



**QUARTERLY POLITICAL AND HUMAN RIGHTS  
VIOLATIONS REPORT  
January - March 2016**

**A report by the Zimbabwe Human Rights NGO Forum**

**April 2016**

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## **Executive summary**

*The Zimbabwe human rights situation remains turbulent, characterised by an escalation of human rights violations and a fragile social and economic environment. The spike in human rights violations became visible in December 2015 and continued during the first quarter. Economic, social and cultural rights (ECOSOC) are violated partly through the government's lack of commitment in investing in the realization of these rights. The Government is demonstrating limited commitment to promote and protect ECOSOC rights. It is disturbing that the ruling party seems to be pre-occupied with power contestations at the expense of the economy which is in a dire state making it very difficult for citizens to access their constitutionally guaranteed rights.*

*This has been exacerbated by the prevailing economic melt down coupled with the El Nino induced drought, which, severely impacts on the enjoyment of social and economic rights. According to the Zimbabwe National Statistics (Zimstat), the food poverty datum line for one person at the end of January 2016, stood at \$31, translating to about \$1.03 a day's spending for food. About 4 million Zimbabweans require food aid. So severe is the drought that President Mugabe acting in terms of Section 27(1) of the Civil Protection Act declared a State of Disaster in regard to severely affected areas in communal and resettlement areas of Zimbabwe with effect from 02 February 2016. It is important to note that the President delayed pronouncing the state of disaster long after famine had ravaged the population and about 20 000 cattle had died in the drought prone areas of Masvingo and Matebeland provinces.*

*The health and education sector have not been spared. Children's right to education continued to be violated with some schools withholding examination results for non-payment of school fees, contravening the constitutionally guaranteed right to education.*

*The health sector is not adequately protected due to underfunding. There is a shortage of drugs at major hospitals. During the quarter, the deterioration of public health infrastructure resulted in the outbreak of typhoid. By the end of March 2016, a total of 55 cases were confirmed in Harare suburbs of Glen Norah, Glen View, Hopley, Budiro and Hatfield. There are high chances of the disease spreading to other parts of the country as a result of water shortages and the incessant water cuts.*

*During the quarter the destruction of houses which escalated in 2014 following the demolition of 200 houses in Budiro, Harare, became a cause of concern especially in the so called 'illegal settlements'<sup>1</sup> in areas in and around Harare. The Government of Zimbabwe in collaboration with the City of Harare carried out these unconstitutional property demolitions. In addition, these demolitions were carried out without court orders thus violating Sections 74, 51 and 53 of the Constitution which, guarantees freedom from arbitrary eviction, the right to human dignity and*

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<sup>1</sup> There is controversy over the illegality of the settlements after it emerged the local authorities were aware of the sprouting of the settlements and only declared them illegal after occupiers had lived in them and paid procedural rates and fees

*protection against cruel, inhuman and degrading treatment. Furthermore the demolitions did not meet the international standards of conducting evictions in that no adequate notice was given to the victims neither has the government shown any intention of compensating the victims.*

*Politically although there is an ebb in acts of overt political violence, covert forms of violence are on the rise in the form of threats, intimidation, illegal and unconstitutional property demolitions and partisan distribution of food. Rights relating to civil liberties, in particular, rights to petition and demonstrate; freedom of association, assembly, and expression as well as media freedom continue to be violated. By denying the people the right to freely protest, assemble, associate and express themselves, the government of Zimbabwe is not only violating the Constitution of Zimbabwe but also international and regional conventions such as the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights', which Zimbabwe has ratified. Politicians also continue to use hate speech in the public media. Previously hate speech was targeted at opposition political activists but since 2014 it is now a norm in the ZANU PF faction riddled party.*

*On 12 February, the Zimbabwe Peoples' First (ZimPF) was registered as a fully-fledged political party. The formation of ZimPF followed the purging of the then Vice President of Zimbabwe, Dr. Joice Mujuru in December 2014 on allegations of trying to remove President Mugabe. With ZimPF seeming to gain political ground, increased reports of political intolerance have been noted throughout the country. These include disruption of their political meetings, denial of food aid and assaults on their support base. On the other hand, ZANU PF succession wars continue unabated.*

*In spite of the gloomy economic, social and political environment, a number of notable developments in the fulfillment of human rights in Zimbabwe were advanced during the quarter. These include the outlawing of child marriages, the decriminalization of Section 96 of the Criminal Law (Criminal Defamation) Act, the enactment of the Gender Commission Act and the appointment of the much-awaited commissioners of the National Peace and Reconciliation Commission whose main function is to ensure post-conflict justice, healing and reconciliation.*

*The continued violation of rights has been worsened by the government's failure to amend all domestic laws with the Constitution. A significant proportion of statutes do not comply with the Constitution. There is therefore an urgent need for the Government to prioritise its basic functions of is protecting citizens from violence and providing essential services such as health, education, sanitation, and clean and safe water among others.*

## **Introduction**

The Zimbabwe Human Rights NGO Forum (the Forum) produces the Quarterly Political and Human Rights Violations Report (QPVR) as a monitoring tool to track and document trends in civil, political, economic, social and cultural rights violations. This report covers the period between January and March 2016 and highlights developments through statistics and, trends in human rights violations. The information used is derived from the Forum's Public Interest Unit (PIU), member and partner organisations and verified press reports. Although this report derives its information from multiple sources it is not intended to be the main and exhaustive source of human rights violations information in Zimbabwe, but a complementary report alongside those produced by other human rights organisations.

## **Developments in the fulfillment of human rights**

The first quarter of the year was characterised by some notable improvements in the fulfilment of human rights for all in Zimbabwe. The period witnessed the decriminalisation of freedom of expression and of the media through expunging the limiting law. In February, the Government scrapped the criminal defamation law from its statutes on the grounds that it violated the constitutionally guaranteed freedom of expression and freedom of the media.<sup>2</sup> Section 96 of the Criminal Law (Criminal Defamation) Act which has been in existence since 2014 was challenged in the Constitutional Court (ConCourt) by MISA-Zimbabwe and the Herald editor Caesar Zvayi who argued that the law infringed on freedom of expression and media freedom. The ConCourt ruling was indeed victory for freedom of expression and of the media in Zimbabwe.

In another milestone development towards the fulfilment of human rights, on 20 January 2016, the ConCourt outlawed child marriages. In the landmark ruling, Deputy Chief Justice Luke Malaba invalidated Section 22 (1) of the Marriage Act [Chapter 5:11] or any law or practice or custom authorizing a person less than 18 years of age to marry or to be married. Thus with effect from 20 January no person, male or female, may enter into any marriage, including an unregistered customary law union

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<sup>2</sup> See Section 61 of the Constitution of Zimbabwe

or any other union including one arising out of religion or religious rite, before attaining 18 years.<sup>3</sup>

Although Zimbabwe's Parliament is set to pass a law that would see parents and guardians arrested for accepting *lobola* (bride price) for children younger than 18,<sup>4</sup> Zimbabwe must take clear steps to implement the court's ruling and end child marriages which is rampant in Zimbabwe. Global statistics show that Zimbabwe is one of Africa's leading countries in child marriages and the United Nations Children's Fund estimate that 31 percent of girls in Zimbabwe marry before their 18th birthday and 4 percent marry before they turn 15 years.<sup>5</sup>

The Government also took a number of steps to operationalise the commissions established in Chapter 12 of the Constitution. On 24 February, President Mugabe swore in members of the National Peace and Reconciliation Commission (NPRC) and the Zimbabwe Anti-Corruption Commission (ZACC)<sup>6</sup>, signaling a positive step towards the operationalisation of the independent commissions. The Gender Commission Act (No.7 of 2015) came into force on 12 February 2016 while the NPRC Bill is still under consideration. However, the Gender Commission (GC), the Zimbabwe Human Rights Commission (ZHRC) and the ZACC are not adequately funded neither are they technically capacitated. ZHRC receives funding from Ministry of Justice, contrary to the Paris Principles, which state that national institutions must have autonomy from government.<sup>7</sup>

The country is in a never-ending election mode. Since the July 2013 harmonized elections, a total of 25 national by- elections have been held, 24 in 2015 and one for

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<sup>3</sup> The ruling followed the case of two former child brides, Ruvimbo Tsopodzi and Loveness Mudzura, now aged 19 and 20 respectively, who sued the Government of Zimbabwe over its failure to curb child marriage

<sup>4</sup> The Herald 16 March 2016 available at <http://www.herald.co.zw/arrest-for-u-18s-lobola-receivers/>

<sup>5</sup> See UNICEF, State of the world's children, available at [http://www.unicef.org/publications/files/SOWC\\_2015\\_Summary\\_and\\_Tables.pdf](http://www.unicef.org/publications/files/SOWC_2015_Summary_and_Tables.pdf)

<sup>6</sup> NPRC Commissioners: Cyril Ndebele [*chairperson*], Lilian Chigwedere [*deputy chairperson*], Patience Chiradza, Choice Ngoro, Charles Masunungure, Geoffrey Chada, Godfrey Chekenyere and Leslie Ncube. Netty Musanhu. Anti- Corruption Commissioners: Job Whabira [*chairperson*], Nannette Silukhuni [*deputy chairperson*], Goodson Nguni, Christine Fundira, Danford Chirindo, Cathy Muchechetere, Farai Mashonganyika, and Boyana Ndou. Thandaza Masiye Moyo is still to be sworn in as the last member

<sup>7</sup> [http://www.ohchr.org/Documents/Publications/PTS-4Rev1-NHRI\\_en.pdf](http://www.ohchr.org/Documents/Publications/PTS-4Rev1-NHRI_en.pdf)

Mhondoro –Mubaira on 05 March 2016. Some of the by-elections were triggered by Section 129 (1) (k) of the Constitution which states that a Member of Parliament's (MP) seat becomes vacant when the MP ceases to belong to the political party of which he or she was a member when elected to Parliament and the political party concerned, by written notice to the Speaker of Parliament, or the President of the Senate, as the case may be, informs parliament of the same whilst some followed the death of the incumbent. All the by- elections were won by ZANU-PF and the main opposition party the MDC-T boycotted the by elections until electoral reforms are implemented.

In terms of multi- party democracy, a new political party was formed, the Zimbabwe Peoples' First (ZimPF), which was registered as a fully-fledged political party on February the 12<sup>th</sup>. Whether the new political outfit will change the political fortunes of Zimbabweans remains to be seen.

The following section highlights incidents of human rights violations that were noted during the period.

### **Forms of Abuse**

Most violations recorded during the period were in the form of harassment and intimidation stemming from political intolerance and heightened factionalism within ZANU PF. Forms of abuse are however divided into two subsections; section one highlights violations relating to civil and political rights and section two violations relating to economic, social and cultural rights. The following notes should be put into consideration when reading this report;

***Note:** Human rights violations contained in this report are derived from statements made to the Forum's Public Interest Unit, its member and partner organisations. Reference is also made to press reports.*

*The identities of victims whose names have not been published in the press and are not public officials are protected. This is done in order to protect the victim from further violence, intimidation and possible reprisals.*

*One incident may contain multiple cases*

*The Report cannot be considered as the exhaustive record of all incidents of politically-motivated violence in Zimbabwe in the period under review. Nevertheless, every incident*

*reported to the Forum directly or through its members is meticulously documented and included in the report.*

## **Section 1: Civil and Political Rights**

### **Violation of rights relating to the security of the person**

#### ***Unlawful deprivation of life***

This refers to the arbitrary and intentional deprivation of life that is outside the provisions of local and international law. It excludes the imposition of the death penalty as a result of a judicial process, which does not contravene certain minimum safeguards imposed by human rights law and the Constitution of Zimbabwe. The right to life is safeguarded in the Constitution of Zimbabwe and the Universal Declaration of Human Rights as well as in the African Commission on Human and Peoples' Rights and the International Covenant on Civil and Political Rights to which Zimbabwe is a state party. During the quarter one case of murder involving the police was reported.

- On 05 February, a team of police detectives murdered a suspected cell phone thief. According to the wife of the deceased in an interview with Counseling Services Unit (CSU), the detectives, forced entry into the deceased house and ordered him to lie on his stomach. One of the officers then shot him from the back and he died.<sup>8</sup>

#### ***Enforced or Involuntary Disappearances***

According to Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance, enforced disappearance refers to,

*The arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such a person outside the protection of the law”*

Although Zimbabwe has not ratified any convention relating to enforced disappearance, the Constitution under Chapter 4 has provisions that articulate the

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<sup>8</sup> Counselling Services Unit



protection of fundamental human rights and freedoms.<sup>9</sup> The 9<sup>th</sup> of March 2016, marked a year since Itai Dzamara, a pro-democracy and human rights activist was abducted by unidentified men. Just like many cases of enforced disappearance, the fate of Dzamara remains unknown and the State denies any knowledge of his whereabouts. During the quarter one (1) case of abduction was noted.

- On 17 February, the provincial secretary of the Peoples' Democratic Party (PDP) was allegedly abducted by state security agents from Pakama Business centre in Gwanda. Witnesses reported to CSU that the assailants arrived at the business centre in two unmarked twin cab trucks and forced the victim into one of the trucks and drove off. He was only released after the party officials made a report at Gwanda police and with human rights lawyers in Bulawayo. The victim was tortured and dumped along Gwanda- Bulawayo road.<sup>10</sup>

## **b. Violation of rights relating to respect for the integrity of the person**

As the political environment remained turbulent, significant cases of torture, assault, harassment and intimidation were noted during the period.

### ***Torture and other cruel, inhuman or degrading treatment or punishment***

*Torture is "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed; such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity".<sup>11</sup>*

Section 53 of Constitution enshrines freedom from torture or cruel, inhuman or degrading treatment or punishment. Zimbabwe has not acceded to the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Zimbabwean police continue to resort to the use of torture to silence dissenting voices, for punishment and in order to obtain a confession. A total of seven (7) cases were documented during the first quarter. The following are some of the cases:

- On 05 January, three leaders of the Rural Teachers Union of Zimbabwe namely Obert Masaraure, Robson Chere and Pride Mukono were brutally assaulted by police officers during an anti government protest over unpaid

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<sup>9</sup> See Sections 48-53 and sections 69 and 70 of the Constitution of Zimbabwe

<sup>10</sup> Counselling Services Unit

<sup>11</sup> See Article 1 of the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1985) <http://www.hrweb.org/legal/cat.html>

civil servants December salaries and in solidarity with striking nurses and doctors at some State-run hospitals.<sup>12</sup> The protesters had marched from Market Square, Harare to present their petition to the Ministers of Finance and Economic Development and Labour and Social Welfare when they were blocked by armed police officers with truncheons.

- On 25 February 2016 a senior MDC-T official who is also the president of an urban based vendors association (NAVUZ) was assaulted by anti - riot police for no apparent reason. The victim reported at CSU that he was stopped by traffic police officers as he was driving along Nelson Mandela Avenue in Harare. The officers alleged that he was on his cell phone whilst driving. Whilst they were interrogating him an anti-riot police vehicle approached the scene and five riot police officers jumped from the truck. They ordered him to come out of his car. He refused and they tried to pull him out but failed. The officers then severely assaulted him with baton sticks tearing his clothes in the process. The anti-riot police left him after the assault and he was arrested for using a cell phone whilst driving and refusing to comply with a police officer's order when he refused to come out of his car. He was made to pay an admission of guilty fine of \$40 for the two offences.<sup>13</sup>
- On 21 March 2016 anti-riot police raided the MDC-T headquarters at Harvest House in Harare following the assault of Kennedy Chabwana a ZANU PF member. Three party workers who were inside the offices at the time were severely assaulted and reported their case to CSU.

### ***Arbitrary arrest or detention***

Arbitrary arrest or detention is the arrest or detention of an individual in a case in which there is no likelihood or evidence that they committed a crime against legal statute, or in which there has been no proper due process of law. The government continued to use arbitrary arrest and detention as tools of intimidation and judicial harassment. During the period under review, a total of 75 cases of arbitrary arrests and detention were documented. The following are some examples of the cases documented during the period.

- On 20 January, the local police rounded up at least 50 residents of Epworth with the assistance of a Ward 6 Councilor. The arrest followed the 18 December 2015 incident in which the residents resisted an eviction order by the Epworth Local Board. The majority of the residents were released with no charge at the Magistrate Court save for six residents who were given free bail.<sup>14</sup>

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<sup>12</sup> See Zimbabwe Lawyers for Human Rights, Human Rights Defenders Alert, 5 January 2016

<sup>13</sup> Counselling Services Unit

<sup>14</sup> Combined Harare Residents Association, Daily Alert, 21 January 2016

- On 10 February, two brothers were assaulted and arrested at a food distribution point in Muzarabani, Mashonaland Central. The arrest and assault took place following the victim's enquiry as to why they were excluded from receiving maize provided by the department of social welfare. The two were taken to Court and remanded out of custody. They reported their case to the CSU.<sup>15</sup>
- On 11 February, Wellington Mukhanairi, a journalist of the Weekly Messenger was arrested and charged with operating a newspaper without accreditation under the AIPPA Section 83 that had been repealed in 2007. The state proceeded with prosecution fully aware that the law is non-existent in a bid to intimidate him. The charges against him were later withdrawn.
- On 21 March 2016 anti-riot police raided the MDC-T headquarters at Harvest House in Harare following the assault of Kennedy Chabwana a ZANU PF member. A total of 22 people were subsequently arrested from the building and taken to Harare Central Police Station where they spent more than 5 hours at the station and no charges were laid against them. The police just interviewed, profiled and released them on the same day in the evening. The victims of the police harassment included party workers and supporters who had visited on party business and vendors who sell their wares close to Harvest house.

### ***Assault***

This refers to an act of *“unlawfully and intentionally applying force to a person of another, or inspiring a belief in that other person that force is immediately to be applied to him”*.<sup>16</sup>

Cases of assault were on the increase during the quarter partly due to factional fights in ZANU PF and political intolerance. A total of 78 cases of physical assault were recorded and documented by the Forum and its member and partner organisations during the period. Some notable examples include:

- On 19 January, two police officers disrupted an MDC-T meeting that was underway at Stodart Complex, Mbare, and Harare arguing that it was illegal. Following the disruption, a group of ZANU PF youths besieged the complex and indiscriminately assaulted everyone resulting in five (5) MDC supporters sustaining injuries. The injured sought medical treatment from the Counselling Services Unit.<sup>17</sup> Two of the victims reported the matter to ZRP Stodart police

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<sup>15</sup> Counselling Services Unit

<sup>16</sup> G. Feltoe, A guide to the criminal law in Zimbabwe, 3<sup>rd</sup> edition, Legal Resources Foundation, Harare, Zimbabwe, 2004

<sup>17</sup> Counselling Services Unit

whilst the Forum is proceeding with legal action against the perpetrators identified as Solomon Dhuri, Abel Matsika, Governor and Rivho.<sup>18</sup>

- On 23 January, a male client was assaulted in Zengeza 4, Chitungwiza by a group of unknown people on allegations of being members of ZimPF. The victim together with his colleagues was driven to Zengeza 4, Chitungwiza Publicity Centre where they were assaulted with wire on the soles of their feet. The victim was also forced to make a confession about ZIMPF and its leader Joice Mujuru on a video recording.<sup>19</sup>
- On 13 March 2016, a member of the People's Democratic Party (PDP) was assaulted by ZANU-PF youths in Epworth whilst organising PDP structures in the area. The perpetrators told them that they were not allowed to hold their meetings in a ZANU-PF territory.<sup>20</sup>
- On 03 March, The PIU interviewed a male a vendor who had been assaulted with a baton stick by Harare Municipal Police officers in Harare's CBD for selling his wares at an undesignated vending site. The victim sustained injuries on the left eye and shoulder and received medication from the Counselling Services Unit (CSU).<sup>21</sup>
- On 6 March, ZANU PF Youths and MDC-T youths clashed in Mbare after disagreements over a venue that had been booked well in advance for a campaign rally by MDC-T youths. About 30 MDC-T youths were reportedly assaulted and injured in the skirmishes with others hospitalised after being pelted with stones and bricks.<sup>22</sup>
- On 19 March, Kennedy Chabwana a ZANU PF supporter was assaulted by MDC-T supporters for passing near Harvest House, the MDC-T headquarters while putting on ZANU PF regalia. Chabwana sustained injuries and was admitted at Parirenyatwa Hospital. The case was reported to police resulting in the arrest of 15 MDC-T officers.<sup>23</sup>

### ***Harassment and intimidation***

Incidents of harassment remained high during the period. According to consolidated statistics from the Forum, Heal Zimbabwe, CSU and ZPP, there were 308 incidents of harassment and intimidation. The following are illustrations of documented cases

- In January a male client reported to the Forum's Public Interest Unit that he was under constant threats from the village head over his political party affiliation.<sup>24</sup>

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<sup>18</sup> The Forum's Public Interest Unit

<sup>19</sup> Ibid

<sup>20</sup> Counselling Services Unit

<sup>21</sup> The Forum's Public Interest Unit

<sup>22</sup> Heal Zimbabwe, Human Rights Violation January- March 2016

<sup>23</sup> Zimbabwe Broadcasting Corporation, available at <http://www.zbc.co.zw/index.php/news-categories/top-stories?start=22>

<sup>24</sup> See the Forum's Public Interest Unit

- In February, Crisis Coalition in Zimbabwe reported that village heads, ZANU PF youths and ward Chairpersons in Mwenezi District, Masvingo were compelling teachers and ordinary villagers to contribute money towards President Mugabe’s birthday party. Those defying the instructions were threatened with unspecified action. Each homestead was asked to pay \$1 while civil servants were to pay \$3. The demands were made in spite of the fact that Mwenezi district is currently facing severe drought that has forced some schools to close due to high levels of school dropouts.<sup>25</sup>
  
- On 2 February 2016, in Bikita East, teachers at Gangara Secondary School and Mhandadzaka Primary School and other civil servants in the district were forced to contribute US\$1-00 each towards the 21st February Movement. Those who failed to pay were told to explain their reasons in writing. Several teachers and civil servants made contributions against their will.<sup>26</sup>
  
- On 11 March, an unnamed ZANU PF leader in Ward 11b Mhondoro West-Mashonaland West called for a meeting where he summoned traditional leaders and ZANU PF supporters and told them that they should start a process of identifying supporters of ZimFirst in the area and vowed that those found to be sympathizing or supporting ZimFirst will be "dealt with" by ZANU PF youths in the area.<sup>27</sup>
  
- On 12 March, ZANU PF youths led by a war veteran identified as Mukandi were threatening villagers in Ward 5 who were on their way to receive food aid at Turf Growth point, Mhondoro, in Mashonaland West. They were told that ZANU PF would set up bases where suspected ZimPF supporters will be dealt with.<sup>28</sup>

### **c. Respect for civil liberties**

This section covers freedom of assembly and association; freedom of assembly and association; freedom to demonstrate and petition; freedom of conscience; and freedom of expression and freedom of the media. These rights are all constitutionally guaranteed in sections 58, 59, 60 and 61 respectively. Although these rights are constitutionally provided, the law limits the exercise of these freedoms in the “interest of defense, public safety, public order, state economic interests, public morality, and public health.”

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<sup>25</sup> See the Crisis in Zimbabwe Coalition Report, Issue No. 388, 18 February 2016

<sup>26</sup> Zimbabwe Peace Project, Monthly monitoring report February 2016

<sup>27</sup> See Heal Zimbabwe, Human Rights Violations, January- March 2016

<sup>28</sup> Ibid

### ***Violation of freedom of assembly and association***

Freedom of assembly and association is safeguarded in section 58 (1) of the Constitution and also in the African Charter on Human and Peoples' Rights and the International Covenant on Civil and Political Rights, to which Zimbabwe is a party. The following are some examples in which the government restricted these rights during the period under review:

- On 30 January, an MDC-T ward official was assaulted by four ZANU PF youths in Budiriro on accusation of wearing political party regalia that was not allowed in the area. The victim sought medical assistance for injuries sustained at the Counselling Services Unit.<sup>29</sup>
- On February, veterans of Zimbabwe's liberation war gathered to protest statements made by the First Lady Grace Mugabe at a political rally in the same month castigating war veterans. The police violently dispersed the gathering using teargas, water cannons and batons to beat the protestors. The police said the organizers of the gathering had not sought clearance under POSA and this was a Constitutional offence. In the past, war veterans have convened such gatherings without the blessing of the police.<sup>30</sup>
- On 13 March, Mr. Zijena ZANU PF Councillor, for ward 11a Mhondoro Ngezi, Mashonaland West, convened a meeting where he warned villagers against joining ZimPF and vowed that he would even resort to the use of violence in support of ZANU PF.<sup>31</sup>
- In Ward 8, Uzumba Mashonaland East, all known MDC supporters are not allowed to sit in school development committees and some of their children have been struck off the Basic Education Assistance Module (BEAM) register.<sup>32</sup>

### ***Violation of freedom of expression and of the media***

Freedom of expression and freedom of the media are key components of democracy and are guaranteed in section 61 of the Constitution. A total of five (5) cases were documented during the quarter.

### ***Violation of freedom of expression***

The Criminal Law Act, which criminalizes defamation and insulting or undermining the authority of the President, continue to be used by police thereby undermining freedom of expression. The insult laws are intended to stop legitimate

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<sup>29</sup> Counselling Services Unit

<sup>30</sup> Crisis in Zimbabwe Coalition, Statement on the Manipulation of security Forces, 19 February 2016

<sup>31</sup> Heal Zimbabwe, Human rights violations January- March 2016

<sup>32</sup> Ibid

public criticism and debate around public figures on how they have delivered thus violating the constitutionally guaranteed right to freedom of expression. The following are some cases of violation of freedom of expression.

- On 19 January, police in Masvingo summoned Naison Mudzuri an opposition political party supporter to stand trial for allegedly undermining authority of and insulting the President in contravention of Section 3 (b) of the Criminal Law (Codification and Reform) Act. The charges arose in 2013 when Mudzuri allegedly uttered unpalatable statements against the President. Mudzuri's case failed to take off after ZLHR filed some preliminary objections for lack of compliance with Section 34 of the Criminal Law.<sup>33</sup>
- On 09 February, police in Bindura, Mashonaland Central Province arrested Edson Chuwe the headmaster of Shamva Primary School and Edna Garwe the school typist and Leman Pwanyiwa, the school secretary, on charges of undermining the authority of or insulting the President in contravention of Section 33 (2) (b) of the Criminal Law (Codification and Reform) Act. Police argued that the trio doctored some photographs denigrating the person of the President using the school's computer. The trio was freed on \$50 bail each on 11 February following the intervention of ZLHR.<sup>34</sup>
- On 24 February Fredy Munemo a former police officer from Ruwa was arrested and charged with contravening section 41 (b) of the Criminal Law for allegedly behaving in a disorderly conduct during which he uttered some words accusing President Mugabe of being drunk and no longer aware of what he is doing.<sup>35</sup>

### ***Violation of freedom of the media***

The following are cases of violation of freedom of the media

- On 07 January, ZRP officers arrested and detained Nqaba Matshazi (*Newsday* Deputy Editor), Xolisani Ncube (a journalist) and Sifikile Thabete, a representative of Alpha media holdings). The three were arrested and charged with contravening Section 31 (1) (ii) for allegedly publishing falsehoods that the government had secretly paid annual bonuses to members of the intelligence services ahead of other civil servants who had not been paid salaries<sup>36</sup>
- On 11 February, Wellington Mukhanair, a journalist of the *Weekly Messenger* was arrested and charged for operating without accreditation under the AIPPA Section 83 that had been repealed in 2007. His lawyer argued in

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<sup>33</sup> ZLHR, Human Rights Defenders Alert, 19 January 2016

<sup>34</sup> ZLHR, Human Rights Defenders Alert, 02 March 2016

<sup>35</sup> ZLHR, Human Rights Defenders Alert, 26 February 2016

<sup>36</sup> See ZLHR, Human Rights Defenders Alert, 07 January 2016

court that the state prosecution knew the law is non-existent but had charged him with the view to intimidate him. The charges against him were later withdrawn.<sup>37</sup>

### ***Violation of the freedom to demonstrate and petition***

The right to protest is enshrined in the Constitution. Section 59, under freedom to demonstrate and petition specifically states that, “*Every person has the right to demonstrate and to present petitions, but these rights must be exercised peacefully.*”

Zimbabwe’s current law, policy and practice neither guarantees the right to peaceful protest, nor does it have intrinsic safeguards to ensure that protesters’ human rights are protected in all circumstances. During the quarter, four (4) cases in relation to violation of freedom to demonstrate and petition were noted.

- On 4 January 2016 police brutality was used to quell a demonstration by the members of the Zimbabwe Activists Alliance, Zimbabwe National Students Union, Hospital Doctors Association, Zimbabwe Nurses Association and Rural Teachers Union of Zimbabwe (RTZU) and about 150 vendors who were planning some collective job action, in response to the non-payment of their salaries by government. The activists were severely assaulted with baton sticks, booted feet and fists violating sections 53 and 59 on freedom of torture or cruel, inhuman and degrading treatment and punishment and freedom to demonstrate and petition respectively.
- On 5 January 2016 in Chitungwiza, commuter omnibus operators protested against a \$100 transport operator’s fee imposed on them by Chitungwiza Municipality. The protest resulted in skirmishes between the commuter operators and ZANU PF youths, bussed in to protect council employees. Ensuing riot police interventions did not appear bent on restoring order. The police moved from house to house, damaging property and indiscriminately assaulting all males and even children. Over 30 people sustained significant injuries from the assaults which required medical intervention. Police arrested and detained over 40 people including several juveniles.<sup>38</sup>
- On 13 February police violently quelled a demonstration organised by the Zimbabwe Activists Alliance, Youth Advocacy for Reform and Democracy and Restoration for Human Rights on Valentine’s Day in Harare’s CBD. Two of the protesters namely, Lennon Manyengavana and Lynnett Mudhewe were hospitalised.<sup>39</sup>

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<sup>37</sup>The Legal Monitor, ZLHR, Edition 329 21 March 2016

<sup>38</sup> ZLHR Human Rights Defenders Alert 07 January 2016

<sup>39</sup> Counselling Services Unit



#### d. Malicious Damage to Property

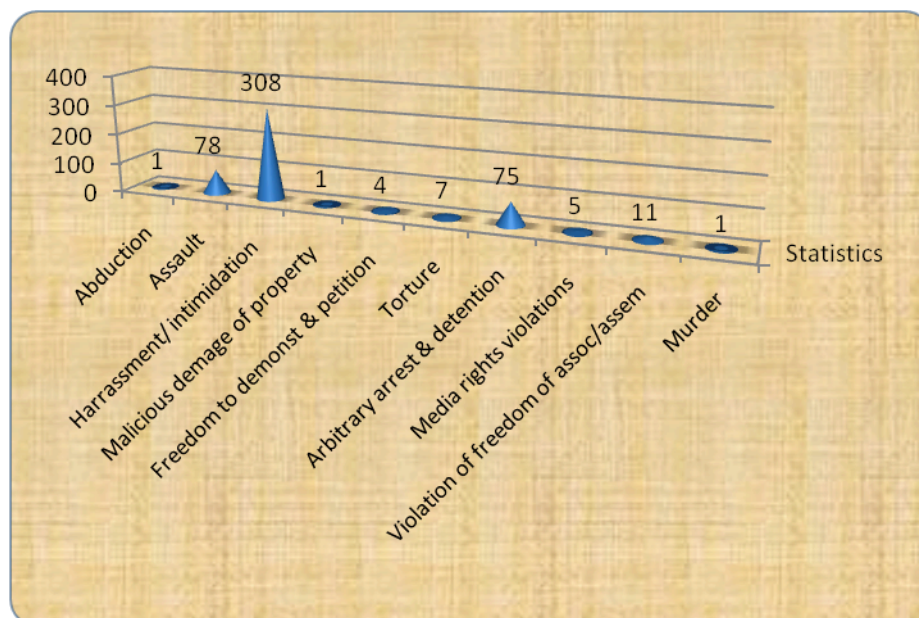
This occurs when a person knowing that the other person is entitled to own, possess or control any property, damages or destroys that very property. It includes scenarios whereby a home is burnt to the ground or otherwise made uninhabitable in such a manner, as the only option toward making the home habitable is to completely rebuild it. One case of arson was recorded during the quarter.

- In January, a hut belonging to James Jowa a ZimPF a local Ward Coordinator was burnt down by alleged ZANU PF supporters in Murewa, Mashonaland East. According to the Centre for community Development in Zimbabwe the unknown assailants left a message denigrating the ZimPF party on the walls of the burnt hut.<sup>40</sup>

#### Presentation of cases of political violence

The cases of civil and political violations during the period are tabulated below. A total of 491 cases were recorded during the quarter.

Figure 1: Cases of political violence January to March 2016



SOURCE: Consolidated statistics from the Forum, member and partner organisations and verified press reports

<sup>40</sup> See The Crisis in Zimbabwe Report, Issue Number 386, 27 January 2016

## **Section 2: Economic, Social and Cultural rights**

The Constitution has a broad human rights matrix with new entitlements that include, the right to health, education, clean and safe water, food, language and culture, labour rights, environmental rights and trade or occupation. These rights are progressively realized over time.

### **a. The right to education**

The right to education is recognised in domestic, regional and international human rights instruments to which Zimbabwe is a State party. The Constitution provides for the right to education for all citizens and permanent residents, and calls for State resources to be made available in order to fulfill this right. Section 75 (a) provides that *“Every citizen and permanent resident of Zimbabwe has a right to a basic State-funded education, including adult basic education.”* Section 81 (1) (f) also provides that *“Every child, that is to say every boy and girl under the age of eighteen years, has the right to education.”* Further the State must take reasonable legislative and other measures within the limits of resources available to make the right to education progressively realized. Not only do children have the right to education but are also protected from maltreatment and abuse. Section 81(1) states that the best interest of the child is important in every matter pertaining the child. The Convention on the Rights of the Child, to which Zimbabwe is a State Party, emphasises the need for young persons to reach the highest level of education of which they are capable.

However, school heads are continuously disregarding the right to education by withholding results over non-payment of school fees and sending children away for failing to pay school fees and levies. Schools continue to defy the law by punishing students for school fees arrears. It is illegal for schools to withhold results of students or chase them away from classrooms over outstanding school fees. Parents should however not ride on that legal provision to avoid paying fees. This quarter alone the Forum and ZLHR were overwhelmed with requests from students whose ZIMSEC results were being held by school heads over non- payment of fees. The Forum managed to assist three pupils in Harare to access their results withheld by school

heads over unpaid fees while ZLHR assisted almost 20 pupils from Bulawayo, Mutare, Masvingo and Harare.

## **b. The right to food**

The distribution of food aid continues to be politicised, selective and discriminatory. In most cases, traditional leaders and councillors distribute the food. During the quarter, a total of cases of partisan distribution of food were noted by the following organisations, Heal Zimbabwe ten (10), the Forum (4) while the ZPP in its January and February Monthly Monitoring Reports recorded a total of 25 cases of politicisation of food aid. The following are some of the cases that illustrate how food aid is being politicised:

- In February the Forum through its Public Interest Unit interviewed four (4) victims of partisan distribution of food and money from Plan International. The four victims all from Bikita East wards 20, 24 and 25 were denied wheat, maize and money (\$6 per child for basic commodities) that was given to villagers by Plan International on the basis of being MDC supporters. Councillors who are all from ZANU PF did the distribution on 23 January and 23 February.<sup>41</sup> The four cases were forwarded to the ZHRC for further investigation.
- On 15 January at Kufakwatenzi Primary school ward 33 Buhera south, Hon member of parliament Mrs Erenia Madambu-Uta, convened a meeting with ZANU PF shadow Councillor Norman Njobo, Peter Nendanga a soldier and also a ZANU PF activist where she instructed Councillor Njobo to scrap the old register of people receiving food aid and only write down names of people who support ZANU PF.
- On 16 January, in Buhera South Ward 24, MP Joseph Chinotimba hijacked the distribution of maize meant for vulnerable families in Birchenough Bridge Ward 33 under the social welfare food aid programme. The MP used party structures to mobilise for the meeting where they came up with new registers, which excluded those believed not to be ZANU PF supporters.<sup>42</sup>
- On 13 January, in Mbire in Ward 17, a meeting took place at Majongwe primary school, where Councillor Temba Zuze summoned all headmen in ward 17. At the meeting, he openly told them to deny food aid to anyone who doesn't support ZANU PF.<sup>43</sup>

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<sup>41</sup> The Forum's Public Interest Unit

<sup>42</sup> Heal Zimbabwe, Human Rights Violations January- March, 2016

<sup>43</sup> Ibid

- On 10 March 2016, at Deve Business Centre, Ward 24, ZANU PF Councillor Kuyrukana distributed maize and openly declared that only those people who had been loyal to ZANU PF particularly during last years' by elections would receive the maize. He gave the directive to Traditional leaders present that only ZANU PF supporters would receive the maize. He threatened villagers that those who remain defiant by continuing to support other political parties would starve due to hunger.<sup>44</sup>

### **C. The right to safe and clean water**

Access to clean and safe water is a universal right of every citizen and is enshrined in Section 77 of the Constitution. Despite this constitutionally guaranteed right, there are persistent severe water shortages, partly as a result of disconnection of water services to households and public institutions. Areas such as Mabvuku in Harare, for example have not had running water for the past 16 years. This results from government's lack of commitment to fulfill the right to water through the budgeting process as well as poor administrative procedures and arrangements.

### **d. Violation of the right to health**

The right to health is constitutionally guaranteed. Section 76 (1) states, "*Every Citizen and Permanent Resident of Zimbabwe has the right to access basic health-care services, which include reproductive health-care services*". In addition, Zimbabwe is a party to legally binding treaties such as International Covenant on Economic, Social and Cultural Rights (ICESCR) and the African Commission on Human and Peoples' Rights, as well as to other treaties that observe the right to health. Article 12 of the ICESCR states that States parties should recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and take legislative and other steps to the 'maximum of its available resources' to achieving 'progressively' the full realization of the rights to health. However, this right continues to be violated. Water shortages experienced in most towns coupled with poor sanitation have resulted in the outbreak of diseases such as typhoid. According to statistics from the Ministry of Health and Child Welfare Surveillance Report as of March 2016, about 118 278 cases of diarrhoea were reported and 85 deaths.

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<sup>44</sup> See Heal Zimbabwe, Human Rights Violations January-March, 2016

Masvingo Province was the hardest hit with 11 229 recorded cases while the cumulative figure for typhoid is 55 confirmed case and five (5) deaths.<sup>45</sup>

#### **e. Freedom from arbitrary eviction**

Freedom from arbitrary eviction is protected in section 74 of the Constitution which states; “*No person may be evicted from their home, or have their home demolished without an order of court made after considering all the relevant circumstances*”. Contrary to this, the government has carried out demolitions oblivious of constitutional guarantees of freedom from arbitrary evictions. Additionally most of the demolitions did not meet international standards of carrying out demolitions in that no adequate notice was given to the victims; victims were not consulted and no alternative accommodation was offered to victims. The African Commission on Human and Peoples’ Rights at its 52<sup>nd</sup> Ordinary session adopted a resolution on the right to adequate housing and protection from arbitrary evictions. The resolution urged State parties to take appropriate steps to ensure respect, protection and realization of the right to adequate housing. Freedom from arbitrary evictions is also protected in Article 17 of the International Covenant on Civil and Political Rights, Article 11(1) of the International Covenant on Economic, Social and Cultural Rights, Article 16(1) of the Convention on the Rights of the Child Articles 5 (e) of the Convention on the Elimination of All Forms of Racial Discrimination 14(2) of the Convention on the Elimination of All Forms of Discrimination against Women); 9 and 28 of the Convention on the Rights of Persons with Disabilities. Furthermore, the United Nations Special Rapporteur on Adequate Housing came up with guidelines and principles on development-based evictions.

- On 26 January the Harare City Council demolished houses at Arlington Estate adjacent to the Harare International Airport following a directive from government Over 100 houses were demolished and the cost of building the houses ranged between \$30 000 to \$ 150 000. As the demolition saga unfolded, it was realized that various government departments that include the Civil Aviation Authority of Zimbabwe, the District Administrators office and the Ministry of Local Government, Public Works and National Housing had authorized Nyikavanhu Housing Cooperative to build houses on the land. Apart from the demolitions being carried out a court order, no notice was

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<sup>45</sup> See The Herald 08 April 2016

given city of Harare neither were the affected families given the chance to remove their property.<sup>46</sup>

#### **f. The right to property**

The right to property is protected in Section 71 of the Constitution. Farm invasions continued to characterise the land reform programme. During the quarter, two (2) incidents relating to property violations were noted during the period. On a different note, the Government of Zimbabwe is considering compensating white commercial farmers who were evicted from their farms during the 2000 chaotic land reform programme. According to the Minister of Finance, the Government may issue treasury bills and impose a land levy on black farmers who benefited from the land to contribute towards a compensation fund.<sup>47</sup> Since the violent land reform, the Government has so far compensated only 240 farmers out of 6 214 evicted farmers. It is however sad to note that the grabbing of farms has not come to an end as the remaining farmers continue to experience evictions and threats of evictions.

- On 03 February, Ezra Chadzamira, the ZANU PF Provincial Chairperson, allegedly grabbed Crestalbeka Farm in Masvingo belonging to Yvonne Goddard. Yvonne, a widow had lived on the farm for 45 years. Chadzamira justified the invasion by arguing that the takeover was above board since the 120-hectare dairy farm was being underutilized.<sup>48</sup>
- On 15 February 2016 a group of 22 mainly elderly people from Murewa district made reports to the CSU that their fields and homesteads were parcelled out into residential stands by their local council. The villagers complained that they were never given any notice of the intention to move them by their district authorities. They have however been informed by the Murewa District Council that they must move and make way for the housing development project. If they fail then they will be moved by force. The authorities are not offering them any alternative land to build their homes. Their case was taken up by lawyers from Legal Resources Foundation and is before the courts.<sup>49</sup>

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<sup>46</sup> The Forum, monitoring report, 26 January 2016

<sup>47</sup> See Legal brief Africa, issue number 671, 04 April 2016

<sup>48</sup> See more at: <http://www.zimeye.net/zanu-pf-donor-attacked-farm-seized/#sthash.mXuX7YhT.dpuf>

<sup>49</sup> Counselling Services Unit

## **Conclusion**

The Government of Zimbabwe lacks the political will for constitutionalism and this is undermining the country's potential to realize constitutionally guaranteed rights. There is therefore an urgent need for the Government to perform the basic functions of a State that that is protecting citizens from violence and providing essential services such as health, education, sanitation, and clean and safe water among others. Failure of which, the country risks sliding into the abyss of state failure. As it stands the Government, evidently lacks the capacity to address the multitude of challenges facing Zimbabwe today hence the continued violation of human rights.

## **ABOUT THE ZIMBABWE HUMAN RIGHTS NGO FORUM**

The Zimbabwe Human Rights NGO Forum (the Forum) is a coalition of 21 human rights organisations. The Forum has been in existence since January 1998 when Non-Governmental Organisations working in the field of human rights joined together to provide legal and psychosocial assistance to the victims of the food riots of January 1998. The Forum has now expanded its objectives to assist victims of organized violence and torture (OVT)

The Forum has three operational units: the Public Interest Unit, the Research and Documentation Unit and the Transitional Justice Unit.

The Forum works in close collaboration with its member organisations to provide legal and psychosocial services to victims of OVT and to document all human rights violations, particularly politically motivated violence.

### **Member organisations of the Zimbabwe Human Rights NGO Forum**

- Amnesty International-Zimbabwe
- Catholic Commission for Justice and Peace in Zimbabwe
- Civic Education Network Trust
- Counseling Services Unit
- Gays and Lesbians of Zimbabwe
- Justice for Children
- Legal Resources Foundation
- Media Institute of Southern Africa-Zimbabwe
- Media Monitoring Project Zimbabwe
- Non-violent Action and Strategies for Social Change
- Research and Advocacy Unit
- Students Solidarity Trust
- Transparency International-Zimbabwe
- Women of Zimbabwe Arise
- Zimbabwe Association for Crime Prevention and Rehabilitation of the Offender
- Zimbabwe Association of Doctors for Human Rights
- Zimbabwe Civic Education Trust
- Zimbabwe Human Rights Association
- Zimbabwe Lawyers for Human Rights
- Zimbabwe Peace Project
- Zimbabwe Women Lawyers Association

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