

**NATIONS UNIES**  
**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; and the Special Rapporteur on violence against women, its causes and consequences**

REFERENCE: AL G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (89-15)  
ZWE 1/2013

21 February 2013

Excellency,

We have the honour to address you in our capacities 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; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolutions 16/4, 15/21, 16/5, and 16/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **repeated acts of harassments against civil society actors, mostly working on human rights issues.**

According to the information received:

On 11 February 2013, eight identified police officers from the Criminal Investigation Department – Harare Central Police station, Law and Order section searched the Harare offices of the Zimbabwe Peace Project (ZPP), a human rights organization which was set up in 2000.

Reportedly, the search warrant indicated that there were reasonable grounds to believe that ZPP was in possession of documents which the organisation intended to use for criminal activities in contravention of Section 40 of the Criminal Law (Codification and Reform) Act. According to reports, the police also suspected that ZPP had contravened the Immigration Act by permitting some unidentified illegal immigrants to enter the country without a work permit and to have smuggled some undisclosed goods in breach of Section 182 (1) of the Customs and Excise Act.

During the search, several items were seized by the police, including files with donor information, annual reports, mobile phone handsets, wind up radios, human rights documents and magazines and at least six DVDs.

On 19 February 2013, at least seven identified police officers searched the offices of the Zimbabwe Election Support Network (ZESN) in Harare. The ZESN is a coalition of 31 non-governmental organisations formed in 2000 to promote democratic processes, in general, and free and fair elections, in particular.

According to reports, the warrant justifying the search indicated that the ZESN was suspected of having committed the same offence as the ZPP. During the search, several documents, including documents with donor information and documents with details on plans to observe the upcoming referendum on the new Constitution were seized by police.

On the same day, unidentified men broke into the premises of ZESN in Masvingo. A computer, documents and approximately 60 ZESN t-shirts were reportedly stolen.

It is reported that these incidents follow a series of numerous other cases of searches targeting non-governmental organisations, especially those promoting human rights. According to reports, the following organisations have been subject to searches since November 2012: the Counselling Services Unit, the Youth Initiative for Democracy in Zimbabwe and the National Youth Development Trust. The Counselling Services Unit was the subject of a communication dated 16 November 2012 sent on behalf of the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association. We acknowledge the reply sent by your Excellency's Government on 21 January 2013 in relation to this communication.

Moreover, on 14 February 2013, nine members of the Women of Zimbabwe Arise(WOZA), who were taking part in a peaceful annual Valentine's Day "love" protest outside Parliament building in Harare, were reportedly assaulted and arrested by police forces. Most of them were released without any charges a few hours after their arrests. It is reported that the WOZA members who suffered from injuries as a result of the police assault filed a complaint.

Serious concern is expressed that the searches in the ZPP and ZESN premises are a means to unduly restrict the right to freedom of association of members of these organizations and to further deter other individuals to exercise their legitimate freedoms. Serious concern is also expressed that the repeated searches in the offices of associations, including those working on the defence and promotion of human rights, and the repeated undue restrictions to freedom of peaceful assembly, may form part of a campaign of harassment aimed at intimidating and silencing civil society actors, mainly human rights defenders in the context of the forthcoming referendum and elections.

While we do not wish to prejudge the accuracy of these allegations, we wish to refer your Excellency's Government to article 19 of the International Covenant on Civil and Political Rights (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 refer to 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 interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others."

We would like to refer to article 22 of the ICCPR, which provides that "Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests".

In this connection, we would like to recall Human Rights Council resolution 21/16, and in particular operative paragraph 1 that "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law."

Regarding information received indicating that the acts of harassment against the above mentioned organizations are directly linked to their human rights work, 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 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 bring to your Excellency's attention article 4 (c & d) of the United Nations Declaration on the Elimination of Violence against Women, which 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.

In this context, we wish to recall that the Committee on the Elimination of Discrimination against Women (CEDAW) in its General Recommendation No. 19 (1992), defines gender-based violence against women as impairing or nullifying the enjoyment by women of human rights and fundamental freedoms, and constitutes discrimination within the meaning of article 1 of the Convention on the Elimination of All forms of Discrimination Against Women (ratified by your Excellency's Government on 13 May 1991), whether perpetrated by a State official or a private citizen, in public or private life. Thus, the Committee considers that States parties are under an obligation to act with due diligence to investigate all crimes, including that of sexual violence perpetrated against women and girls, to punish perpetrators and to provide adequate compensation without delay. In General Recommendation No. 19, the Committee sets out specific punitive, rehabilitative, preventive and protective measures States should introduce to fulfil this obligation; in paragraph 9, it makes clear that "under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation".

Moreover, as 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, we would be grateful for your observations on the following matters:

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 information concerning the legal grounds for the searches of ZPP and ZESN offices, including confiscation of their material, and how these measures are compatible with international norms and standards as stated, inter alia, in

the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

4. Please provide information concerning the legal grounds for the use of force during the aforementioned peaceful demonstration. Please provide further information about the legal grounds for the arrests of nine WOZA members and how these measures are compatible with international norms and standards as stated, inter alia, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

5. Please provide information on the measures taken to ensure that those working for the defence and promotion of human rights can carry out their legitimate activities in an enabling environment without fear of harassment or persecution of any sort.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the right to freedom of opinion and expression and the right to freedom of association and of peaceful assembly of ZPP, ZESN and WOZA members and the exercise of their legitimate freedoms 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.

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

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freedom of opinion and expression

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