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**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on violence against women, its causes and consequences.**

REFERENCE: UA G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (53-24) G/SO 214 (89-15)  
ZWE 5/2011

26 October 2011

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on violence against women, its causes and consequences pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 16/4, 15/21, 16/5, 16/23, and 16/7.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the dispersal of a peaceful gathering, the arrests of several members of **Women of Zimbabwe Arise (WOZA)** and the judicial case against Ms. **Jenni Williams**, National Coordinator of WOZA as well as one of its members Ms. **Magodonga Mahlangu**. WOZA is a women's rights organization with a country-wide membership of over 75,000 men and women.

Ms. Jenni Williams and Ms. Magodonga Mahlangu have been the subject of previous communications sent by special procedures mandate holders on 19 April 2005, 20 May 2005, 16 February 2006, 7 December 2006, 12 June 2007, 6 June 2008, 8 July 2008 and 22 April 2010. We acknowledge receipt of the responses transmitted by your Excellency's Government to the communications dated 16 February 2006, 7 December 2006 and 12 June 2007 by letters dated 31 March 2006, 14 December 2006, 19 June 2007 and 10 July 2007. We regret that we have received no response to the other communications.

Ms. Jenni Williams was the subject of a further communication sent on 8 July 2011, by the Special Rapporteur on the situation of human rights defenders and the

Special Rapporteur on violence against women concerning the occupation by Zimbabwe Republic Police of the property used by WOZA in Bulawayo as well as the suspected dispersal of poison on the property. We acknowledge the response received to this communication by your Excellency's Government dated 11 July 2011, stating that the communication had been forwarded to Harare. However, we regret that we have not received any further response since that date.

According to information received:

On 21 September 2011, Ms. Jenni Williams and Ms. Magodonga Mahlangu were arrested as they attempted to organize a peaceful march in Bulawayo to commemorate the International Day of Peace. Ten other women were reportedly also arrested but were later released without charge and have since filed a complaint against the police claiming that they were beaten and verbally insulted.

It is reported that the march, which is organized annually by WOZA and in which hundreds of WOZA members were planning to participate, was unable to proceed due to heavy police presence around the city. Separate groups had allegedly planned to set out from various locations and to converge on the Mhlahlandlela Government complex to present a preliminary report on transitional justice to the Government of Bulawayo Province.

However, it is alleged that riot police and patrol cars were present at the starting points and that police violently dispersed the crowd. It is reported that police beat members of WOZA with batons as a result of which over 20 members of WOZA required medical attention and one was hospitalized.

On 23 September 2011, it is reported that Ms. Williams and Ms. Mahlangu were refused bail and were remanded in custody at Mlondolozhi female prison in Bulawayo on allegedly fabricated charges of "theft" and "kidnapping". These charges are reportedly based on allegations made by a former WOZA employee who had been dismissed. It is reported that the same individual had broken into the WOZA premises following his dismissal and stolen some property belonging to the human rights organization.

On 4 October 2011, Ms. Jenni Williams and Ms. Magodonga Mahlangu were released from Mlondolozhi Prison on bail. On 6 October 2011, it is reported that, the judicial case pending against Ms. Jenni Williams and Ms. Magodonga Mahlangu was remanded by the Two Tredgold Magistrates Court to 12 December 2011.

Concern is expressed that the arrest, detention and charges brought against Ms. Jenni Williams and Ms. Magodonga Mahlangu may be directly linked to their legitimate and peaceful work in defence of women's rights and the legitimate exercise of their right to freedom of expression and freedom of assembly. Concern is further expressed that the charges against the human rights defenders may represent an attempt to deter them from continuing their human rights activities. Concern is expressed regarding the general

situation of women human rights defenders in Zimbabwe in light of the fact that participants in a peaceful gathering were allegedly subjected to violent dispersal and arrests as they exercised their right to freedom of assembly, and in light of the previously mentioned related communications.

While we do not wish to prejudge the accuracy of these allegations, we should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the case of Ms. Jenni Williams and Ms. Magodonga Mahlangu. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

We would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the ICCPR, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

We would also like to appeal to your Excellency's Government to take all necessary steps to ensure the right of peaceful assembly as recognized in article 21 of the ICCPR, which provides that "The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security of public safety, public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others."

Without in any way implying any determination on the facts of the case, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice."

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 5, point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully;

- article 6, points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters; and

- article 12, paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

In addition, we would like to refer to the 2006 report to the General Assembly (A/61/312) of the then Special Representative of the Secretary-General on the situation of human rights defenders and in particular to paragraph 98 which states that “in conformity with article 15 of the Declaration [on Human Rights Defenders], the Special Representative urges States to ensure that law enforcement agencies and their members are trained in and aware of international human rights standards and international standards for the policing of peaceful assemblies, including the Declaration on Human Rights Defenders, the Code of Conduct for Law Enforcement Officials and other relevant treaties, declarations and guidelines. The Special Representative also advises all States that all allegations of indiscriminate and/or excessive use of force by law enforcement officials should be properly investigated and appropriate action taken against the responsible officials.”

We would also like to bring to your Excellency’s Government’s attention to article 7 (c) of the International Convention on the Elimination of all forms of Discrimination against Women, which requires States Parties to take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: (c) to participate in non-governmental organizations and associations concerned with the public and political life of the country.

In addition, we would wish to recall article 4 (b) of the United Nations Declaration on the Elimination of Violence against Women, which stipulates that States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should refrain from engaging in violence against women.. Furthermore, article 4 (c & d) of the United Nations Declaration on the Elimination of Violence against Women, notes the responsibility of States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. To this end, States should develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence. Women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered. States should, moreover, also inform women of their rights in seeking redress through such mechanisms.

In this context, we would like to draw the attention of your Excellency's Government to paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Ms. Jenni Williams and Ms. Magodonga Mahlangu are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Ms. Jenni Williams and Ms. Magodonga Mahlangu in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the cases accurate?
2. Has a complaint been lodged by or on behalf of the alleged victims?
3. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to these

cases. If no inquiries have taken place, or if they have been inconclusive, please explain why.

4. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
5. Please provide full details of the legal basis of the charges brought against Ms. Jenni Williams and Ms. Magodonga Mahlangu and of any investigations which preceded the bringing of the charges against the two women.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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Special Rapporteur on the promotion and protection of the right to freedom of  
opinion and expression

Maina Kiai  
Special Rapporteur on the rights to freedom of peaceful assembly and of  
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Margaret Sekaggya  
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Rashida Manjoo  
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