



‘OPEN FOR BUSINESS’, CLOSED FOR DISSENT

CRACKDOWN IN ZIMBABWE DURING THE NATIONAL STAY-AWAY
14-16 JANUARY 2019

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Cover photo: A police officer walks amid smoke during a 'stay-away' demonstration against the doubling of fuel prices on January 14, 2019 in Emakhandeni township, Bulawayo. - Zimbabwe's President on January 12 announced a more than 100 percent rise in the price of petrol and diesel in a move to improve supplies as the country struggles with its worst fuel shortages in a decade. In the city of Bulawayo, demonstrators attacked minibuses heading to the city centre and used burning tyres and stones to block the main routes into town. (ZINYANGE AUNTONY/AFP/Getty Images)

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INTRODUCTION

There was renewed hope for change when Emmerson Mnangagwa was ushered in following a military takeover in November 2017 and subsequently, elected as President in August 2018. This hope has been dashed in recent months, with the human rights situation in the country deteriorating further, especially since the government's brutal crackdown in January 2019 after a national stay-away action in protest to what many people considered to be massive fuel hikes.

The authorities' response to protests including lethal and excessive use of force, mass arbitrary arrests, torture and arbitrary restrictions on access to internet to suppress protests and the continued impunity for possible crimes committed by security forces including torture as well as rape has demonstrated deep rooted intolerance to dissenting views.

The Zimbabwean government has obligations to respect, promote and protect the rights to freedom of expression, association and peaceful assembly as guaranteed under international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR)¹ and the African Charter on Human and Peoples' Rights (ACHPR).² Domestically, Section 58(1) of the Constitution states that "every person has a right to freedom of assembly, and the right not to assemble or associate with others".³ Section 59 further guarantees everyone the right to demonstrate and present petitions. Zimbabwe is not a party to the Convention Against Torture (CAT) which prohibits torture in all cases, but section 53 of its constitution prohibits torture, or cruel, inhuman or degrading treatment or punishment.

Despite these clear obligations, Amnesty International has documented gross human rights violations committed in the context of the government crackdown on protests in January.

This briefing analyses events and the context, and documents key human rights concerns in months prior to, during and following the national stay-away protests which started on 14 January 2019 and ended on 16 January 2019. The findings are based on interviews with witnesses, victims, victims' families, human rights defenders and activists, journalists, lawyers and Zimbabwean non-governmental organizations (NGOs) as well as desk-based research.⁴

¹ See articles 19, 21 and 22 of the International Covenant on Civil and Political Rights

² See articles 9, 10 and 11 of the African Charter on Human and Peoples' Rights

³ Section 58(1) of the Constitution of Zimbabwe, 2013

⁴ Amnesty International interviewed 20 people individually and one group interview with 8 activists. We also reviewed medical records, including pictures as well as reviewed and verified video footage. We had two medical records corroborated by the victims

1. BACKGROUND

Emmerson Mnangagwa was inaugurated as President on 26 August 2018, following a highly contested election in which opposition Movement for Democratic Change Alliance (MDC) petitioned the outcome of the July 30, 2018 poll.⁵ On 24 August, the Constitutional Court declared that MDC had failed to prove allegations of fraud and declared Mnangagwa the duly elected winner.⁶

Political tensions between MDC and Zimbabwe African National Union – Patriotic Front (ZANU-PF) heightened following the poll and on 1 August, protests erupted in the capital Harare over delays in releasing election results.⁷ Authorities deployed armed police and military personnel to stop the protests. Armed police and military personnel used live ammunition and beat up protestors, using batons, boots and sjamboks⁸ leaving six people dead and 35 others badly injured.⁹ On 2 August, international election observers released a statement in which they denounced the excessive use of force to quell protests and urged the police and army to exercise restraint.¹⁰

In the euphoria that followed his ascension to power as president in 2017, President Mnangagwa promised a new Zimbabwe in which everyone was “free to campaign, speak their mind and to express themselves however they choose.”¹¹ He further implored his supporters to “Let the people see a new face of our party through our good deeds, language and positive energy as we inspire them towards a better tomorrow, towards the Zimbabwe they want.”¹² But despite these lofty promises, Zimbabweans have witnessed a rise in human rights violations and the 1 August 2018 excessive and deadly response to protests was a precursor of worse things to come.

The recent human rights violations observed in the context of the January protests are rooted in Zimbabwe’s protracted economic problems which have grown critical in recent times. Zimbabwe appears to have reached unsustainable levels of debt. On 22 November 2018, the Minister of Finance and Economic Development, Mthuli Ncube said the public debt statutory limit of 70 percent was likely to be breached by the end of 2018.¹³ As of August 2018, Zimbabwe’s debt stock stood at 17.6 Billion with over USD 8 billion of this owed to external creditors.¹⁴ Local analysis explains that low levels of production and productivity across

⁵ On 10 August, Nelson Chamisa filed a petition before the Constitutional Court to challenge the election that gave Mnangagwa 50.8 percent and Chamisa 44.3 of the election result, citing fraud and electoral malpractice

⁶ Constitutional Court

⁷ Widely reported across domestic and international news media

⁸ A Sjambok is a long stiff whip usually made of animal hide

⁹ Amnesty International documented the events and issued a statement condemning the violence on 1 August 2018

<https://www.amnesty.org/en/latest/news/2018/08/zimbabwe-investigate-the-army-conduct-in-post-election-killings/>

¹⁰ Joint Statement by International election observation missions to Zimbabwe’s harmonised election 30 July, signed by the African Union, Southern Africa Development Community (SADC), SADC, Parliamentary Forum, Electoral Commissions Forum of SADC Countries, The Commonwealth Observer Group, European Mission Election Observation Mission, Zimbabwe, 2018, Carter Centre, National Democratic Institute

¹¹ Address to the ZANU-PF Central Committee in Harare on 8, June 2018 as reported by the News Day,

<https://www.newsday.co.zw/2018/06/lets-break-from-the-past-mnangagwa/>

¹² Ibid

¹³ He said this when he delivered his 2019 Budget Statement in Parliament on 22 November 2018

¹⁴ Budget Statement by Minister of Finance and Economic Development, Mthuli Ncube, delivered to Parliament on 22 November 2018. (USD9, 544.2 Billion in domestic debt and 8, 141.6 in external debt) Many analysts that we spoke to point to the government’s opaque borrowing practice. Amnesty International cannot confirm if the government’s debt acquisition was conducted in a transparent and participatory way as required by the country’s own procedures and in line with the United Nations Guiding Principles on Foreign Debt and Human Rights. In terms of the Guidelines, whose aim is not to supplant but supplement the provisions of the International Covenant on Economic, Social and Cultural Rights (ICESCR), every borrower State should conduct a transparent and participatory needs assessment, as part of its annual debt strategy

all sectors of the economy, against runaway public expenditures, while government borrowing from banks to finance the deficit, has effectively crowded out the private sector.¹⁵

In the midst of the accumulation of debt, foreign currency reserves have plummeted compounding Zimbabwe's currency crisis. In an attempt to address the lack of US Dollars in circulation, the government introduced a quasi-currency in 2016 through the issuance of USD 10 million in 'bond notes.'¹⁶

In December 2018, doctors went on strike demanding that they be paid in US Dollars and not in bond notes.¹⁷ Other public workers such as teachers threatened to protest outside the Finance Minister's office until their demands to be paid in US Dollars were met. On 8 January 2019, Cecilia Alexander, chairperson of the Apex council - an umbrella body for public service unions - gave notice to strike by all public servants.¹⁸

"The reason for this step is premised on the incapacitation of our members and the failure by government to address the same. The incapacitation comes in the wake of the erosion of our static salaries due to the skyrocketing cost of living," said Alexander.

The deepening economic crisis has had severe impact on people, especially on the poor and most vulnerable including women, children and people with special needs. Over 90 per cent of people are in the informal economy or otherwise unemployed.¹⁹ Access to basic services such as education, housing, health, water and sanitation is limited.²⁰ The government has an obligation to take steps to achieve all human rights - civil, political, economic, social and cultural rights as guaranteed under the ICESCR. Amnesty International has documented government failures in meeting its obligations to ensure that those that are especially vulnerable have special measures to address their vulnerabilities.²¹

Against this background, an environment in which human rights violations and abuses have continued unabated has thrived.

GROWING FEAR

President Mnangagwa's tenure has been plagued by a cloud of fear arising from the actions of the security forces and factionalism within the ZANU-PF raising questions about dual centres of power resulting in contradictory messaging from the government and ultimately paralysis in addressing gross human rights violations.²² Amnesty International has received many accounts of people fearing for their lives. Some civil society activists interviewed told Amnesty International that their fears had grown especially since the 1 August 2018 violence.

“I am increasingly worried that I am being followed. I fear that I may be the next person in the dock because of the arbitrariness with which arrests are being made.”

Lawyer whose identity cannot be revealed for his protection

¹⁵ Interview with Godfrey Kanyenze, Director, Labour Economic Development Research Institute Zimbabwe, 31 January 2019

¹⁶ Announcement by the Reserve Bank of Zimbabwe on 28 November 2016: Widely reported in local and international media. The bond note was touted to be at par with the US Dollar in 2016, but by January 2019, people's purchasing power had been greatly reduced at a rate of 3 bond notes to 1 US Dollar, while their incomes remained static

¹⁷ Al Jazeera interview with Mathabisi Bebhe, secretary-general of the Zimbabwe Hospital Doctors Association, which represents more than 1,000 members, 3 December 2018

¹⁸ "Zimbabwe Public Workers threaten to join strike", *Reuters*, 9 January 2019. This was also reported in other news media in Zimbabwe

¹⁹ This figure represents the proportion of people in the informal economy including those working for family business or paid employees not entitled to paid leave. Taken from the Labour Force Survey 2014

²⁰ In 2014, the United Nations Development Program's Development Assistance Framework, revealed that Zimbabwe experienced socioeconomic difficulties which resulted in the deterioration of basic social services. Significant challenges were experienced in education, health delivery, water and sanitation (especially in urban and peri-urban areas). The Labour and Economic Development Research Institute of Zimbabwe (LEDRI) has also noted a deterioration in access to basic services in its publication "My Socio-Economic Rights".

²¹ The most recent documentation was in "Breaking Away from the Past – A Human Rights Manifesto for Zimbabwe's Political Parties and Candidate" – Amnesty International AFR 46/8736/2018

²² A prominent Zimbabwean, academic, author and publisher, Ibbo Mandaza said in an interview with Amnesty International on 28 January 2019 that multiple fractures are currently more evident following the military-assisted transition of 2017, but have been a feature of Zimbabwe's political economy since the government led military intervention in the Democratic Republic of Congo (DRC) in 1990

Another civil society activist told us “I skipped the country because one night after helping some victims, I saw police trucks parked outside my house”. Yet another said “people are generally more afraid now, especially because of the level of impunity. Personally, I am more afraid than ever.”

“I am afraid to return to Zimbabwe because the regime has become more brutal. We have not witnessed this level of impunity for years.”²³

MDC, Member of Parliament Charlton Hwende

Some of the activists and opposition party members have fled their homes while others live in constant fear of violence, arrests and forced entry into their homes on suspicion of either belonging to the opposition MDC or being part of the protest.²⁴

The fear is compounded by the increasing influence of the military. Following the 2017 military assisted transition led by current Vice President Constantino Chiwenga, the High Court in Harare declared that the military intervention was permissible in terms of Section 212 of the Constitution.²⁵ Growing signs of the army’s influence is also evident with the muted or compliant response by President Mnangagwa and his advisors to the army’s repressive response to public protests. The growing influence of the military can be summed up thus: They intervened and put an end to Mugabe’s rule, in clear terms, thwarted any political ambitions his wife Grace may have had and then enabled the ushering in of President Mnangagwa.²⁶

In the wake of the crackdown, President Mnangagwa remained silent until almost a week later when he released a tweet on 20 January to announce that he was cutting his trip short to stabilize the situation at home.²⁷ A few days later President Mnangagwa said he was calling for national dialogue via another tweet.²⁸ It is not clear if his call has been heeded. What is clear is the inconsistency in messages from the government, with senior government officials contradicting themselves on the authenticity of the tweets from President Mnangagwa’s official account.²⁹

²³ In an interview from Namibia, 29 January 2019

²⁴ Various interviews conducted with over 20 individuals between 15 – 24 January 2019

²⁵ Judgement delivered by Judge George Chiweshe, CCZ 42/18 25 November 2017

²⁶ See address by General Constantino Chiwenga panned on Zimbabwe Broadcasting Corporation on 12 November 2017 in which he said “We must remind those behind the current treacherous shenanigans that when it comes to matters of protecting our revolution, the military will not hesitate to step in, “in apparent reference to Mugabe’s firing of Mnangagwa as Vice President on 6 November, 2017

²⁷ “In light of the economic situation, I will be returning home after a highly productive week of bilateral trade and investment meetings. We will be ably represented in Davos by Minister of Finance, Mthuli Ncube. The first priority is to get Zimbabwe calm, stable and working again” – Emmerson Mnangagwa, via Twitter 20 January, 2019

²⁸ “I invite leaders of all political parties as well as religious and civil leaders to set aside our differences and come together. What unites us is stronger than what could ever divide us. Let’s begin a national dialogue. Let’s put the economy first. Let’s put the people first 4/4” – Emmerson Mnangagwa via Twitter 22 January, 2019

²⁹ On 24 January, Presidential Spokesperson George Charamba told reporters that they should not believe everything that came from the President’s twitter account, but the Ministry of Information and broadcasting reacted to Charamba’s claim suggesting it was false: “There maybe be many fake accounts in HE President Mnangagwa’s name but @edmnangagwa is the legitimate voice of the President. Nothing goes on there but that which represents his views and positions on issues and that which he has explicitly cleared,” said a statement from the Ministry of the same day

2. “OPERATION RESTORE FEAR”: PATTERNS OF KEY HUMAN RIGHTS VIOLATIONS COMMITTED

On 12 January, President Emmerson Mnangagwa announced fuel price hikes, which took effect on 13 January.³⁰ The prices of both diesel and petrol, which power the main means of private and public transportation of people and are a major component in the cost of all consumer goods in Zimbabwe, went up by 150 per cent. Many were shocked by the hefty fuel hikes and their negative knock-on effects. The President then left the country for Europe on a five-nation tour and to attend the World Economic Forum to look for investment under the banner of ‘Zimbabwe is open for business.’³¹

In response to President Mnangagwa’s announcement, the Zimbabwe Congress of Trade Unions (ZCTU), the largest labour organization in the country, called for a three-day national stay-away protest action. ZCTU’s President, Peter Mutasa, called on Zimbabweans to stay away from work, businesses and schools from Monday 14 to Wednesday 16 January, to protest what he called ‘the general astronomical price increases since last year against stagnant salaries.’ He added that the fuel price increases were “insensitive and provocative”.³² When the news of the planned national stay away surfaced, the authorities declared that the government would “not accept a situation where opposition parties disguise themselves as NGOs (Non-governmental organizations) or as civic groups both to secure condonation for unlawful acts such as sponsoring civil unrest.”³³

Many Zimbabweans across the country heeded this call by ZCTU for a national stay-away action, staying at home from 14 - 16 January, including in the main cities of Harare and Bulawayo bringing business to a standstill in major parts of the country. In turn, main cities such as Harare and Bulawayo resembled ghost towns with pockets of pickets in certain parts of these cities. As outlined in sections below, the protest set in motion one of the most brutal crackdowns by the authorities seen in recent years in Zimbabwe, the apparent attempt to restore fear in Zimbabwe. The government deployed both military, police and intelligence units in cities and residential areas including Harare, Bulawayo, Chitungwiza, Epworth, Dzivarasekwa, Mbare, Gweru, Pumula, and Mabvuku. Witnesses have told Amnesty International of widespread beatings, deprivation of personal liberty, torture and other ill-treatment such as being made to roll in sewage or ashes from burnt

³⁰ Mnangagwa announced the fuel price increase to the nation, something which ought to have been done by the Zimbabwe Energy Regulatory Authority, <https://news.pindula.co.zw/2019/01/13/eds-statement-on-new-fuel-prices-3-31-petrol-and-3-11-diesel/>

³¹ Mnangagwa went to Russia, Belarus, Azerbaijan and Kazakhstan and was scheduled to travel to Davos before calling off his trip on 20 January in order to return home to attend to the crisis

³² Statement issued by the ZCTU President Peter Mutasa, <https://www.zimbabwesituation.com/news/economic-crisis-workers-govt-draw-daggers/>, 13 January 2019

³³ Statement issued by the Permanent Secretary in the Ministry of Information, Publicity and Broadcasting Services, Nick Mangwana in the Herald newspaper, www.herald.co.zw 13 January 2019

tyres. There are strong allegations of rape and other sexual assault of women emerging. The violent attacks on suspected protestors have mainly taken place in the high-density suburbs around major cities like Harare and Bulawayo.

As a result of the crackdown, at least 12 people had been killed by the security forces by 18 January. This was in contravention of the International Covenant on Civil and Political rights (ICCPR) to which Zimbabwe is party.³⁴ On 17 January, the number of those arrested had risen to over 600 as disclosed by the Minister of State Security.

Under international law, firearms can only be used to protect against an imminent threat of death or serious injury, and as a matter of last resort. The security forces must as far as possible apply non-violent means before resorting to the use of force. In particular, law enforcement authorities must ensure that everyone can enjoy the right to peaceful assembly, and that the rights to life and to physical and mental integrity are respected at all times. International law enforcement standards are clear that any use of force by the police should be exceptional and must comply with the state's international human rights obligations, particularly the obligation to respect and protect the right to life and physical integrity and security of the person.³⁵

As the authorities continue to clampdown on protestors, they have turned their attention to alleged organisers with prominent activists and civil society leaders arbitrarily arrested on dubious charges and many others in hiding as state security agents hunt for them.

2.1 UNLAWFUL KILLINGS AND EXCESSIVE USE OF FORCE BY THE POLICE AND THE MILITARY

On 14 January, armed police officers, soldiers and other state security agents were deployed to the streets in different parts of the country, including in Bulawayo, Harare, specifically around Harare city centre, Chitungwiza township and high-density suburbs of Epworth, Mabvuku and Kuwadzana. They soon followed with use of excessive and lethal force - teargas, baton sticks, water cannons and live ammunition to disperse protestors who were largely participating in demonstrations following the call for national 'shutdown' against fuel price increases.

As a result of the deployment of security forces, at least 12 people had been killed by the security forces by 18 January. Medical doctors who attended to the wounded or who saw those already killed when their



bodies were brought to hospitals told Amnesty International that the wounds they had seen and treated were consistent with gun shots as well as trauma caused by the use of blunt and sharp instruments particularly on the feet, backs and buttocks.³⁶ They also observed that the gunshot wounds were high-velocity and were aimed at causing maximum damage.

In all the cases analysed by Amnesty International, none of the people shot at or injured posed any imminent threat to the security forces. Some were shot from behind, while there were cases of bystanders who got shot as they watched the mayhem unfolding.

³⁴ Article 6 of the International Covenant on Civil and Political rights states: Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life"

³⁵ Principle 9 of the United Nations Basic Principle of the Use of Force and Firearms by Law Enforcement Officials states: "law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life... and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life."

³⁶ Interview with medical doctors, 24 January 2019, their identities are being withheld for security reasons



KELVIN TINASHE CHOTO, 22-YEAR-OLD FOOTBALL PLAYER

This was the case for Kelvin Tinashe Choto, a 22-year-old football player from Chitungwiza, a high-density residential town about 30km from Harare, who was shot in the head and killed by security forces outside his home on Monday 14 January. He died on the spot and his body was taken to Makoni police station by angry residents. He was buried on 19 January and is survived by a wife Varaidzo Chiyanike and a seven-month-old daughter. According to his father, Kelvin was watching clashes between protestors about 30 metres from the Makoni Police station fence when a police officer shot him in the head.

“I have been robbed,” his father said. “He was my only son and his future was bright. I have been robbed by the state.”³⁷

Father of late Kelvin Tinashe Choto, 22-year-old, who was shot in the head by security forces

Kelvin was a gifted football player and he was captain of first division Chitungwiza City Club. He was due to attend trials at a South African Club a few days after he was shot.

Mr Choto knows the officer who killed his son and he is seeking justice to what happened to his son. Mr Choto believes Kelvin may have been targeted because he was wearing a red football jersey when he was shot and killed on 15 January.³⁸ But much to his pain, there appeared to be a clear attempt to cover-up because when Mr Choto went to the Makoni police station on 15 January to file a report, the police officers told him that they had already received a report internally and a docket had been opened. They gave Mr Choto a docket number SDD02/19, commonly referred to as “Sudden Death Dockets.” Such dockets are not normally directed to the prosecutions department for trial but rather referred to magistrates, who will sit in their chambers and determine whether there should be an inquest hearing or not.³⁹

Amnesty International has also confirmed another similar case of unlawful killing of a man who was fleeing protest action in Marondera, a town in Mashonaland East and about 72km from Harare. Solomon Nyaruwa was an informal trader who had gone into town to collect a debt when he was shot dead on 15 January by an unidentified police officer. According to several newspaper reports, including footage from the funeral, he was shot while fleeing with other protestors and taken to Dombotombo Police Station, where he was placed in a cell and left unattended.⁴⁰ He was found dead in the police cell by his relatives the following day. On 21 January, a relative who spoke to a journalist on condition of anonymity at the funeral, said the family had been threatened and asked not to hold a funeral wake for the late Nyaruwa.⁴¹

In another brutal incident, Elvis Saidi from one of Harare’s high-density suburb of Mbare, was gunned down on 14 January by riot police outside Chishawasha Flats in Mbare.⁴² According to eye witnesses, Saidi was trying to help an old woman holding a baby who was suffocating from tear gas when he was shot. He was buried in Marondera on 20 January. He is survived by a wife and a child.

Beyond the patterns of unlawful killings, Amnesty International has documented several cases of injuries of protestors and others as result of unlawful and excessive use of force by security forces. For instance, on 14 January, Patricia Kamuriwo was severely wounded after she was shot by a gun in her thigh near a police station in Epworth on her way from work. Various pictures and videos on social media including Facebook, Twitter and YouTube showed her being pushed to the hospital in a wheelbarrow by sympathisers. Amnesty International verified the authenticity of the images and confirmed her injury from witnesses.⁴³

³⁷ Amnesty International Interview with Tinashe’s father, Julius Choto 29 January 2019

³⁸ Opposition MDC regalia is red

³⁹ Section 5 and 6 of the Inquest Act of Zimbabwe gives discretionary powers to a Magistrate to ascertain whether a hearing will take place or not

⁴⁰ See story and video from South Africa’s TV Channel, ENCA here <https://www.zimeye.net/2019/01/21/marondera-man-shot-by-police-dies-in-cells/>

⁴¹ On <https://www.zimeye.net/2019/01/21/marondera-man-shot-by-police-dies-in-cells/>

⁴² Emotions Charge Up as Army victims buried, covered by Bulawayo 24 News <https://bulawayo24.com/index-id-news-sc-national-byo-154161.html>

⁴³ Amnesty International interview with a health worker whose identity has been withheld for security reasons

In another case, a 29-year-old man is fighting for his life after he was shot in his pelvis in Chitungwiza on 14 January. According to medical personnel who attended to him, “he had a high-velocity gunshot injury and suffered massive internal organ damage. His life is almost destroyed, and he will need a colostomy”.⁴⁴ The man will need a bladder and rectal reconstruction. Amnesty International has seen the man’s record including gruesome pictures of the gunshot wound.

In another case on 14 January, a 21-year-old male in Epworth was shot in his right arm and the bullet exited into his abdomen, hitting his kidney and traversed to his spinal cord. According to medical personnel interviewed, he will never walk again.⁴⁵



Police also fired teargas not just on crowds of demonstrators but also into people’s homes in townships such as Chitungwiza, Mabvuku, Pumula, Epworth and Mbare resulting in severe injuries on 14 and 15 January. Witnesses and victims recounted scenes of scores of people injured after being shot at with tear gas cannons while in their homes, including a one-year old baby boy fighting for his life in Bulawayo after tear gas was thrown into his parents’ home on 14 January.

Some children were also victimized by security forces’ excessive use of force. For instance, on 15 January, in Mabvuku, a five-year-old boy had his five fingers broken after a soldier in boots stamped on his hand while trying to arrest men in the house the boy was sleeping in. Amnesty International saw medical records, as well as pictures showing two fingers with gaping wounds.⁴⁶

The Zimbabwe Association of Doctors for Human Rights (ZADHR) reported attending to 343 cases of injured people, of which 78 people suffered gunshot wounds while four had dog bites after dogs were set on them by security forces.⁴⁷ Amnesty International believes that this may not be the total number of people injured as many people were too frightened to seek medical treatment and most public hospitals were closed.

TORTURE, CRUEL, INHUMAN OR DEGRADING TREATMENT

Amnesty International has documented over a dozen cases that demonstrate patterns of cruel, inhuman or degrading treatment of protestors, activists, real or perceived opposition members and relatives of people who are being pursued, including women and children, by security forces. Most of these cases happened during the clampdown on demonstrations, during and after arrests as well as during search operations by security forces. In some of the cases, security forces were beating up people with the intention of extracting information about the whereabouts of individuals they were pursuing to arrest or as a form of punishment and as such amount to torture. Such acts are absolutely prohibited under international law, including under ACHPR, ICCPR and CAT.

National human rights groups have also reported credible evidence of torture and other forms of ill-treatment.⁴⁸

Zimbabwe Lawyers for Human Rights (ZHLR) confirmed that tens of people they represented had reported that they had been tortured⁴⁹. A representative of the organization told Amnesty International: “We received 39 calls from people who reported having been tortured by police and military. They were mostly from the high-density suburbs and we referred them to hospitals”.⁵⁰

Amnesty International’s analysis of information gathered from medical sources indicates that the nature of injuries treated in medical centres in Belvedere, Mandressa and Parktown in Harare between 14 and 16 January included not only those resulting from gunshots, but also from beatings with boots, blunt instruments such as wooden logs, abrasions from being dragged on tarmac, and from sharp and penetrating objects. According to medical reports, many will need surgery and intensive care and the costs for some surgeries could be upward of USD 5,000.

⁴⁴ A colostomy is a surgical procedure that brings one end of the large intestine out through the abdominal wall to divert the colon through an incision in the abdominal wall to create a stoma. A stoma is the opening in the skin where a pouch for collecting faeces is attached

⁴⁵ Interviewed on 25 January 2019. Identities withheld for security reasons

⁴⁶ Interview on 25 January. Identity of the two witnesses has been withheld for security reasons

⁴⁷ Interview with doctors from ZADHR

⁴⁸ Monitoring Report in the Aftermath of the 14 January to 16 January “Stayaway” and Subsequent disturbances by the Zimbabwe Human Rights Commission - 22 January to document “Torture was perpetrated through beating the men with baton sticks on their backs while they lay on the ground, including falanga, i.e. beating under the feet and beating them with open hands”

⁴⁹ Amnesty Interview with officials at ZHLR, 28 January 2019

⁵⁰ Amnesty Interview with officials at ZHLR, 28 January 2019



A man shows the injuries he sustained following severe beating by soldiers

Amnesty International has also seen and verified the authenticity of over a dozen pictures and footage of victims who reported that they were tortured. In one instance, on 15 January in Mabvuku, a group of about six men entered a house and said they were looking for two men. They found two women sleeping and they started beating them with batons as they asked them to tell them where their husbands were. One of them sustained broken legs. On 21 January, a 25-year-old male was severely assaulted by soldiers using a sjambok in Kuwadzana. He sustained trim line bruises and lacerations consistent with sjamboks.

On 21 January a group of five men in military uniforms severely beat up a Lecturer after they saw him walking from the office of an MDC MP in Chinhoyi.⁵¹ They wanted to know what he was planning to do with this MDC MP and when he didn't give them the answer they wanted they used iron bars and batons to beat him up. He sustained haematomas as a result of severe beating. Medical personnel confirmed that the injuries showed his muscle was torn and bleeding inside. On 28 January, doctors cut off his buttocks to save him.



Man beaten up in Chinhoyi and accused of being MDC and causing problems. His buttocks have now been cut off to save his life

⁵¹ The names of both the Lecturer and the MDC MP have been withheld

Scores of people including children, women and elderly people were severely beaten, harassed and faced verbal and other forms of physical abuses by security forces during house raids and search operations conducted in Mbare, Chitungwiza, Mabvuku, Kuwadzana, Dombotombo, Marondera, and Dzivarasekwa in Harare. Similar incidents were reported in Pumula in Bulawayo and in Mkoba in Gwere, in attempt to arrest suspected protestors, and activists of opposition members. All of the acts amount to cruel, degrading and inhuman treatment by security forces.

For instance, a 24-weeks pregnant woman in Kuwadzana, a high-density suburb west of Harare, was beaten at her home on 15 January when police officers came to look for men suspected of participating in the protest. The officers started beating her to reveal her husband's whereabouts. She had a miscarriage as a result of this beating. Another woman in Chinhoyi who was 36-weeks pregnant was badly assaulted during a door-to-door raid on 15 January. She suffered severe bruises.

In Harare, 14 juveniles ranging from 14-18 years old, who had been arrested between 14 and 15 January, told their lawyer they were tortured at the police station in Chitungwiza. The lawyer secured the acquittal of six of them who all complained that they had been tortured. According to an interview with lawyer Job Sikhala, the juveniles could not walk on the first day of their court appearance: "they were forced baton sticks down their throats and anals". Sikhala said the Chitungwiza Magistrates' court acknowledged the torture during the hearing on 31 January.

Others, including a child, were beaten by security forces as a form of punishment for their real or perceived participation in protests and stay-away actions. A nine-year-old boy in Mabvuku was beaten in front of his parents by a police officer on 15 January because he had dreadlocks. According to reports provided to medical personnel by his parents in Harare on 15 January, the policeman who beat him told him "you are the people who cause trouble."⁵²

Those injured were also not spared from cruel, inhuman and degrading treatment by security forces. Amnesty International has also documented cases where security forces mishandled and dragged people receiving critical medical assistance out of the treatment centre. For instance, on 16 January, dozens of policemen came and arrested 28 individuals who were receiving medical treatment at a "safe house" facility in Hatfield, Harare, for gunshot wounds and other injuries and forcibly took them to attend court. A man who was shot in the chest and had a drain to remove blood and air from his pleural cavity was forcibly removed from his bed and hauled to court with his drain attached. The bullet is still lodged in his body.⁵³

Information gathered by Amnesty International also suggests that sexual violence could have been used to suppress protests by Zimbabwean government security forces. Amnesty International is aware of at least 15 cases of rape and other forms of sexual assault against women by police and military including that of a 15-year-old girl from Harare on 15 January.

Zimbabwe is yet to ratify the Convention Against Torture (CAT) which prohibits torture in all cases, but section 53 of the current constitution provides that "no person may be subjected to physical or psychological torture or to cruel, inhuman or degrading treatment or punishment." There is evidently great disparity between the country's obligations and what happened in the aftermath of the protest.

Despite the compelling evidence and allegations of unlawful killings, excessive use of force, torture and other forms of ill-treatment by security forces, the government has not taken any genuine and comprehensive measure to investigate and hold suspected perpetrators to account. The President's reaction came only on 28 January following a media report by Sky News, where he posted a tweet saying, "I was appalled by today's @SkyNews report. That is not the Zimbabwean way. I have instructed that individuals behind this be arrested and encourage all those impacted to contact the authorities and file an official complaint."⁵⁴ But this has not translated into any genuine measure towards accountability. Instead authorities have resorted to threats against human rights defenders, activists, civil society organizations as well as opposition politicians and individuals considered to be dissidents or calling for justice.⁵⁵

⁵² Interview with medical personnel 25 January 2019

⁵³ Witness testimony from Doctor who was treating the patient

⁵⁴ The video showed three army men hitting a man, forcing him to run, then stopping him for more beatings

⁵⁵ Presidential spokesperson George Charamba warned that what happened during the protest was a foretaste of things to come. The Chairperson of Crisis in Zimbabwe Coalition, Rashid Mahiya, remains in hiding fearing for his life after he was labelled as one of the organisers of the protests

MASS AND WIDESPREAD ARBITRARY ARRESTS

In dealing with the January stay-away protest actions, Zimbabwean authorities responded to largely peaceful protests by deploying members of the army together with other security forces who arrested over 1000 people, including minors, mostly arbitrarily and without due process. Among those targeted were peaceful



protestors, human rights defenders, political activists, prominent civil society leaders, and other people dragged from their homes as security forces launched a massive door-to-door search for protestors. Available information indicates that a significant number of people have been arrested after the police forcibly entered into their homes at night.

The crackdown largely targeted suburbs in the main urban centres of Harare, Bulawayo, and Chitungwiza. On 14 and 15 January the police and members of the army forcibly broke and entered homes as they arrested scores of people who allegedly committed acts of public violence. Videos of the army and the

police forcefully breaking into people's homes and carrying out raids were seen widely circulated in the mainstream media and social media including via WhatsApp.

Zimbabwe Lawyers for Human Rights (ZLHR) recorded 843 arrests in the aftermath of the protests in Gweru, Mutare, Marondera, Bulawayo, Kadoma and Harare between 16-18 January. According to ZLHR, many of those arrested between 14-16 January were people who had nothing to do with the protests "but after 16 January there have been more arrests targeted at politically connected individuals or those of interest because of their dissenting views."⁵⁶

On 24 January, Police spokesperson Charity Charamba announced that over 1,000 people had been arrested since 14 January.⁵⁷ She said the people were arrested for looting, malicious damage to property, assault, public violence, obstruction of movement of traffic among other offences. It is not clear if all those arrested were arrested from the streets or during door-to-door raids.

UNCONSTITUTIONAL DEPLOYMENT OF THE MILITARY

Beyond the arbitrary nature of arrests and raids, Amnesty International is also concerned that the military was engaged outside of its legal mandate in law enforcement operations in a context where there is no declaration of a state of emergency.

In terms of the Zimbabwe Constitution,⁵⁸ the investigation of crimes and the maintenance of law and order falls under the mandate of the Zimbabwe Republic Police and not the defence forces. But information gathered by Amnesty International clearly indicates that soldiers were actively involved in law enforcement operations, including carrying out arrests in the name of investigating alleged crimes in violation of the Constitution and the Criminal Procedure and Evidence Act.⁵⁹

According to Section 213 of the Zimbabwean Constitution, the President is responsible for the deployment of the Defence Forces. Section 214 of the Constitution permits the President to deploy soldiers internally in defence of Zimbabwe, to support police officers in the maintenance of public order or managing a public emergency. The President is obliged to inform Parliament immediately and detail the reasons for this deployment. Amnesty International's investigations have not found any records to indicate that Parliament was informed.

⁵⁶ Interview with a lawyer at ZLHR, 29 January 2019

⁵⁷ The Herald, *Protests: 1 100 arrested*, 24 January 2019, <https://www.herald.co.zw/protests-1-100-arrested/>

⁵⁸ See section 219 of the Constitution

⁵⁹ See sections 25-45 of the Criminal Procedure and Evidence Act, Cap. 9:07 governing arrests in Zimbabwe

2.2 TARGETING OF ACTIVISTS AND PERSECUTION OF HUMAN RIGHTS DEFENDERS

ARBITRARY DENIAL OF BAIL AND VIOLATION OF FAIR TRIAL GUARANTEES



In total, 1055 people were tried by courts countrywide in charges related to the protests between 16 January - 31 January.⁶⁰ Of these, only 48 adults have been granted bail, while 995 were denied bail. Twelve juveniles who were arrested during the mass arrests from various locations in Harare were released into the custody of their parents, guardians or social welfare at various times between 16 January and 31 January.

Amnesty International is concerned about the fast-tracking of cases through the courts without due process and patterns of denial of fair trial rights of people detained by police.⁶¹ In one court in Harare, a witness noted that virtually all accused persons brought to the court on 16 January were not told why they were being arrested at the time of arrest.⁶² Many accused persons did not get an opportunity to choose and meet lawyers of their choice before the trial commenced usually within 48 hours of being arrested and detained.⁶³

Amnesty International received reports of lawyers being denied access to their clients, bail denied on patently unjustifiable grounds and the accused not given adequate time and facilities to prepare their defence. Overwhelmed lawyers struggled to take instructions from clients and formulate defences simultaneously as trials were proceeding.⁶⁴

In a statement by the Zimbabwe Law Society on the official opening of the 2019 legal year, the Law Society expressed its disquiet on how sections of the judiciary were handling cases of violence and looting arising from the crackdown.

“There is an unmistakable paradigm shift in the manner that the accused are being treated. The fast-tracked trials, routine denial of bail, routine dismissal of applications, blatant disregard of the constitutional provisions relating to the right to fair trial, are causing alarm within the profession. We do not believe that all the cases being brought to courts are similar in facts, circumstances and evidence to warrant the uniform treatment being witnessed,” the statement said.⁶⁵



On 29 January, lawyers, organised by the Law Society, marched to the constitutional court to protest the alleged denial of justice for hundreds of people arrested during and after the stay-away protests.⁶⁶ So far there has been no resolution of the issues raised by the Law society.

CIVIL SOCIETY LEADERS TARGETED

Prominent civil society and opposition MDC party leaders were targeted by the police, the army and intelligence officers. Reports suggest that authorities have released a list of wanted people, most of whom belong to MDC or are outspoken civil society leaders.⁶⁷

A well-known local pastor and leader of the #Thisflag Movement, Evan Mawarire, was arrested by police at his home in Harare in the early hours of 16 January without a warrant. A dozen police officers armed with AK-47's picked him up and he was later charged with inciting public violence and “subverting a

⁶⁰ Figures announced by the Chief Justice during his address to the media on 31 January, days after the opening of the Legal Year and the march by lawyers. See story on <https://allafrica.com/stories/201902040197.html>

⁶¹ Zimbabwe lawyers petitioned the Chief Justice on 29 January 2019. See petition here <https://newswire.live/no-fast-track-justice-in-full-zimbabwe-lawyers-petition-to-chief-justice/>

⁶² Interview with a court observer on 25 January 2019

⁶³ Ibid

⁶⁴ Amnesty Interview with ZHLR 24 January 2019

⁶⁵ See full story including petition here: <https://newswire.live/no-fast-track-justice-in-full-zimbabwe-lawyers-petition-to-chief-justice/>

⁶⁶ See article in News24 <https://www.news24.com/Africa/Zimbabwe/lawyers-march-in-zimbabwe-capital-alleging-denial-of-justice-20190129>

⁶⁷ In a Letter dated 29 January 2019 to the Inspector General of Police in Namibia, Human Rights Lawyer, appended a list of 27 names from a Zimbabwe Republic Wanted List updated on 25 January 2019

constitutional government”.⁶⁸ If convicted he could face up to 20 years in prison. After being refused bail on 18 January, he was granted bail on 29 January by the High Court. Mawarire has been outspoken about allegations of corruption, human rights violations and the declining economy.

The Secretary General of the ZCTU, Japhet Moyo, was arrested on 21 January upon arrival at Robert Gabriel Mugabe International Airport and was charged with attempting to subvert a constitutional government. Moyo appeared in court on 23 January 2019 and was denied bail. He was eventually granted bail on 25 January, but was then held in custody again after police stated they were holding him on a new (unknown) charge. He was eventually released on 1 February.

ZCTU leader, Peter Mutasa was finally arrested on 26 January after being in hiding since the crackdown started. His lawyer, Alec Muchadehama, confirmed his client handed himself to the police Central Investigation Division, Law and Order Division, and was charged and detained for allegedly subverting a constitutional government or inciting public violence. He was granted bail by the Harare High Court on 1 February but was only released on 2 February.

On 18 January, leader of Amalgamated Rural Teachers Union of Zimbabwe (ARTUZ), Obert Masaraure, was abducted by unidentified armed men from his home in Harare, beaten and later handed over to the police. He was charged with subverting a constitutional government and denied bail. His hearing for 28 January was postponed after the state failed to file its papers. The Harare High Court eventually granted him bail on 31 January.

The authorities threatened to arrest the Chairperson of the Crisis in Zimbabwe Coalition (CiZC), Rashid Mahiya, for organizing meetings to coordinate the national stay-away action and sending a petition to the African Union (AU) on 16 January.⁶⁹ The Petition called on the AU to intervene in the unfolding crisis in Zimbabwe. At the time of writing, Rashid is still in hiding and his whereabouts remain unknown. On 18 January, soldiers went to his house in Chitungwiza looking for him.⁷⁰ They interrogated his mother about his whereabouts, before they briefly abducted her and forced her to reveal his location. They later took her to his younger brother's house, Douglas Mahiya, where they suspected that Rashid would be hiding. At the time of their arrival, Mahiya was away. He later arrived in the company of his lawyer, Alec Muchadehama. The soldiers refused to speak to Muchadehama, saying that they did not want to see lawyers and assaulted Douglas in front of his mother and lawyer. Both Douglas and his mother were later released and sought medical treatment.

Following this, on 23 January, state security agents raided Rashid Mahiya's home and confiscated passports of his wife and kids (aged six years and seven months). It was also reported that Mahiya's sister spent most of 23 January detained at her house in Chitungwiza to coerce her to reveal whereabouts of Mahiya.⁷¹ Mahiya remains in hiding for fear of his life.

The Executive Director of the ZADHR, Calvin Kobiri Fambirai, has also been harassed, intimidated and threatened with arrest and de-registration of his organization.⁷² ZADHR has been providing treatment to people who sustained injuries during the national stay-away.

On 17 January, soldiers went to the residence of CiZC Youth Chairperson- Pride Mukono in Chitungwiza - looking for him. He was not at home at the time of their arrival. They interrogated his landlord, Terence Mujuru, about his whereabouts and when he could not disclose his whereabouts, they assaulted Terence and the other tenants.

Thabani Moyo, the Director of the Media Institute of Southern Africa and spokesperson of CiZC, was also forced to leave the country after he got information that state security agents were looking for him. CiZC had issued a number of public statements with his contact details, making him an easy target for the police.⁷³

⁶⁸ Section 22(2) of the Criminal Law (Codification and Reform) Act provides that anyone who urges or advocates any group of people with a view to that group overthrowing or attempting to overthrow a constitutional government shall be guilty of subverting a constitutional government and liable to 20 years imprisonment

⁶⁹ Civil Society Petitions AU Over Zimbabwe Crisis, 17 January 2019 - <https://allafrica.com/stories/201901170563.html>

⁷⁰ Interview with eye witness 25 January 2019, identity withheld for security reasons

⁷¹ Zimbabwe Human Rights NGO Forum Report, 24 January 2019 published by *All Africa* <https://allafrica.com/stories/201901250136.html>

⁷² Interview with Calvin Fambirai 21 January 2019

⁷³ Interview with Thabani Moyo, 21 January 2019

TARGETING OF OPPOSITION MDC MEMBERS

On 17 January, three MDC-Alliance Members of Parliament, Amos Chibaya, Lloyd Mukapiko and Livingstone Chiminya, were arrested in Gweru on charges of inciting public violence. They were denied bail when they appeared in the Gweru magistrates' court on 17 January. Chibaya was eventually granted bail on 30 January, but was promptly rearrested and charged with subverting a constitutional government. He remains in custody. By 21 January, 12 other MDC Members of Parliament had been arrested and others said to be in hiding as they feared for their lives.

Leader of the Opposition House in Parliament Thabitha Khumalo said the MDC was concerned with the “wanton and unwarranted arrests and persecution of MDC Alliance Members of Parliament by various State agents. To date, four of our legislators have been arrested on trumped-up charges and a number of them are being hunted and victimised for their MDC membership.”⁷⁴ On 29 January, opposition MDC Member of Parliament Charlton Hwende made an urgent appeal to the Namibian police for protection, citing what his lawyers called credible fears of abduction to face treason charges. Hwende is in Namibia visiting family while Parliament is in recess. His lawyer Norman Tjombe wrote to the Inspector General of police that Hwende was reliably informed that members of the Zimbabwe Central Investigation Office (CIO) had travelled to Namibia to abduct and force him back to Zimbabwe.⁷⁵

THREATS TO THE NATIONAL HUMAN RIGHTS COMMISSION

The government issued a threat to the Zimbabwean Human Rights Commission following its report on the crackdown released a few days after the protests ended. The Minister of Justice, Legal and Constitutional Affairs, said the Commission's report fell short of the standard for which it was created in the Constitution as it covered only the period “after the first two most anarchical days of the disturbances.”⁷⁶

The persecution of human rights defenders and civil society activists is yet another strong indication of a well-orchestrated crackdown on human rights and attacks against civil society leaders who are perceived to be behind the national shutdown. Many other civil society leaders who had been singled out by the authorities remain in hiding and their whereabouts were not known at the time of writing.

⁷⁴ Letter of Thabitha Khumalo to Speaker of the National Assembly, Jacob Mudenda, 23 January 2018 reported in the Daily News <https://www.dailynews.co.zw/articles/2019/01/23/mdc-petitions-parly-over-arrests>

⁷⁵ Letter Signed by Norman Tjombe on 29 January 2019 was availed to Amnesty International - 29 January 2019

⁷⁶ Statement issued by the Ministry of Information, Media and Broadcasting Services on 25 January and read on national television by Minister of Justice, Legal and Constitutional Affairs Ziyambi Ziyambi

3. ARBITRARY RESTRICTION ON PUBLIC ASSEMBLY

The clampdown on the right of people to assemble is consistent with past restrictions on public assembly in Zimbabwe. Public assemblies in Zimbabwe are governed by the country's notorious Public Order and Security Act (POSA), which was enacted in 2002. The legislation prohibits public gatherings not authorised by the police.⁷⁷ This is in contrast with the Constitution, the International Covenant on Civil and Political (ICCPR) and the African Charter on Human and Peoples' Rights (ACHPR), which protect people's right to demonstrate without any requirement of authorization.

POSA gives the Zimbabwe Republic Police wide discretion and powers to arbitrarily stop public assemblies and disperse any protest, often with grave human rights violations, including beatings, shootings, tear gassing, arbitrary arrests and detentions. Invariably, after arrests, protestors are denied bail and some are convicted and imprisoned on trumped-up charges.

Prior to the recent crackdown in January, Amnesty International has documented at least three emblematic incidents between February and December 2018 which indicate a clear pattern of disregard for the rule of law and a culture of impunity for serious human rights violations committed by security forces.

In February 2018, police shot dead two people and injured four others during clashes between police and commuters protesting the banning of commuter buses in Harare City Centre.⁷⁸ Police Commissioner Godwin Matanga confirmed the shootings in a public statement and called them 'regrettable' but no action has since been taken to investigate the shootings or bring suspected perpetrators to justice.⁷⁹ In the same month, police dispersed protesting students at the National University of Science and Technology in Bulawayo using water cannons. As students peacefully protested, police arrived and without warning started spraying them with water as well as tear gas.⁸⁰

On 1 August 2018, authorities used excessive force to disperse protests against the delayed release of election results. Six people were killed, and scores were tortured and injured.⁸¹ To date, no investigation has been instituted to hold suspected perpetrators to account. Following those events, President Mnangagwa appointed a commission of inquiry led by former South African President Kgalema Motlante to investigate circumstances surrounding the violence.⁸² Various concerns were raised about the composition of the

⁷⁷ As provided in Section 26 of POSA the police officer in charge of a district may prohibit a public gathering if he believes, on reasonable grounds, that it may cause public disorder

⁷⁸ Amnesty International documented the events and released this statement: <https://www.amnesty.org/en/latest/news/2018/02/zimbabwe-investigate-police-role-in-the-killing-of-two-people-during-minibus-violence/>

⁷⁹ "Public Violence in Harare Central Business District" Statement released by Zimbabwe Republic Police, 23 February 2018

⁸⁰ See footage and story at <https://nehandtv.com/2018/02/27/watch-riot-police-water-cannon-protesting-nust-students-bulawayo-video/>

⁸¹ See Amnesty International statement at <https://www.amnesty.org/en/latest/news/2018/02/zimbabwe-investigate-police-role-in-the-killing-of-two-people-during-minibus-violence/>

⁸² In an address to journalists at his Munhumutapa Offices in Harare on 29 August 2018, Mnangagwa said he was appointing the commission "in fulfilment of what I have undertaken to do, in order to address the matter in a transparent manner and in the public interest"

Commission as well as its Terms of Reference which some argued had a predetermined outcome.⁸³ The Zimbabwe Human Rights NGO Forum expressed concern that the Commission, in their view, had not been transparent in its handling of evidence because it concluded its hearings without acknowledging evidence from the NGO Forum.⁸⁴

On 18 December 2018, the Commission released its report and while it said the use of live ammunition to quell the protests was “disproportionate and unjustified”, its findings were seen by many as an attempt to “whitewash” state complicity in allegations of killings, torture and excessive use of force.⁸⁵

In this already deteriorating climate,⁸⁶ the government’s response to the January protests and arbitrary measures that followed reveal a significant and disturbing trend of erosion of the rule of law, impunity and growing disregard for human rights obligations in the country since President Mnangagwa took the reins.

This pattern reveals the continued use of restrictive legislation such as POSA by the Zimbabwean authorities who regard as “unlawful” any public assembly held without the police’s express prior permission, in violation of the country’s domestic, regional and international legal obligations.

SUSPENSION OF THE INTERNET AND SUPPRESSION OF INFORMATION

Zimbabweans rely heavily on the internet for most of their financial transactions, including mobile money transfers, online banking, point of sale transactions and to pay for groceries and basic services, as the country has been experiencing a prolonged shortage of US Dollars, the country’s most accepted currency by retailers after the country abandoned its own currency in 2009 due to abnormal inflation.

They also rely on the internet to access information, exchange ideas and express themselves. On 15 January 2019, the government instructed internet service providers to shut down the internet, in an apparent attempt to suppress information sharing among protestors.⁸⁷ Telephonic communication was also affected, with limited reach in major areas. The largest internet service provider and telecommunications company, ECONET, confirmed that it had been directed to suspend all internet services by the Minister of State Security, Owen Ncube, on 16 January.⁸⁸ While the internet was later restored in the late hours of 16 January, it was again suspended on 17 January.⁸⁹ Social media sites like WhatsApp, Facebook and Twitter remained blocked until 20 January. The internet blackout also resulted in a complete media blackout and communication breakdown by ordinary people who rely heavily on social media. A statement issued by the United Nations Office of the High Commissioner for Human Rights on 18 January said that disconnecting people from the internet is a human rights violation and goes against international law.⁹⁰

This arbitrary suspension of the internet services is also a clear violation of the country’s laws. Section 61 of the Constitution guarantees the right of every person to freedom of expression. This right includes the “freedom to seek, receive and communicate ideas and information.” Following a challenge mounted by ZLHR and the Media Institute against the government, Econet, Net One and Telecel, the High Court ruled on 21 January that the directive to suspend the internet was illegal as the Minister of State Security did not have

⁸³ Various critics including former Information Minister Jonathan Moyo, former Finance Minister in the Government of National Unity and MDC member, Tendai Biti, MDC Leader Nelson Chamisa, Ringisai Chikohomero, Researcher at the Institute of Security Studies (ISS), Academic, Alex Magaisa, and the Zimbabwe crisis coalition among others, questioned the impartiality of the Commission. See <https://www.dailymaverick.co.za/article/2018-12-14-motlanthe-commission-could-be-a-high-level-pr-stunt-for-mnangagwa/>; <https://www.zimbabwesituation.com/news/cizc-statement-on-the-commission-of-inquiry/>

⁸⁴ Post Zim election violence: Rights groups raise concern over Motlanthe-led commission: In a statement released Director of the NGO Forum Blessing Gorejana 30 November 2018 - <https://www.news24.com/Africa/Zimbabwe/post-zim-election-violence-rights-groups-raise-concern-over-motlanthe-led-commission-20181130>

⁸⁵ In an interview with Nehanda Radio on 29 August 2018, MDC Spokesperson Jacob Mapfume said the Commission’s findings were “equating the victim to the perpetrator”

⁸⁶ Zimbabwe was ranked 108 out of 113 countries surveyed by the World Justice Project (WJP) in its Rule of Law Index; see World Justice Project Rule of Law Index 2017/2018

⁸⁷ The Instruction came from State Security Minister Owen Ncube. See Court Papers and Provisional Order in *Zimbabwe Lawyers For Human Rights and Others Vs Minister of State in the President’s Office for National Security*, Case No. HC 265/19, 17 January 2019

⁸⁸ <https://allafrica.com/stories/201901160010.html>

⁸⁹ The Minister of State Security ordered a second shutdown of the internet on 17 January <https://www.news24.com/Africa/Zimbabwe/zimbabwe-again-forces-total-internet-shutdown-amid-unrest-20190118-2>

⁹⁰ UN rights office calls on Zimbabwe Government to end ‘crackdown’ in response to fuel protests, Released by the Office of the High Commissioner for Human Rights: <https://news.un.org/en/story/2019/01/1030792>

the authority to issue such orders. This High Court decision led to the unblocking of all internet services by telecoms companies on the same day.⁹¹

REGIONAL AND INTERNATIONAL RESPONSE TO THE HUMAN RIGHTS VIOLATIONS

Zimbabwean human rights organisations, individuals and opposition political parties have made a rallying cry to regional and international bodies to intervene in the deteriorating human rights situation in the country.⁹² Their calls are consistent with the international Responsibility to Protect endorsed by all United Nations Member States including Zimbabwe in 2005. It is premised on the fact that sovereignty entails a corresponding obligation to protect people from human rights violations and other atrocities.

In a statement to African Union (AU) Chairperson Paul Kagame, the Crisis in Zimbabwe Coalition warned the ongoing crisis might result in regional instability as Zimbabweans seek food, shelter and refuge in neighbouring countries.⁹³

On 29 January, MDC leader Nelson Chamisa said “To our brothers and sisters in the SADC region, we say this is the time to stand with peace-loving people of Zimbabwe. This is not the time to see no evil, hear no evil and speak no evil, burying heads in the sand while a human rights crisis escalates into inordinate levels.”⁹⁴

The actions by authorities have been widely condemned by a cross section of people in Zimbabwe and internationally.⁹⁵ The Southern Africa Litigation Centre (SALC) raised concerns about international crimes including torture and other crimes against humanity. In the face of this condemnation, the government has remained intransigent. On 20 January, President Mnangagwa’s spokesperson George Charamba said what had happened so far was a “foretaste of things to come”, in reference to the crackdown.⁹⁶

Despite the mounting calls and the deteriorating human rights situation, the Southern Africa Development Community (SADC) and the African Union (AU) have been notable in their silence since the brutal crackdown which has also received widespread criticism from the United Nations, global human rights activists and political leaders. However, the Africa Commission on Human and Peoples Rights expressed concern at the internet shutdown in a number of countries in Africa including in Zimbabwe.⁹⁷

While the European Union (EU) condemned the disproportionate use of force by the Zimbabwean government, the British government went a step further, summoning Zimbabwe’s ambassador to explain the gross human rights violations associated with the protests against the fuel hikes.⁹⁸

UK Africa Minister Harriet Baldwin stated that “While we condemn the violent behaviour of some protestors, and unlawful acts such as arson and looting, we are deeply concerned that Zimbabwe’s security forces have acted disproportionately in response. In particular, there are disturbing reports of use of live ammunition, intimidation and excessive force.” In response to the internet shutdown, the British government also urged for the government’s “reinstatement of full internet access, consistent with citizens’ constitutional right to freedom of expression.”⁹⁹

The EU condemned “the escalation of violence in Zimbabwe...aggravated by the disproportionate use of force by security personnel.”¹⁰⁰ The EU further called on the Zimbabwean government “to uphold human rights and the rule of law, as enshrined in the Constitution, and ensure due legal process for those detained.”

⁹¹ High Court Judge Owen Tagu ruled that the order to shut down the internet was illegal because the Minister of State security who ordered the shutdown did not have the powers to do so. <https://www.news24.com/Africa/Zimbabwe/just-in-zim-high-court-rules-internet-shutdown-illegal-orders-govt-to-restore-full-internet-to-the-country-20190121>

⁹² There are many messages on Twitter, Facebook and in news outlets from various organisations including the Zimbabwe Law society, The Pan African Lawyers Union, Zimbabwe Lawyers for Human Rights, Zimbabwe NGO Forum among many others

⁹³ Zimbabwe Crisis Coalition statement signed by President Rashid Mahiya, 17 January 2019

⁹⁴ Public Statement issued by Nelson Chamisa on 29 January 2019 and covered by various local and regional news media

⁹⁵ On 25 January, the Southern Africa Litigation Centre (SALC) issued a statement in which they said they would take steps towards holding those responsible for the commission of the crimes accountable

⁹⁶ Statement by the *Sunday Mail* attributed to George Charamba while on an official trip in Azerbaijan

⁹⁷ Issued by the African Commission on Human and Peoples Rights, 29 January 2019

⁹⁸ In a statement published on 17 January, Minister for Africa Harriet Baldwin said that the British government had “summoned the Zimbabwean Ambassador to the United Kingdom to attend the Foreign Office on 17 January to discuss the situation:

<https://www.gov.uk/government/news/ministerial-statement-on-zimbabwe>

⁹⁹ Minister for Africa’s statement on the situation in Zimbabwe, January 2019: <https://www.gov.uk/government/news/ministerial-statement-on-zimbabwe>

¹⁰⁰ Statement by the EU Spokesperson, 17 January, 2019 https://eeas.europa.eu/headquarters/headquarters-homepage/56705/statement-spokesperson-situation-zimbabwe_en

The Office of the United Nations High Commissioner for Human Rights (OHCHR), said that it was deeply troubled by the socio-economic crisis that led to the situation in Zimbabwe. OHCHR further stated that it was concerned by “reports of the excessive use of force, including live ammunition,”¹⁰¹ by Zimbabwean security forces during the protests. The statement further stated that “we are also concerned that Internet services have been severely disrupted in the last few days.”

United States of America Senators Chris Coons and Cory Booker, both members of the Senate Foreign Relations Committee, condemned the use of violence by the state security forces to quell the protests. “We are deeply troubled by reports of deaths, widespread arrests, beatings, and harassment of protestors by security forces of the Government of Zimbabwe. The Zimbabwean people have the constitutional right to protest peacefully and express themselves regarding developments in their country. Government officials and security forces must respond with professionalism and respect for human rights and the rule of law.”¹⁰²

The two senators further called for the government to treat protestors with professionalism and respect for human rights and the rule of law, including the need for the government to rescind the directive ordering communication service providers to cut or restrict access to social media, internet, and telephone services.

At the time of writing, Zimbabwe’s neighbours such as South Africa, Namibia and Zambia were silent about the human rights violations in Zimbabwe, despite having an obvious strategic historical relationship and deep diplomatic relations dating back to their post-colonial political affiliations. Zambia’s President, Edgar Lungu is the current SADC Chair for the Organ on Politics Defence and Security (the Organ) and despite calls from concerned Zimbabweans, he has not even called a meeting of the Organ to address the human rights crisis. Amnesty International calls on the SADC Chair to act swiftly to address the deteriorating human rights situation in Zimbabwe.

¹⁰¹ Statement of OHCHR on 18 January, 2019 <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24087&LangID=E>

¹⁰² Statement of US Senators on the Situation in Zimbabwe, 18 January, 2019 <https://www.coons.senate.gov/newsroom/press-releases/senators-urge-zimbabwe-officials-to-respect-the-rights-of-protestors-and-restore-access-to-social-media-internet-and-telephone-services>

4. CONCLUSION AND RECOMMENDATIONS

Since coming into power, President Emmerson Mnangagwa has consistently preached the message that Zimbabwe “is open for business” in his bid to arrest further economic decline in the country. Presidential Spokesperson George Charamba said “the whole idea is to put Zimbabwe firmly on the map so we leave behind us the dark days when we were perceived as a pariah state...”¹⁰³

However, with the ongoing human rights crisis, which comes barely five months after the killing of at least six people on 1 August 2018 by the military, it is clear that while the President repeatedly preaches that Zimbabwe is open for business, the country is ‘closed’ for human rights - particularly the rights to freedom of association, peaceful assembly and expression.

Amnesty International is calling on Zimbabwean authorities to immediately end the clampdown on human rights and attacks on peaceful protestors, NGOs, human rights defenders and activists and opposition supporters. The authorities should respect, protect, promote and fulfil all human rights, consistent with the Constitution and the country’s international human rights obligations. All the victims of excessive use of force must have access to justice and an effective remedy including adequate compensation and guarantees of non-repetition. Suspected perpetrators must be brought to justice.

The rights to freedom of peaceful assembly, freedom of association and expression have been suppressed in Zimbabwe over the years. The human rights situation has sharply deteriorated since 1 August 2018, and continues on the same downward trajectory since January 2019.

Zimbabwean authorities apparently continue to utilize a raft of old repressive legislations, including the Public Order and Security Act (POSA) and the Access to Information and Protection of Privacy Act,¹⁰⁴ to clampdown on the rights to freedom of peaceful assembly and expression. Authorities have used the interception of communications act to suppress internet freedoms, through officially sanctioned blackouts, to prevent people from sharing information. Journalists, human rights defenders and activists and independent media who disseminate information during times of protests, often do so at their own risk and in some cases face severe reprisals, including arrests, heavy fines and physical violence.

¹⁰³ “MDC will be held Accountable” – George Charamba in the Sunday Mail 20, January, 2019: <https://www.sundaymail.co.zw/mdc-and-allies-will-be-held-accountable>

¹⁰⁴ Public Order and Security Act, Cap 11:17, 2002 and the Access to Information and Privacy Act, Cap 10:27, 2002

TO THE AFRICAN UNION

On 5 February, Amnesty International wrote to the Chairperson of the Executive Council of the AU calling on the AU to:

- Ensure that the dire human rights crisis in Zimbabwe is included as an agenda item for the 34th Ordinary Session of the Executive Council of the African Union;
- Condemn the ongoing widespread human rights violations and abuses, including arbitrary restrictions on the rights to freedom of peaceful assembly, association and expression; threats to and attacks against human rights defenders; the arbitrary denial of bail and other fair trial rights; and the possible use of rape and sexual violence as an instrument of repression;
- Urge the government of Zimbabwe to put an end to these patterns of serious human rights violations and abuses, abide by its domestic, regional and international human rights obligations, and bring to justice members of the security forces reasonably suspected of committing crimes;
- Propose to the 32nd Ordinary Session of the Assembly of the Heads of State and Government of the African Union, the adoption of a decision requesting the AU Peace and Security Council to deploy a fact-finding mission to assess the human rights situation in Zimbabwe with a view to proposing recommendations on how to effectively address and end the human rights crisis.

TO THE ZIMBABWEAN GOVERNMENT

The Zimbabwean authorities must bring the laws and practice in line with the 2013 Constitution as well as the country's international and regional human rights obligations. They should demonstrate full respect for the right to freedom of peaceful assembly and fair trials, for all in Zimbabwe, and without discrimination against political opponents, human rights defenders and activists, civil society leaders, journalists and other people with differing views perceived to be critical of the authorities. Soldiers must not be deployed to manage public assemblies or in any ordinary law enforcement operations.

In addition to the above the government must:

- Undertake a prompt, thorough, impartial and independent investigation into allegations of human rights violations and abuses including rape and other sexual abuse of women by security forces. Anyone suspected to be responsible should be brought to justice in fair trials;
- Take urgent measures to ensure women and other victims of sexual violence and other forms of abuses are provided with safe and effective mechanisms to report their complaints to authorities;
- Ensure access to justice and the right to an effective remedy including access to psycho-social and trauma counselling, adequate compensation, reparations and guarantee of non-repetition to victims and their families.

**AMNESTY INTERNATIONAL
IS A GLOBAL MOVEMENT
FOR HUMAN RIGHTS.
WHEN INJUSTICE HAPPENS
TO ONE PERSON, IT
MATTERS TO US ALL.**

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'OPEN FOR BUSINESS', CLOSED FOR DISSENT

CRACKDOWN IN ZIMBABWE DURING THE NATIONAL STAY-AWAY 14-16 JANUARY 2019

The crushing of dissent and crackdown on protests in Zimbabwe has continued, despite the first change of leadership in 2017. During and after a national stay-away in January 2019, at least 15 people were shot and killed by security forces, over 78 were treated for gunshot wounds, over 1000 were arbitrarily arrested and hundreds have been prosecuted in fast-tracked trials on charges of public violence or subverting a constitutional government.

Civil society and political party activists have been targeted for exercising their right to freedom of expression, peaceful protest and assembly. Some women have been raped and children incarcerated after being abducted and detained in dragnet arrests across the country. This has resulted in fear gripping Zimbabwe, with many civil society leaders going into hiding for their protection.

This Briefing exposes the instruments of suppression used by the Zimbabwean authorities to disperse assemblies, silence dissent and clampdown on protestors and ordinary people calling on the state to improve their livelihoods and demanding accountability. Armed security forces have committed atrocities, including torture, against civilians with impunity during and after national protests, in violation of Zimbabwe's obligations under its Constitution, the African Charter on Human and Peoples' Rights and the International Covenant on Civil and Political Rights. Those suspected of perpetrating the killings, rape and torture of people must be held accountable and prosecuted in fair trials.