

COMMUNIQUÉ ON THE CURRENT HUMAN RIGHTS SITUATION IN ZIMBABWE AND KEY DEMANDS TO THE GOVERNMENT OF ZIMBABWE, SADC AND THE AFRICAN UNION

13 August 2020

Key Human Rights Concerns

Zimbabwe's human rights problems are highly entangled with the political developments. Similarly, the economy is reactive to political developments. According to the 2019 Labour Force Survey released in March 2020, 74% of Zimbabwe's labour force is in the informal sector. This means most are unemployed and bear the brunt of the harsh economy. Under an inflationary environment, income is being eroded, leaving many in poverty. Zimbabweans are therefore now suffering the triple burden of poverty, unemployment and inequality. There is a breakdown of social-services, with the health sector in a long-standing crisis, which is particularly worrying during the Covid-19 pandemic. Maternal deaths and infant mortality are at an all-time high. The long term impact of the crisis on malaria and AIDS treatment and prevention is potentially disastrous. Education services are also breaking down, which in the long term will have an adverse effect on the country's development. Social welfare provisions are woefully inadequate.

Preliminary observations by the UN Special Rapporteur on the right to food on her official visit to Zimbabwe in November 2019 characterised the dire food situation as “*man-made starvation*”, warning that the food security situation is expected to worsen with an estimated 8 million people affected. She concluded that “*Zimbabwe counts amongst the four highest food insecure States, alongside conflict ravaged countries*”. Corruption, including the misappropriation of funds intended to combat COVID-19, has become entrenched, with public resources diverted for personal gain. This was the primary reason for the planned protests on 31 July 2020.

The Government has responded to citizen concerns and criticisms through a crackdown on rights:

i. Attacks on democratic space

Government and ruling party officials have demonised civil society, falsely accusing them of a “Western sponsored” anti-government agenda. The safety and security of human rights defenders is precarious. Professionals such as lawyers and journalists are under attack. In June 2020 alone, seven lawyers were arrested and/or questioned about their work and charged with a litany of frivolous charges. Journalists doing their job have been labelled “*purveyors of fake news*” and have been arrested and suspended for airing content

deemed unpalatable to the Government. Investigative journalist Hopewell Chin'ono who has exposed government corruption in COVID-19 procurement, leading to the dismissal of the Minister of Health by President Mnangagwa, is currently at Chikurubi Maximum Security Prison having been denied bail and is awaiting trial for his tweets in support of the 31 July anti-corruption protests. Healthcare have been arrested, detained and persecuted for legitimate and lawful collective job action. Security forces have used excessive

force in ruthlessly quelling protests and any form of dissent. On 4 August 2020, Cabinet resolved to legislate to criminalise “campaigning” against the country. It is feared this law will criminalise speaking against Government misconduct, and is calculated to target civil society, human rights activists and those who demand accountability. The proposed law will have a chilling effect on freedom of expression and calls for accountability. The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association has stated in his report on the visit to Zimbabwe in September 2019, that “there has been a considerable deterioration of civic space in the country, which has re-established an environment of persecution and fear”.

ii. Use of COVID-19 regulations as a pretext to “lockdown” rights

While the COVID-19 infections have escalated, the government has seized the moment to escalate decimation of democratic spaces and freedoms and is using the security forces to silence dissent. The UN High Commissioner for Human Rights on 24 July 2020 raised concerns that Zimbabwean authorities may be using the COVID-19 pandemic as a pretext to clamp down on freedom of expression and freedom of peaceful assembly and association. Under the cover of COVID-19 lockdown, the freedoms of assembly, speech, petition and protest have been unduly limited. Recent cases are illustrative: In May three MDC Alliance youth leaders, including MP Joanna Mamombe were abducted, and eventually arrested and charged for breaking COVID-19 regulations. Activist Namatai Kwekweza and others were arrested for demonstrating against limited public consultations with respect to Constitution of Zimbabwe Amendment (No 2) Bill, in June and again July 2020. However, the Government has been conducting public activities, including public hearings by Parliament, the recent official opening of Anjin Operations in Chiadzwa by the President, and several engagements that the First Lady has been leading, suggesting that Government has been selective as to which gatherings to stop.

iii. Organised Violence and Torture

The greatest attacks on human dignity in Zimbabwe manifest in brutality using the State security machinery. Journalists have been attacked for doing their work. Abductions, assault and torture have been on the rise. Between 31 July 2020 and 6 August 2020, the Zimbabwe Human Rights NGO Forum (the Forum) has documented nine abductions. On 30 July, unknown assailants abducted and tortured Tawanda Muchehiwa, nephew to an online editor Mduduzi Mathuthu who is currently in hiding. Muchehiwa was dropped off about 5 km from his place of residence on 1 August around 2200hrs. According to a

medical report he sustained acute injuries to his kidneys and is suffering from post-traumatic stress disorder. Similarly, on 8 August four men abducted Noxolo Maphosa and tortured and sexually abused her. During her ordeal they asked about the whereabouts of her activist uncle Josphat Ngulube. Historically, cases of abductions have been unsatisfactorily investigated. Perpetrators are not prosecuted. This includes cases where civil damages have been awarded by the civil courts. The Government has claimed that the abductions are stage-managed or perpetrated by unnamed “third forces”. Illegal raids have been recorded at the homes of individuals critical to the Government, including journalists, opposition leaders and labour movement leaders. Key perpetrators are State security forces, unknown assailants and ruling party political activists. On 10 June 2020, UN human rights experts called on Zimbabwe “to immediately end a reported pattern of disappearances and torture that appear aimed at suppressing protests and dissent”.

iv. Using the criminal justice system as a political weapon

Arrests linked to the exercise of freedom of expression and freedom of association continue. The arrests of Jacob Ngarivhume and Hopewell Chin’ono and their denial of bail were intended to crush the 31 July protests. Apart from the persecution of these two, there has been a dramatic increase of arrests of human rights defenders and activists and opposition members and supporters. These are arrested, detained, denied bail, and subjected to protracted and costly trials, that invariably end in acquittals. There has also been a worrying trend where family members of those targeted have not been spared as they have been held as ransom. Individuals in detention, including Ngarivhume and Chin’ono, have been treated as convicted criminals contrary to the Constitution, and are currently at Chikurubi Maximum Security Prison. They have been denied access to lawyers and relatives visits, access to regular meals (being on medication, they require specific food which they can regularly get from their relatives), and access to personal protective clothing and sanitization of their cells. In contrast, the Minister of Health who was at the center of the corruption scandal that Chin’ono exposed, was granted bail in the Magistrates Court.

ZANU-PF acting spokesperson Mr Patrick Chinamasa incited violence in a press address on 27 July 2020 by calling on the party’s supporters to crash the planned demonstrations, but was never arrested and charged with inciting violence. The police, in fact, refused to receive complaints when some citizens sought to report this. These are emblematic examples of selective application of the law which have been evident.

v. Impunity

Impunity is the single greatest threat to the rule of law, constitutionalism and the enjoyment of human liberties in Zimbabwe, fuelling and sustaining breaches of human rights. There is disregard of court rulings and failure to operationalise effective constitutional mechanisms for accountability. In all the unlawful killings, torture and abductions, no member of the security forces has been held to account, save for a few civil cases privately instituted for damages in civil courts. Following the 1 August 2018 shootings, the Motlanthe Commission of Inquiry's recommendations are yet to be implemented. Government has not signed up to the African Court on Human and People's Rights and the International Criminal Court and the *United Nations Convention for the Protection of all Persons Against Enforced Disappearances and the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* and its Protocol. The state is yet to enact domestic legislation that criminalises torture, although it is proscribed in the constitution. The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association has concluded that there is "a serious deterioration of the political, economic and social environment since August 2018".

vi. Non-adherence to constitutionalism

The Government has begun a process of clawing back on human freedoms through arbitrary amendments to the Constitution meant to decimate checks and balances and concentrate power in the executive and the President. The amendments are being done without meaningful consultation as public hearings were conducted during the current COVID-19 lockdown in spite of protestation from civil society.

The Government's response to the above concerns has been arrogant denial and continued use of State propaganda and repressive measures to silence criticism.

KEY DEMANDS

Most of the pressing human rights concerns raised above can be remedied by an attitudinal shift on the part of the Government, involving little or no financial outlay. With this in mind, our key demands are as follows:

For the Government of Zimbabwe to:

- Treat political prisoners humanely, including ensuring access to basic rights and COVID-19 safety measures; release all political prisoners and civic activists, and withdraw the unsustainable charges against activists, opposition political leaders, and human rights defenders, including women activists.

- Cease attacks on the democratic space and allow civil society, professionals, political parties and workers to operate without undue hindrance.
- Respect the rule of law and the Constitution in letter and spirit.
- Fully implement the 2013 Constitution.
- Cease use of the criminal justice system to silence and punish dissent.
- Investigate and prosecute all pending and future cases of organised violence and torture, including abductions.
- End impunity for human rights violations.
- Ensure that soldiers return to the barracks.
- Implement the Mothlante Commission of Inquiry on the 1 August 2018 Violence's recommendations.
- Ratify, domesticate and implement the *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*.
- Cease using COVID-19 lockdown regulations to close the democratic space.
- Engage in real and genuine broad-based dialogue, inclusive of all stakeholders to the Zimbabwean crisis, as opposed to engagements of convenience through the Political Actors Dialogue (POLAD).

For SADC to:

- Hold the Government of Zimbabwe to account and end impunity. SADC must raise the political and economic cost of impunity and anti-democratic behaviour.
- Adopt a clear and decisive plan of action to address Zimbabwe's governance deficits in a sustainable and inclusive manner.
- Push for real and genuine broad-based dialogue, inclusive of all stakeholders to the Zimbabwean crisis, as opposed to engagements of convenience through the Political Actors Dialogue (POLAD).

For the African Union to:

- Undertake a fact-finding mission to Zimbabwe, noting with concern the Government of Zimbabwe's disregard of the South African envoys on 10 August 2020.
- Hold Zimbabwe to account by demanding adherence to the Constitutive Act of the African Union and the 2007 African Charter on Democracy, Elections and Governance.
- Sanction the Government of Zimbabwe to adhere to the African Charter on Human and People's Rights. There should be a political cost to the government's failure to respect the African Union's standards of democratic practice.
- Insists on genuine broad-based and all-inclusive national dialogue.