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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 Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice ; 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 3/2013

8 October 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; Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice ; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolutions 16/4, 15/21, 16/5, 23/7, and 23/25.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **alleged excessive use of force by law enforcement officials and alleged arbitrary arrest during a peaceful demonstration.**

Several members of the Women and Men of Zimbabwe Arise (WOZA) have been the subject of previous communications by special procedures mandate-holders dated 27 February 2012, 26 October 2011, 8 July 2011, 22 April 2010, 21 January 2010, 8 July 2008, 6 June 2008, 28 September 2007, 12 June 2007, 7 December 2006, 15 September 2006, 16 February 2006, 28 June 2005, 20 May 2005, 19 April 2005, 27 October 2004 and 29 September 2004.

According to the new information received:

On 19 and 20 September 2013, the Women and Men of Zimbabwe Arise (WOZA), a civic movement that defends women's rights and freedoms, held two peaceful demonstrations in Harare and in Bulawayo. These demonstrations aimed at calling for an improvement on service delivery, accountability, job

opportunities, economic recovery, and higher salaries for civil servants. The demonstrations also reportedly intended to mark International Day of Peace.

On 19 September, about 600 members of WOZA participated in a peaceful demonstration in front of the Parliament of Zimbabwe in Harare. Reportedly, a few minutes after the protests started, the police used excessive force, which included the use of baton sticks to disperse the peaceful protesters. Roads to Parliament in Harare were reportedly blocked and protesters could not exercise their right to freedom of peaceful assembly.

It is reported that Ms. Jenni Williams, Ms. Magodonga Mahlangu and Ms. Taurai Nyamhindi, three leaders of the Women and Men of Zimbabwe Arise (WOZA), were arrested by police. The three activists were taken to Harare Central Police Station, where they were held for approximately three hours, before being released without charges.

On 20 September, about 1000 members participated in a peaceful demonstration at the office of the Chronicle newspaper in Bulawayo. Allegedly, police officers responded by beating the protesters. Ms. Jenni Williams and Ms. Magodonga Mahlangu were arrested along with four members of WOZA. Following their arrest, hundreds of the protesters followed the arrested members to the police station. At the police station, about 50 police allegedly started beating the protesters with baton sticks. One of the members was reportedly violently beaten and pushed in front of a vehicle by an officer who allegedly shouted 'kill that person'. The arrested demonstrators were later released without charges. It is reported that 30 demonstrators were injured during the demonstrations. Ten of these had to be given medical attention and 3 underwent X-rays to verify level of injury.

Concern is expressed at the physical and psychological integrity of the aforementioned persons. Further concern is expressed as the allegations of excessive use of force during peaceful assemblies and the arrest of the members of WOZA could be based on the peaceful exercise of their right to freedom of assembly and their work in the defense of human rights and fundamental freedoms.

While we do not wish to prejudge the accuracy of these allegations, 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.
- 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 of the Special Representative of the Secretary-General on the situation of human rights defenders (A/61/312) 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 recall the right to freedom of opinion and expression as set forth in 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 further 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”.

In this connection, we would like to refer to 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.”

We also deems it appropriate to make reference to article 7(c) of the Convention on the Elimination of all Forms of Discrimination against Women (hereinafter “CEDAW”) which was ratified by your Excellency’s Government on 13 May 1991, explicitly provides for the promotion and protection of women in freely participating in public matters. States agreed to take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, to ensure to women, on equal terms with men, the right to participate in non-governmental organizations and associations concerned with the public and political life of the country. In this regard, we wish to recall paragraphs 23-24 of the recommendations from the 2012 Concluding Observations of the CEDAW Committee (CEDAW/C/ZWE/CO/2-5), where the Committee expressed its concern at the failure of Zimbabwe to address politically motivated violence against women and specifically asked the State to put in place measures to prevent and address this problem.

We would further 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. 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 CEDAW Committee 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 (), 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”.

Furthermore, we would like to draw the attention of your Excellency’s Government to the Agreed Conclusions of the Commission on the Status of Women adopted in March 2013 (E/2013/27- E/CN.6/2013/11), whose paragraph 23 expressed deep concern about violence against women and girls in public spaces ... especially when it is being used to intimidate women and girls who are exercising any of their human rights and fundamental freedoms. In its recommendations, the Commission urged governments to, in paragraph (x), “prevent, investigate and punish acts of violence against women and girls that are perpetrated by people in positions of authority, such as ... political leaders and law enforcement officials, in order to end impunity for these crimes.”

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 accurate?
2. Has a complaint been lodged by or on behalf of the aforementioned protesters?
3. Please provide information concerning the legal grounds for the use of force during aforementioned assemblies.
4. Please provide information concerning the legal grounds for the arrest of WOZA members and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR.

5. 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 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 rights and freedoms of the above mentioned 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.

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

Frances Raday  
Chairperson-Rapporteur of the Working Group on the issue of  
discrimination against women in law and in practice

Rashida Manjoo  
Special Rapporteur on violence against women, its causes and consequences