



**UPR Submission  
Zimbabwe  
March 2016**

During the Universal Periodic Review (UPR) in October 2011, the government of Zimbabwe committed to improving human rights through implementing the 131 recommendations proposed. Despite these commitments, the Zimbabwean government has made little progress in human rights reforms. The country faces severe socio-economic challenges, yet it has failed to invest in desperately needed essential public services such as food, water, education, health, and sanitation. In May 2013, Zimbabwe established a new constitution with an expansive Bill of Rights. While a step in the right direction, an expected legislative framework and new or amended laws to improve human rights in line with the constitution have yet to materialize.

Those who criticize president Robert Mugabe or his government, including human rights defenders, civil society activists, government opponents, and street vendors, face harassment, threats, or arbitrary arrest by the police and state security agents. The government has failed to ensure justice and accountability for serious past abuses. Authorities continue to mock and violate the rights of Lesbian, Gay, Bisexual and Transgender (LGBT) people.

**Attacks on Human Rights Defenders**

The abduction and continued disappearance of leading pro-democracy activist and human rights defender Itai Dzamara since March 9, 2015, showed that the Zimbabwe government had not moved beyond its oppressive past. Dzamara, the leader of Occupy Africa Unity Square, had led a number of peaceful protests against the deteriorating political and economic environment in Zimbabwe in 2014 and 2015. He had petitioned Mugabe to resign and for reforms to the electoral system. Zimbabwe authorities denied any government involvement in Dzamara's abduction, but state authorities failed to conduct any meaningful investigation. When Dzamara's wife, Sheffra Dzamara, approached the high court in Harare to compel state authorities to search for her husband, government officials failed to comply with the court order to report on the investigation's progress.

In January 2015, five community leaders representing 20,000 flood victims from the Tokwe-Mukorsi dam were sentenced to five years in prison for public violence after they organized a demonstration to protest the lack of compensation owed to them and the dire conditions in which they lived. The government had arrested the community leaders in August 2014, including Mike Mudyambwa, the chair of the victims' Chingwizi Camp Committee, who had not been at the demonstration. Their lawyers said they had been tortured in prison.

In July 2015, police beat and arrested 16 street vendors, including Sten Zvorwadza, Samuel Wadzanai Mangoma, and Lucy Makunde, leaders of the National Vendors Union of Zimbabwe (NAVUZ) and brought trumped up charges of inciting public violence against them. The arrests were part of a violent crackdown on unlicensed street vendors - most of who were women living in extreme poverty - in the capital, Harare, as part of a government "clean-up" campaign. The crackdown was marked by beatings, destruction of goods, and arbitrary arrests.

During the 2011 UPR, Zimbabwe "noted" all eight recommendations made in relation to human rights defenders.

The member states of the Human Rights Council should urge the government of Zimbabwe to:

- Respect the rights of human rights defenders to do their work in the promotion of human rights, and issue invitations to the UN and African Commission's respective special rapporteurs on human rights defenders.
- Issue clear instructions to the police not to interfere with the work of domestic and international human rights NGOs and ensure that any incidents of unlawful interference are investigated and appropriate remedial or legal action is taken.
- Ensure that authorities act in accordance with the UN Declaration on Human Rights Defenders.
- Set up an independent judge led Commission of Inquiry into the abduction of Itai Dzamara with powers to subpoena witnesses. The findings of the Commission of Inquiry must be made public and those implicated brought to justice in fair trials.
- Accede to the International Convention for the Protection of All Persons from Enforced Disappearance and the recognition of the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of victims or other states party.

## **Rule of Law**

The government continued to ignore human rights provisions in the country's 2013 constitution, neither enacting laws to put the constitution into effect nor amending existing laws to bring them in line with the constitution and Zimbabwe's international and regional human rights obligations. The government is yet to repeal or amend the Access to Information and Protection of Privacy Act (AIPPA) and the Public Order and Security Act (POSA), amongst others, whose provisions severely restrict basic rights and violate the constitution.

The government lacked comprehensive strategies to curb the rising practice of child marriage. The United Nations says nearly one-third of girls in Zimbabwe marry before their 18th birthday and 4 percent before they turn 15. In June, the prosecutor general, said girls as young as 12 can marry if they give their consent, undermining efforts to curb the practice, though he later denied making the statement. Two former child brides launched a legal appeal to the Constitutional Court of Zimbabwe in January to declare child marriage illegal and unconstitutional. In January 2016 the court banned child marriage and set 18 as the minimum age for marriage for both girls and boys. Zimbabwe authorities will now need to fulfill their commitments and make the necessary amendments to existing laws to implement the ruling.

There has been no progress on establishing the National Peace and Reconciliation Commission (NPRC) mandated by the 2013 constitution for post-conflict justice, healing and reconciliation. To date no independent mechanism has addressed serious past human rights crimes, including widespread election-related violence and the massacre of an estimated 20,000 people in the Matabeleland and Midlands provinces in the 1980s.

In the 2011 UPR, the Zimbabwe government accepted the recommendation relating to accountability and said it would "Ensure the Organ for National Healing, Reconciliation and Integration be able to fully implement its mandates based on truth, reconciliation and forward-looking approaches."

The member states of the Human Rights Council should urge the government of Zimbabwe to:

- Fully implement the country's 2013 constitution and operationalize key institutions including the National Peace and Reconciliation Commission to ensure protection of enshrined human rights.
- Repeal or amend all national legislation incompatible with international human rights law and standards including the African Charter on Human and Peoples' Rights. In particular,

repeal or substantially amend the Criminal Law (Codification and Reform) Act, the Public Order and Security Act (POSA), the Miscellaneous Offences Act (MOA), and the Access to Information and Protection of Privacy Act (AIPPA).

- Take steps to amend as necessary all marriage laws to ban child marriage in accordance with the constitutional court decision.
- Create a national action plan to combat child marriage, with input from women's and children's rights groups, health professionals, and other service providers; coordinate efforts among all relevant ministries; and ensure sufficient resources to implement the plan.
- Uphold its international obligations to respect the rights to freedom of expression, assembly, and association, and cease arrests, harassment, and detention of individuals based on their political views.

## **Sexual Orientation and Gender Identity**

the Zimbabwe authorities continue to violate rights of lesbian, gay bisexual and transgender individuals (LGBT) people that are guaranteed in the 2013 constitution. A Zimbabwe Human Rights Commission report published in July 2015 showed continued prevalence of hostility and systematic discrimination by police, politicians, community and family members against LGBT people. The harassment by state agents of LGBT people continues to drive many underground.

The member states of the Human Rights Council should urge the government of Zimbabwe to:

- Respect and protect the rights of LGBT people that are guaranteed in the 2013 constitution.
- Prevent and punish discrimination and harassment of LGBT people.

## **Torture and Cruel, Inhuman, and Degrading Treatment**

Torture and other ill-treatment of detainees by police and members of Zimbabwe's intelligence services remain a serious and systemic human rights problem in Zimbabwe, despite accepting to "ratify the CAT, implement its standards into national law and take immediate and concrete actions against the practice of torture by State officials" during the 2011 UPR. Acts of torture that Human Rights Watch has documented include severe beatings that involve victims being punched, kicked, and struck with batons; beatings on the soles of the feet; repeated banging of detainees' heads against walls; and the shackling of detainees in painful positions.

The government has taken no significant action to halt the torture and ill-treatment of individuals, including opposition supporters and civil society activists, in the custody of the police or intelligence services. In some cases torture is an element of coercive interrogations, while in others it is used as a form of punishment for the activists' perceived leanings or intentions. Allegations of torture by police or intelligence officers are rarely investigated.

The member states of the Human Rights Council should urge the government of Zimbabwe to:

- Ratify and rigorously implement the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol.
- Issue an invitation to the UN special rapporteur on torture with a view to developing a set of recommendations to end torture.

## **Impunity**

Very few government officials implicated in past serious rights violations have faced prosecution. Zimbabwe's long history of impunity for politically motivated crimes has worsened the political crisis. Those who committed abuses in the past have remained free to carry out further violence

and other crimes. Police have routinely refused to take action against ruling party ZANU-PF supporters and militia implicated in political violence.

Public confidence in the judiciary and police—especially regarding independence and impartiality—is eroded. There have been no investigations into the role of senior government, military, and ruling party officials implicated in mobilizing and inciting militia forces responsible for election-related violence. In 2011, Zimbabwe only “noted” the recommendation by Slovenia to strengthen its efforts in the fight against impunity.

The member states of the Human Rights Council should urge the government of Zimbabwe to:

- Conduct prompt, thorough, and impartial investigations into all credible allegations of arbitrary arrest and detention; excessive use of force; and torture and cruel, inhuman, and degrading treatment by police and other state agents. All those who are implicated in such abuses, whatever their rank, should be disciplined or prosecuted as appropriate.
- Operationalize the constitution's independent civilian authority charged with receiving complaints and investigating allegations of crimes committed by police, military, and armed forces.
- Ensure that administrative and judicial proceedings regarding alleged violations of human rights are open to the public as provided by international law, with the view to achieve greater transparency and accountability in the legal and penal systems and work towards the establishment of an independent and impartial judiciary.
- Adopt legislation to qualify, or completely nullify, past clemencies and amnesties involving perpetrators of serious human rights abuses. These include the Clemency Order (1) of 18 April 1988, the Clemency Order (1) of 1995, and the Clemency Order (1) of 2000.

***On the International Criminal Court:***

- Ratify the Rome Statute and implement the statute into national legislation, including by incorporating provisions to cooperate promptly and fully with the International Criminal Court and to investigate and prosecute genocide, crimes against humanity and war crimes before its national courts in accordance with international law.