

**Zimbabwe's 3rd Universal Periodic Review
40th Session
(October-November 2021)**

Submission by:

Southern Africa Litigation Centre

15 July 2021

The Southern Africa Litigation Centre (SALC) is a regional non-governmental organisation which was established in 2005. SALC promotes and advances human rights and the rule of law in Southern Africa, primarily through strategic litigation support.

Contact Information:

SALC

1 Hood Avenue, Rosebank, 2196, Johannesburg, South Africa

PO Box 52250 Saxonwold 2132 South Africa

T: +27 (0) 10 596 8538

E: amandas@salc.org.za

NPO 138-655

www.southernafricalitigationcentre.org

Contents

Introduction.....	2
Socio-Economic Rights.....	2
Freedom of Expression.....	4
Freedom of Assembly and Association.....	5
Arbitrary Arrests, Torture and Unlawful Killings.....	6
Rule of Law.....	9
Recommendations.....	10

Introduction

Zimbabwe is in the midst of an economic crisis, which has only been exacerbated by the effects of the COVID-19 pandemic. Lockdown restrictions have led to a decrease in manufacturing, non-mineral exports, hospitality, trade and transport sectors. Despite Zimbabwe’s Constitution, there is a serious deterioration of the political, economic and social environment and the government continues to restrict fundamental human rights and to violently repress dissenters.

This submission deals with:

- Socio-economic rights;
- Freedom of expression;
- Freedom of assembly and association;
- Arbitrary arrests, torture and unlawful killings, and
- The rule of law.

Socio-Economic Rights

Zimbabwe’s Constitution expressly provides protections for socio-economic and cultural rights, including labour and property rights and the rights to food, water, healthcare and

housing.¹ Zimbabwe has also ratified the International Covenant on Economic, Social and Cultural Rights (ICCPR) in 1991. Despite these protections, Zimbabweans continue to suffer from an economic crisis and many lack consistent access to food, water, healthcare, and other fundamental rights.

Right to Food

Due to the economic crisis and worsening effects of climate change, Zimbabweans struggle to access sufficient food and clean water. Food insecurity during the COVID-19 pandemic has been exacerbated by the poor distribution of social aid programs; less than 3% of the increased number of extremely poor rural households received food aid in September 2020.²

Water and Sanitation

Section 77(a) of the Constitution guarantees all people's right to safe, clean and potable drinking water. But over 2 million people in Harare, Chitungwiza, Epworth, Ruwa and Norton have no access to safe drinking water or adequate waste and wastewater disposal services. Residents must rely on open water sources or wait in line for hours at overcrowded boreholes.³

Health

There are also deep-rooted issues with the country's health care system. The main state hospitals, like Harare Central Hospital, face challenges of medicine shortages, inadequate or obsolete equipment, poor infrastructure and critical shortages of nursing staff.⁴ The COVID-19 pandemic has overwhelmed the already collapsing healthcare system. Hospitals are past capacity with COVID-19 patients and are suffering from

¹ Constitution of the Republic of Zimbabwe, 2013 Chap 4.

² "Zimbabwe Economic Update: COVID-19 Further Complicates Zimbabwe's Economic and Social Conditions" *World Bank* (10 June 2021) <https://www.worldbank.org/en/country/zimbabwe/publication/zimbabwe-economic-update-covid-19-further-complicates-zimbabwe-s-economic-and-social-conditions>.

³ "SALC Shadow Report-Zimbabwe's Combined 11th-15th Periodic Report (65th Ordinary Session, Oct-Nov 2019)" *Southern Africa Litigation Centre* (15 Oct 2019) <https://www.southernafricalitigationcentre.org/2019/10/15/salc-shadow-report-zimbabwes-combined-11th-15th-periodic-report-65th-ordinary-session-oct-nov-2019/>.

⁴ "Doctors in Zimbabwe 'sending patients away to die' as drug shortages bite" *The Guardian* (14 March 2019) <https://www.theguardian.com/global-development/2019/mar/14/doctors-strike-zimbabwe-sending-patients-away-to-die-drug-shortages>.



shortages of personal protective equipment, oxygen and ventilators.⁵

Freedom of Expression

Zimbabwean media is heavily controlled by the state, and the government monitors communications and punishes those critical of President Mnangagwa. Between 2020 and 2021, Zimbabwe fell in the World Press Freedom Index rankings, indicating an ongoing failure to protect press freedom and freedom of expression.⁶

At least 25 journalists have been assaulted and arbitrarily arrested by security forces while working in the past year. Despite being classified as essential workers, they have been charged with violating the COVID-19 lockdown restrictions, disorderly conduct and using expired accreditation documents. Investigative journalist Hopewell Chin'ono was arrested three times in the span of five months in 2020 and 2021 and spent months in detention after exposing government corruption in the overbilling for medical supplies to combat the pandemic.⁷ Foreign journalist Jeffrey Moyo was arrested in May 2021, allegedly for posing a national security risk.⁸ Journalists are also frequently ordered to delete their videos and photographs with no valid explanation.⁹

There are concerns over the government's monitoring and interception of private communications. In January 2019, the government shut down access to the internet and social media apps like Facebook, Twitter, and WhatsApp in an attempt to disrupt protests about fuel price increases.¹⁰ In March 2020, the Commander of the Zimbabwe National Army stated that the military would be surveilling private communications to

⁵ F Matiashe "Zimbabwe: Covid cases dying at home as hospitals reach capacity" *The Africa Report* (5 Feb 2021) <https://www.theafricareport.com/62688/zimbabwe-covid-cases-dying-at-home-as-hospitals-reach-capacity/>.

⁶ "Zimbabwe" *Reporters Without Borders* <https://rsf.org/en/zimbabwe>.

⁷ F Mutsaka "Zimbabwean journalist released on bail after weeks in prison" *Associated Press* (27 Jan 2021) <https://apnews.com/article/journalists-prisons-media-social-media-coronavirus-pandemic-29f1d730761b07dd047e46b7af5e6dda>.

⁸ "Zimbabwe court denies bail to NY Times freelancer Jeffrey Moyo, claiming national security threat" *Committee to Protect Journalists* (2 June 2021) <https://cpj.org/2021/06/zimbabwe-court-denies-bail-to-ny-times-freelancer-jeffrey-moyo-claiming-national-security-threat/>.

⁹ "Zimbabwe 2020" *Amnesty International* (2021) <https://www.amnesty.org/en/countries/africa/zimbabwe/report-zimbabwe/>.

¹⁰ "Zimbabwe imposes internet shutdown amid crackdown on protests" *Aljazeera* (18 Jan 2019) <https://www.aljazeera.com/news/2019/1/18/zimbabwe-imposes-internet-shutdown-amid-crackdown-on-protests>.

“guard against subversion”.¹¹ Individuals have been arrested for writing things critical of the President in the media and over social media, including Christian Rambur¹² and Rujeko Heather Mupambwa¹³ in 2020 and Elias Mambo and Farai Machamire¹⁴ in May 2021.

Concerningly, the seemingly progressive draft Cyber Security and Data Protection Bill would limit freedom of expression by criminalising the spreading of false information online,¹⁵ which would deter individuals from exposing corruption. The Bill would also allow security forces to legally spy on private conversations. Human rights groups have also expressed concern over the “Patriot Bill” proposed in March 2021, a piece of legislation that would prohibit public messages on international platforms or to foreign governments that the Zimbabwe government deems harmful to its image. Activists have argued that this law would be another vehicle to target the freedom of expression of journalists and dissidents.¹⁶

Freedom of Assembly and Association

Zimbabwe has not only ratified the ICCPR, but Section 58 of the Constitution guarantees the right to freedom of assembly and association. However, authorities continue to suppress freedom of association and peaceful assembly.

The Maintenance of Peace and Order Act (MOPA),¹⁷ which entered into force in November 2019, contains oppressive assembly restrictions that authorities use to suppress demonstrations. The MOPA sets out a lengthy procedure which conveners of protests must follow to obtain permission for their gathering and also permits police

¹¹ Brenna Matendere “Army to monitor social media” *Newsday* (3 March 2020)

<https://www.newsday.co.zw/2020/03/army-to-monitor-social-media/>.

¹² L Ndebele & J Ncube “WhatsApp comparing Mnangagwa to Ramaphosa sees man charged for insulting president” *Sowetan Live* (24 Apr 2020).

<https://www.sowetanlive.co.za/news/south-africa/2020-04-24-whatsapp-comparing-mnangagwa-to-ramaphosa-sees-man-charged-for-insulting-president/>.

¹³ J Muonwa “Zimbabwe: Kariba MDC Alliance Youth Activist Arrested Over Anti-Mnangagwa Rant” *AllAfrica* (6 Aug 2020) <https://allafrica.com/stories/202008060219.html>.

¹⁴ “Zimbabwe journalists charged with criminal insult over interview on politician’s personal life” *Committee to Protect Journalists* (21 May 2021) <https://cpj.org/2021/05/zimbabwe-journalists-charged-with-criminal-insult-over-interview-on-politicians-personal-life/>.

¹⁵ Cyber Security and Data Protection Bill, 2019 s 164C.

¹⁶ “CPJ joins letter to UN and AU rapporteurs expressing concern about free expression in Zimbabwe” *Committee to Protect Journalists* (8 July 2021) <https://cpj.org/2021/07/cpj-joins-letter-to-un-and-au-rapporteurs-expressing-concern-about-free-expression-in-zimbabwe/>

¹⁷ Maintenance of Peace and Order Act, 2019.



officers to use their discretion to disperse protesters verbally and physically in certain circumstances.¹⁸ It also prohibits gatherings near Parliament, the courts and other protected places¹⁹ where political protesters will likely gather.

Dozens of activists have been arrested in recent months in connection with their protest activities. Between March and August 2020, police and security forces locked down roads leading to Harare’s central business district to prevent protests in support of prominent activists facing trial. President Mnangagwa has described protests supporters as “rogue Zimbabweans” promoting hate and disharmony and promised to flush out these “bad apples”.²⁰

Authorities have been using section 14 of Statutory Instrument 83 of 2020 on Public Health (COVID-19 Prevention, Containment and Treatment) Regulations, which criminalises the “spreading of false news” about COVID-19, to prohibit demonstrations and to impose lengthy prison sentences on those who act against the government. The government imposed an overnight curfew on 21 July 2020, which critics interpreted as a method of suppressing protests. At demonstrations on 31 July 2020, the police arrested at least 20 people, charging them with various offences including “public nuisance”, “intention to incite public violence”, and breaking COVID-19 regulations.

Arbitrary Arrests, Torture and Unlawful Killings

Zimbabwe has not yet ratified the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or the International Convention for the Protection of All Persons from Enforced Disappearance. However, the Constitution of Zimbabwe provides that no person may be subjected to torture or to cruel, inhuman or degrading treatment or punishment.²¹ Despite this, agents of the state commit arbitrary arrests, violent assaults, abductions, torture and other abuses against opponents of the government.

Government forces continue to arrest individuals at protests as a way to suppress dissent. In June 2020, activists Namatai Kwekweza and Vongai Zimudzi were arrested for protesting against proposed constitutional amendments that give the President

¹⁸ *Id* s 6, 7, 13.

¹⁹ *Id* s 10.

²⁰ Tara Penny “Bad Apples’ Who Attempted to Divide Zimbabweans Will be Flushed Out – Mnangagwa” *Eyewitness News* <https://ewn.co.za/2020/08/04/bad-apples-who-attempted-to-divide-our-people-will-be-flushed-out-mnangagwa>.

²¹ constitution of the Republic of Zimbabwe, 2013 s 53.



additional powers to influence the judiciary.²² In July 2020, at least 13 nurses were prosecuted and later acquitted for violating COVID regulations while protesting against poor hospital working conditions.²³ Activists and opposition members planned nationwide protests on 31 July 2020 to demand the President's resignation in response to growing government corruption and economic deterioration. The police and military violently suppressed the 31 July protests, injuring 16 people and arresting at least 60 more.²⁴ Journalist Hopewell Chin'ono and Transform Zimbabwe Party leader Jacob Ngarivhume were arrested for organising the protests. Both were held in detention and released on bail in September.²⁵ Chin'ono has since been arrested twice more: in November 2020 for allegedly obstructing justice and in January 2021 for publishing false information.²⁶

Arbitrary arrests have not been limited to protesters. Though journalists are considered essential workers, they are subject to the same COVID-19 restrictions as the general population, two journalists were arrested in May 2020 for violating the COVID-19 lockdown measures when they attempted to interview Movement for Democratic Change Alliance (MDCA) members about allegations of abuse by the authorities. In June 2020, another journalist was arrested and charged with undermining the President's authority.²⁷

Lawyers also face detention and arrest on illegitimate charges. In June 2020, the Law Society of Zimbabwe released a statement of concern about the continued arrest of its members on charges of alleged obstruction of justice. Lawyer Thabani Mpfu was arrested and released on bail for allegedly obstructing justice by filing an affidavit from an allegedly non-existent person in a case challenging the appointment of the Prosecutor General. The author of the affidavit later presented himself to the police, but

²² S Jakes "Youth organisation call for immediate release of young activists" *Bulawayo24* (23 June 2020) <https://bulawayo24.com/index-id-opinion-sc-columnist-byo-187763.html>.

²³ "Zimbabwe: Authorities must drop charges against health care workers for demanding better wages" *Amnesty International* (7 July 2020) <https://www.amnesty.org/en/latest/news/2020/07/zimbabwe-authorities-must-drop-charges-against-health-care-workers-for-demanding-better-wages/>.

²⁴ "Zimbabwe: SADC, AU Should Denounce Crackdown" *Human Rights Watch* (6 Aug 2020) <https://www.hrw.org/news/2020/08/06/zimbabwe-sadc-au-should-denounce-crackdown>.

²⁵ J Burke & N Chingono "Zimbabwean journalist Hopewell Chin'ono is freed on bail" *The Guardian* (2 Sept 2020) <https://www.theguardian.com/world/2020/sep/02/zimbabwean-journalist-hopewell-chinono-is-freed-on-bail>.

²⁶ "Zimbabwe court quashes charges against journalist Hopewell Chin'ono" *The Guardian* (28 Apr 2021) <https://www.theguardian.com/world/2021/apr/28/zimbabwe-court-quashes-charges-against-journalist-hopewell-chinono>.

²⁷ "Freedom in the World 2021: Zimbabwe" *Freedom House* (2021) <https://freedomhouse.org/country/zimbabwe/freedom-world/2021>.



the case against Mpofu is continuing.²⁸ In August 2020, human rights lawyer Beatrice Mtweta was barred from representing her client Hopewell Chin'ono, and a magistrate recommended her licence be revoked after she was falsely accused of managing a Facebook page critical of the justice system.²⁹

In 2020 alone, over 70 individuals critical of the government were abducted, tortured and later released by unidentified men suspected to be state security agents. In May 2020, three MDCA activists, Cecilia Chambery, Netsai Marova, and parliament member Joanna Mamombe, were abducted by suspected state agents after peacefully protesting the government's failure to support vulnerable communities during the COVID-19 pandemic. They were tortured and sexually assaulted by their abductors, who then dumped them 80 km away from home. While in the hospital seeking treatment for their injuries, they were arrested for making a false report about their abduction. The three women have been arrested three times in the past year for taking part in demonstrations and have been repeatedly denied bail. Their trial is currently ongoing.³⁰ Others with MDCA affiliations have also been detained and tortured, including Tamuka Denhere and Noxolo Maphosa, the niece of MDCA member Joshat Ngulube.

During the leadup to the 31 July 2020 anti-corruption protests, police forces raided the homes of anti-corruption supporters, including journalist Mduduzi Mathuthu. They abducted and tortured his family members.³¹ In September 2020, leader of the Zimbabwe National Students Union Takudzwa Ngadziore was assaulted, abducted and held in prison for 30 days after protesting the government's torture of opponents. Ngadziore was arrested again in March 2021 for inciting public violence with their protest activities.³²

²⁸ "Spotlight on Lawyers and Abductees as They Appear in Court on Charges of Obstruction of Justice" *Zimbabwe Lawyers for Human Rights* (9 July 2020) <https://kubatana.net/2020/07/09/spotlight-on-lawyers-and-abductees-as-they-appear-in-court-on-charges-of-obstruction-of-justice/>.

²⁹ "Zimbabwean court bars lawyer Beatrice Mtweta from representing Hopewell Chin'ono" *Committee to Protect Journalists* (18 Aug 2020) <https://cpj.org/2020/08/zimbabwean-court-bars-lawyer-beatrice-mtweta-from-representing-hopewell-chinono/>.

³⁰ Beauty Nyuke "7 MDC Alliance activists' trial postponed" *Newsday* (9 June 2021) <https://www.newsday.co.zw/2021/06/7-mdc-alliance-activists-trial-postponed/>.

³¹ Siphosiso Mabuza "Doctors alarmed by kidney injuries inflicted on ZimLive editor's nephew" *ZimLive* (2 Aug 2020) <https://www.zimlive.com/2020/08/02/missing-zimlive-editors-nephew-tortured-and-dumped/>.

³² Prince Gora "Student leader released on bail after 30 days" *University World News* (29 March 2021) <https://www.universityworldnews.com/post.php?story=20210329070323821>.



In July 2020, suspected government agents killed Mazwi Ndlovu after he expressed concerns about the distribution of food to those in need. Security forces abducted, murdered and dumped the naked body of MDCA councillor Lavender Chiwaya near his home. Police forces have also arbitrarily detained and killed individuals under the pretence of enforcing COVID-19 regulations. From March to July 2020, police arrested 116,000 people for violating pandemic restrictions, subjecting many of them to violence. In March 2020, Levison Moyo was beaten by police for allegedly violating lockdown restrictions and died four days later from a brain haemorrhage. In May, six police officers arrested and severely beat sisters Ntombizodwa and Nokuthula Mpfungu for hours when they went out during the COVID-19 curfew.³³

Rule of Law

Zimbabwe currently lacks a truly impartial and independent judiciary due to pressure on courts to protect the interests of ZANU-PF.

The sitting President currently has significant power to influence the judiciary. In January 2020, the government gazetted Constitutional Amendment Bill No. 2, which proposed giving the President the power to hand-pick judges for higher courts without going through the usual selection process and to raise the retirement age of judges from 70 to 75.³⁴ Despite opposition, this amendment came into force on 7 May 2021. In May 2021, human rights lawyers challenged President Mnangagwa's use of this constitutional amendment to allow Chief Justice Luke Malaba to continue serving after reaching age 70. The High Court ordered the Chief Justice to step down, ruling that the amendment does not apply to currently sitting judges and must be put to a public referendum.³⁵ The verdict is currently being appealed by the government, but the High Court has backed the Chief Justice's right to resume work in the meantime.³⁶

Due process protections mandated by the Constitution are not enforced. The police often indiscriminately conduct searches and seizures and detain and interrogate

³³ "MDC women's group suspects army hand in vicious Bulawayo sibling police attack" *New Zimbabwe* (12 May 2020) <https://www.newzimbabwe.com/mdc-womens-group-suspects-army-hand-in-vicious-bulawayo-sibling-police-attack/>.

³⁴ Constitution of Zimbabwe Amendment No 2, 2021.

³⁵ Leonard Ncube "Zimbabwe: Malaba Case Takes New Turn" *AllAfrica* (7 June 2021) <https://allafrica.com/stories/202106070353.html>.

³⁶ "Zimbabwe court upholds chief justice's right to resume work despite age" *Reuters* (10 June 2021) <https://www.reuters.com/world/africa/zimbabwe-court-upholds-chief-justices-right-resume-work-despite-age-2021-06-10/>.

suspects for hours without providing them access to legal counsel or a reason for the arrest.³⁷

Recommendations

- a) The government of Zimbabwe should adopt targeted and comprehensive public assistance programs to meet the food, water and healthcare needs of its most vulnerable citizens.
- b) The government of Zimbabwe should ensure that its citizens are allowed to exercise their full right to freedom of expression and freedom of association and assembly. The police should refrain from the arbitrary arrests and detention of journalists, human rights defenders and activists who exercise this right.
- c) The government of Zimbabwe should urgently investigate the actions of perpetrators of abductions, torture, threats or intimidation, and immediately hold those perpetrators accountable.
- d) The government should ratify the Convention against Torture and other Cruel, Inhuman and Degrading Treatment and the International Convention for the Protection of All Persons from Enforced Disappearance.
- e) The government of Zimbabwe should comply with principles of legality, necessity, and proportionality while battling the COVID-19 pandemic.
- f) The government of Zimbabwe should refrain from interfering with the judiciary and should ensure that judges are impartial and fair in their decision-making processes.

³⁷ “Zimbabwe: Parliamentarian Joana Mamombe must be provided urgent medical care” *International Commission of Jurists* (26 Apr 2021) <https://www.icj.org/zimbabwe-parliamentarian-joana-mamombe-must-be-provided-urgent-medical-care/>.