



ZIMBABWE

Note No. 843/2023

The Permanent Mission of the Republic of Zimbabwe to the United Nations Office and other International Organisations in Geneva presents its compliments to the Special Procedures Branch of the Office of the United Nations High Commissioner for Human Rights and with reference to the latter's communication referenced AL ZWE 2/2023 of 18 October 2023 has the honour to transmit herewith the response from the Government of the Republic of Zimbabwe on the same.

The Permanent Mission of the Republic of Zimbabwe to the United Nations and other International Organisations in Geneva avails itself of this opportunity to renew to the Special Procedures Branch of the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

GENEVA

15 November 2023

Special Procedures Branch
Office of the UN High Commissioner for Human Rights



COMMUNICATION FROM SPECIAL PROCEDURES MANDATE HOLDERS REQUESTING RESPONSE FROM THE GOVERNMENT OF ZIMBABWE.

On 23 August 2023, Zimbabweans went to the polls to vote for Councilors, Parliamentarians and the President. However, it is not correct that there has been an unprecedented increase in cases of enforced disappearances, abductions, torture and ill-treatment against political activists and opposition party members in the context of elections. The Government of Zimbabwe observes the rule of law and the Zimbabwe Republic Police (ZRP) derives its mandate from Section 219 of the Constitution of Zimbabwe which clearly stipulates that there shall be the Police Service responsible for: -

- detecting and investigating crime,
- preserving the internal security of Zimbabwe
- protecting and securing the lives and property of the people,
- maintaining Law and Order, and
- upholding the Constitution and enforcing the law without fear or favour.

It is not in dispute that Womberaiishe **Nhende**, who was in the running, was declared as the Councilor Elect for Ward 26, Glen Norah, Harare following the announcement of the 2023 General Elections results.

ZRP confirms investigating a case where Citizens Coalition for Change [CCC] political party members namely; Womberaiishe **Nhende** and Sanele **Mukhlani** were kidnapped by unknown assailants.

The Police also investigated a case which led to the arrest of Douglas James **Coltart** and Tapiwa **Muchineripi** who are Human Rights Lawyers in Zimbabwe for defeating or obstructing the course of justice under the following circumstances: -

a) Womberaiishe Nhende and Sanele Mukhlani's case;

The two above cited Citizens Coalition for Change (CCC) political party members are indeed victims of a kidnapping case which was perpetrated against them by unknown assailants.

Circumstances are that on 02 September 2023, at around 1600 hours, both Womberaiishe **Nhende** and Sanele **Mukuhlani** were seated in their parked motor vehicle, a BMW, registration number **ADP 4286** when two other unlicensed motor vehicles arrived and blocked their car. About seven male adults disembarked from the two motor vehicles, handcuffed and bundled Womberaiishe **Nhende** and Sanele **Mukuhlani** into their motor vehicles. The unknown assailants also assaulted and took them away to an unknown destination in a case of kidnapping. The victims were later dumped before being taken by well-wishers to Parktown Hospital, Waterfalls, Harare where they were treated by doctors of their own choice.

The case occurred within sight of a responsible citizen (names supplied) who notified the police. The Police opened a docket of Kidnapping as defined in Section 93 of the Criminal Law (Codification and Reform) Act, Chapter 9:23 with the aim of bringing the culprits to book.

The investigations that were and are still being made by the police are in line with their mandate as enshrined in Section 219 of the Constitution of Zimbabwe. To date, we are yet to establish the motive behind the kidnapping of Womberaiishe **Nhende** and Sanele **Mukuhlani** as well as identifying the perpetrators of the offence. Womberaiishe **Nhende** and Sanele **Mukuhlani's** BMW motor vehicle, registration number **ADP 4286** was also damaged during the kidnapping and a docket of Malicious Damage to Property was also opened and is being jointly investigated with the kidnapping case.

There is no evidence to prove that the kidnapping or abduction were enforced or committed by State security agents, ZRP Milton Park **CR 04/09/23** and CID Law and Order Harare **DR 01-02/09/23** refer.

b) Arrest of Douglas James Coltart and Tapiwa Muchineripi for Defeating or Obstructing Course of Justice as Defined in section 187 (1) (a) as Read with Section 184 of the Criminal Law (Codification and Reform) Act, Chapter 9:23.

Circumstances are that on 4 September 2023, at Parktown Hospital, Waterfalls Harare, the accused Douglas James **Coltart** and Tapiwa **Muchineripi** whilst knowing that the Police was investigating a case

involving Kidnapping of Womberaiishe **Nhende** and Sanele **Mukuhlani** obstructed the police from having access to and/or interviewing victims thereby defeating the course of Justice. As a result, Douglas James **Coltart** and Tapiwa **Muchineripi** were arrested and taken to Harare Magistrates Court where they were remanded out of custody on bail. The matter is still pending trial whilst the accused persons are out of custody. ZRP Harare Central **CR 167/09/23**, CID Law and Order Harare **DR 13/09/23** and Harare Magistrates Court **CRB 7716-17/23** refer.

No arbitrary use of force was used by the police during the arrest of Douglas James **Coltart** and Tapiwa **Muchineripi**. The arrest was done within the confines of the law which clearly provides for the arrest and prosecution of all offenders regardless of their political affiliation, ethnic or social origin, race or class, among other tenets. There is no selective application of the law to offenders in Zimbabwe. Section 56 (1) of the Constitution of Zimbabwe states that all persons are equal before the law and have the right to equal protection and benefit of the law hence no person is discriminated against. Both Douglas James **Coltart** and Tapiwa **Muchineripi's** rights as accused persons were also upheld as stipulated in Sections 50 and 70 of the Constitution of Zimbabwe. These among others include the: -

- right to be immediately informed of the reasons of the arrest,
- right to consult a private Legal Practitioner of their choice,
- right to a free and fair trial within a reasonable time.

Immediately upon their arrest, Douglas James **Coltart** and Tapiwa **Muchineripi** were allowed access to lawyers of their choice.

In any investigation, the ZRP upholds human rights which include that no person should be subjected to torture, or to cruel, inhuman or to degrading treatment or punishment and this is clearly provided for in Section 53 of the Constitution of Zimbabwe which is the Supreme law of the Country. Womberaiishe **Nhende**, Sanele **Mukuhlani**, Douglas James **Coltart** and Tapiwa **Muchineripi** were never subjected to torture and other cruel, inhuman or degrading treatment or punishment at the hands of the security forces in particular the Police as there is no evidence availed to prove that. The kidnapping or abduction case which was perpetrated against Womberaiishe **Nhende** and Sanele

Mukuhlani is a purely criminal act which has no place in any society in the country hence the ongoing investigations.

Zimbabwe like any other country in the world subscribes to the observance of other rights such as freedom of expression, freedom of assembly and association by or towards every person. This is supported by the provisions of Section 58 of the Constitution. There is no discrimination with regards to one's political affiliation or human rights defenders. The Police austerely investigate such cases with an aim to ensure that justice is delivered expeditiously. However, Section 86 of the Constitution of Zimbabwe on limitation of rights and freedoms sets out that such rights must be exercised reasonably and with due regard for the rights and freedoms of other persons.

All Citizens or persons in Zimbabwe, human rights defenders and lawyers in Zimbabwe have an equal standing before the law which is enforced by the Zimbabwe Republic Police and other ancillary sections.

ZIMBABWE REPUBLIC POLICE