

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 torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE: UA G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (53-24)
ZWE 3/2011

3 June 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, 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 torture and other cruel, inhuman or degrading treatment or punishment pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 16/4, 15/21, 16/5 and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government concerning the arrest of **Ms. Florence Ndlovu** and **Mr. Walter Dube**, as well as the disruption by the police of a meeting convened by ZimRights on torture and its effects in Tsholotsho, Matabeleland North province. Ms. Florence Ndlovu is the Regional Coordinator for Matabeleland province and Mr. Walter Dube is a Paralegal Officer for Matabeleland, Midlands and Masvingo provinces and both work for the Zimbabwe Human Rights Association (ZimRights). ZimRights is an organization working to promote, protect and defend human rights in Zimbabwe in order to empower the marginalized sectors of society by providing them with relevant education and information in order to assert their rights and seek improvement of their living conditions.

According to the information received:

On 23 May 2011, Ms. Ndlovu and Mr. Dube were arrested by the police as they were returning from the Tshino Business Centre in Tsholotsho, where the police had earlier on reportedly disrupted a workshop convened by ZimRights to raise awareness about torture and its effects.

It is alleged that the police claimed that the meeting was unlawful. However, according to the information received, on 17 May 2011, in accordance with legal provisions, ZimRights regional officers gave notice to the police of their intention to hold the meeting. ZimRights then engaged the services of a law firm after the Police Officer Commanding from the Tsholotsho District banned them from holding the workshop reportedly claiming that “the subject of torture is not in line with Zimbabwean culture”. The legal representatives of ZimRights filed an application before the Bulawayo Magistrate Court arguing that, under Section 24 of the Public Order and Security Act (POSA), they were exempt from notifying the police as this was not a political gathering. It is reported that, on 20 May 2011, the Court’s Magistrate interdicted the police from disturbing or interfering in any way with the ZimRights workshop and ordered the organisation to proceed with the workshop as scheduled and promote its right to freedom of association and assembly as set out in Section 21 of the Constitution and the right to freedom of expression as guaranteed under Section 20 of the Constitution.

According to the information received, Ms. Ndlovu and Mr. Dube remained detained at Nyamandlovu police station in Matebeleland North province, at about 40km out of Bulawayo. It has been reported that two of the lawyers who deal with their case were denied access to them. It is also reported that the police denied detaining Ms. Ndlovu and Mr. Dube and claimed that the two ZimRights employees had been taken to Sipepa Business Centre despite evidence of their detention through the presence of their vehicle that was parked at the police station.

Serious concern is expressed about the situation of Ms. Ndlovu and Mr. Dube and the allegations received indicating that their arrest would be in connection to the organization of a workshop to raise awareness about torture and its effects in Zimbabwe. In addition, concern is also expressed about the disruption of the mentioned workshop despite the Court order reportedly allowing them to hold such an event.

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.

- 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.

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 above-mentioned person(s). This right is set forth in, *inter alia*, [relevant mandate allegation codes/treaties].

Without in any way implying any determination on the facts of the case, Without expressing at this stage an opinion on the facts of the case and on whether the detention of the abovementioned person(s) is arbitrary or not, (I) we would like to appeal to your Excellency's Government to take all necessary measures to guarantee his/her/their right not to be deprived arbitrarily of his/her/their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (and articles 9 and 14 of the International Covenant on Civil and Political Rights).

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned person(s) 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 person(s) 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 case accurate?
2. Please kindly indicate the legal basis for the arrest of Ms. Ndlovu and Mr. Dube and how their arrest is compatible with international human rights norms and standards.
3. Has a complaint been lodged by or on behalf of the alleged victims?
4. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
6. 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
association

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment