



17 November 2021

**STATEMENT ON THE
SITUATION OF HUMAN RIGHTS DEFENDERS IN ZIMBABWE DURING THE
PRE-SESSIONS OF THE 40TH UPR WORKING GROUP (virtual)**

Distinguished delegates, ladies and gentlemen, I make this statement on behalf of Zimbabwe Lawyers for Human Rights (ZLHR) during the pre-sessions of the 40th session of the UPR Working Group.

ZLHR is a not for profit law-based human rights organisation. Its core work is litigation. It provides legal support to targeted human rights defenders facing unlawful arrest, detention and other rights violations. It also provides broader human rights litigation support to general population. It is part of a coalition of 68 NGOs that compiled the Zimbabwe Civil Society Organisations Stakeholders' Report. It also participated in a national consultation meeting in July 2021 to input into the Draft National UPR Report.

In this statement I will highlight the restrictive operating environment for human rights defenders in Zimbabwe, characterised by repressive laws, security sector brutality, and violations of freedom of expression, association and assembly, through arbitrary arrests, malicious prosecutions and lengthy pre-trial detention, inhuman and degrading conditions in maximum security prisons.

In previous cycles, Zimbabwe supported recommendations to create a safe and enabling environment and to protect human rights defenders from arbitrary arrest, violence, enforced disappearances and torture; to adopt laws in line with the UN Declaration on Human Rights Defenders; to amend laws violating free assembly, association, expression and the media; to ensure the right to a fair trial and independence of the judiciary; and to improve conditions of detention.

In the first cycle, Zimbabwe also supported recommendations to ratify the Convention against Torture and its Optional Protocol, the Convention for the Protection of All Persons from Enforced Disappearances; and the Optional Protocol to the International Covenant on Civil and Political Rights; to criminalise torture; and to send an invitation to the UN Special Rapporteur on Torture. However, in the 2nd review, Zimbabwe then

noted these recommendations and declined to support specific recommendations relating to repeal of repressive criminal laws.

Since the last cycle, the situation for human rights defenders has deteriorated. Human rights defenders have been subjected to arbitrary arrests and malicious prosecutions for peaceful protests, petitions, and making statements critical of the Government (including online), under repressive provisions of the Criminal Law (Codification and Reform) Act and the Maintenance of Peace and Order Act: including for 'insulting the president', 'subverting constitutional government', 'making false statements prejudicial to the state', 'criminal insult', 'inciting public violence or disorder' and for 'unsanctioned' public gatherings. (The state repealed the Public Order and Security Act, as called for by recommending member states, but replaced it with the Maintenance of Peace and Order Act, which retains the same repressive provisions criminalising unsanctioned protests.)

Following a somewhat calm pre-electoral environment, on 1st August 2018 the military indiscriminately opened fire and assaulted citizens during a post-election protest, resulting in six deaths. A government-constituted Commission of Inquiry into these incidents made several key recommendations on compensation for victims, re-training of law enforcement agents; and prosecution of offenders which have not been implemented to date. In response to a national stay-way protest in January 2019, the Government imposed an internet shutdown, and security services were deployed to residential areas where they are reported to have conducted an array of grave rights violations. In May 2020, three female leaders from the political opposition – MDC-Alliance – were abducted, tortured, sexually assaulted and dumped 48 hours later outside Harare. These women have continued to face relentless malicious prosecutions. No effective investigations have been conducted into the circumstances of their reports of being abducted and tortured.

Human rights defenders are being systematically referred to a special Anti-Corruption Unit of the Criminal Magistrates Court that systematically denies bail. The appeal courts are also increasingly denying bail, with independent judges facing suspension and disciplinary proceedings. Human rights defenders are being detained during pre-trial detention in maximum security prisons, in crowded inhuman and degrading conditions. Lawyers representing human rights defenders have been associated with their clients' causes and been arbitrarily removed from cases, arrested and ill-treated while representing their clients.

Human rights defenders' right to a fair trial before an independent judiciary has further been impeded by Constitutional Amendment No.2 that increase executive presidential powers in relation to appointments, promotion, and extension of tenure of the judiciary, and the Prosecutor General.

The recently gazetted Private Voluntary Organisations Amendment Bill, 2021, will criminalise NGOs for “political” involvement; and for unauthorised: collection of charitable funds from the public; or receipt of foreign funds. The Bill will regulate NGOs currently operating as trusts and associations, and require reregistration of NGOs when they make organisational changes, leaving their status pending registration unknown. The executive is given excessive powers, and can suspend NGOs’ executive committees and replace them.

Cabinet has also approved principles for “patriotic” provisions that, if passed by Parliament, will criminalise: making unsubstantiated claims of torture and abductions tarnishing the image of government; conducting protests that coincide with international events; and unauthorised communication with foreign governments: in violation of human rights defenders’ rights to freely communicate, report atrocities, and to peacefully protest.

ZLHR and other NGOs have also been subjected to denigrating and chilling statements by state spokespersons. Following a successful court challenge, the Minister of Justice, Legal and Parliamentary Affairs stated that ZLHR was funded by “foreign organisations seeking to destabilise the government”; that the judiciary had been “captured by elements within and outside the country who wish to destabilise the second Republic and “foreign forces”; and the state was going to “poke the enemy in the eye and confront it”. In a press article, a Government spokesperson referred to ZLHR and two other organisations as the “Zimbabwe axis of evil” for the reporting of “fake abductions”.

ZLHR recommends Member states issue comprehensive recommendations to address the numerous concerns highlighted, but in particular, call upon the government of Zimbabwe to: -

1. Implement recommendations of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association in his 2020 Zimbabwe report
2. Adopt legislation to domesticate the UN Declaration on Human Rights Defenders
3. Ensure a safe and conducive environment in which human rights defenders and people with divergent political views can conduct their activities without undue restrictions
4. Ratify the Convention against Torture and its Optional Protocol
5. Ratify the International Convention for the Protection of All Persons from Enforced Disappearances and its Optional Protocol
6. Ratify the Optional Protocol to the International Covenant on Civil and Political Rights
8. Adopt national legal instruments to abolish torture.

9. Adopt national legal instruments to abolish enforced disappearances.
10. Conduct impartial and fair investigations of cases of torture and enforced disappearances and prosecute perpetrators
11. Invite the UN Special Rapporteur on Human Rights Defenders for a country visit
12. Invite the UN Special Rapporteur on Torture for a country visit
13. Invite the UN Working Group on Enforced and Involuntary Disappearances for a country visit
14. Abandon the PVO Amendment Bill, 2021
15. Abolish restrictive legislative and other measures against legitimate activities of NGOs
16. Repeal constitutional amendments to the 2013 Constitution increasing executive powers and reducing public accountability in the appointment, promotion and extension of tenure of judges and the Prosecutor General
17. Repeal restrictive criminal provisions used to crackdown on human rights defenders, including sections 5 – 8, 10, 12, 13, 15, 16 and 18 of the Maintenance of Public Order Act; and sections 22, 31, 33, and 37 of the Criminal Law (Codification and Reform) Act
18. Cease arbitrary arrests, malicious prosecutions and pre-trial detention of human rights defenders for their lawful human rights work
19. Cease the systematic referral of human rights defender cases to the Anti-Corruption Unit of the Criminal Magistrates Courts
20. Cease arbitrary denial of bail to human rights defenders
21. Cease executive interference with, and ensure independence of, the judiciary
22. Cease the detention of pre-trial detainees in maximum security prisons
23. Ensure that prisons, police cells and other places of detention are maintained to international human rights standards including the right to dignity
24. Cease issuing denigrating and threatening statements against human rights defenders and victims of human rights violations
25. Enactment of the Independent Complaints Commission Bill and establishment of an independent complaints mechanism for the security sector in consultation with key stakeholders and in line with international human rights standards, within one year

ENDS

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