

Review time

...International scrutiny for Zim human rights record

HARARE-Zimbabwe is before the United Nations Universal Periodic Review Mechanism (UPRM) this Wednesday for its second appearance. Civil society groups, which are part of the UPRM, have

previously said little has been done to improve the country's human rights situation since 2011 when Zimbabwe first presented itself for review. At a meeting held in March, representatives of

Zimbabwean Civil Society Organisations (CSOs) expressed concern over the failure by government to implement recommendations made during the 2011 UPRM round.

Zimbabwe Human Rights Defenders (HRD)s have suffered arrests, detentions and beatings over the past years, with the harassment intensifying in recent months. Read Pages 2, 3 and 4 for more. ➡



Inaction worries civil society

HARARE-Civil society groups have raised concern over government's inaction in implementing recommendations made at the last Universal Peer Review Mechanism (UPRM).

According to a report released after a meeting held to review progress earlier this year, civil society groups said although the government has taken some positive steps in meeting some of its commitments, most of the recommendations remained unimplemented.

"Civil society organisations have been monitoring implementation of 130 recommendations accepted during the United Nations Universal Periodic Review of Zimbabwe in October 2011. The report we are presenting today considers the Government's implementation of recommendations, highlights gaps, progress and makes recommendations for the government to fulfil its obligations under the United Nations human rights framework," said human rights lawyer Roselyn Hanzi, who is Zimbabwe Lawyers for Human Rights's Acting Executive Director.

The report was developed through a consultative process by civil society organisations who had been monitoring compliance of accepted recommendations.

Torture

Cases of torture are still rampant despite government agreeing to criminalise torture and prevent all forms of torture and inhuman or degrading treatment (including prohibiting corporal punishment as a form of sentence or punishment) and ensure full accountability of perpetrators and redress and rehabilitation to victims.

Section 53 of Constitution enshrines freedom from torture or cruel, inhuman or degrading treatment or punishment yet 520 victims of torture received treatment while six cases of death in police custody were recorded.

At least 450 claims for damages have been filed against the police and members of defence forces since January 2012. Lawyers have also been tortured by police during the course of their work of representing Human Rights Defenders.

Media

The government agreed to improve the right to freedom of expression, media freedoms, and ensuring a more pluralist media environment. The government is the biggest media owner in both print and broadcast media. Hate speech continues through the public broadcaster, the Zimbabwe Broadcasting Corporation while arrests and harassment of journalists have continued.

Women's rights

Women are still at the bottom of the ladder in economic matters, representation in Parliament and cabinet still low and below SADC recommended quotas. Domestic violence continues to rear its ugly head and few shelters for both men and women victims of domestic violence.

Strengthening Independent Institutions

HARARE-The 2013 Constitution resulted in the establishment of several independent commissions supporting democracy and these institutions deal with issues ranging from the media to human rights, gender, elections and corruption. Government committed to strengthen these commissions and also ensure that the law operationalising the Zimbabwe Human Rights Commission (ZHRC) complies with Paris Principles.

The 'Independent Commissions Supporting Democracy' include the Zimbabwe Electoral Commission (ZEC), the Zimbabwe Human Rights Commission (ZHRC), the Zimbabwe Gender Commission (ZGC), the Zimbabwe Media Commission (ZMC), and the National Peace and Reconciliation Commission (NPRC).

The ZHRC, ZEC and ZMC have functional secretariats. Challenges remain regarding the ZGC and NPRC which are not operational while the Anti-Corruption Commission does not have adequate funding or technical capacity.

The ZHRC is not adequately funded and receives funding from Ministry of Justice, contrary to the Paris Principles. There is therefore the need for the government to take steps to ensure adequate funding and resources for all Constitutional Commissions and guarantee their independence as well as operationalise a NPRC and GC according

to provisions of the Constitution. The Organ on National Healing and Reconciliation and Integration (ONHRI) remains symbolic without a clear policy.

The Constitution provides for the establishment of a National Peace and Reconciliation Commission (NPRC) to push the agenda of healing and reconciliation. President Robert Mugabe has appointed Commissioners of the NPRC that is not yet operational. ➡

What is the Universal Periodic Review

The Universal Periodic Review "has great potential to promote and protect human rights in the darkest corners of the world." – Ban Ki-moon, UN Secretary-General The Universal Periodic Review (UPR) is a unique process which involves a review of the human rights records of all UN Member States. The UPR is a State-driven process, under the auspices of the Human Rights Council, which provides the opportunity for each State to declare what actions they have taken to improve the human rights situations in their countries and to fulfil their human rights obligations. As one of the main features of the Council, the UPR is designed to ensure equal treatment for every country when their human rights situations are assessed. The UPR was created through the UN General Assembly on 15 March 2006 by resolution 60/251, which established the Human Rights Council itself. It is a cooperative process which, by October 2011, has reviewed the human rights records of all 193 UN Member States. Currently, no other universal mechanism of this kind exists. The UPR is one of the key elements of the Council which reminds States of their responsibility to fully respect and implement all human rights and fundamental freedoms. The ultimate aim of this mechanism is to improve the human rights situation in all countries and address human rights violations wherever they occur.

Children's rights

The cutting of funding under Basic Education Assistance Module (BEAM) at beginning of 2014 from \$73million to \$15million affected many orphans and vulnerable children. Child marriages till rampant despite a constitutional ruling banning the practice. Orphans still struggling to obtain identity documents such as birth certificate

Repressive laws

Some of the outstanding issues include POSA, and PVOA that are yet to be repealed or amended. Provisions of these laws provisions continue to be selectively applied against human rights defenders (HRDs).

Civil society organisations said government should:

- Remove restrictions in PVOA affecting operations of CSOs and repeal POSA;
- Remove restrictions in Criminal Law (Codification and Reform) Act, Access to Information and Protection of Privacy Act (AIPPA) on freedom of assembly and expression;
- Expedite harmonisation of existing laws with the bill of rights in the Constitution;

Independent Institutions

Challenges remain regarding the ZGC and NPRC which are not operational while the Anti-Corruption Commission does not have adequate funding or technical incapacity. The ZHRC is not adequately funded and receives funding from Ministry of Justice, contrary to the Paris Principles. There is therefore the need for the government to take steps to ensure adequate funding and resources for all Constitutional Commissions and guarantee their independence as well as operationalise a NPRC and GC according to provisions of the Constitution.

The rule of law

The rule of law remains in a precarious situation. Government accepted to continue its efforts to strengthen the rule of law but there has been little progress. Selective application of the law continued against perceived supporters of opposition parties and HRDs. From January 2012 to December 2015, 3629 HRDs were arrested and detained of which 1005 were released without charge. In principle, the government has agreed to respect the right to assembly of members of non-political groups, prioritise efforts to implement domestic policies to give effect to protection of human rights and prevent politically-motivated violence and intimidation.

The constant arrest and harassment of peaceful protestors by the police shows how the country still has a long way to go in respecting constitutionally guaranteed rights of freedom of assembly and association. ➡

Ratification of outstanding human rights instruments

HARARE-Government has been urged to ratify outstanding human rights instruments and collaborate with treaty and charter based mechanisms.

So far the government has ratified Optional Protocols to Convention on Rights of the Child on Involvement of Children in Armed Conflict (22 May 2013); Sale of Children, Child prostitution and Child Pornography (14 February 2012). Ratified the Convention on the Rights of Persons with Disabilities and the Optional Protocol (23 September 2013). However, some instruments remain outstanding. These include the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment, International Convention for the Protection of all Persons against Enforced Disappearances, 1961 United Nations Convention on Reduction of Statelessness and Optional Protocols to the Convention on the Elimination of all forms of Discrimination Against Women; International Covenant on Civil and Political Rights; and International Covenant of Economic, Social and Cultural Rights. Government also agreed to align domestic laws (including customary laws) with ratified human rights instruments, harmonise laws with Constitution, review and amend Public Order and Security Act (POSA) and Private Voluntary Organisations Act (PVOA) in line with international standards. The Constitution has incorporated some accepted recommendations and government has convened an inter-ministerial committee to align laws with the Constitution. Some of the outstanding issues include POSA, and PVOA that are yet to be repealed or amended and some provisions continue to be selectively applied against HRDs. Civil society organisations said government should:

- Remove restrictions in PVOA affecting operations of CSOs and repeal POSA; • Remove restrictions in Criminal Law (Codification and Reform) Act, Access to Information and Protection of Privacy Act (AIPPA) on freedom of assembly and expression;
- Expedite harmonisation of existing laws with the bill of rights in the Constitution; ➡

ENFORCED DISAPPEARANCE = CRIME AGAINST HUMANITY

HRDs

WITNESS AGAINST VIOLENCE

WHERE ARE THEY?

HELP IN THEIR SAFE RETURN

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Itai Dzamara
Missing since 2015



Paul Chizuze
Missing since 2012

Media: Govt control, journos arrests and hate speech

HARARE-Zimbabwe's media has for decades been under tight government control. The government is the biggest media owner in both print and broadcast media. Television is still monopolised by the government although the law now allows for more private players to be licensed.

The government agreed to improve the right to freedom of expression, media freedoms, and ensuring a more pluralist media environment. Indeed section 61 of the Constitution provides for freedom of expression and freedom of the media. The Zimbabwe Media Commission has registered more than 85 media organisations but huge challenges remain.

Media reforms are still lacking, and community radio stations have not been licensed. The Broadcasting Authority of Zimbabwe (BAZ) has selectively registered radio and television stations. There are delays in transitioning to digitisation. ZBC remains the only licensed television station, while only two other radio stations have been registered in addition to those stations operated by ZBC.

Hate speech continues through the public broadcaster, the Zimbabwe Broadcasting Corporation, while arrests and harassment of journalists have continued.

To improve the state of the so-called Fourth estate, government is encouraged to:

- Re-establish the ZBC as an independent, representative institution that reports fairly and accurately opinions of all people;
- Stop harassment, arrests and selective malicious prosecution of journalists;
- Promote voluntary media self-regulation;
- Repeal restrictive provisions of the Broadcasting Services Act and Criminal Law (Codification and Reform) Act;
- Issue licenses to other players and prioritise community radio stations to create a truly pluralistic environment. ➡



Edgar Gweshe, a freelance journalist was acquitted recently following his arrest in 2015 for allegedly taking pictures outside a prison complex

Election concerns as 2018 beckons

HARARE-It is two years before the country goes for another major election yet concerns raised by civil society from as far back as 2008 are yet to be resolved. Further, reforms are still an area of concern.

Government was encouraged to take immediate steps to reform electoral process and legislation in line with international standards and address concerns on independence of Zimbabwe Electoral Commission (ZEC) and accuracy of the voters'

roll. The government agreed to investigate all credible allegations of torture, arbitrary detentions and enforced disappearances during 2008 elections. Progress on implementing these issues has been limited.

The 31 July 2013 elections are still being contested as recommendations on ZEC were not implemented. There was no official investigation of the 2008 human rights violations. Harassment and intimidation of perceived opposition party supporters, CSOs

and legitimate Human Rights Defenders (HRDs) continues unabated.

The independence of ZEC and management of voter registration, compilation of voters' rolls remains compromised due to involvement of Registrar General of Voters. HRDs with authority from ZEC to conduct voter education were arrested.

The public media is not fairing any better. Coverage of events by the public broadcaster is biased in favour of the ruling ZANU PF party.

Election Day 2013 was peaceful, but with unusually high numbers of assisted voters, despite the country's high literacy rates. Violence was experienced during the 10 June 2015 by-elections in Hurungwe West constituency. From January 2012 to December 2015, 542 victims of politically motivated assaults received medical treatment and 23107 politically motivated violence incidents were documented. Hate speech was prevalent in all 15 constituencies without redress. The Electoral Amendment Act and General Laws Amendment Bill do not adequately align the Electoral Act with the new Constitution. As a matter of urgency, government should:

- Investigate and prosecute torture, enforced disappearances and arbitrary detention that occurred during the 2008 elections;
- Completely align the Electoral Act with the Constitution of Zimbabwe;
- Fully transfer custody of the voters' roll to ZEC and align all relevant provisions of the electoral laws;
- Expedite the establishment of biometric voters' roll system to enhance transparency;
- Guarantee equal access to the searchable electronic voters' roll by all political parties and the electorate;
- Prioritise adequate funding for ZEC for proper administration of electoral processes;
- Open up the public broadcaster and guarantee equitable access to all political parties and candidates;
- Create a conducive electoral environment that enables free participation in electoral processes by all citizens and political parties;
- Allow CSOs to formulate and implement voter education programmes to complement ZEC's efforts;
- Put in place mechanisms to enable the Diaspora and prisoners to vote. ➡

In intensive care: Freedom of assembly and association

HARARE-The constant arrest and harassment of peaceful protestors by the police shows how the country still has a long way to go in respecting constitutionally guaranteed rights of freedom of assembly and association.

In principle, the government has agreed to respect the right to assembly of members of non-political groups, prioritise efforts to implement domestic policies to give effect to protection of human rights and prevent politically-motivated violence and intimidation.

Government also undertook to take necessary measures to investigate all allegations of human rights violations, including unlawful acts of harassment of HRDs, NGO workers and other members of civil society and bring perpetrators to justice.

However, there hasn't been much progress in implementing these commitments.

Covert violence affected free participation in the 2013 elections while civil society organisations (CSOs) still require police clearance or sign memorandum of understanding before operating at district level. This is not a legal requirement but it has often been used to disrupt CSOs activities. Between November 2011 and 2016, 32 CSOs were targeted by state agents through raids of offices, arbitrary arrest/detention of staff members, confiscation of property, hate speech of other forms of attack that disrupted activities. Further, some HRDs have been disappeared, including (but not limited to) Paul Chizuze and Itai Dzamara.

To give full effect to the Constitution, government should:

- Fully implement provisions of United Nations Declaration on Human Rights Defenders, investigate acts of harassment of HRDs, and bring all those who perpetrate violations against HRDs to account;
- Reconsider the recommendation to uphold international obligations to respect the freedoms of expression, assembly, and cease arrests, harassment and detention of individuals with dissenting views;
- Educate law enforcement agents on the role and functions of CSOs and HRDs in a democratic society;
- Educate and ensure compliance of law enforcement agents on facilitating the right to peaceful protest and demonstration according to international standards;
- Remove extra-legal requirements such as 'Memoranda of Understanding' that hinder the work of CSOs.

The rule of law remains in a precarious situation. Government accepted to continue its efforts to strengthen the rule of law but there has been little progress.

Selective application of the law continued against perceived supporters of opposition parties and HRDs. From January 2012 to December 2015, 3 629 HRDs were arrested and detained of which 1 005 were released without charge. The Prosecutor General also disregarded some court orders and only complied after censure from the Constitutional Court. Police are selectively investigating cases. Government needs to take measures to guarantee equal protection of the law and reform state institutions as well as uphold the rule of law. ➡

End use of torture now!

HARARE-Cases of torture are still rampant despite government agreeing to criminalise torture and prevent all forms of torture and inhuman or degrading treatment (including prohibiting corporal punishment as a form of sentence or punishment) and ensure full accountability of perpetrators and redress and rehabilitation to victims.

Section 53 of Constitution enshrines freedom from torture or cruel, inhuman or degrading treatment or punishment yet 520 victims of torture received treatment while six cases of death in police custody were recorded.

At least 450 claims for damages have been filed against the police and members of defence forces since January 2012. Lawyers have also been tortured by police during the course of their work of representing HRDs.

In 2013 and 2014, two human rights lawyers were arrested/assaulted by the police. In 2015, Itai Dzamara, a pro-democracy activist who had

been repeatedly tortured was disappeared, he has not been accounted for.

Government should:

- Ratify and domesticate Convention against Torture, Cruel, inhuman and Degrading Treatment and Convention on Protection of all Persons from Enforced Disappearances;
- Criminalise and prosecute cases of torture and enforced disappearances with very high penalties;
- Establish a mechanism to ensure that monetary damages granted by courts are honoured;
- Enact laws and mechanisms to protect lawyers representing HRDs;
- Align provisions of the Police Act with Constitution to minimise cases of torture. ➡

Major improvements in administration of justice

HARARE-The government undertook to take all appropriate legal and administrative measures to bring justice to the people and adopt necessary measures to enhance the courts' competence and functioning in administration of justice. Government also agreed to train court officials in human rights.

Progress has been made in the establishment of a Constitutional Court, officials in human rights. Implementation: A Constitutional Court was established. The Attorney General's office is now separate from the National Prosecuting Authority. There has been some improvement in judicial appointment process of superior courts. Four courthouses were constructed in outlying areas with plans to build 30 additional courts. A victim-friendly unit was opened in Murewa. Finalisation of cases at Magistrates' and Supreme Courts has improved.

Remaining challenges include the fact that the Constitutional Court does not have rules of procedure and there is a backlog of cases at this court, the High Court and the Labour Court. The Legal Aid Directorate has not been decentralised and still has offices only in Harare, Bulawayo, Masvingo and Mutare. This makes legal aid inaccessible to indigent people requiring legal assistance. Exorbitant court fees required for processes put justice out of reach of majority of people. Some judgments have not being handed down within 180 days as required by the Judicial Service Code of Ethics.

To build on the improvements noted the in the administration of justice, government should:

- Further decentralise the Legal Aid Directorate, provide adequate funding, and expedite construction of courts;
- Improve case management and provide adequate funds for human and material resources required in judicial system;
- Ensure that court officials such as interpreters are trained in all the national languages. ➤



Jenni Williams of WOZA has endured time in police cells after being targeted during protests



Roselyn Hanzi of ZLHR and her team have over the years offered legal representation to thousands of Zimbabweans

Women's Rights: Zim falls short on SADC quota

HARARE-The government accepted to take several legislative and administrative measures to outlaw discrimination against women and promote the status of women. The measures would also help prevent marginalisation and exclusion of women from economic, social and political spheres of society and to strengthen representation of women in decision-making, and reach quotas established by SADC.

Further, the Constitution protects women's rights, outlaws discrimination on basis of gender, including under customary law. The death penalty for women has been abolished and 60 seats of the House of Assembly are reserved for women.

However, some challenges remain and these include the creation of reserved parliamentary seats for women, which has led to less women participating in contested seats.

Only 34 percent of parliamentarians are women against a SADC recommended quota of 50 percent. In Cabinet, only three females are ministers out of 26 and there is no provision for gender equality in local government representation. As a result, women's representation decreased from 19 percent in 2008 to 16 percent in the 2013 elections.

The country's economic blueprint, the Zimbabwe Agenda for Sustainable Socio-Economic Transformation (ZimASSET), does not set target for participation of women in the economy.

Civil society members encouraged the government to ensure alignment of laws with the Constitution including reviews of economic and financial legislation for more participation and economic empowerment of women

Domestic violence is also a concern even though the government has undertaken to collect and analyse disaggregated data on domestic violence to better understand prevailing trends and assess effectiveness of measures in place and consolidate mechanisms to protect women against all forms of violence. Indeed, the government has been collating information on victims of domestic violence seeking assistance from the police but protection mechanisms for survivors of domestic violence are still inadequate. Shelters for women experiencing violence are woefully in short supply while funds allocated to the Victim Friendly system within courts are too meagre to meaningfully support the system. To improve the situation, government needs to put in place a better framework to implement the Domestic Violence Act and increase the number of shelters for victims. ➤

Of school drop outs, early marriages and identity papers crisis

HARARE-In the Constitution, children's rights appear adequately protected. But the situation on the ground points to a sad reality of child marriages, school drop outs and challenges in obtaining identity documents, particularly for orphans.

For example, in October 2013, Matabeleland South Province reported that 3 000 children had dropped out of school due to hunger and starvation. The cutting of funding under Basic Education Assistance Module (BEAM) affected many orphans and vulnerable children. This has resulted in organisations such as Zimbabwe Lawyers for Human Rights fighting for the rights of children affected by government's failure to pay for their school fees. Further, birth registration continues to be a challenge for children born in Zimbabwe and child marriages are still rife.

Government has, however, also made several commitments on paper.

Government has made promises such as agreeing to look into the matter of orphans caught up in the battle for property within the Anglican Church and ensure that rights of those children are protected. Government also undertook to address issues of school drop-out rates of children and establish a specialised juvenile justice system.

At the courts, the Constitutional Court this year ruled that child marriages violated the



ZLHR member Tendai Biti mounted a legal challenge against child marriages

Constitution. In May 2013, the government launched the pre-trial diversion programme for juveniles for rehabilitative, educative and restorative support.

There is need for government to urgently find alternative ways to fund BEAM to ensure basic education for children and find a sustainable solution to poverty, ensuring children have access to food and housing. Government should also scale up implementation of the Constitutional Court order to end child marriages. ➤