



Note No. 1063/2024

The Permanent Mission of the Republic of Zimbabwe to the United Nations Office and other International Organisations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights (OHCHR) – Special Procedures Branch – and has the honour to transmit herewith the Government’s response to the Joint Urgent Appeal from Special Procedures dated 13 August 2024.

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 Office of the High Commissioner for Human Rights (OHCHR) – Special Procedures Branch – the assurances of its highest consideration.

GENEVA

9 September 2024

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





GOVERNMENT OF THE REPUBLIC OF ZIMBABWE

RESPONSES

TO

JOINT APPEAL FROM SPECIAL PROCEDURES

ON

ALLEGED CASES OF ENFORCED DISAPPEARANCES

BY THE

GOVERNMENT OF ZIMBABWE

Introduction

The Government of Zimbabwe takes note of the joint appeal by the six Special Mandate Holders concerning the alleged enforced disappearance, cruel treatment, arbitrary detention and judicial prosecution of Ms. Namatai Kwekweza, Mr. Robson Chere and Mr. Samuel Gwenzi. Further, the Government takes exception to the pre-emptive Press Statement by the same Mandate Holders, which was released without verification of information contained therein.

The Government of Zimbabwe wishes to reiterate its commitment to the protection and promotion of all fundamental human rights, as provided for in the Constitution, and in the Universal Declaration of Human Rights. The Constitution also prohibits torture and inhuman or degrading treatment, and guarantees detainees the right to conditions of detention consistent with human dignity.

It is critical to note that the case of the above-cited trio is before the courts of law, which, therefore, precludes an in-depth commentary on it. Notwithstanding the fact that the matter is sub-judice, a preliminary summary of the case is as follows:

Background Facts

The three accused persons were arrested on 31 July 2024 and subsequently appeared before the Harare Magistrates' Court on 2 August 2024, charged with disorderly conduct, as defined in the Criminal Law (Codification and Reform) Act [*Chapter 9:23*]. They were then placed on remand pending trial.

The charges arose from the participation of the accused persons in the disruption of court proceedings on 27 June 2024, during the trial of some of members of the opposition. The group refused to obey lawful instructions by the Police to cease the disruption of court proceedings, which subsequently led to the arrest and detention of some, whilst the trio and others, fled from the scene. The trio were, however, later arrested at the Robert Gabriel Mugabe International Airport. It must be noted that when the trio were arrested, they fully exercised the rights of arrested and detained persons, including, access to legal representation of their choice, as well as appearance before the courts within the prescribed time period.

Allegations of Enforced Disappearance and Cruel Treatment

During initial court appearances, Presiding Judicial Officers are mandated to enquire as to whether or not the arrested and detained person has any complaints against law enforcement officers. Whenever such complaints are raised, investigations are swiftly conducted by the Zimbabwe Republic Police (ZRP) Professional Standards Unit (PSU), an independent and impartial body responsible for handling allegations of misconduct by law enforcement officers. The Zimbabwe Human Rights Commission (ZHRC) may also be involved, leveraging on its mandate to oversee human rights issues in the country.

Authorities always respond to allegations of enforced disappearance and cruel treatment with a serious and structured investigation, adhering to both domestic legal frameworks and international

obligations. Protective measures are in place for victims and witnesses, and the State remains committed to ensuring justice and preventing violations. This is in line with Zimbabwe's obligations under the International Covenant on Civil and Political Rights (ICCPR) which requires a thorough investigation of allegations and, prosecution of would-be perpetrators. If public officials are found to be culpable, they face criminal charges as provided for, under Zimbabwean law. The prosecution process will be transparent, thereby ensuring accountability. This individual criminal accountability deters would-be offenders.

Access to medical facilities for arrested and detained persons

Arrested and detained persons receive comprehensive medical examination to establish their baseline health and identify any immediate medical needs.

Medical staff at detention facilities continuously monitor the detainees' health, conducting regular check-ups and providing access to medical care including external specialists if need be.

The detainees also receive medical treatments including medications for any diagnosed underlying conditions. The Government also provides psychological support, recognizing the mental health impact of detention. Mental health professionals offer ongoing counselling, especially for trauma-related needs.

Balanced meals meeting dietary standards are provided, with accommodations for special dietary needs based on medical advice.

Independent bodies, including the Zimbabwe Human Rights Commission (ZHRC), oversee and inspect health care in detention facilities. Any health-related concerns are investigated promptly.

Detainees regularly communicate with their families and legal counsel, ensuring that any health concerns are promptly addressed, and families are kept informed of the detainees' health status.

The Government is committed to ensuring that all inmates receive adequate medical care, psychological support, and nutritional care during their detention. Their health is monitored regularly, in accordance with national laws and international standards. The authorities are dedicated to maintaining the health and dignity of all detainees and addressing any health concerns promptly.

The rights of arrested and detained persons to regularly communicate with, and be visited by their family, counsels and any other person of choice.

The law grants detainees the right to communicate with and be visited by, family members, legal representatives, and others. This is supported by international standards that include Article 10 of the ICCPR, which mandates humane treatment and the right to maintain outside contact. Further, the law guarantees that meetings between arrested and detained persons, and their visitors are private. Related to this, detainees can use communication facilities to contact family and legal representatives, including telephone services. If direct communication is difficult, written correspondence is facilitated under standard

security protocols. Authorities have established regular visitation hours, communicated to the families, ensuring secure yet dignified meetings between detainees and visitors. Special requests, such as emergency visits, are considered on a case-by-case basis.

The detainees have access to necessary medical care and nutritional support, with special considerations for those with specific health or dietary needs. Emotional and psychological support, including visits from spiritual advisors, is also provided. The prison administration is regularly inspected by independent bodies that include the Zimbabwe Human Rights Commission and other Non-Governmental Organizations, ensuring compliance with detainees' rights, particularly, concerning communication and visitation.

The State's measures align with international human rights standards, such as the Nelson Mandela Rules, which emphasize maintaining family ties and access to legal representation. These efforts reflect the obligations under Article 10 of the ICCPR. The Government of Zimbabwe is committed to transparency in detainee treatment and remains open to oversight, addressing any concerns raised by detainees, families, or human rights bodies.

Observations

The Government of Zimbabwe acknowledges the important role that special mandate holders at the Human Rights Council play in promoting and protecting human rights globally. However, Government notes, with concern, the increasing tendency by some of

these special mandate holders to act as courts of first instance, potentially undermining the local legal remedies available to citizens within their own countries. Accordingly, the actions of special mandate holders, must be aligned with the principle of subsidiarity, allowing national legal systems to function effectively as the primary avenue for justice.

Government has also noted the disturbing pattern by some non-state actors to deliberately and mischievously cause anarchy particularly, ahead of major international events, in order to discredit the Government. These unlawful actions, have become sources of unverified information which, unfortunately, are authoritatively used as the basis of allegations of human rights violations against Zimbabwe.

Zimbabwe is committed to ensuring that all citizens have access to effective legal remedies through its domestic legal system. The country's legal framework provides for the protection of human rights by relevant established procedures for addressing any violations. Government believes that the principle of complementarity should guide international human rights mechanisms, allowing local remedies to be fully exhausted before international intervention is sought.

The Government remains open to constructive dialogue with international bodies whilst emphasising the importance of respecting and supporting local legal processes in the pursuit of human rights. For this reason, Government continues to encourage the international community to recognise and uphold the importance of local remedies

and to support the capacity of national legal systems to address human rights concerns effectively.
