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Over the past decade, Zimbabwe's political development has been stymied by the government's closure of political space to avoid public scrutiny and competition from the political opposition. The government and state security forces have committed widespread human rights violations with impunity, including arbitrary arrests and detention, torture, and extrajudicial killings, and severely restricting freedom of expression, association and assembly.

The government of Zimbabwe has enacted a raft of laws to prevent criticism of its political and economic policies. Such laws have been used as a pretext to arbitrarily arrest and detain civil society activists, and to harass and intimidate opposition politicians and supporters and other government critics. These abuses culminated in a vicious crackdown by the ruling party, the Zimbabwe African Union National-Patriotic Front (ZANU-PF), against the opposition Movement for Democratic Change (MDC), during and after the 2008 general elections. In 2009, in the aftermath of the elections, ZANU-PF and the MDC formed a power-sharing government. However, this has not brought an end to human rights abuses, with ZANU-PF retaining control of the security forces and the judiciary.

**Restrictions on Freedom of Association and Assembly**

Zimbabwean citizens who publicly and peacefully express opinions critical of the government are routinely subject to arrest. The government passed two major pieces of legislation before presidential elections in 2002, the Public Order and Security Act (POSA) and the Miscellaneous Offences Act (MOA), which severely limit criticism of government and public debate.

The police in Zimbabwe have often used key provisions of these laws, as well as the Criminal Law (Codification and Reform) Act, to justify arrests that violate basic rights and systematically deny civil society activists the right to peacefully assemble and associate. The police have used provisions in POSA to strictly monitor and prevent public meetings or disrupt peaceful demonstrations.

Peaceful protests in Zimbabwe are often violently disrupted by the police. At various times over the past decade, hundreds of peaceful demonstrators, including student activists, trade unionists, and human rights activists, have been arrested for exercising their right to peacefully assemble. On February 19, 2011, police arrested 45 activists who were meeting in Harare to discuss events in the Middle East.

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

- Repeal or amend all national legislation that is 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).
- 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. The government should respect the rights of all persons to hold political opinions varying from that of the state.

## **Restrictions on Freedom of Expression**

There continue to be serious limits to the rights to freedom of expression and information in Zimbabwe, particularly in the form of threats of closure of independent media organizations, as well as the intimidation, arbitrary arrest, and criminal prosecution of journalists. The government's actions seem primarily designed to inhibit criticism of government officials and institutions, and to muzzle independent reporting and commentary on the political situation in the country.

In the past decade, Zimbabwe's government has enacted laws that give it discretionary control over which individuals may practice journalism and operate a media outlet, as well as broad powers to prosecute persons critical of the government. Legislation such as the Criminal Law (Codification and Reform) Act, POSA, and AIPPA—which requires registration and accreditation of journalists—continue to be selectively used to restrict independent media.

An amendment passed on January 7, 2005, provides for criminal penalties to journalists who operate without accreditation. Under the Criminal Law (Codification and Reform) Act, journalists convicted of publishing or communicating falsehoods “prejudicial to the state” face up to 20 years' imprisonment and up to one year imprisonment if convicted of undermining the authority of or insulting the president.

While the government lifted restrictions on the international media in 2010, and allowed independent local daily papers to resume operations, it has not reformed media-related laws as promised. It has also not reviewed criminal defamation laws that impose severe penalties, including prison terms, on journalists.

Journalists and media practitioners routinely face arrest for allegedly violating the state's repressive media laws. Journalists and media outlets have also been subjected to threats and harassment from the authorities and security forces, creating major obstacles to reporting on Zimbabwe's political system and continuing abuses by ZANU-PF.

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

- Repeal or amend all laws that infringe on journalists' right to freedom of expression, such as the Access to Information and Protection of Privacy Act, the Broadcasting Services Act, and the Public Order and Security Act.
- Cease harassment and intimidation of journalists and other violations of media freedom, and investigate and prosecute those responsible, regardless of position or rank.
- Ensure that press laws and regulations are in accordance with international human rights law and standards regarding freedom of expression and information, including the Declaration on Freedom of Expression in Africa, and the Johannesburg Principles on National Security, Freedom of Expression and Access to Information.

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

Torture and other ill-treatment of activists by police and members of Zimbabwe's intelligence services remain a serious and systemic human rights problem in Zimbabwe. Detainees in police custody are at significant risk of torture. Acts of torture that Human Rights Watch has documented include severe beatings that involved 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.

### **Attacks on Human Rights Defenders**

The Zimbabwean authorities often use repression and intimidation to silence human rights advocates during the course of their daily work and prevent them from exposing abuses and promoting respect for human rights. ZANU-PF officials have routinely accused human rights organizations of being supporters of the opposition and of receiving funds from western donors that the government accuses of trying to destabilize the country. Human rights defenders and lawyers are constantly subjected to harassment, arbitrary arrests, and violent attacks by the police, intelligence agents, and government officials.

Some examples from 2010 include the arrest of 83 men and women from the group Women of Zimbabwe Arise in Harare on September 20, as they demonstrated against the lack of professionalism by the Zimbabwean police. The group was detained at the Harare Central Police Station for two days. On September 22 they were charged with criminal nuisance and released on free bail. In a raid at the offices of the organization Gays and Lesbians of Zimbabwe (GALZ) on May 21, 2010, police arrested two staff members, charging them with possession of "obscene, indecent or prohibited articles" and confiscating educational material. On May 24 a Zimbabwean magistrate's court added the charge of "undermining authority of or insulting [the] president" because the GALZ office displayed a placard that made a critical reference to President Robert Mugabe.

Harassment and arbitrary arrests of human rights defenders have intensified since January 2011. For example, on February 8, police arrested two employees of the Zimbabwe Human Rights NGO Forum as they tried to conduct a survey on transitional justice. In the same period police have also raided the offices of a number of human rights nongovernmental organizations (NGOs) and questioned the employees.

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 NGOs. 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.

### **Impunity**

Very few government officials implicated in 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 ZANU-PF supporters and militia implicated in political violence.

Political manipulation of the police and judiciary and the obstruction of the work of human rights organizations have contributed to a climate of impunity. Since 2000, the government has led an onslaught on the judiciary that has included physical and verbal attacks against judges and bribes intended to compromise the impartiality and undermine the judicial process.

Law enforcement agencies have subverted the rule of law. The police are responsible for widespread violations, including harassment, threats, and attacks against opposition supporters and human rights activists, as well as torture and other ill-treatment. On numerous occasions police have failed to comply with judicial orders to investigate allegations of torture and other abuses committed by their own personnel. In any case, there is currently no independent mechanism within the police force to deal with such allegations.

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.

The power-sharing government has also failed to hold to account security agents who abducted and tortured over 40 MDC officials and human rights activists in November and December 2008, despite court rulings that acts of torture were committed, and the activists having identified some of the agents responsible. Local human rights groups have reported that those who committed serious crimes during the 2008 elections often continue to live in the same communities in which they committed the crimes, sometimes next door to their victims. In some cases security agents and ZANU-PF supporters who tortured and beat people during the 2008 election run-off have threatened victims with further violence, ahead of a proposed referendum and new elections scheduled for 2011.

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.
- Establish an independent civilian authority charged with receiving complaints and investigating allegations of crimes committed by members of the Zimbabwe Republic 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.

### **Election-Related Violence**

Since 2000, elections in Zimbabwe have been marked by widespread violence, intimidation, and serious electoral irregularities.

During the parliamentary election in 2000 and presidential election in 2002, international observers and international organizations documented widespread and extreme violence, mainly perpetrated by ZANU-PF against MDC activists and supporters, and serious electoral irregularities, including flawed registration procedures, coercion of voters, and interference in the distribution of food aid for political gain. Human Rights Watch documented similar violations in the 2005 parliamentary elections. Those elections—while significantly more peaceful than those in 2002—were, however, just as flawed and marked by widespread intimidation in the rural parts of the country.

The response of President Robert Mugabe and ZANU-PF to their loss to the MDC in general elections in March 2008 was brutal, and plunged Zimbabwe deep into political turmoil.

ZANU-PF mobilized a campaign of brutal violence against MDC activists and supporters. The military, government-backed militia, self-proclaimed "war veterans," and ZANU-PF supporters and officials committed widespread abuses, including killings, torture, beatings, looting, and burning of property. At least 200 people were killed and some 5,000 were tortured or beaten. Tens of thousands more were displaced by the violence.

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

- Promptly and publicly condemn serious violence by political parties, including ZANU-PF and its supporters, as well as by members of the security forces.
- Ensure that all allegations of violence and intimidation committed by police officers, intelligence and state security officers, and political party supporters during elections are investigated promptly, and that accused persons are promptly and fairly brought to trial.

### **Human Rights Violations in Marange Diamond Fields**

Human Rights Watch published a report in June 2009 detailing diamond-smuggling, corruption, and widespread serious human rights abuses—including killings, torture, beatings, and child labor—in the Marange diamond fields of eastern Zimbabwe. The report highlighted the army's seizure of control of the diamond fields in October 2008 and its killing of more than 200 people in the same month. Zimbabwe's government has failed to investigate or prosecute these abuses.

Soon after the release of the report, the Kimberley Process Certification Scheme (KPCS), a global body that governs the diamond industry and to which Zimbabwe belongs, sent a review mission to investigate. The mission confirmed Human Rights Watch's findings and assessed that the abuses violated KPCS minimum standards. In an interim report, the mission recommended the withdrawal of the Zimbabwe Defence Forces from Marange, as well as an end to abuses and smuggling. Civil society groups active in the Kimberley Process demanded Zimbabwe's suspension until it complied with KPCS standards.

The government of Zimbabwe has so far failed to fully comply with the KPCS recommendations, despite initial government indications of a willingness to do so. While beatings, torture, forced labor, and other abuses decreased in 2010, corruption is rife, and smuggling of diamonds by soldiers in the fields is prolific. The government has not withdrawn the military from Marange, but has instead rotated new units into the area.

Diamond revenue, particularly from the Marange diamond fields in eastern Zimbabwe, is providing a parallel source of revenue for ZANU-PF and its repressive state apparatus. The diamond revenues continue to benefit a few senior people in the government and their associates rather than the people of Zimbabwe.

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

- Remove the army from Marange district, demilitarize the diamond industry, and restore security responsibilities to the police, ensuring that the police abide by international law enforcement standards governing searches and the use of force. The government should also set up a civilian oversight committee to monitor police compliance with basic human rights and international law enforcement standards.
- Launch an impartial and independent investigation into alleged human rights abuses, smuggling of diamonds, and corruption. Hold accountable all soldiers and police implicated in these abuses, regardless of rank.
- Put in place mechanisms to ensure greater revenue transparency from diamond mining and ensure that the Marange community benefits directly from the mining of diamonds in their area. This may be achieved by regularizing diamond mining to stem smuggling, licensing local miners, taxing them, and redistributing a portion of their revenue to the local community.