

**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; 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**

REFERENCE: UA G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (89-15)  
ZWE 2/2012

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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; Special Rapporteur on the situation of human rights defenders; 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 and 16/7.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the continued harassment of **members of the Women and Men of Zimbabwe Arise (WOZA)**, including the excessive use of force and arrests of activists during peaceful demonstrations.

Ms. Jenni Williams and Ms. Magodonga Mahlangu were the subject of a previous communication sent by the Special Rapporteur on the promotion and protection of the right to freedom of expression, the Special Rapporteur the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights defenders to your Excellency's Government on 26 October 2011. The Special Rapporteurs regret that, to date your Excellency's Government has not transmitted responses to the aforementioned communication.

According to the information received:

On 7 February 2012, a delegation of the Women and Men of Zimbabwe Arise (WOZA), a civic movement that defends women's rights and freedoms, met with the Joint Operations, Monitoring and Implementation Committee (JOMIC) in order to request it to implement the Global Political Agreement (GPA) and ensure the end of abuse of rights by the police. Meanwhile, other members of WOZA demonstrated outside the JOMIC offices in support of WOZA leaders. As Ms. Jennifer Williams, National Coordinator, emerged from the meeting, the riot police reportedly violently dispersed demonstrators as well as members of the public. A total of 14 persons, including ten WOZA members and four bystanders,

were arrested. One of the bystanders was a pregnant woman and another was a female minor. They were detained under allegedly very poor conditions at Bulawayo Central Police Station, where they were kept in a cold open fenced area of the police station during the nights and in the sun during the days. Reportedly, two detainees had to be brought to hospital by the police. On 9 February 2012, the four bystanders were released without any charges and the ten WOZA members were presented to court and formally charged for “criminal nuisance” under Section 46 of the Criminal Law. All WOZA members were then released pending trial.

On 14 February 2012, a peaceful march to commemorate the 10th anniversary of WOZA was allegedly met with brutal repression. Riot police reportedly beat people indiscriminately, leaving ten participants to seek medical attention for soft tissue bruises and lacerations caused by baton stick injuries.

It is indicated by the source that WOZA members have been, over the past months, continually harassed for their human rights activities.

On 19 January 2012, 17 WOZA members, including 16 women, were reportedly at a shopping centre for recreational purposes when they were arrested and subsequently detained at Donnington police station. During their detention, the WOZA members allegedly suffered physical abuse, including the use of stress positions. Furthermore, it is reported that one of the detainees had a plastic bag forced over her head in order to obtain information from her. The detainees were then reportedly transferred to the Law and Order Department of Bulawayo central police station, where it is reported that the male detainee was released. In the central police station, it is alleged that one of the detainees was beaten, and the group of detainees were threatened with sexual assault. According to the information received, the WOZA members were then photographed before being released, having spent approximately seven hours in detention.

On 12 December 2011, two WOZA members were charged with “theft” and “kidnapping” following a peaceful march to commemorate the International Day of Peace in Bulawayo. It is reported that such charges constitute judicial harassment based on trumped up charges as inconsistencies and contradictions between State witness statements to the court and their previous statements to the police were documented. An appeal has been lodged and the case is still pending.

Concern is expressed that the aforementioned allegations of excessive use of force during peaceful assemblies could be related to participants’ dissenting views and legitimate exercise of fundamental freedoms. Concern is further expressed that the charges against ten members of WOZA is solely based on the peaceful exercise of their rights to freedom of assembly and freedom of opinion and expression. In addition, concern is expressed that the arrests detention and charges against WOZA members form part of an ongoing trend of harassment against individuals and organizations working to ensure greater respect for human rights in Zimbabwe.

While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Excellency's attention to the right to physical and mental integrity of the forementioned persons.

In this connection, 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.

We wish 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." In the context of the 2012 elections, individuals should be able to meet,, engage on issues of national interests and express their grievances and aspirations freely.

In this context, we would like to refer to Human Rights Council resolution 15/21, and in particular operative paragraph 1, which "[c]alls upon States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely... 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."

Moreover, we would 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 International Covenant on Civil and Political Rights, 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 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 Declaration 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 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".

We would also like to bring to your Excellency's Government attention 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.

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the forementioned persons 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 the above-mentioned persons 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 summary accurate?
2. Has a complaint been lodged by or on behalf of the ten members of WOZA and the four bystanders?
3. Please provide information concerning the legal grounds for the use of force during the aforementioned assemblies.
4. Please provide information concerning the legal grounds for both the charges against the ten WOZA members in relation to the 7 February demonstration and the charges against the two WOZA members in relation to the International Day of Peace march and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR.
5. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to these cases.
6. In the event that the alleged perpetrators are identified, please provide the full details of any prosecutions which have been undertaken; have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
7. Please indicate what measures have been taken to ensure that the legitimate right to meet and assemble peacefully is respected and that the physical and psychological integrity of those exercising this right is guaranteed.

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.

Frank La Rue  
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  
Special Rapporteur on the situation of human rights defenders

Rashida Manjoo  
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