

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Working Group on Arbitrary Detention; 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 violence against women, its causes and consequences

REFERENCE:
AL ZWE 2/2021

27 October 2021

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; Working Group on Arbitrary Detention; 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 Human Rights Council resolutions 43/4, 42/22, 41/12, 43/16 and 41/17.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning a spate of alleged arbitrary arrests and detention of and the levying of charges against journalists, human rights defenders, student union leaders and politicians in recent months.

Mr. Hopewell Chin'ono is a prominent journalist and human rights defender, focused on campaigning against corruption. In July 2020, Mr. Chin'ono reported extensively on a case of corruption regarding medical supplies during the COVID-19 pandemic, which resulted in the dismissal of the former Minister for Health. Later that month, Mr. Chin'ono was arrested and charged with "incitement to commit public violence or incitement to participate in a gathering with intent to promote public violence" in response to social media posts he had made encouraging participation in the anti-corruption demonstrations.

Mr. Job Sikhala is a lawyer and the Deputy Chairperson of the Movement for Democratic Change (MDC)-Alliance political party, and is also part of the legal team representing Mr. Chin'ono.

Ms. Fadzayi Mahere is a lawyer and spokesperson for the MDC-Alliance party and is the legal counsel for Ms. Mamombe and Ms. Chimbiri.

Mr. Kumbirai Mafunda is a free-lance journalist and the communications officer for Zimbabwe Lawyers for Human Rights (ZLHR), a non-governmental organization which aims to promote human rights in Zimbabwe through sustainable litigation, education and advocacy.

Mr. Pritchard Paradzayi is a student and a member of the Zimbabwe National Students Union (ZINASU), and is the current spokesperson for the ZINASU chapter of Chinhoyi University of Technology SRC.

Mr. Glen Magaya, Mr. Falon Dunga and Mr. Allon Chipoyi are students and members of ZINASU.

Mr. Takudzwa Ngadziore is the president of ZINASU and a pro-democracy campaigner.

Mr. Makomborero Haruzivishe is a human rights defender, former Secretary General of ZINASU and a pro-democracy campaigner.

Mr. Tapiwanashe Chiriga is a student and the secretary general of ZINASU.

Ms. Joana Mamombe is a member of the MDC-Alliance party and an elected parliamentarian for Harare West, and was formerly a student union leader.

Ms. Cecilia Chimbiri is the youth leader for the MDC-Alliance party.

Mr. Hopewell Chin'ono was previously the subject of a communication sent by Special Procedures mandate holders to your Excellency's Government on 24 August 2020 (see ZWE 3/2020). We thank your Excellency's Government for its response to this communication, dated 20 October 2020.

Ms. Joana Mamombe and Ms. Cecilia Chimbiri were previously the subjects of a communication sent by Special Procedures mandate holders to your Excellency's Government on 2 June 2020 (see ZWE 1/2020). We thank your Excellency's Government for its response to this communication, dated 16 June 2020, however we regret that the response failed to adequately address the allegations of torture, sexual assault, enforced disappearance and abduction included in the communication, or the questions to your Excellency's Government in relation to these allegations.

According to the information received:

Concerning Mr. Chin'ono, Mr. Sikhala and Ms. Mahere

On 2 September 2020, Mr. Chin'ono was released on bail following 45 days in pre-trial detention on charges of "incitement to commit public violence or incitement to participate in a gathering with intent to promote public violence" and "obstruction of justice".

On 3 November 2020, Mr. Chin'ono was re-arrested by police at his home in Harare. At the time of the arrest, police allegedly told Mr. Chin'ono that he had violated his bail conditions and was being charged with "contempt of court" in response to a Tweet he had posted, suggesting that the Chief Justice had intervened in his case to deny him bail.

On 4 November 2020, the police reportedly dropped the charge, and instead charged Mr. Chin'ono with "obstruction of justice" in relation to a separate Tweet, in which he claimed that a source within the National Prosecution Authority (NPA) had informed him that bail would be granted in a case allegedly involving a relative of the President of Zimbabwe, Mr. Emmerson Mnangagwa. Mr. Chin'ono was held in the Chikurubi Maximum Security Prison and on 19 November 2020, was granted bail by the High Court, following the rejection of two previous bail applications.

Between 8-10 January 2021, Mr. Chin'ono, Mr. Sikhala and Ms. Mahere were arrested and charged with "publishing or communicating false statements

prejudicial to the State”, in response to comments posted on their social media pages about alleged police abuse. Mr. Chin’ono had tweeted about the death of a child who had allegedly been beaten by police whilst enforcing COVID-19 lockdown measures. Mr. Chin’ono and Mr. Sikhala were initially denied bail and were eventually released following the overturning of the bail decision by higher courts. Ms. Mahere’s initial bail application was denied and was held in detention for seven days before being released on bail.

On 28 April 2021, the charges against Mr. Chin’ono were ruled as unconstitutional and subsequently dropped. He is still facing charges of “incitement to commit public violence or incitement to participate in a gathering with intent to promote public violence” and “obstruction of justice”. The next hearing in his case took place on 18 October 2021, however the judge postponed the trial until 6 December.

The charge of “publishing or communicating false statements prejudicial to the State” against Mr. Sikhala and Ms. Mahere is being upheld. Mr. Sikhala’s trial is due to begin on 27 October 2021, and the status of the case against Ms. Mahere is pending.

Concerning Mr. Mafunda

On 26 February 2021, Mr. Mafunda was arrested by five officers of the Zimbabwe Republic Police (ZRP) at a police post at Rotten Row Magistrates Court, where he was covering the court appearance of Mr. Haruzivishe. The officers accused Mr. Mafunda of practicing journalism without accreditation from the Zimbabwe Media Commission (ZMC), to which he and his lawyers reportedly argued that ZMC accreditation cards issued in 2019 and 2020 should still be accepted by law enforcement officials, owing to the fact that the Commission had not carried out its national accreditation programme in 2020 due to the onset of the COVID-19 pandemic.

Mr. Mafunda was taken to the Harare Central Police station and was released without charge later that day. His release was granted by the Chief Superintendent, following the intervention of his lawyers, and the case against him was ultimately dropped.

Concerning Mr. Makomborero Haruzivishe

On 5 February 2020, Mr. Haruzivishe was arrested and charged with inciting public violence and resisting arrest. Mr. Haruzivishe was accused of inciting street vendors by whistling at them whilst police officers attempted to detain them and other informal traders in Harare’s central business district and throwing stones at the police officers and their vehicles. Mr. Haruzivishe was detained for two nights in Harare Central Police Station before being released on bail on 7 February 2020.

On 17 February 2021, Mr. Haruzivishe was arrested again, reportedly at gunpoint, in connection with his participation in a protest in October 2020, for which he was accused of kidnapping. The protest in question took place outside the office of Impala Car Rental, which had reportedly leased a car used by state agents during the abduction of a university student in July. Demonstrators reportedly chain-locked the doors of the building whilst

employees were still inside.

In March 2021, Mr. Haruzivishe was convicted of inciting public violence and resisting arrest, and was sentenced to 20 months' imprisonment. He is currently serving the sentence in Chikurubi Maximum Prison in Harare.

Concerning Mr. Takudzwa Ngadzire and Mr. Tapiwanashe Chiriga

On 26 February 2021, Mr. Ngadzire and Mr. Chiriga were arrested by ZRP officers outside the Rotten Row Magistrate's Court in Harare, and charged with violating section 5(3)(a) of the Public Health (COVID-19 Prevention, Consolidation and Amendment) Order of Statutory Instrument 200/2020 for allegedly part-taking in or convening a gathering. The allegation is reportedly in connection with a media briefing that they and others had held at the Magistrates Court to denounce the arrest of Mr. Haruzivishe, alleged police brutality and called for the resignation of the ZRP Commissioner General.

On 4 March 2021, Mr. Chiriga was released without bail. On the same day, Mr. Ngadzire's bail application was denied by the presiding magistrate, reportedly due to the fact that there were already three other pending cases against him.

On 26 March 2021, Mr. Ngadzire was granted bail on appeal by the high court magistrate presiding over his case. According to the bail decision, Mr. Ngadzire was required to appear once every fortnight at the Harare Central police station.

Concerning Mr. Pritchard Paradzayi, Mr. Glen Magaya, Mr. Falon Dung and Mr. Allan Chipoyi

On 3 March 2021, Mr. Pritchard Paradzayi, Mr. Glen Magaya, Mr. Falon Dunga and Mr. Allan Chipoyi were arrested by police whilst protesting outside the Rotten Row Magistrate's Court in Harare against the arrest of Mr. Ngadzire and Mr. Chiriga.

All four were charged with "participating in a gathering with intent to cause public violence" and released on bail two days later. The charges against them remain and they are awaiting trial.

Concerning Ms. Joanna Mamombe and Ms. Cecilia Chimbiri

As previously detailed in a communication to your Excellency's Government, Ms. Mamombe and Ms. Chimbiri were arrested whilst on their way to participate in a demonstration in Harare in May 2020. The women were subsequently abducted from police custody, allegedly by state agents, and subjected to sexual assault and ill-treatment possibly amounting to torture. Two days later they were found on a roadside 90km away from Harare and were admitted to hospital for medical treatment for the injuries they had incurred. Both Ms. Mamombe and Ms. Chimbiri were charged with allegedly gathering with the intent to promote public violence, and breaching COVID-19 regulations on gatherings.

On 10 June 2020, Ms. Mamombe and Ms. Chimbiri were allegedly arbitrarily arrested by police at the office of their lawyer, Ms. Fadzayi Mahere. Both were charged with falsifying their abduction and torture. On 15 June 2020, they were denied bail and returned back to Chikurubi Female Prison where they were remanded in custody until 26 June 2021.

On that date, the High Court granted Ms. Mamombe and Ms. Chimbiri bail for ZWD \$10,000.00 and on conditions that they report to police three times a week, and were not permitted to communicate about the case with public and or private media, including social media.

On 5 March 2021, Ms. Mamombe and Ms. Chimbiri were arrested after appearing at the Harare Central Police station for their routine reporting. Both were charged with ‘convening and part-taking in a public gathering’, in contravention of the Public Health and Amendment Order of Statutory Instrument 200/2020, reportedly in response to releasing and reading out a press statement outside the Harare Magistrates Court, denouncing the arrest of Mr. Haruzivishe and calling for the dismissal of the Zimbabwe Police Commissioner General. Ms. Mamombe and Ms. Chimbiri were held in pre-trial detention at the Chikurubi Female Prison.

On 25 March 2021, following multiple delays to their bail hearings, Ms. Mamombe and Ms. Chimbiri’s bail appeals were denied.

On 5 May 2021, Ms. Mamombe and Ms. Chimbiri were granted bail, on condition that they report to the Harare Central Police station on a weekly basis, and were ordered not to attend gatherings of more than 50 people. The case against them is pending.

Concerning Ms. Thabitha Khumalo

In the early hours of 6 March 2021, two unidentified individuals forcibly entered Ms. Khumalo’s home and physically attacked her, reportedly spraying her in the face with an unknown substance, stabbing her in the palm and hitting her in the head and knees with a knobkerrie. As a result of the attack and the severity of the injuries incurred, Ms. Khumalo was rushed to a local health facility, where she was treated for the injuries.

During the break-in, Ms. Khumalo’s three mobile phones, laptop and television were also taken by the assailants, whom she believes to be state agents. It is believed that the original intention was to abduct her, as the two assailants reportedly asked her the whereabouts of “Honourable Khumalo” and when she responded that she was not in the house at the time, they proceeded to physically assault her.

No arrests have been made by police in connection with the incident, and Ms. Khumalo’s items have yet to be returned to her.

Concerning Mr. Leroy Tevera and Mr. Tatenda Dennius

On 24 March 2021, Mr. Tevera and Ms. Dennius were arrested by ZRP officers for allegedly vandalising buildings, with graffiti messages demanding

the release of Mr. Haruzivishe. Both Mr. Tevera and Ms. Dennius were released the following day after police officers carried out searches at their respective homes for materials used for the graffiti, but were reportedly unable to find any, or other evidence to indicate that either Mr. Tevera or Mr. Dennius may have been responsible for the graffiti. No charges were brought against Mr. Tevera and Ms. Dennius.

Concerning Mr. Jeffrey Moyo

On 27 May 2021, Mr. Moyo was arrested in Harare and charged with violating section 36 of the Immigration Act for the alleged misrepresentation of the accreditation status of two journalists to immigration officials.

The two journalists in question are colleagues of Mr. Moyo from the New York Times and had arrived in Zimbabwe on 5 May 2021, as part of a reporting trip, but were deported three days later as they allegedly did not have correct accreditation from the Zimbabwe Media Commission (ZMC). Mr. Moyo is accused of having forged the ZMC accreditation for the two journalists through alleged collusion with a ZMC official who was similarly charged.

On 15 June 2021, following a previous rejection of his bail application, Mr. Moyo was granted bail and released. The charges against him remain.

Without wishing to prejudge the accuracy of the abovementioned allegations, we wish to express our concern with regard to the alleged arbitrary arrests, detention and prosecution of the abovementioned journalists, human rights defenders, student union leaders and politicians. We are seriously concerned by the information which would indicate that these individuals have been targeted for arrest and criminal charges in response to their legitimate exercise of the right to freedom of expression online and offline, as well as the right to freedom of peaceful assembly and of association. Should these allegations be confirmed, they would be in violation of articles 9, 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), acceded by Zimbabwe on 13 May 1991, which guarantee the rights not to be arbitrarily deprived of liberty, to freedom of opinion and expression, to gather peacefully and to freedom of association with others.

Furthermore, we note that in many of the abovementioned cases, the individuals in question were denouncing or documenting human rights violations or gathering to demonstrate against alleged violations, which present a concerning threat not only to the enjoyment of these rights and fundamental freedoms, but also may contribute to a chilling effect on civil society more broadly, including organisations, journalists and individuals who seek to uphold and defend human rights. That a number of the abovementioned individuals subjected to alleged arbitrary arrest, detention and criminal charges are members of the opposition political party is cause for further concern, as it suggests that they have been subjected to discriminate targeting by virtue of their political affiliation and their criticism of the government and state authorities. In this connection, we wish to recall that the penalisation of a journalist or human rights defender for criticising the Government or the political system espoused by the Government is in contravention of the State's obligations under international human rights law (CCPR/C/GC/34 para. 42).

We also wish to express particular concern in response to the charges of “publishing or communicating false statements prejudicial to the State” against Mr. Chin’ono, Mr. Sikhala and Ms. Mahere. In her report to the 47th session of the Human Rights Council on the topic of disinformation, the Special Rapporteur on the promotion and protection of freedom of opinion and expression noted that the prohibition of false information is not in itself a legitimate aim under international human rights law, and that given the fundamental importance of freedom of expression to democracy and the enjoyment of all other human rights and freedoms, international human rights law affords particularly strong protection to expressions on matters of public interest, including criticism of Governments and political leaders and speech by politicians and other public figures, and to media freedom (A/HRC/47/25, para. 40-42).

With regard to the allegations that journalists Mr. Mafunda and Mr. Moyo’s colleagues were not in possession of the correct accreditation from the Zambia Media Commission (ZMC), we wish to remind your Excellency’s Government that journalism is a function shared by a wide range of actors, including professional full-time reporters and analysts, as well as bloggers and others who engage in forms of self- publication in print, on the internet or elsewhere. In this connection, we wish to recall that general State systems of registration or licensing of journalists are incompatible with article 19(3) of the ICCPR, and limited accreditation schemes for journalists are permissible only where necessary to provide journalists with privileged access to certain places and/or events and should be applied in a manner that is non-discriminatory and compatible with article 19 (CCPR/C/GC/34). In addition, it is incompatible with article 19(3) of the ICCPR to restrict the right to freedom of movement – including travels outside the residence country - of journalists and other actors who exercise their rights to freedom of expression, and we wish to remind your Excellency’s Government to guarantee the exercise of those rights by foreign journalists within their national borders (CCPR/C/GC/34, para. 45).

We are also extremely concerned about the allegations of gender-based violence against women, particularly the sexual violence perpetrated by State agents. This would be in direct contradiction of Zimbabwe’s obligations under the Convention on the Elimination of All Forms of Discrimination against Women, which your Excellency’s Government acceded to in 13 May 1991. In the terms of the CEDAW Committee’s General Recommendations No. 19 (1992), updated by No. 35 (2017) on gender-based violence against women, discrimination against women, prohibited under article 1 of the Convention, includes gender-based violence and is a violation of women’s human rights.

Finally, whilst restrictions on freedom of peaceful assembly may be justified under certain limited conditions based on public health concerns, we reiterate our concerns about the purported misuse of COVID-19 legislation as a pretext to inhibit the enjoyment of the fundamental freedoms, with specific reference to the rights to freedom of peaceful assembly and association, and freedom of opinion and expression. These rights may be limited in a situation like the current COVID-19 pandemic, but such limitations must strictly adhere to the principles of necessity, legality and proportionality.

We are making this appeal to preserve the reported detainees’ rights from irreparable harm and without prejudging a possible court ruling.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 comment(s) you may have on the above-mentioned allegations.
2. Please provide information as to the factual and legal basis for the charges against Mr. Chin'ono, Mr. Sikhala and Ms. Mahere in response to their posts on social media and how the content of the posts warranted criminal charges. Please explain how these measures comply with your Excellency's Government obligations under Article 19 of the ICCPR.
3. Please provide information as to the factual and legal basis for the withholding of Mr. Chin'ono's passport.
4. Please provide information as to the factual and legal basis for the charges against Mr. Ngadzore and Mr. Chiriga under section 5(3)(a) of the Public Health (COVID-19 Prevention, Consolidation and Amendment) Order of Statutory Instrument 200/2020 in response to their organisation of a media briefing.
5. Please provide information as to how the conduct of Mr. Pritchard Paradzayi, Mr. Glen Magaya, Mr. Falon Dunga and Mr. Allan Chipoyi on 3 March 2021 amounted to 'disorderly' and therefore warranted their detention.
6. Please provide information as to how the release and reading out of a statement by Ms. Mamombe and Ms. Chimbiri amounts to a violation of the Public Health and Amendment Order of Statutory Instrument 200/2020.
7. Please provide information as to the status and findings, if any, of the investigation into the physical and sexual violence perpetrated against Ms. Mamombe, Ms. Chimbiri and Ms. Thabitha Khumalo by State agents.
8. Please provide information as to the factual and legal basis for the allegation of forgery against Mr. Moyo.
9. Please indicate what measures have been taken to ensure that human rights defenders, including journalists, lawyers, civil society and (political) activists, can operate in an enabling environment and can carry out their legitimate activities without fear of harassment, stigmatization or criminalization of any kind.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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(s) responsible for the alleged violations.

We would like to inform your Excellency's Government that after having transmitted a joint communication to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such letters in no way prejudice any opinion the Working Group may render. The Government is required to respond separately to the joint communication and the regular procedure

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

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Miriam Estrada-Castillo
Vice-Chair of the Working Group on Arbitrary Detention

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Reem Alsalem
Special Rapporteur on violence against women, its causes and consequences

Annex

Reference to international human rights law

In connection with the above alleged facts and concerns, we would like to refer your Excellency's Government to articles 9, 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), acceded by Zimbabwe on 13 May 1991, which provide that everyone has the right to liberty and security of person and that no one shall be subjected to arbitrary arrest and detention, that everyone have the right to freedom of expression, that the right to freedom of peaceful assembly shall be recognised and that everyone shall have the right to freedom of association with others. These rights are also provided for under articles 9, 19 and 20 of the Universal Declaration of Human Rights (UDHR).

Article 19 provides that everyone shall have the freedom to seek, receive and impart information and ideas of all kinds through any media of his choice. Intimidation or retaliation of any kind against a person for holding and expressing an opinion, such as an opinion critical of the government or police, is a violation of ICCPR article 19(1). Under international human rights law, the right to freedom of expression may only be restricted in accordance with article 19 (3) of the ICCPR. Any limitations must be determined by law and must conform to the strict test of necessity and proportionality must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated. In its General Comment No. 34 (CCPR/C/GC/34), the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including inter alia 'political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism'. Further, the Human Rights Committee made clear that "It is not compatible with paragraph 3, for instance, to invoke such laws to suppress or withhold from the public information of legitimate public interest that does not harm national security or to prosecute journalists, researchers, environmental activists, human rights defenders, or others, for having disseminated such information".

In this connection, we also wish to remind your Excellency's Government that the right to liberty and security of persons is enshrined in article 9 of the ICCPR, and ensures the freedom from arbitrary arrest or detention. Arresting or detaining an individual as punishment for the legitimate exercise of the rights as guaranteed by the Covenant constitutes a violation of article 9 (CCPR/C/GC/35 para 17).

We also recall that according to Article 21 of the ICCPR, "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." The 'provided by law' requirement means that any restriction 'must be made accessible to the public' and 'formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly' (CCPR/C/GC/34).

In particular, we wish to remind your Excellency's Government that any restrictions to the exercise of these rights must be provided by law and be necessary and proportionate to the aim pursued. In this regard, we remind that the State has the

burden of proof to demonstrate whether the restrictions implemented are compatible with the requirements under the Covenant.

The legitimate aims must be restricted to those exhaustively listed in the ICCPR, see CCPR/C/21/Rev.1/Add. 13 para. 6. Furthermore, the requirement of legality entails that the law “must be formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly and it must be made accessible to the public. A law may not confer unfettered discretion for the restriction of freedom of expression on those charged with its execution”, para 25. Lastly, the proportionality requirement entails that the restriction “must be appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve their protective function; they must be proportionate to the interest to be protected”, para. 34.

We would further like to refer to the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression to the 47th session of the Human Rights Council on the topic of disinformation and the threats it poses to the enjoyment of human rights, democratic institutions and development processes. In this report, the Special Rapporteur makes reference to the notable increase in legislation prohibiting “false news” of various forms on the internet and social media platforms in the past decade, noting that most of these laws fail to meet the three-pronged test of legality, necessity and legitimate aims set out in article 19 (3) of the ICCPR. The Special Rapporteur observes that such “false news” laws “often do not define with sufficient precision what constitutes false information or what harm they seek to prevent, nor do they require the establishment of a concrete and strong nexus between the act committed and the harm caused... Often, the prescribed punishment is excessively harsh and disproportionate, and can have a chilling effect on freedom of expression” ([A/HRC/47/25](#), para. 54). With particular reference to the abovementioned allegations, the Special Rapporteur further notes that “the vague and overly broad nature of such laws allows Governments to use them against journalists, political opponents and human rights defenders.”

We also would like to remind your Excellency’s Government that the Special Rapporteur on the rights to freedom of peaceful assembly and of association has cautioned in several occasions against the restrictions on the right to freedom of peaceful assembly adopted by the States worldwide during the COVID-19 pandemic and the resulting health emergency situation. As such, we would like to remind your Excellency’s Government to respond to the current crisis in compliance with its human rights obligations and to act according to the Special Rapporteur’s ten key principles on guaranteeing the rights to freedom of peaceful assembly and of association during public health emergencies, in particular to principles 1, 2, 4, 5 and 7 which emphasize on the principle of legality during the new context and that the public health emergency must not be used as a pretext of infringements of rights, and strive to ensure inclusive participation, to guarantee those rights both offline and online, and to ensure the right to freedom of expression overall.

In relation to the allegations indicating that the individuals mentioned above are being targeted because of their activities defending human rights, 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, also known as the UN Declaration on Human Rights

Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right 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.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 5 (a), which provides for the right to meet or assemble peacefully;
- article 6 (a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;
- article 6 (b) and c) which provide that everyone has the right, individually and in association with others to 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 to draw public attention to those matters;
- and article 12, paragraphs 2 and 3, which provides 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 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, we would like to remind your Excellency's Government that in its General Recommendation No. 35 (2017) on gender-based violence against women, the Committee on the Elimination of Discrimination against Women has clarified that, under the Convention and general international law, a State party is responsible for acts or omissions of its organs and agents that constitute gender-based violence against women, which include the acts or omissions of officials in its executive, legislative and judicial branches. States parties are responsible for preventing such acts or omissions by their own organs and agents, including through training and the adoption, implementation and monitoring of legal provisions, administrative regulations and codes of conduct, and for investigating, prosecuting and applying appropriate legal or disciplinary sanctions, as well as providing reparation, in all cases of gender-based violence against women, including those constituting international crimes, and in cases of failure, negligence or omission on the part of public authorities.

Finally, the Special Rapporteur on violence against women, in her thematic report to the General Assembly on violence against women in politics (A/73/301), reminded that women's right to participate in political and public life, including in elections as voters or as candidates for elections, on equal terms with men, is

explicitly protected under international human rights law, as enshrined in articles 7 and 8 of the Convention on the Elimination of All Forms of Discrimination against Women. She also stressed that violence against women in politics constitutes a serious violation of women's human rights and an obstacle to achieving gender equality, having an impact not only on the victims but on society as a whole. States, therefore, have a duty to eradicate and prevent acts of violence against women in politics.