

Mandates of the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

REFERENCE:
UA ZWE 2/2020

3 June 2020

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, pursuant to Human Rights Council resolutions 34/5 and 42/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received regarding the arrest and excessive use of force against human rights defender Gamuchirai Mukura.

Mr. **Gamuchirai Mukura** is a human rights defender and executive director of the non-governmental organisation Community Tolerance Reconciliation and Development (COTRAD). COTRAD seeks to encourage electoral participation and civic education in youth, with the aim of avoiding conflict and increasing social accountability.

Mr. Mukura was mentioned in one previous communication sent on 12 July 2019 (AL ZWE 4/2019). He, along with other human rights defenders were charged with "subversion of a constitutional government" for attending a human rights capacity-building workshop in the Maldives. We thank your Excellency's Government for acknowledging receipt of this communication however, we regret not having received further information on the issue.

According to the information received:

On 17 April 2020, Mr. Mukura obtained authorisation from the Law and Order section of the Masvingo Police Department allowing him to distribute masks, gloves, hand sanitizer and water to disadvantaged communities in order to mitigate the spread of the COVID-19 virus in the Masvingo province.

On 24 April 2020 at 9:30 a.m., as he made his way to distribute COVID-19 protection equipment, Mr. Mukura was violently arrested at a police checkpoint near Masvingo town. Police officers allegedly grabbed him by the belt and beat him with baton stick, for which he suffered severe injuries to his arm. He was then handcuffed and taken to the Masvingo Central Police Station, where he was

detained for two hours. He was released after paying a fine of 200 ZWL (approx. 0.60 USD).

Mr. Mukura continues to have his bail extended since his release following his arrest in May 2019. The charge of “subversion of a constitutional government” has not been dropped despite appearing in court on at least eight occasions since his arrest along with six other human rights defenders. He reports to the police station every Friday as part of his conditions of bail. His next hearing is due to take place on 4 June 2020.

Without prejudging the accuracy of the information received, we are deeply concerned by the reports of the arrest and excessive use of force against Mr. Mukura while he carried out his legitimate human rights work. We are concerned that such actions demonstrate a criminalisation of the work of human rights defenders and prohibit the creation of an environment that is conducive towards the protection of human rights. These concerns are compounded by the fact that the arrest seems to be linked to Mr. Mukura’s COVID-19 related activities, notwithstanding he reportedly followed national guidelines and sought prior authorisation in line with the COVID-19 restrictions.

We are also deeply concerned that Mr. Mukura and the six other human rights defenders continue to face treason-related charges for engaging with human rights organisations in an international space. We are concerned by reports that his court hearings have been repeatedly postponed and bail extended on multiple occasions since his release almost one year ago. Mr. Mukura has for almost a year been required to adhere to bail conditions that limit his freedoms, without a decision or significant development having taken place in his case. We are deeply concerned that his bail may be arbitrarily extended indefinitely beyond 4 June 2020 preventing him from carrying out his urgent human rights work.

In relation to the above mentioned facts and concerns, we would like to remind your Excellency’s Government of its international obligations under articles 9 and 19 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Zimbabwe on 13 May 1991, which guarantee the right not to be subject to arbitrary arrest or detention and the right to freedom of expression.

We would also like to draw the attention of your Excellency’s Government to Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that, “Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms”.

We would also wish to refer to the fundamental principles set forth in the Declaration on Human Rights Defenders. In particular, we would like to refer to articles

1, 2 and 12 (2) and (3) of the Declaration, which provide that the State shall take all necessary measures to ensure the protection of everyone 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.

We would like to further refer to article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) acceded to by Zimbabwe on 13 May 1991, which protects the right to health. While only States are parties to the Covenant and thus ultimately accountable for compliance with it, all members of society, including local communities, non-governmental organizations and civil society organizations, have responsibilities regarding the realization of the right to health. States parties should therefore provide an environment, which facilitates the discharge of these responsibilities. (General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, E/C.12/2000/4, para 42). States should respect, protect, facilitate and promote the work of human rights advocates and other members of civil society with a view to assisting groups in vulnerable or marginalised situations in the realization of the right to health (para 62).

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

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 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/or any comment(s) you may have on the above-mentioned allegations.
2. Please provide information on the legal and factual basis for the arrest and fine of Mr. Mukura.
3. Please provide information about any investigation conducted into the allegations of excessive use of force in the arrest of Mr. Mukura.
4. Please explain the reasons for the extension of bail and multiple hearings in the trial of Mr. Mukura and the other human rights defenders.

5. Please provide information as to what steps have been taken to ensure that human rights defenders in Zimbabwe are able to carry out their peaceful and legitimate work in a safe and enabling environment, free from any physical, judicial or other harassment.

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.

This communication and any response received from your Excellency's Government will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Dainius Puras
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health