members, and general audience members. The three rows of benches faced the raised platform with the magistrate's desk. In front of the magistrate's desk stood a table, sometimes with a tape-recording machine, and two chairs facing the gallery. The clerk of court sat by the tape-recorder, often reading a tattered novel to pass the time; while a police officer filled the other chair, surveying the public as they entered.

Lawyers would proceed towards the table facing the magistrate, taking a seat behind a desk that they shared with the prosecutors. To their left stood the defendants dock, with a door leading down to the cells holding the defendants from remand prison and police custody. The witness stand was opposite the dock, on the right side of the courtroom (see Figure 3). Once people were settled, we chatted while waiting for the magistrate. A loud knock, followed by a command to "rise" signaled the arrival of the magistrate, stepping out of a

door to the right of the bench in a black robe, papers in hand and often a serious expression on their face against a backdrop hum of people shuffling to stand, and sitting back down once the magistrate had taken their seat. As the magistrate called the first case, the court was in session for the day.

[Insert Figure 3]

On my first visits to the courtroom, I was quite overwhelmed and slightly unsettled by the unfamiliar rules. After a few visits, however, a clear underlying pattern of movement and control emerged. The processes of separation that scholars such as Julienne Hanson (1996), Linda Mulcahy (2011), and Nigel Eltringham (2012) identified, became increasingly evident in the security controls encountered upon entering the courts, and the policing of visitors' conduct in the hallways. In addition to visible controls of the public, barriers to the active participation of, or disruption by, the public were also embedded in the architectural design of the Magistrates' Courts. Taken together, the use of separate side entrances for the magistrates and for the defendants, the raised platform for the magistrates' bench, and the bars of the dock, all elevated the magistrate above, and isolated the defendant from, the public and other courtroom actors.

Such material conditions of separation are embedded in the court's broader efforts to control the public and transform the defendant, efforts which may be inherently violent (Brooks 2014; Mulcahy 2011). The dirty, and severely

under-resourced conditions in Magistrates' Courts in Harare produced two, potentially contradictory, effects. First, these material conditions blurred the separation between the public, the defendant, and judicial actors within the courtroom. Second, rather than minimizing the potential for sensing the law's violence, these blurred boundaries attuned the senses to the repressive features of the courtroom, with real effects on how magistrates, lawyers and prosecutors could perform within the courtroom.

Competing Authorities within a "Broken" Court

At Harare's Magistrates' Courts, I often walked into a courtroom to see the defense and prosecution squished together on the one chair that was available for them to share. When I asked him how it felt to sit so close to his "opposition" in the courtroom, David Hofisi commented that he did not mind sharing, especially as most prosecutors were "cool people" who he would meet for a beer in town after work. He was less comfortable, however, when the prosecutor was one of the Attorney General's "good boys", someone willing to obey ZANU-PF's instructions in politically motivated prosecutions (Verheul 2013). What troubled him most was not his personal comfort, but rather the impression the seating arrangements made on his clients. He noticed that many of his clients were confused or upset by the "close relationship we seem to have, laughing about the lack of seats. … They don't understand that we're not really working together to put them away".

In my conversations with human rights lawyers, they pointed to the material conditions in the courts as symbolic of the judiciary's declining professionalism and accountability. One important dimension of this related to time, in the sense that a judicial officers' punctuality and reliability were equated with professional conduct. From my first visit in July 2010 to my visits in March 2018, all the clocks at Harare Magistrates' Courts were stuck on ten past seven. As a result of the broken clocks, magistrates were no longer punctual, and the lawyers or the public were no longer able to check on the time to hold them to account.

Indeed, in the period I attended hearings at Rotten Row, the trials were frequently delayed. When a member of the public gallery would share a joke that the magistrate was "held up at their other job", laughing responses were underpinned with an awareness that this was likely not far from the truth. The broken clocks did not cause these delays: they were often the result of the magistrates' minimal remuneration and the strained economic conditions. In 2011, for example, magistrates were paid around two hundred US dollars a month, while very basic living costs were easily double this amount. In light of this discrepancy, magistrates not only had less incentive to come to work on time, they were also delayed as they engaged in other businesses next to their legal careers in order to survive. These economic conditions, often linked to increased corruption and decreased political neutrality of certain Judges and

magistrates (IBAHRI 2011, 26), also weakened magistrates' ability to adhere to a simple demonstration of professionalism: showing up to work on time.

Broken tape-recorders in the courtrooms were given as further evidence of the ways this "broken system" had real effects on judicial actors' ability to do their jobs. During the trials I observed, magistrates frequently hand-wrote the record of the proceedings, causing lawyers, the prosecution, witnesses and defendants to slow the pace at which they expressed themselves during the trial. David Hofisi explained that he could no longer "ask questions in rapid succession", because it was "all about giving the magistrate time to write things down." Jeremiah Bamu, one of Hofisi's colleagues at ZLHR, explained that magistrates "get especially frustrated and irritated when someone is making long submissions … They get tired of writing the whole day … so they will restrict what you say." He stressed that "it would be better if the recording equipment functioned properly", as the current conditions meant that magistrates were not "able to exercise their minds as you are making your arguments."

In addition to impacting how lawyers could present their arguments in court, magistrates' hand-written records were easily altered. Lawyers expressed the fear that the broken recorders created more opportunities for corruption. Due to their poor remuneration, magistrates, prosecutors, and clerks of court were all prone to accepting bribes. A malleable record was, however, not only open

to individual influence. It also created more space for politicized, ZANU-PF-driven, changes to the record (Jeremiah Bamu and Kucaca Phulu, personal communications). To challenge this, Jeremiah Bamu would "pause a bit from making the submissions" when he saw the magistrate had stopped recording, and ask "to be shown the record to see if they are indeed writing." In this way, he hoped to "hold the magistrate to account" while showing that "the courtroom itself also leaves a lot to be desired."

When stepping into Harare's Magistrates' Courts, visitors could observe the "expected", yet often hidden, and at times "intimidating" features of the courtroom that separated actors so they could enact their distinct roles. Upon closer inspection, ordinary boundaries and roles were blurred through the under-resourcing of the Courts. These blurred boundaries contributed to an "atmosphere" of "informality" and "professional decline", which some legal actors and members of the public interpreted as a threating the authority of law. As Aina Bachmann (2017) and Jonas Bens (2018) illustrate, however, the courts' "atmosphere" stems not simply from its material conditions, but is created through its sensory dimensions.

Intimidation in Court: Sensory Reminders of Police Detention and Imprisonment

Harare's Magistrates Courts' material decline mirrored the squalid conditions in detention, remand, and prison in Zimbabwe, conditions which included overcrowded cells, lice-infected blankets, overflowing toilets, lack of food, and exposure to physical and emotional torture by police officers or prison guards, have been widely reported (see, for example, Alexander 2009). This overlap generated a set of extraordinary sensory conditions - visual, auditory and olfactory - within the courts which worked as reminders of police detention and imprisonment, and heightened feelings of intimidation, fear, and humiliation. By looking into a courtroom filled with the bodies of imposing "boys in dark glasses" – Central Intelligence Organization (CIO) agents – hearing the sounds of police officers yelling and leg irons clanking on concrete, and being affronted by the smell of unwashed bodies, the prison carried into the courtroom.

On my first visits to the courts in July 2010, the idea of "feeling watched" quickly came up. Defendants and their supporters frequently talked about how they felt "the eyes of ZANU-PF" upon them during their trials. Initially, I thought they were speaking metaphorically, expressing a sense of being under the constant yet invisible watch of the ruling party. As I spent more time in the courts, however, the notion of surveillance took on more real and recognizable forms. Rather than the imagination of being observed from a remote but ever-watchful center, as the building's panopticon-like architecture might stir up, the Courts' visitors picked up on the consistent and often-threatening presence

of CIO agents as well as police officers, prison guards, security personnel, and plain clothes police officers among the crowds in the hallways and on the court benches.

The presence of security personnel among the public made me slightly more wary about entering into conversations with the people around me. For political activists on trial or in the gallery, they served as direct reminders of dramatic, high-profile arrests they had experienced, especially in the run-up to the 2008 elections. At the trial of a student activist, I met George, a fellow student activist who explained that he "felt conflicted" sitting in the gallery. He wanted to show his support by attending the case, but being in the courtroom, and seeing police officers patrol the corridors brought back unpleasant memories from when he was accused of petrol bombing a police station in the politically turbulent March of 2007. He recalled how he was cuffed inside an open police truck, which took him into court through the secure side entrance. He was led down the ramp:

> with prison guards and some members of the police standing by with guns. … There was very heavy security. It was like I was in a military escort. They tried by all means to create an impression [of me] as a dangerous creature that must always be safely guarded.

The sight of this heavily armed police presence left George feeling "afraid to come back before court, I thought it was better for me to live in prison. Because it will be very, very terrifying for you to be standing before court." When he looked at the benches of the gallery, George saw his mother "in tears because she thought they would kill me", sitting among police officers and CIO agents. The inclusion of these state security actors among the court's "validating public", blurred boundaries in a manner that exemplified ZANU-PF's shift away from relying on the authority of law might accord them, to maintaining its control through performances of police coercive power. The sight of security personnel reminded defendants and their lawyers of their previous arrests, their uncomfortable, humiliating, and frightening experiences in police detention and remand prison, and the possibility of such experiences being repeated if they failed to behave in a manner the ZANU-PF-led government deemed appropriate.

Such reminders also filtered into the courtroom through the noises coming from just outside it. The police trucks which moved defendants from remand prison into the pre-trial detention cells below the courts parked on a ramp between the two courtrooms. Armed police guards led prisoners off the back of the truck into the cells, often in pairs as the prisoners were shackled together around their ankles. Through the broken windows, the sounds of the prisoners' leg-irons hitting the concrete as they walked to the cells, and of the police officers roughly instructing these prisoners, carried into the courtrooms

on either side of the gate if the Zimbabwe Republic Police's trucks arrived while court was in session. Speaking to supporters of defendants in the gallery during political trials, many of them described the noise as creating a "harrowing", "haunting", and "terrifying" atmosphere, reminding them of what they, or their friend or family member, had endured.

For human rights lawyers and their clients, smell was another stark reminder of the "cruelty" of their treatment in police detention. The impact of the smell prisoners from remand prison gave off was most evident to me on 6 August 2010, when I attended a case that I had followed since early July at the Magistrates' Courts. This was the first time I had sat down on the front bench closest to the dock. Just as the trial I had come to observe commenced, a young man was brought in through the door behind the dock. He was in handcuffs and wearing a standard khaki prison outfit of shorts and a shirt. Two guards flanked him. As the man walked in, a strong, unpleasant smell filled the courtroom.

One of the lawyers I had come to court with turned to me, commenting that defendants brought to court from detention or custody often "smell like they are decaying". The man, who was accused of robbing a convenience store, had no legal representation. The magistrate nonetheless decided to hear his case first. In my fieldnotes, I described the scene:

The defendant (a man who appeared to be in his early thirties) was asked by Magistrate Don Ndirowei why he had been brought to court. He spoke Shona, and explained through the court interpreter that he had been in remand prison for three weeks. He was unclear about the charges against him, but he stated that he would very much like to return home. Magistrate Ndirowei, in turn, stated that he was very busy and could not take the case today. He then remanded the man to another date, two weeks on. The defendant pleaded that the Magistrate take the time to hear his case today, explaining that he was suffering in prison, but the Magistrate firmly reminded him the court was very busy. The guards then urged the man to walk out from the dock to the back of the courtroom. Here, a door led down to the holding cells under the courts, where the man was to wait for the police escort to return him to remand prison. One of the guards forgot to close the door as he came back into the courtroom and took his seat by the dock. A strong, unpleasant smell of unwashed bodies lingered in the courtroom. In the meantime, Magistrate Ndirowei had focused his attention back on the trial he had begun just before the man had come into the court. The prosecutor suddenly interrupted with a loud cough, pulling a face of disgust. The Magistrate nodded at him and addressed the police officer seated in front of his bench. He

> commanded the officer to “shut the door” behind the dock, and loudly proclaimed to the court that he couldn’t “think with this stench coming into the courtroom”. Once the door was closed, the Magistrate returned his attention to the case.

Magistrate Ndirowei appeared able to block out the smell of “decay” produced by police detention and remand prison simply by shutting a door, and continuing with the case at hand.

By closing the door, Magistrate Ndirowei exposed the lengths some magistrates and other judicial officials would go to in order to “turn a blind eye” to the ZANU-PF-led state’s treatment of Zimbabwean bodies. In the following section, I discuss how certain lawyers and activists responded to this by incorporating the courts sensory conditions into their performances, in an effort to make the magistrates, and ZANU-PF security personnel, “hear”, “smell”, and “see” the cruelty of the state.

Staging Interruptions: Drawing Attention to Assaults on the Senses

Although Magistrate Ndirowei had closed the door on a defendant who “smelt of decay”, I was unable to focus on the proceedings that day. Instead, I recalled observing human rights lawyers express strong criticism against magistrates who failed to hear remand cases in a timely fashion, or worse still,

who followed executive directives to invoke Section 121(1) of the Criminal Procedure and Evidence Act (Chapter 9:07) which remanded defendants to a further seven days into custody, ostensibly to allow the prosecution time to appeal their bail conditions, but frequently simply invoked to detain activists for an extended period of time. Having smelt the "decay" of remand prison, I realized that in expressing such criticism, it was not only the loss of liberty that was at stake. Returning to remand could mean the loss of life.

Aware of this, lawyers and activists in the Magistrates' Courts in Harare thus aimed to use their performances to shift the focus from their clients' alleged misdemeanors onto the real, life-threatening, and often-humiliating violence effected by ZANU-PF-instructed state actors. In their interactions with the defendants in the dock, lawyers worked to turn auditory, olfactory, and visual reminders of the dilapidated physical conditions and harrowing abuse in the prison cells and in police detention to their advantage. Although they were strongly encouraged not to by the police officers observing them in court, some activists too engaged in this strategy. Marked by abuse they experienced in police detention, their bodies in the dock served as "props" in performances which were geared at cultivating a sensory awareness among magistrates, prosecutors, and spectators in the gallery of all the signs of the state's abuse of the law.

Such strategies resonate with Victoria Brooks' (2014) argument that, by exposing the hidden depths of the court, or by working "to construct a more sensory courtroom", it is possible to "interrupt" the potentially violent material and sensory dimensions of the law (11). For this, she underlines the importance of actor's awareness of "the potentially sensual affects of space". In order to cultivate this awareness, "bodies must be attuned to these affects, that is, these bodies must be able to listen (both to the space and to other bodies)" (Brooks 2014, 14; also see Backman 2017; Bens 2018).

Human rights lawyer Tawanda Zhuwarara's account of being on trial himself demonstrates the role of attunement most vividly. He not only underlines the powerful intimidating effect of standing in the dock, but shows how his sensory experiences in that position fueled his determination to bring the injustices of the legal system to light. He also defied the view of the spectators in the gallery as a "passive public", portraying them instead as Zimbabwean citizens, charged with communicating to the government, judicial officials, and representatives of the state the decay of its judicial system. It was this decay specifically to which the lawyers' performances aimed to attune the public.

Zhuwarara began his career in private practice in 2005 and moved to ZLHR in 2008. He spoke to me about his initial doubts about transferring to work as a human rights lawyer. The long, unpredictable hours he worked, and the

constant hostility with which police and prosecutors approached him, raised doubts. Then, he was arrested. Zhuwarara was observing a protest organized by the prominent activist group, Women of Zimbabwe Arise (WOZA) on 10 February 2009. The police picked him up, and he spent three days in prison before being released on bail. By the time he was brought to court and placed in the dock, he felt "shell-shocked. Shell-shocked that people live like that [in prison]. Shell-shocked that I am now going through it. Shell-shocked that I am now in court."

Once he took the position of his clients in the dock, he realized the power of his usual place as their defense lawyer. Of all the architectural trappings within the courtroom, Mulcahy argues that "the modern dock" in particular "could be viewed as a brand of incarceration which militates against the presumption of innocence" (2011, 10). Zhuwarara experienced this, as he recalled:

> When you sit down in the accused dock, you can't see anything. It seems silly, but it seems like it's a booming voice from an unknown creature who holds your fate. I nearly asked "can I be my own defense counsel so I can sit on the bench?" …. It feels like everybody is against you.

Zhuwarara continued that, whereas previously he did not understand why some of his clients hesitated to speak out during their trial, he now understood how much of an "intimidating space" the courtroom was:

> To tell you the truth, I am a lawyer, and I am one of the feistiest, I would be able to speak till kingdom come, and you know, run rings around certain prosecutors. But my spirit was broken by the time that I left the courtroom.

The three days Zhuwarara spent in detention further affected him in a way that radically heightened his sympathy for his clients, and increased his identification with their plight. It was only by being "on the wrong side of the bench" that Zhuwarara learnt to be fully attuned to the effects of the courtroom. Recalling the "smell of a human being decaying" that latched on to his clients, for example, he admitted that prior to his own arrest and trial, he kept "this distance from my clients when I went to visit in person or when I saw them in court." Then, he experienced the shift in physical appearance and smell first-hand:

> It was an educating process for me. It gave me a renewed understanding of what it means coming from below the cells. By that time, the suit I was wearing was reeking of human excretion. How that smell latches on to you. I had no idea.

After his own experience, the smell instead served as a reminder to him: "that was me." The experience also heightened Zhuwarara's motivation to continue his work. He explained:

> I would probably have left this job earlier if I hadn't been arrested. But now I can't, because I need to do something. … I really need to do something … to say the next time when I get arrested, whether it's a driving charge or anything, the conditions must have changed. I should have done something about it.

One way in which Zhuwarara hoped to bring about this change was to ensure that the conditions he endured did not remain invisible. He felt that, given the conditions the prison and police cells were in, it was "nonsensical" "for the judiciary to apply the normal hard and fast rules without taking into consideration what an individual has gone through … outside the courts." Here, the smell defendants brought into the courtroom was not only an unpleasant reminder, it was evidence that "in Zimbabwe, we operate a collapsed system". Zhuwarara continued that "the stench" that attached itself to his clients allowed them to "carry that part of the prison right into the courtroom." The smell:

> literally means I didn't bathe for the odd three days. … That's very dehumanizing, very embarrassing. It means I'm unclean. But it also means that I've been eating in those conditions, it also means that I've been sleeping in those conditions.

How, Zhuwarara asked, could a professional and conscionable magistrate just ignore this? Here, Zhuwarara reflected not only on how the conditions of Zimbabwe's prisons and courtrooms were tied to the potential loss of liberty or life, but also, and importantly, to a loss of dignity for defendants. This connection between physical appearance and loss of dignity is rooted in Zimbabwe's colonial past. The Rhodesian government's efforts to "civilize" African bodies had included the promotion of a narrow, hegemonic adherence to strict personal hygiene and "polite" manners (Burke 1996; Shutt 2007, 2015). Alongside repressive legislation, these narrow norms were used to intimidate and control potentially "unruly" Africans, shaping standards for comportment that continue to resonate in Zimbabwe.

In some instances, prosecutors would try to use these standards against defendants, drawing attention to their "dirty" or "messy" appearance. When student activist George appeared in court after several weeks in police detention, for example, the prosecutor pointed to his messy, uncombed hair, asking how any of George's responses could be trusted when he sported such an "unruly", "youthful" hairstyle. Although he had been warned not to engage, George bravely responded "I was arrested two weeks ago. At the time I was arrested, my hair was combed. But now it is no longer combed because of the conditions I have been living in."

George explained that he was emboldened to speak up from the dock after, on his first court appearance, the magistrate drew attention to the scars he "sustained from beatings in police custody." Realizing that the magistrate was shying away from asking about the bruised bodies of the defendant in their dock, George felt able to say, "I was beaten by a police officer." The prosecutor contradicted him, saying "it had been brought to my attention, my lord, that these scars were sustained by the suspect when he was trying to run away from the scene." Once again gathering his courage, George spoke to the magistrate "No, I was beaten, ask them". Making use of the presence of the offending police officers in the courtroom, he gestured to them.

Although the space to speak up from the dock was limited, George explained that this experience strengthened his belief in the importance of taking every opportunity he had in court to call attention to the state's failings through his bodily appearance. The fact that the court appeared able to ignore defendants appearing with "swollen feet, swollen buttocks, sometimes bruises on their faces, … serious scars, and sometimes with bloodstains on their clothes" not only meant they were not doing their jobs correctly. For George, it also sent a very strong message to the Zimbabwean public that not he, but his government was the "criminal" in these cases.

Conclusion

In their architectural design, courthouses and courtrooms awe and impose, communicating the authority of the law and the power of the state. Courts are built to ensure the segregation of the different actors, with distinct "routes of circulation" separating the potential "criminals" from the "citizens", raised platforms marking magistrates and Judges as the arbiters of justice, and sequences of rituals that create a "validating public" (Eltringham 2012; Mulcahy 2011). Yet courts also contain "hidden spaces", and are filled with material and sensory dimensions that, if actors are attuned to them, reveal such design as a façade (Brooks 2014).

In Harare's Magistrates' Courts at Rotten Row, the dilapidated material structures of the courts themselves, and the sensory infiltration of the violent, abusive conditions in police detention and prison served as critical evidence of ZANU-PF's loss of respect of the bodies of Zimbabwean citizens, and of the authority of law. A lack of chairs, and the broken clocks and tape recorders undermined the professionalism of the courts, threatened the lawyers' ability to hold magistrates accountable, and inhibited them from performing their crucial speech acts in full force. The material conditions of the courts also worked to lay bare ZANU-PF's extraordinary efforts to intimidate, and control, Zimbabwean citizens. This intimidation worked through the senses in such a way that human rights lawyers, and at times their clients, could play upon the visual, auditory and olfactory senses that reminded the judicial officials and the public observing their performances, of the ways the

"collapsed system" of the prisons and police detention cells filtered into the courtroom. Rather than being allowed to "turn a blind eye", magistrates, prosecutors, and the audience in court all had to confront the defendants' "bruised bodies" and the "smell of decay" that accompanied them into the dock. Lawyers hoped that those responsible for creating these conditions, from the police officers who beat the defendants' bodies to the members of the ZANU-PF-led government who facilitated the shifting of state authority away from "professional" and "accountable" rule-bound institutions able to deliver "justice" to overt displays of coercive power, would face legal repercussions, with their actions captured on the permanent record. By performing in a manner that selectively attuned those present in the courtroom to the material and sensory dimensions that exposed the state's defects in court, lawyers and activists sought to shift the burden of "criminality" from the defendants to the state officials instead.

Notes

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[i] I use pseudonyms to refer to respondents who requested to remain anonymous, or who might face repercussions if identified. Respondents who are identified by their full name occupied public positions, and frequently articulated their views in court and in the media. For them, this degree of anonymity was neither possible nor desired.

[ii] For a compelling discussion of Harare at the time of hyper-inflations, see Jones, 2010.

[iii] I began this research during the Government of National Unity period, when more open political debate was facilitated in Zimbabwe. This enabled my initial access to the Magistrates' Courts, but towards the end of 2011, the communities I was working with began expressing concern that the political situation was shifting. Ultimately, space to ethically conduct this research, and to consider the safety of those who participated, was closed by ZANU-PF's victory in the parliamentary and presidential elections of July 2013.

[iv] For a discussion of these complex dynamics in relation to the prison services, for example, Alexander, 2013.

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