

United Nations Day in Support of Victims of Torture ... Fighting Impunity ... 26 June 2014

The Zimbabwe Human Rights NGO Forum (the Forum), the Zimbabwe Human Rights Association (ZimRights) and the Zimbabwe Peace Project (ZPP) join the world in condemning the crime of torture and to honour and support victims and survivors of this heinous crime. On 12 December 1997, the United Nations General Assembly through Resolution 52/149, proclaimed 26th of June, the **United Nations International Day in Support of Victims of Torture**, to reflect on the barbarity of torture and the need to stop such practices.

The theme for this year, **"Fighting Impunity"** resonates well with the mission of the Forum which is to *"To reduce organized violence and torture, cruel, inhuman and degrading treatment, to challenge impunity and to foster a culture and the building of institutions of non-violence, tolerance and respect for human rights in Zimbabwe."* Impunity is the failure of the state to fully investigate violations; to bring to justice and punish perpetrators with a view to providing victims with effective remedies; and taking all necessary steps to prevent the recurrence of the violation.

Zimbabwe is a nation with a long and reprehensible history of human rights violations abetted by a political culture of impunity. The Government of Zimbabwe has failed in law and practice to address past eras of organized violence and torture such as the *Gukurahundi* atrocities and the 2008 election violence, among others. The failure to investigate, prosecute and punish perpetrators has resulted in an entrenched culture of impunity, sense of immunity among perpetrators and thus, the continued violation of human rights by both state and non-state actors. It is the duty of every state to protect its citizens by taking effective legislative, administrative and judicial measures to avert organized violence and torture. The state has an obligation to carry out investigations, identify perpetrators and impose appropriate punishment on perpetrators to avoid recurrence of organized violence and torture.

Although the Forum, ZimRights and ZPP acknowledge progress brought about by the new constitution on the absolute prohibition of torture, the government must honour its constitutional obligation to ensure that *"No person may be subjected to physical or psychological torture or cruel, inhuman or degrading treatment or punishment."*

Indeed, torture is a crime that is absolutely prohibited and cannot be justified under any circumstances. Article 2 of the UN Convention against torture and other cruel, inhuman and degrading treatment or punishment (UNCAT) prohibits the use of torture under any circumstances. It states that *"... no exceptional circumstances whatsoever, whether a state*

of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture..." It is sad to note that torture continues to be used to stifle political dissent, extract information or confessions from suspects and as a form of punishment.

Thus the Forum, ZimRights and ZPP call on the Government of Zimbabwe to:

- Honour its 2012 commitment at the UN Human Rights Council during the Universal Periodical Review - to ratify the **United Nations Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment** and its **Optional Protocol**;
- Ensure that perpetrators of past violence are brought to account and victims and survivors are afforded redress for past wrongs;
- Enact a law that criminalises torture; and
- Establish, operationalize and ensure the effectiveness of the National Peace and Reconciliation Commission (NPRC) that will deal with past incidents and help to avert the recurrence of violence.

Forum members

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

THE HOPELESS WAIT FOR JUSTICE ORBITUARY:

Mr. Cornelius Muskwe

As the Forum lends its support to victims of torture on this day, it wishes to note the endless wait for justice for one such victim, Mr. Cornelius Muskwe, who is now late. He died on the 28th of February 2014, almost a year after he had been granted damages by the High Court of Zimbabwe for the assault and torture he suffered at the hands of the Zimbabwe Republic Police (ZRP).

At the time of his death, Mr. Muskwe was one of the several Forum clients awaiting payment of damages ordered in their favour against the state.

This seemingly endless wait for justice, started in June 2011 for Mr. Muskwe when the Forum issued summons on his behalf to sue the Minister of Home Affairs, the Commissioner General of Police in their official capacities, and two ZRP officers namely, Officers Ngoma and Chirunda. In his summons, Mr. Muskwe alleged that he was detained at Mugabe Police Base in Murewa by the said officers, who handcuffed him against an iron bar and assaulted him on 13 and 14 February 2011. Mr. Muskwe detailed the torture he suffered at the hands of the police officers during the trial of the matter, which culminated in the High Court in April 2013 awarding damages of US\$1 500 (One Thousand and Five Hundred United States Dollars Only) in his favour.

Mr. Muskwe was a loving husband, father and grandfather. His family lives with the memory of the pain he went through after his ordeal at the hands of the police. His wife nursed him back to health after the gruesome attack, yet he died before both of them could receive consolation for the trauma they both suffered.

The Forum calls upon the state to respect the court's ruling and to pay to Mr. Muskwe's estate the damages which were granted to him by the High Court. The Forum vows to continue with the pursuit for justice started by the late Mr. Muskwe until justice becomes not a reality not only for the Muskwe family but also to the many Zimbabweans still awaiting redress and remedies for the wrongs committed against them by state actors.



TOO LITTLE, TOO LATE

The story of Trevor Simbanegavi

Trevor Simbanegavi (27), then aged 23 in 2010, was unlawfully shot at close range in the legs while lying down on the ground by a police officer investigating a theft. This resulted in an above knee amputation of one of his legs and insertion of steel plates in the other. Trevor had not been and was never charged with any offence.

The Courts: The ZRP never conceded wrongdoing and Trevor filed a civil suit for redress with assistance from Zimbabwe Human Rights NGO Forum. From the \$211 367 claimed as compensation for shock, pain and suffering; loss of amenities of life and contumelia, on 29 August 2012, only \$21 367 was granted by the court which is too little considering the harm suffered. Furthermore, up to today the police have not paid the amount as ordered by the court.

Observation: The State is not doing enough to protect victims of torture, and prevent further perpetration. As far as is known, the police officer who shot Trevor is still a serving member of the force and he was never prosecuted. The government is urged to put in place legislative and administrative measures to ensure the prevention of torture and justice for victims.



Trevor before



Trevor after 1



Trevor after 2