



ZIMBABWE

AMNESTY INTERNATIONAL SUBMISSION TO THE UN UNIVERSAL PERIODIC REVIEW 40TH SESSION OF THE UPR WORKING GROUP, JANUARY- FEBRUARY 2022

FOLLOW UP TO THE PREVIOUS REVIEW

1. In the previous review, Zimbabwe accepted 153, and partially accepted another three, recommendations out of a total of 260.¹ Despite this, human rights continue to be eroded.
2. Zimbabwe accepted the recommendation to investigate the disappearance of Itai Dzamara and ensure those suspected to be responsible are brought to justice.² Sadly, Itai Dzamara's disappearance largely remains unsolved. Police have failed to conduct a thorough, impartial, independent and transparent investigation into his enforced disappearance and the police have shown an unwillingness to resolve the case. Authorities have continued to abduct and forcibly disappear activists to stifle dissent. The government now accuses activists of abducting themselves to evade accountability.
3. Zimbabwe committed to amending the Public Order and Security Act (POSA) to ensure rights to peaceful assembly is exercised.³ In November 2019, POSA was replaced with a new law called Maintenance of Peace and Order Act. However, the Act is largely restrictive on civic space and human rights with some clauses regurgitated from the old Public Order and Security Act.
4. Despite accepting recommendations to align national laws with the 2013 Constitution⁴, the authorities have shown little respect for the Constitution and have sought to amend the Constitution to consolidate their rule, instead of harmonizing statutes with constitutional provisions.

THE NATIONAL HUMAN RIGHTS FRAMEWORK

5. Amidst severe repression and serious political turmoil, authorities have moved to pass constitutional amendments that increase Presidential powers, end judicial independence and weaken parliamentary oversight in financial transactions.⁵
6. On 18 October 2018, the Constitutional Court of Zimbabwe, found Section 27 of the Public Order and Security Act (POSA) unconstitutional.⁶ The provision empowered local police to indefinitely ban public

demonstrations in their jurisdictions.

7. The 1984 Citizenship Act is also not in harmony with the 2013 Constitution in that it prohibits citizens from acquiring dual citizenship⁷ and yet the Constitution provides for dual citizenship for anyone born in Zimbabwe.⁸
8. The rights to freedom of peaceful assembly and association is enshrined in the Zimbabwe Constitution under Section 58, and the right to demonstrate and petition is provided for under Section 59. However, restrictions on the rights to freedom of peaceful assembly and association, and to demonstrate and petition, continue.
9. In November 2019 the Maintenance of Peace and Order Act was signed into law repealing the Public Order and Security Act (POSA). However, the Act has come under criticism for restricting assembly near Parliament, courts and protected places like parliament impeding the ability to petition legislators and for imposing civil liability on convenors of a gathering for any damages caused by the public gathering.
10. Zimbabwe is yet to ratify key international instruments including the United Nations Convention Against Torture, the International Convention on the Protection of the Rights of all Migrant workers and Members of their Families and the 1961 Convention on the Reduction of Statelessness despite calls for the authorities to do so.⁹

THE HUMAN RIGHTS SITUATION ON THE GROUND

11. President Mnangagwa rose to power on the heels of the military assisted intervention in November 2017 which unseated then President Robert Mugabe.¹⁰ He pledged to 'break away with the past', but since then, his government has dramatically escalated the state's repression and violence against people in Zimbabwe to stifle all forms of dissent and demands for accountability.
12. His government has overly relied on repressive laws, the military and special covert operations team called Ferret¹¹ to suppress dissent and unleash a reign of terror on people in Zimbabwe. Working together with Ministry of Home Affairs and the police, they have tortured, sexually abused, forcibly disappeared and killed opponents with near-total impunity and accused those who have reported as communicating falsehoods meant to tarnish the image of the country.¹²
13. Authorities, in particular police, continue to enforce outlawed provisions against activists which are in contravention of the Constitution. On 28 April 2021 the High Court set aside the prosecution of Hopewell Chin'ono on charges of publishing and communicating false statements, ruling that he had been arrested and prosecuted based on a non-existent law. Currently there are activists who still face this charge and are yet to appear in court.

RESTRICTIONS TO FREEDOM OF ASSEMBLY AND EXCESSIVE USE OF FORCE

14. Activists and human rights defenders mobilized to hold the government to account for increasing corruption, unemployment, poverty and inequality. However, authorities intensified the crackdown on government critics ahead of any planned protest, carrying out door to door searches, abductions, arbitrary arrests and beatings.¹³ Family members of activists were used as bait to lure protest organisers out of hiding and they often became victims of abduction, torture, sexual violence. Authorities targeted journalists from covering protests deemed anti-government. Journalists were often detained on way to

carry out work, beaten and forced to delete footage covering police brutality.

15. Authorities used the now repealed Public Order and Security Act (POSA) and the Criminal Law (Codification and Reform) Act to prevent protests.
16. Following election unrest on 1 August 2018, the President deployed the army to quell protestors who took to the streets protesting electoral results.¹⁴ The army shot and killed six people.¹⁵ A Commission of Inquiry Report¹⁶ into the killings stated that the deployment of the soldiers was unjustified and disproportionate. None of those suspected to be responsible for the killings have been brought to justice.
17. In January 2019, at least 12 people were killed by security forces, including soldiers, during protests over fuel hikes and the deepening economic crisis.¹⁷ Security forces also carried out mass arbitrary arrests, door to door raids, torture, rape and arbitrary restrictions on access to internet. Some victims of police brutality reported being handed over to ZANU PF youths at the ZANU PF Office in 4th Street where they were tortured.
18. Again, in August 2019 more than 91 peaceful protestors were arrested in Harare alone for participating in a demonstration called for by the Movement for Democratic Change Alliance (MDC-A) which was banned by police.¹⁸
19. The police randomly called activists perceived to be lead organisers or supporters or inciters of protests to report for interrogation, and frequently arrested them.¹⁹ Before any planned protest, authorities released a list of wanted people, most of whom belong to the opposition Movement for Democratic Change Alliance (MDC-A) party or outspoken civil society leaders, accusing them of being behind the protests.²⁰
20. During 2019, at least 22 people were charged with “subverting a constitutional government”.²¹ They included human rights defenders, activists, civil society leaders, trade unionists and opposition party activists who had called for protest, supported such calls through social media, or were presumed to have participated in or planned protests.
21. Authorities also used threats ahead of any planned protest to dissuade people from participating.^{22,23,24}

SEXUAL VIOLENCE BY SECURITY FORCES

22. Sexual violence has been used systematically to clamp down on the right to protest by security forces. Allegations and widely circulated reports of rape perpetrated by security forces and the Ferret Team were reported, such as at least 15 cases of rape including that of a 15-year-old girl during the January 2019 crackdown. Women were sometimes allegedly raped for their husband’s association with the opposition.²⁵
23. On 13 May 2020, MDC-A members, Joana Mamombe, Cecilia Chimbiri and Netsai Marova, who were arrested at a police roadblock in the capital Harare while they led a demonstration against inadequate protection for the poor during COVID-19 lockdown. On the same day, the three were abducted from police custody by security forces, believed to be members of the Ferret Team, who physically and sexually assaulted them and dumped them 87 km from Harare three days later.²⁶
24. On 29 July 2020, Joshat Ngulube’s home in Bulawayo was raided by suspected members of the Ferret Team after he was accused of distributing face masks bearing the #ZANUPFMustGo slogan. When they

failed to find him, four unidentified men abducted his niece Noxolo Maphosa from the street on 7 August and sexually assaulted her to get her to reveal her uncle's whereabouts.²⁷

FREEDOM OF EXPRESSION

25. Authorities also used Covid-19 regulations to justify severe restrictions placed on the rights to freedom of expression.²⁸ One man was arrested and accused of circulating a fabricated press statement from the President which announced a lockdown and faced 20 years in prison.²⁹ Covid-19 restrictions have been used to justify the harassment of journalists and media workers, at least 25 of whom who were assaulted, and arbitrarily arrested and detained in 2020.³⁰
26. Charges of "undermining the authority of or insulting the President"³¹ were brought to discourage legitimate criticism on social media.
27. In an effort to limit online organizing, authorities have shut down the internet twice, in August 2018 and January 2019³² causing a blackout on violations taking place in country. In July 2020, authorities deliberately disrupted internet speed, making it impossible to use WhatsApp or access some sites.

ABDUCTION, TORTURE, ENFORCED DISAPPEARANCE

28. Abductions, torture and or enforced disappearance by unidentified men, armed and wearing masks are common. A more visible pattern of collusion between security forces and the state is emerging, where activists are removed from police custody, handed over to special operatives to be abducted and tortured before being dumped far away from their homes. Where family members report such cases, they either face arrest or are charged with communicating falsehoods.
29. At least 49 abductions were recorded in 2019 alone of union leaders, civil society activists, opposition leaders and artists.
30. In July 2020, Tawanda Muchehiwa was abducted from police custody by the Ferret Team who wanted to locate his uncle, the editor of an online newspaper. They tortured him and dumped him four days later after the police failed to locate his uncle. Tamuka Denhere was abducted and tortured over several hours by unidentified men who took him from his home in Gweru, and, when they had finished with him, handed him over to Harare Central Police Station, 275 km from his home. Police also arrested his wife after she reported his abduction.

ADMINISTRATION OF JUSTICE

Erosion of judicial independence

31. On 6 April 2021 parliament passed Constitution Amendment No 1 of 2017. The contested Amendment 1 now allows the President to appoint the Chief Justice, Deputy Chief Justice and High Court Judge President without undergoing the previously held open interview selection processes.
32. Constitution Amendment No 2 was passed on 4 May 2021 allowing the President acting on the recommendation of the Judicial Service Commission to appoint sitting judges to vacancies in the higher courts, without undergoing the public interview procedure.³³.

Fair trial rights violated

33. Fair trial rights have not been fully respected in the criminal justice system. Invariably, the law has targeted human rights defenders, critics of government and opposition political party activists. Critics and activists have been denied bail and suffered prolonged pretrial detention ranging from 30 to 60 days in custody in violation of the Constitution.
34. Human rights defenders such as Makomborero Haruzivishe and Alan Moyo have faced unfair prosecution and detention without bail for exercise their rights to freedom of expression and peaceful assembly. Job Sikhala, Jacob Ngarivhume, Godfrey Kurauone and Hopewell Chin'ono were denied bail by the magistrates who handled their initial remand hearing and they were only released after they appealed to the High Court in Harare.

SEXUAL AND REPRODUCTIVE RIGHTS, AND MATERNAL HEALTH

35. The Zimbabwean government has adopted health policies to improve adolescents' sexual and reproductive health. However, inconsistent laws and policies on age of consent for accessing sexual and reproductive health services and information remain.³⁴ Entrenched taboos around adolescent sexuality have created barriers for adolescents to access the information and services they need to protect their health.³⁵
36. Whilst a new educational curriculum was introduced, which includes components of sexual and reproductive health and rights, the teaching of this subject continues to take an 'abstinence-only approach', which focuses predominately on 'biological' information and fails to address gender inequality and related taboos surrounding adolescent sexuality³⁶.
37. There has been a significant high risk of maternal mortality and morbidity including obstetric fistula - a devastating maternal morbidity, which occurs after the trauma of an obstructed labour resulting in continued incontinence of urine or faeces. Senior health officials in Zimbabwe have estimated that as many as 50 women and girls suffer pregnancy related morbidities - including obstetric fistula - every day.

IMPACT OF CLIMATE CHANGE ON LIVELIHOODS AND RIGHT TO HOUSING

38. The country has also faced climate and humanitarian crises which have left many facing hunger. Barely recovering from regional droughts of 2017 and a state of emergency in response to a cholera outbreak in 2018,³⁷ remote parts of the country were ravaged by Cyclone Idai in 2019 which affected 270,000 people.
39. The storm and subsequent flooding and landslides left 340 people dead and many others missing. Agriculture, schools, roads, bridges and other infrastructure all suffered heavy impacts. Chimanimani and Chipinge Districts were hardest hit with many people still living in tents or with relatives as they could not rebuild their homes for lack of financial means and funding constraints
40. The state had no mechanisms in place to reduce the impacts of the drought and the cyclone. The impact of climate change, Covid-19 lockdown and austerity has left 7.1 million people in need of humanitarian assistance in early 2021 such as access to basic commodities, food, livelihood support, water and sanitation.³⁸
41. Forced evictions continue with more than 12,000 people from the Shangani Indigenous community, who live in Chilonga in Chiredzi, facing homelessness following Statutory Instrument (SI) 50 of 2021 to set

aside communal land in the village of Chilonga, Chiredzi district for lucerne production.³⁹

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of [Zimbabwe] to:

Restrictions to Freedom of Assembly and use of Force

- Conduct prompt, thorough, impartial, independent and transparent investigation into all reports of harassment and intimidation of activists by security agents with the view to holding suspected perpetrators accountable.
- Ensure security forces act in accordance with international human rights law on the use of force, including the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Sexual Violence by Security Forces

- Establish an independent, impartial and transparent investigation into all accounts of sexual and gender-based violence allegedly committed by? security forces and Ferret Team.
- Establish an external and independent oversight mechanism, such as an independent police complaints commission or similar unit, to investigate and ensure accountability for unlawful actions, including related to abuses allegedly committed by state actors.

Freedom of Expression

- Allow journalists, human right defenders and activists to do their work without fear of harassment, intimidation and attacks from authorities.

Abductions, Torture and Enforced Disappearances

- Take measures to stop abductions and enforced disappearances and thoroughly, impartially, independently, and transparently investigate all outstanding cases of disappearance.
- Ratify UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention for the Protection of All Persons from Enforced Disappearance.
- Take effective measures to address past human rights violations, including abductions and enforced disappearances by security agents, with a view to establishing the truth, giving access to justice to the victims, bringing suspected perpetrators to account, and providing access to justice and effective remedies to victims, including adequate compensation and treatment.

Administration of Justice

- Respect the right to fair trial, adhere to the rule of law and uphold independence of the judiciary and national prosecuting authority.
- Ensure that all those detained on recognizably criminal charges are tried in proceedings that fully conform with international fair trial standards.

Sexual and Reproductive Rights, and Maternal Health

- Review and revise all laws related to adolescents' sexual and reproductive health and rights in Zimbabwe to ensure that there are no inconsistencies related to the age at which adolescents can access sexual and reproductive health information, education, and services. This includes: the Public Health Act. Children's' Act; Sexual Offences Act, Criminal Law Codification Act and the Termination of Pregnancy Act.

- Fully fund and operationalize the free maternal health care policy. Include post-natal care, including health services related to maternal morbidities, within this policy.

Humanitarian Assistance and Climate Change

- Ensure that people affected by Cyclone Idai and recurrent droughts in Zimbabwe are provided assistance to access adequate food, housing and other essential services, as well as support mechanisms to cope with the destruction of livelihoods.
- Adopt and implement human rights-consistent adaptation and disaster risk reduction measures that allow to adequately protect people from the foreseeable and unavoidable impacts of climate crises.

¹ UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review, Zimbabwe, 28 December 2016*, UN Doc. A/HRC/34/8 and its addendum UN Doc. A/HRC/34/8.Add.1

² Working Group UPR, Report: Zimbabwe, (previously cited) Recommendation 131.64 (United States of America)

³ Working Group UPR, Report: Zimbabwe, (previously cited), Recommendation 132.98 (Germany)

⁴ Working Group UPR, Report: Zimbabwe, (previously cited), Recommendations 131.6-11 (Islamic Republic of Iran, Germany, Congo, Philippines, Uganda, Egypt)

⁵ Veritas, Constitutional Watch 1/2020- Amending the Constitution -Part 1, 18 January 2020, available at veritaszim.net

⁶ Zimbabwe Lawyers for Human Rights, Constitutional Court Judgment On Outlawing Section 27 of POSA, 19 October 2018, zlh.org.zw/?p=1522

⁷ Zimbabwe, Citizenship of Zimbabwe Act, 1984, Section 9 of the 1984 Citizenship Act prohibits dual citizenship whilst section 42(e) of Zimbabwe Constitution allows dual citizenship for people born in Zimbabwe.

⁸ Zimbabwe, Constitution of Zimbabwe Amendment (No.20) 2013 Section 9

⁹ UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review, Zimbabwe, 19 December 2011*, UN Doc. A/HRC/19/14

¹⁰ President Mnangagwa was elected for his first presidential term in August 2018

¹¹ A joint special operatives team of security forces known as the "Ferret" comprising of agents of the police, military, and the Central Intelligence Organisation, as well as the President's Office which works under the authority of the State Security.

¹² Amnesty International, *Open for Business, Closed for Dissent, Crackdown in Zimbabwe during the National Stay-Away, 14-16 January 2019*, (Index: AFR 46/9824/2019), amnesty.org/download/Documents/AFR4698242019ENGLISH.pdf.

¹³ Amnesty International, *Open for Business, Closed for Dissent*, (previously cited), pp 8-9

¹⁴ In August 2018, the police invoked Section 37 of the POSA which allows for the police to request for deployment of members of the Zimbabwe Defence Forces to assist them in the maintenance of law and order in a demonstration.

¹⁵ Amnesty International, "Zimbabwe: One year on no justice for those killed in post-election demonstrations", 1 August 2019, amnesty.org/en/latest/news/2019/08/zimbabwe-one-year-on-no-justice-for-those-killed-by-soldiers-in-post-election-demonstrations/

¹⁶ Zimbabwe: *Report of The Commission of Inquiry into the 1st of August 2018 Post-Election Violence*, 18 December 2018, available at Kubatana.net, p.47, para. 6.5 (a)

¹⁷ Amnesty International, *Open for Business, Closed for Dissent*, (previously cited), pp. 8-9

¹⁸ Herald, "91 illegal protesters arrested", 17 August 2019, [91 illegal protesters arrested | The Herald](http://91-illegal-protesters-arrested|TheHerald)

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- ¹⁹ In August 2019, just before the MDC Alliance planned protests, the police called MDC Youth Assembly Vice Chair Cecelia Chimhiri and civil society leader Pride Mkono to appear before them.
- ²⁰ Pindula, "FULL TEXT: Police Release List Of Wanted People Accused Of Public Violence", 25 January 2019, news.pindula.co.zw/2019/01/25/full-text-police-release-list-of-wanted-people-accused-of-public-violence/, Zimbabwe Republic Police Wanted Last Updated, 25 January 2019
- ²¹ Zimbabwe, Criminal Law (Codification and Reform) (Criminal Code) Act [Chapter 9:23], 2004, Section 22, available at zimlil.org/zw/legislation/act/2004/23
- ²² On 13 January 2019, the Deputy Minister of Information, Publicity and Broadcasting Services posted a message on his twitter account ahead of the planned January protests that said '... Do not protest in the street you can lose a limp (sic) in skirmishes.' Energy Mutodi, Twitter Post, 13 January 2019, twitter.com/energymutodi/status/1084431251317108736
- ²³ On the same day the government's spokesperson Nick Mangwana vowed to crack down on "elements [bent] on taking advantage of the current fuel shortages to cause and sponsor unrest and instability in the country". Statement issued by the Permanent Secretary in the Ministry of Information, Publicity and Broadcasting Services, Nick Mangwana in the Herald newspaper, www.herald.co.zw 13 January 2019
- ²⁴ After 31 July 2020 protests, President Mnangagwa came out calling the protestors 'bad apples' that needed to be 'flushed out'. News24, "Bad Apples 'will be flushed out'- Zimbabwe President Emmerson Mnagagwa warns opponents", 04 August 2020, news24.com/news24/africa/zimbabwe/bad-apples-will-be-flushed-out-zimbabwe-president-emmerson-mnangagwa-warns-opponents-20200804
- ²⁵ Amnesty International, *Open for Business, Closed for Dissent*, (previously cited) p.13
- ²⁶ Amnesty International, "Zimbabwe: Hospitalized activists risk being jailed", Index: AFR46/2339/2020, 8 June 2020, [amnesty.org/download/Documents/AFR4623392020ENGLISH.pdf](https://www.amnesty.org/download/Documents/AFR4623392020ENGLISH.pdf)
- ²⁷ Amnesty International, *Report 2020/21: The State of the World's Human Rights*, 7 April 2021, Index number: POL 10/3202/2021, [amnesty.org/en/documents/pol10/3202/2021/en/](https://www.amnesty.org/en/documents/pol10/3202/2021/en/)
- ²⁸ Zimbabwe: Statutory Instrument 2020-083 Public Health (COVID-19 Prevention, Containment and Treatment) (National Lockdown) Order, 2020, <https://www.veritaszim.net/node/4046>
- ²⁹ Times Live, "Man who peddled 'fake news' about Zim lockdown faces 20 years in jail", 20 April 2020, available at timeslive.co.za/news/africa/2020-04-20-man-who-peddled-fake-news-about-zim-lockdown-faces-20-years-in-jail/
- ³⁰ Amnesty International, *Report 2020/21* (previously cited)
- ³¹ Section 33 of the Criminal Law Code
- ³² Al Jazeera, "Zimbabwe imposes internet shutdown amid crackdown on protests", 18 January 2019, [aljazeera.com/news/2019/1/18/zimbabwe-imposes-internet-shutdown-amid-crackdown-on-protests](https://www.aljazeera.com/news/2019/1/18/zimbabwe-imposes-internet-shutdown-amid-crackdown-on-protests); Herald, "The Case for Internet Shutdown", 19 January 2019 [herald.co.zw/the-case-for-internet-shutdown/](https://www.herald.co.zw/the-case-for-internet-shutdown/)
- ³³ Veritas, Constitution of Zimbabwe Amendment (No. 2) Bill, 8 May 2021, available at <http://www.veritaszim.net/node/3887>
- ³⁴ Amnesty International, Lost without knowledge: Barriers to Sexual and Reproductive Health Information in Zimbabwe, January 2018, (Index: AFR46/7700/2018) [amnesty.org/download/Documents/AFR4677002018ENGLISH.PDF](https://www.amnesty.org/download/Documents/AFR4677002018ENGLISH.PDF)
- ³⁵ Amnesty International, Lost without knowledge, (previously cited), p. 7
- ³⁶ Amnesty International, Lost without knowledge, (previously cited), p. 8
- ³⁷ Guardian, "Zimbabwe declares state of emergency after cholera outbreak claims 20 lives" 12 September 2018, [theguardian.com/global-development/2018/sep/12/zimbabwe-state-of-emergency-cholera-outbreak-claims-20-lives](https://www.theguardian.com/global-development/2018/sep/12/zimbabwe-state-of-emergency-cholera-outbreak-claims-20-lives),
- ³⁸ World Food Program Zimbabwe, Country Brief, April 2021, available at reliefweb.int/report/zimbabwe/wfp-zimbabwe-country-brief-april-2021, p.1
- ³⁹ Amnesty International, Zimbabwe: Thousands at risk of displacement due to imminent forced evictions in Eswatini and Zimbabwe, 11 March 2021, [amnesty.org/en/latest/campaigns/2021/03/thousands-at-risk-of-displacement-due-to-imminent-forced-evictions-in-eswatini-and-zimbabwe/](https://www.amnesty.org/en/latest/campaigns/2021/03/thousands-at-risk-of-displacement-due-to-imminent-forced-evictions-in-eswatini-and-zimbabwe/)