



ZIMBABWE

RIGHTS OF HUMAN RIGHTS DEFENDERS

3rd CYCLE UNIVERSAL PERIODIC REVIEW 2022

ZIMBABWE LAWYERS FOR HUMAN RIGHTS, ADVOCACY FACTSHEET

Brief Assessment of the Implementation of 2nd Cycle UPR Recommendations on Human Rights Defenders in Zimbabwe

The situation for human rights defenders (HRDs) in Zimbabwe continues to deteriorate. HRDs operate in a highly restrictive environment characterised by repressive laws, security sector brutality, and violations of freedom of expression, association and assembly, through arbitrary arrests, malicious prosecutions and lengthy pre-trial detention in inhuman and degrading conditions in maximum security prisons. In November 2021, the state gazetted the Private Voluntary Organisations Amendment Bill that will de-operationalise most non-governmental organisations.

In the 2nd cycle, Zimbabwe supported recommendations to create a safe and enabling operating environment and to protect HRDs from arbitrary arrest, violence, enforced disappearances and torture; to adopt laws in line with the UN Declaration on Human Rights Defenders; to amend laws violating free assembly, association, expression and the media; to ensure the right to a fair trial and independence of the judiciary; and to improve conditions of detention. In the 1st cycle, Zimbabwe had supported recommendations to ratify the Convention against Torture and its Optional Protocol, the Convention for the Protection of All Persons from Enforced Disappearances; and the Optional Protocol to the International Covenant on Civil and Political Rights; to criminalise torture; and to send an invitation to the UN Special Rapporteur on Torture. However, in the 2nd review, Zimbabwe failed to support these recommendations and also declined to support specific recommendations relating to repeal of repressive criminal laws.

Challenges	Cases, Facts, Comments
Abductions and torture	<p>During the period under review, abductions and torture of HRDs have increased. In May 2020, three female leaders from the political opposition party, MDC- Alliance –Joanna Mamombe, Cecilia Chimbiri and Netsai Marova– were abducted, tortured, sexually assaulted and dumped 48 hours later outside Harare.</p> <p>HRDs Tatenda Mombeyarara and Tawanda Muchehiwa were also abducted and tortured, among others.</p> <p>In all these cases, the State has failed to carry out effective investigations and those responsible have not been brought to account for their actions. Instead, HRDs are subjected to</p>

	<p>reprisals, including criminal prosecutions, for reporting their abductions.</p> <p>The police and members of the security services also continue to use excessive force and torture against HRDs. In January 2019, following a national stayaway protest, security forces were deployed to residential areas where they are reported to have committed extrajudicial killings, rape, sexual assault, abductions, displacements, assaults, torture, inhuman and degrading treatment on alleged protestors.</p> <p>Zimbabwe has not ratified the Convention Against Torture, the International Convention for the Protection of All Persons from Enforced Disappearance and has not criminalised torture and enforced disappearances.</p>
<p>Arbitrary arrest, malicious prosecutions and detention in inhumane conditions</p>	<p>The State continues to use the criminal justice system as an apparatus to suppress dissent, subjecting student union leaders, journalists, teachers and political activists to arbitrary arrests, excessive pre-trial detention and malicious prosecution.</p> <p>HRDs are being denied bail and subjected to pre-trial detention in Zimbabwe's dilapidated detention facilities and maximum security prisons.</p> <p>Currently, the cells at Harare Remand Prison are overcrowded with one cell carrying seventy (70) prisoners instead of the designated capacity for thirty (30). This means it is not possible to observe COVID-19 protocols.</p> <p>Notable cases of malicious prosecution of HRDs include:</p> <ul style="list-style-type: none"> i. Makomborero Haruzivishe, who was convicted and sentenced to a 36-month prison sentence (with 16 months suspended) for allegedly resisting arrest and inciting public violence, for a whistling protest. ii. Allan Moyo, a student activist, who spent 73 days in pre-trial detention for a peaceful protest. iii. Takudzwa Ngadziore, a student leader, who spent 28 days in pre-trial detention for conducting a press briefing. iv. Hopewell Chin'ono an investigative journalist, and opposition MDC Alliance leaders Job Sikhala and Fadzai Mahere, who were arrested on spurious charges for criticising state brutality on social media, and subjected to pre-trial detention under inhuman conditions. Fadzai Mahere contracted COVID-19 during her detention as a direct result of the Police Service and the Prisons and Correctional Service failing to adhere to COVID-19 protocols.
<p>Repressive laws limiting fundamental rights to expression, assembly and association</p>	<p>The government continues to use repressive legislation to restrict the civic and democratic space.</p> <p>HRDs are charged using the repressive Criminal Law (Codification and Reform) Act under provisions such as 'insulting the president', 'Subverting constitutional government', 'making false statements prejudicial to the state', and 'inciting public violence or disorder'.</p>

	<p>During the period under review, the state also passed the Maintenance of Peace and Order Act (MOPA), repealing the previous Public Order and Security Act (POSA), but maintaining repressive provisions from the colonial period criminalising unsanctioned protests and public gatherings.</p> <p>The government also recently gazetted the Private Voluntary Organisations Amendment Bill which, if passed, will criminalise NGOs for “political” involvement; and for unauthorised: collection of charitable funds from the public; or receipt of foreign funds. The Bill will regulate NGOs currently operating as trusts and associations, and require reregistration of NGOs when they make organisational changes, leaving their status pending registration unknown. The executive is given excessive powers, and can suspend NGOs’ executive committees replace them.</p> <p>Cabinet has also approved principles for “patriotic” provisions that, if passed by Parliament, will criminalise: making unsubstantiated claims of torture and abductions tarnishing the image of government; conducting protests that coincide with international events; and unauthorised communication with foreign governments: in violation of HRDs’ rights to freely communicate, report atrocities, and to peacefully protest.</p>
<p>Systematic targeting of NGOs</p>	<p>Human rights NGOs have also been subjected to denigrating and chilling threats by state spokespersons.</p> <p>Following a successful court challenge, the Minister of Justice, Legal and Parliamentary Affairs stated that particular law-based human rights organisations were funded by “foreign organisations seeking to destabilise the government”; that the judiciary had been “captured by elements within and outside the country who wish to destabilise the second Republic and “foreign forces”; and the state was going to “poke the enemy in the eye and confront it”. In a press article, a Government spokesperson referred to three human rights organisations as the “Zimbabwe axis of evil” for the reporting of “fake abductions”.</p>
<p>ZLHR recommends member states issue comprehensive recommendations to address the numerous concerns highlighted, but in particular, call upon the government of Zimbabwe to: -</p>	
<ol style="list-style-type: none"> 1. Implement recommendations of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association in his 2020 Zimbabwe report 2. Cease arbitrary arrests and malicious prosecutions of human rights defenders for their lawful human rights work 3. Cease arbitrary denial of bail to human rights defenders 4. Cease the detention of pre-trial detainees in maximum security prisons 	

5. Ensure that prisons, police cells and other places of detention are maintained to international human rights standards including the right to dignity
6. Cease issuing denigrating and threatening statements against human rights defenders, victims of human rights violations and NGOs
7. Repeal restrictive criminal provisions used to crackdown on human rights defenders, including sections 5 - 8, 10, 12, 13, 15, 16 and 18 of the Maintenance of Public Order Act; and sections 22, 31, 33, and 37 of the Criminal Law (Codification and Reform) Act
8. Abandon the Private Voluntary Organisations Amendment Bill, 2021
9. Abolish restrictive legislative and other measures against legitimate activities of NGOs.
10. Establish the constitutionally mandated Independent Complaints Mechanism for complaints against the security sector, in consultation with civil society and in line with international human rights standards, within one year.
11. Ratify the Convention against Torture and its Optional Protocol
12. Ratify the International Convention for the Protection of All Persons from Enforced Disappearances and its Optional Protocol
13. Adopt legislation to domesticate the UN Declaration for Human Rights Defenders