



PETITION TO THE PRESIDENT OF THE REPUBLIC OF ZIMBABWE

**PETITION TO THE PRESIDENT TO CONSIDER GRANTING PRESIDENTIAL
PARDON TO PRISONERS IN TERMS OF SECTION 112 OF THE CONSTITUTION
OF ZIMBABWE AMENDMENT (NO. 20) ACT TO DECONGEST PRISONS DURING
THE COVID-19 PANDEMIC**

TO HIS EXCELLENCY

PRESIDENT EMMERSON DAMBUDZO MNANGAGWA

A. The Petitioner

Zimbabwe Human Rights NGO Forum (the Forum), whose contact details are as follows:

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		Website: <a href="http://www.hrforumz
im.org/">http://www.hrforumz im.org/

The Petition of the undersigned:

The Zimbabwe Human Rights NGO Forum (the Forum), is a membership-based non-governmental organisation operating as a common law universitas, that works to influence policy reform by advocating for an improved human rights framework, particularly on prisoners' rights whose member organisations are,

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| (i) Amnesty International - Zimbabwe (AI-Z); | (v) Gays and Lesbians of Zimbabwe (GALZ); |
| (ii) Catholic Commission for Justice and Peace - Zimbabwe (CCJP-Z); | (vi) Justice for Children (JC); |
| (iii) Civic Education Network (CIVNET); | (vii) Legal Resources Foundation (LRF); |
| (iv) Counselling Services Unit (CSU); | (viii) Media Institute of Southern Africa (MISA - ZIMBABWE); |
| | (ix) Media Monitors (MM); |

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| (x) Research and Advocacy Unit (RAU); | (xvi) Zimbabwe Civic Education Trust (ZIMCET); |
| (xi) Transparency International-Zimbabwe (TI-Z); | (xvii) Zimbabwe Human Rights Association (ZIMRIGHTS); |
| (xii) VERITAS; | (xviii) Zimbabwe Lawyers for Human Rights (ZLHR); |
| (xiii) Women of Zimbabwe Arise (WOZA); | (xix) Zimbabwe Peace Project (ZPP); |
| (xiv) Zimbabwe Association for Crime Prevention and Rehabilitation of the Offender (ZACRO); | (xx) Zimbabwe Women Lawyers Association (ZWLA); |
| (xv) Zimbabwe Association of Doctors for Human Rights (ZADHR); | (xxi) Tree of Life and |
| | (xxii) Women and Law in Southern Africa (WLSA) |

The Forum has a national presence in its programme implementation and operates through its membership in all the districts of Zimbabwe.

B. That Your Petitioner:

Being an organisation constituted and operating legally in Zimbabwe;

And whose funding method is donor funding from various organisations;

NOTE THE FOLLOWING WHICH THEY INTEND TO BRING TO YOUR ATTENTION:

WHEREAS the nation and the government are fighting the invisible enemy of COVID-19 and the Minister of Health and Child Care has since issued a new

lockdown order through Statutory Instrument 10/ 2021, Public Health (Covid-19 Prevention, Containment and Treatment) (National Lockdown) (No.2) (Amendment) Order, 2021 (No.9) which plunged the country back into Level 4 national lockdown due to an increase of COVID-19 infections and fatalities countrywide.

REALISING that the Constitution of Zimbabwe Amendment (No.20) Act, 2013 guarantees the absolute right to human dignity¹, freedom from torture or cruel, inhuman or degrading treatment or punishment², and above all, the right to life³.

COGNISANT that the aforesaid rights are enjoyed by all citizens including prisoners, particularly Section 50 (5) (e) of the Constitution which protects the right to detention conditions that are consistent with human dignity, including the provision of adequate accommodation, ablution facilities and personal hygiene at the State's expense.

NOTING that the government of Zimbabwe has a duty to safeguard the rights of the prisoners particularly in this time of the pandemic and the failure of the State in taking positive steps towards the prevention of the spread of contagious diseases in prison would amount to a violation of the Zimbabwean Constitution as well as Article 6 (right to life) and Article 9 (right to liberty) of the International Convention on Civil and Political Rights, 1996 (ICCPR)⁴,

AWARE that Section 112 of the Constitution gives power to the President to exercise power of mercy through presidential pardon to convicted offenders and

¹ Section 51 of the Constitution Amendment (No.20) Act, 2013.

² Section 53 of the Constitution Amendment (No.20) Act, 2013.

³ Section 48 of the Constitution Amendment (No.20) Act, 2013.

⁴ United Nations Human Rights Committee, Concluding observations of the Human Rights Committee : Republic of Moldova, 5 August 2002, CCPR/CO/75/MDA.

that power can be used to release prisoners in decongesting the overcrowded prisons and minimizing COVID-19 infections.

CONCERNED THAT despite the vulnerability of the prisons' community during this pandemic and the obligation on the government to protect rights of the prisoners, there is no clear strategy in fighting and controlling COVID-19 infections in prisons.

ALARMED by the current state of prisons which is characterised by overcrowding, lack of social distancing, shortage of sanitizers and masks, deplorable ablution facilities, shortage of detergents and poor diet for the inmates and all these are essential and inevitable in minimizing COVID-19 infections in prisons.

DESIROUS to see a published government strategy on COVID-19 prevention and response in prisons and ensuring the decongestion of prisons, provision of sanitisers, detergents, good diet, and better ablution facilities consistent with the right to better conditions of detention in line with human dignity of the prisoners.

REALISING the urgent need to have positive action in decongesting the prisons;

THE PETITIONER PETITIONS THE PRESIDENT AS FOLLOWS:

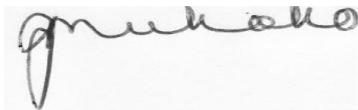
- (i) That the President of Zimbabwe exercises his power of mercy and grants presidential pardon to inmates to decongest overcrowded prisons and thereby reducing the risk of COVID-19 infections. This amnesty may be granted to the following prisoners among others:
- Inmates with pre-existing medical conditions;
 - Elderly inmates;
 - Inmates incarcerated for non-violent and petty offences;

- Inmates who have served greater parts of their sentences and do not pose grave danger to the community;
- Inmates recommended for such release by the prison rehabilitation officers;
- Juvenile inmates, and
- Inmates with responsibility to look after their families particularly women.

(ii) The President should direct responsible Ministries and the National COVID-19 Taskforce to develop and publish a COVID-19 prevention and response strategy in prisons per the regional best practices.

(iii) Direct the Ministry of Justice, Legal and Parliamentary Affairs to conduct an inquiry on the state of prisons, produce a report and devise a long-term strategy in addressing perennial problems affecting Zimbabwean prisons.

DATED AT HARARE ON THIS 10th DAY OF FEBRUARY 2021



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Jestina Mukoko

CHAIRPERSON

ANNEXURE '1'

FACTS OF THE PETITION

The Zimbabwe Human Rights NGO Forum (the Forum) as an organisation that fights for the protection and promotion of human rights for all including prisoners, is involved in advocacy initiatives to lobby for the improvement of conditions in prisons. In 2018, the Forum and the Zimbabwe Association for Crime Prevention and Rehabilitation of the Offender (ZACRO) conducted a study on prison conditions to assess compliance of selected prisons with international and domestic standards on conditions of detention and produced a report titled, *Rights Behind Bars Report, A study of Prison conditions in Zimbabwe, 2018*. This report is annexed to this petition and it unearthed deplorable conditions of detention in prisons. The outbreak of COVID-19 made the situation in prisons horrible for human habitation.

Since the outbreak of COVID-19, the Forum has been monitoring the human rights situation in prisons through prison visits, court monitoring and media reports. Through these monitoring tools, the Forum made the following findings:

1. Overcrowding

Prisons are still overcrowded which makes it difficult to implement social distancing. In March 2020, the government acknowledged that the Zimbabwean prison system with a holding capacity of 17 000 had a population of 22 000. According to the Herald newspaper of 6 May 2020, the government released 4 208 prisoners in March and June 2020 under a Presidential Amnesty. Prisons are still receiving an influx of inmates from the courts due to violations of lockdown restrictions. At Gutu Satellite Prison, a cell with a maximum capacity to

accommodate 10 inmates accommodates 30-50 inmates depending on the arrests and convictions made that day. As at the 20th of November 2020, the Chikurubi Maximum Prison facility accommodated 2,493 (two thousand four hundred and ninety-three) prisoners, a number that is notably higher than the prison's optimum capacity of 1,360 (one thousand three hundred and sixty). The festive season led to an increase of these numbers in remand prisons due to various reasons including violation of lockdown regulations.

2. Sub-standard ablution facilities

The ablution facilities in prisons do not have running water and most of them are no longer working. An observation was made at Chikurubi Maximum Prison in D Hall, where inmates relieve themselves in buckets, which are emptied the next morning when prisoners are let out of their cells. The toilets in the cell areas do not have urinaries, and the toilet seats in the cells and in the common areas are not covered. Annexed to this petition as **Annexure '2'**, is a joint report that was produced after a court sanctioned Chikurubi Maximum Prison inspection visit on case number **HC 6726/2020** which was conducted by lawyers representing the Forum and the State. This report is a tip of the iceberg of the situation in the prisons. It is now an established and undisputable fact that good hygiene is essential to prevent the spreading of COVID-19. Further attached as **Annexure '3'**, the provisional order granted to the Forum and another inmate at Chikurubi facility for the government to release more funds for the acquisition of more accommodation facilities in decongesting the prison.

3. No testing for COVID-19, lack of masks and sanitisers

There is critical shortage of masks for inmates. Prisoners are not tested upon admission. The authorities cited shortages of testing materials to implement this

important practice. Inmates are not provided with sanitizers in cells to sanitize their hands.

As a result of overcrowding, horrible ablution facilities, shortage of sanitizers and without COVID-19 testing, COVID-19 is spreading like wide fire in prisons and prisoners are dying⁵. Decongesting these prisons will minimize the risk of covid-19 infections in prisons.

END

⁵ See New Zimbabwe newspaper of 19 January 2021, also accessible at <https://www.newzimbabwe.com/harare-mayor-mafume-isolates-as-three-cell-mates-succumb-to-covid-19/>