



Freedom House

UPR Stakeholder Submission – Zimbabwe

Introduction

1. This report is submitted by Freedom House to the office of the High Commissioner for Human Rights (OHCHR) to be considered for inclusion in the summary of stakeholder submissions for the Universal Periodic Review (UPR) of Zimbabwe, scheduled to take place in October 2011.

Executive Summary

2. This submission focuses on the violation of human rights taking place in Zimbabwe. It specifically addresses human rights violations in the following areas: 1) the inhumane treatment of detainees and prisoners, including the use of arbitrary detention and torture or other forms of cruel, degrading treatment or punishment; 2) increasing restrictions on freedom of expression and media freedom, and 3) violations of freedom of assembly.

Treatment of Prisoners and Use of Torture

3. Zimbabwe's treatment of prisoners and detainees on the basis of their political beliefs constitutes a severe abuse of their basic civil rights and stands in clear violation to Zimbabwe's obligations as a state party to the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and People's Rights (ACHPR). The consistent use of arbitrary detention and the infliction of cruel and degrading punishments by the Zimbabwean authorities represent a direct and flagrant violation of articles 3 (equal protection before the law), 5 (prohibition of all forms of exploitation and degradation including torture, cruel, inhuman or degrading punishment) and 6 (no one may be arbitrarily arrested or detained) of the ACHPR, as well as articles 7, 9 and 10 of the ICCPR.
4. In addition to the aforementioned international conventions, the Zimbabwean constitution also contains provisions providing protections to the right to life (art. 12), the right to personal liberty (art. 13) and the right to protection from inhuman treatment which includes torture (art. 15).

5. Despite numerous explicit domestic and international legal provisions prohibiting arbitrary detention and the use of cruel and degrading punishment, torture of prisoners is endemic to elicit confessions and to impose punishment.
6. Security forces abuse citizens with impunity, often ignoring basic rights regarding detention, searches, and seizures. The government has taken no clear action to halt the rising incidence of torture and mistreatment of suspects in custody. ZANU-PF militias operate as de facto enforcers of government policies and have committed assault, torture, rape, extralegal evictions, and extralegal executions without fear of punishment.
7. Pretrial detention is a major problem, with some inmates held for over 10 years without trial. Scores of MDC officials and activists have been abducted, charged with treason, and detained without due process, particularly in 2008 but continuing in 2009 and 2010 as well.
8. In June 2010, following his discussion of alleged military abuses in the Marange diamond region in the East with appointed Kimberley Process monitor Abbey Chikane, human rights activist Farai Muguwu was arrested and charged with publishing falsehoods against the State with the intention to cause prejudice to the security or economic interests of the country. Held illegally for 39 days, Farai Muguwu's detention was characterized by ill-treatment including threats, procedural irregularities, and denial of medical treatment. Mr. Muguwu testified in court that he had been put in leg irons and chains which prevented him from sleeping properly or from freely using the toilet. He told the court that when he sought an explanation for this treatment from prison guards, he was told that they were following orders from above which they had been ordered to obey because his case was allegedly "political".
9. In March 2011, Elton Mangoma, the energy minister in Zimbabwe's inclusive government, was arrested in his office by police forces loyal to Robert Mugabe. The arrest of Mr. Mangoma, who was not charged at the time of his arrest, follows the arrest and reported assault of some 150 other MDC supporters this year.
10. In 2009, the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment, Manfred Nowak, was denied the opportunity to conduct an official fact-finding mission when he was deported from Zimbabwe after having been detained by security officials upon his arrival in Harare a day earlier.

Freedom of Expression and Media Freedom

11. Freedom of expression is guaranteed to all citizens based on article 20 of the constitution which includes the freedom to hold opinions and to receive and impart ideas and information without interference, and Zimbabwe's obligations as a state party to the ICCPR. However, in practice, freedom of expression is almost non-existent due to the country's draconian legal framework which has the effect of seriously undermining free speech and free expression.

12. Some of the laws responsible for the lack of freedom include the Access to Information and Protection of Privacy Act (AIPPA), the Official Secrets Act, the Public Order and Security Act (POSA), and the Criminal Law (Codification and Reform) Act.
13. In general, these laws restrict who may work as a journalist, require journalists to register with the state, severely limit what they may publish, and mandate harsh penalties—including long prison sentences—for violators.
14. In March 2010, artist Owen Msaeko was arrested and detained for two days for “incitement” staging a Bulwayao exhibit about the Matabeleland massacres. Days before, authorities shuttered photography exhibits in Masvingo, Gweru, and Chinhoyion documenting ZANU human rights abuses in the 2008 election.
15. Journalists are routinely subjected to verbal intimidation, physical attacks, arrest and detention, and financial pressure by the police and ZANU-PF supporters. In April 2010 at least 15 journalists were reportedly harassed, arbitrarily arrested, or assaulted by security forces.
16. Also in 2010, numerous journalists covering constitutional outreach meetings were harassed or assaulted. As a result of this intimidation, some of them – including Stanley Kwenda of *the Zimbabwean* – were forced to temporarily flee the country following threats of arrest, violence, or death by security forces.

Freedom of Assembly and Association

17. As is the case with freedom of expression, freedom of assembly and association is guaranteed by article 21 of the Zimbabwean constitution although numerous laws including the 2002 Public Order and Security Act (POSA) – which contains provisions requiring police permission for public meetings and demonstrations, allowing the police to impose arbitrary curfews, and forbidding criticism of the president – have the effect of negating these rights.
18. In February 2011, 45 students, trade unionists and political activists who had come together to watch Al Jazeera and BBC news reports on the uprisings in North Africa were arrested under the Criminal Law Act on suspicion of plotting to oust President Robert Mugabe of Zimbabwe. They were held without bail and several sources claim they were beaten in prison. After 17 days, 39 of the 45 were released, but six remain in custody at time of this writing.
19. Since 2008, crackdowns on political dissent have become more commonplace. Those who are seen wearing MDC t-shirts, reading Morgan Tsvangirai’s newsletter, or failing to attend ZANU-PF meetings are subject to legal sanctions. Also, there are continued reports that citizens cannot get farming instruments, maize seed or fertilizer without a ZANU-PF party card. Furthermore, other known MDC supporters were threatened with losing their homes or market stands if they did not attend ZANU-PF rallies.

20. In November 2009, five trade unionists from the Zimbabwe Council of Trade Unions were arrested in the Victoria Falls District. They were charged with contravening POSA by holding a meeting without notifying the police. This arrest clearly violated legitimate trade union rights protected under ILO Convention article 87 that guarantees the right to freedom of association and the right to organize, and which Zimbabwe is obliged to respect as a state party to the ILO Convention.
21. There continue to be repeated cases of members of civil society organizations and political parties being arrested for holding private meetings. In January 2010, a meeting of MDC members in Mashonaland Central province was broken up by gun-toting policemen who accused the group of breaching security laws. The police then impounded the local party leadership's vehicle, party-position papers on the constitution-making process and 500 copies of the MDC's party newsletter.

Recommendations

- Zimbabwe should immediately ratify the United Nations Convention Against Torture (CAT)
- Zimbabwe should fully comply with the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Working Group on Arbitrary Detention
- All prisoners held for their political beliefs and anyone who is neither a threat to national security nor an advocate of violence should be immediately released
- Individuals responsible for torture and abuse of prisoners should be brought to justice and victims compensated
- Zimbabwe should guarantee people's right to free expression and curtail legal provisions that stifle free speech in violation of international and legal obligations
- Zimbabwe should adopt a comprehensive legislative framework that allows people the fundamental right to peacefully assemble and ensure that local authorities and law enforcement agencies assist citizens in exercising their constitutional rights
- Limits on the right to free assembly should be unambiguously stated and should be restricted to provisions affecting national security, public order and national health

Attachment

[Freedom House: Freedom in the World 2010 - Zimbabwe](#)

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