

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

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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; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 25/2, 24/5, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of arbitrary arrest, *incommunicado* detention and enforced disappearance of Mr. **Itai Peace Kadizi Dzamara**.

Mr. Dzamara is a human rights defender and journalist who has led the Occupy Africa Unity Square (OAUS) Movement since 2014 and is the spokesperson for the National Youth Action Alliance.

Mr. Dzamara was the subject of an urgent appeal that was sent on 15 January 2004 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. The urgent appeal expressed concern regarding the arrest, detention and defamation charges brought against Mr. Dzamara and other individuals for his legitimate work as a journalist. We regret that we have not received a reply from your Excellency's Government.

According to the information received:

On 21 October 2014, Mr. Dzamara and other members of the O AUS Movement submitted a petition calling for the resignation of President Robert Mugabe and the immediate establishment of a transitional authority to manage the country's affairs and to organize elections. The petition also included that the O AUS Movement would stage a sit-in at Africa Unity Square until the President responded to the petition.

On 28 October 2014, Mr. Dzamara and two other members of the O AUS Movement participated in staging an O AUS Movement protest at Africa Unity Square outside the Zimbabwean Parliament that denounced the deteriorating political and socio-economic situation of the country and placed the blame on the President. Allegedly as a result of the petition submitted on 21 October 2014, supporters of the Zimbabwe African National Union Patriotic Front party assaulted the protestors and confiscated their placards and banners. The police then arrested Mr. Dzamara with the other two protestors and interrogated them, questioning them about the motive of their protest. After five hours of interrogation and the intervention of lawyers, Mr. Dzamara and the other protestors were released without charge.

On 4 November 2014, Mr. Dzamara used a megaphone to address pro-democracy issues in Africa Unity Square, after having given prior notice to the police. It is reported that a police officer ordered Mr. Dzamara to stop his address but Mr. Dzamara refused to stop. The police officer confiscated the megaphone and Mr. Dzamara continued his address without it. Mr. Dzamara and five other members of the O AUS Movement were then arrested. Mr. Dzamara was allegedly taken to the sub-police station in the Central Business District and then transferred to the Central Police Internal Security Intelligence Office. After the intervention of legal representation, Mr. Dzamara was released without charge. A bag belonging to Mr. Dzamara had been confiscated and its contents, including CDs and papers, were emptied.

On 6 November 2014, Mr. Dzamara was peacefully demonstrating in Africa Unity Square. It is alleged that Police officers beat Mr. Dzamara until he collapsed. A lawyer was called to intervene and was also assaulted by police officers.

On 25 November 2014, Mr. Dzamara and six other members of the O AUS Movement were reportedly peacefully protesting in Central Harare. It is alleged that plainclothes police officers chased Mr. Dzamara and the protestors and subsequently arrested them. Lawyers arrived at the scene but were unable to find Mr. Dzamara. The lawyers inquired with the Police Internal Security Intelligence section and the Law and Order section, where they were initially informed that the protestors had not been arrested by the police. Fifteen minutes later, the police

admitted that Mr. Dzamara and the protestors had been arrested and taken to a location 15 kilometres outside of Harare. It is alleged that Mr. Dzamara and the other six protestors were assaulted and abandoned at an unofficial location.

On 2 December 2014, Mr. Dzamara and two other members of the OAUS Movement were peacefully protesting along Kwame Nkrumah Avenue in Central Harare. It is reported that just prior to 3 p.m., Mr. Dzamara and the protestors were arrested and forcibly detained by unidentified men, suspected of being supporters of the Zimbabwe African National Union Patriotic Front party. Mr. Dzamara and the other two protestors were allegedly forced into separate vehicles and transported to the Zimbabwe African National Union Patriotic Front provincial office on Fourth Street in Harare. It is alleged that the unidentified men severely assaulted Mr. Dzamara and the other two protestors, beating them with various objects, including metal rods, causing multiple injuries. The unidentified men also confiscated their belongings, including two mobile telephones and cash. Mr. Dzamara and the other two protestors were later transferred to the Zimbabwean police at Harare Central police Station and later released.

At approximately 11 a.m. on 9 March 2015, Mr. Dzamara was having his hair cut in a barber shop in Glen View, Harare, when five unidentified men travelling in a white twin cab vehicle with concealed number plates entered the barber shop. The unidentified men accused Mr. Dzamara of having “stolen the beast”, handcuffed him and then forced him into the vehicle. Mr. Dzamara has reportedly not been seen since then and his family has not heard from him, nor been informed of his fate and whereabouts. It is alleged that Mr. Dzamara may have been arrested and disappeared for his legitimate activities as a human rights defender.

Later on 9 March 2015, a formal complaint was made at the Harare Central Police Station about the disappearance of Mr. Dzamara. It is alleged that Police officers refused to accept the complaint and told the complaint should be presented at Glen Norah Police Station. On 10 March 2015, a complaint was filed at the Glen Norah Police Station. It is reported that two police officers, accompanied by two of Mr. Dzamara’s lawyers, went to the barber shop to inspect the scene and record a statement from the barber who witnessed the incident as part of their investigation.

Subsequently, Mr. Dzamara’s lawyers filed an urgent *habeas corpus* application to compel those detaining Mr. Dzamara to bring him to court for a legal determination of his detention, which was granted on 10 March 2015 by the High Court of Zimbabwe in Harare.

Grave concern is expressed about the possible arrest and disappearance of Mr. Dzamara, which appears to be related to his human rights activities and the legitimate

exercise of his right to peaceful assembly and his right to freedom of expression. We express particular concern at the physical and psychological integrity of Mr. Dzamara, in particular as his fate and whereabouts remain reportedly unknown to date. Additional concern is expressed that he may be at risk of torture or other forms of ill-treatment. We express grave concern as this situation seems to be in a context of recurrent cases of arrests, assaults and intimidation, including by and with the acquiescence of the Police and some state officials, of Mr. Dzamara, members of the OAUS Movement and other individuals since 2014, for peacefully demonstrating and expressing dissenting opinions and views opposing the current Government.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to these issues brought forth by the situation described above.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Dzamara above is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee his right not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR) ratified by Zimbabwe in 1991, as well as articles 9 and 10 of the Universal Declaration of Human Rights (UDHR). In particular, we would like to refer your Excellency's Government to principle 7 of the Basic Principles on the Role of Lawyers according to which, all arrested, detained or imprisoned persons shall have prompt access to lawyer within 48 hours of detention.

In relation to the allegation that the fate and whereabouts of Mr. Dzamara is currently unknown, we would also like to draw attention to the United Nations Declaration on the Protection of All Persons from Enforced Disappearance. In particular, the prohibition to practice, permit or tolerate enforced disappearance (article 2), the obligation to take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance (article 3), the right to be held in an officially recognized place of detention, in conformity with national law and to be brought before a judicial authority promptly after detention and the obligation to make available accurate information on the detention of persons and their place of detention to their family, counsel or other persons with a legitimate interest (article 10), and the obligation to maintain in every place of detention an official up-to-date register of detained persons (article 12).

We would like to remind your Excellency's Government, that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture or other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment. In this context, we would like to remind your

Excellency's Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in article 7 of the ICCPR.

Moreover, we would like to remind your Excellency's Government of the right to freedom of opinion and freedom of expression, and the right to peaceful assembly and of association, as contained in article 19 and 21 of the ICCPR.

We would further like to recall 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, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2 and 6.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org / www.wgeid.org or can be provided upon request.

We would also like to bring to the attention of your Excellency's Government that should sources submit the allegations of enforced disappearance mentioned in this communication as cases to the Working Group on Enforced or Involuntary Disappearances, they will be considered by the Working Group according to its methods of work, in which case your Excellency's Government will be informed by separate correspondence.

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 Mr. Dzamara in compliance with international instruments.

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. Please provide any additional information and comment which you may have on the above mentioned allegations.
2. Please provide information on the fate or whereabouts of Mr. Dzamara.
3. Please provide information concerning the legal grounds for the arrest and detention of Mr. Dzamara and how these measures are compatible with international norms and standards as stated, inter alia, in the ICCPR and the UDHR.
4. Please provide information relative to the measures taken to ensure the physical and psychological integrity of Mr. Dzamara.

5. Please provide information relative to the measures taken by the authorities to disband peaceful protests organised by the OAUS Movement since October 2014, and how these are compatible with international human rights law, namely articles 19 and 21 of the ICCPR.

6. Please provide information on the investigations carried out relative to the allegations of assaults against peaceful protesters perpetrated by police officers, as well as by individuals allegedly identified with the Zimbabwe African National Union Patriotic Front party, in the context of peaceful demonstrations since October 2014, as described above.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations. In particular, we urge that the fate and whereabouts of Mr. Dzamara be immediately clarified and their families notified.

We may publicly express our concerns in the near future as we are of the view that the information upon which the press release is going to be based is sufficiently reliable to indicate a matter warranting immediate attention. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issues in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

David Kaye
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 association

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